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AUTHORS

Vegard Bye,
Peder Østebø

Literature Review

Democracy and Human Rights in contemporary Latin America (2015-2020). Trends, challenges, and prospects.

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Authors

Vegard Bye, Dr.philos,
CMI Affiliated Researcher,
Senior Partner Scanteam

Peder Østebø,
M.A., Graduate Research Fellow, NUPI

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Abstract

Through a review of scholarly and other well-informed articles as well as media reports, this CMI Report aims to summarize discussions on challenges for democracy and human rights in Latin America during the last half-decade. The region faces a highly difficult economic outlook, consisting of low commodity prices and stagnant growth, threatening a historic backlash in the access to basic goods (including food) and services (not least health). The coronavirus pandemic may have a completely devastating effect on Latin American societies. After the end of the “pink tide”, the survey registers a regional democratic decline, breakdown of democratic systems in some countries and more widespread concerns of democratic erosion; electoral success for anti-incumbent candidates but also a rise of youth protest and fundamental political reform claims. While the human rights agenda has expanded tremendously, a current trend is that fundamental political rights may be endangered. There are serious threats to security and the right to life, and an increasing authoritarian trend (most visible in Venezuela, Nicaragua, Brazil, and El Salvador). Cuba, here treated as a special case, finds itself at a critical juncture, right before the definitive end of the Castro era, leaving the fundamental challenge for younger generations to prepare for a soft landing or risking a full regime collapse. Geopolitical rivalry between the US, China, and Russia leaves a particular responsibility to Europe to facilitate conflict resolution and peacemaking as well as resolution.

1. Background

The overall purpose of this report is to provide an overview of some main trends in democracy and human rights in Latin America, based on recent literature and ongoing debates both in and on the region.

The thematic scope focuses on the following elements:

- (1) A literature review on key democratic development and current trends in the public debate in the region, e.g. the role and responsibility of the state, corruption, political representation, concentration of power, shrinking space for civil society and freedom of the press.
- (2) Trends within human rights, with main emphasis on civil-political rights (less on economic, social and cultural rights) and the situation of social activists and human rights defenders

We have in this review focused on the period between 2015 and the present moment (mid- 2020). The periodization encapsulates the recent political transformation of the region, as the years 2014 and 2015 are considered to mark the beginning of both a “post-pink tide era” in Latin American politics and a period of increasing economic difficulties for the majority of Latin American countries – probably the beginning of a new “lost decade”.

1.1. Approach

To elaborate on the topics mentioned above, the authors did an extensive search for sources in scholarly databases, as well as individual journals, newspapers, and the websites of national and international governmental and non-governmental entities. The ambition is to present a broad variety of ideological/political approaches and viewpoints. The review covers five different yet related bodies of sources, each meant to highlight different aspects on the political conjuncture of Latin America, democratic development and human rights.

- (1) To highlight scholarly understanding of the current situation and the background for it, the review covers a selection of academic literature published in the last half-decade on relevant topics, and some relevant works published prior to the period in question. The review includes contributions from scholars working both in and outside of Latin America.
- (2) To shed further light on Latin American discourses on democracy and human rights, the review includes as broad selection of opinion pieces and commentaries published in Latin American and international publications over the last five years. While not nearly exhaustive, the selection of the publications is based on an ambition to highlight a diversity of opinions represented in the current political landscape.
- (3) To elaborate on the discussions on democracy and human rights within Latin American civil society, a number of reports and other publications from Latin American and international non-governmental organizations are included.
- (4) To highlight relevant discussions in international governmental forums, the review includes a selection of publications from different UN bodies, in addition to regional entities.
- (5) Finally, to frame the discussions, a number of news articles from Latin American and international magazines and newspapers are included.

1.2. Structure

The remainder of the report is divided into four main parts. In section 2, we first give an overview of democratic development in Latin America before elaborating on some issues that have surged as key elements in discussions on Latin American democracy. These are threats of democratic breakdown and erosion, challenges to active citizenship and representation, the state of public debate, and, finally, issues pertaining to governance and corruption. In section 3, we first give a general overview of main discussions on the human rights situation in Latin America. Then, we elaborate on some key developments regarding rule of law, the rights of political activists and human rights defenders, freedom of the press, assembly, and association, migrant rights, women's and LGBTQ+ rights, environmental rights, and indigenous rights. In section 4, we elaborate on the special case of Cuba, which, like in previous decades, demonstrated many distinctive traits compared to the rest of the region. Cuba is such a different case that it is often left out of general discussions on Latin American political developme. In section 5, we discuss the state of and discussions around regional and international mechanisms of human rights and promotion and democratic rule. In section 6, we present a preliminary assessment of the medium- and long-term impact of the spread of the coronavirus, both in terms of global outlook, the impact in individual countries, as well as the political impact we can envisage at the time of drafting this note. Finally, in section 7, we present some prospects for the upcoming five-year period (through 2025).

2. Democratic development and discourse in contemporary Latin America

In the first fifteen years of the 21st century, preceding the period covered by this review, both socioeconomic indicators, regional studies on democratic attitudes and values, and regional surveys on democratic development all painted a rather positive image of the region. This development was underpinned by an unprecedented period of stable and strong economic growth, boosted by a boom in global commodity prices. Moreover, the so-called “pink tide” or “left turn” – a wave of electoral successes for previously marginalized center-left political forces leading to a situation in which two thirds of the regional population lived under such regimes by 2010 (Bye 2010) – paved the way for increased public spending and the strengthening of social welfare regimes in many countries.¹ Although the nature of these regimes differed widely in terms of policy, rhetoric, and approach to the existing regime, all of them had in common a political agenda aimed at strengthening the state and reducing economic inequality. The legacy of the “pink tide” governments is a topic of continuous scholarly and public debate. There is little doubt, however, that the region saw a notable reduction in inequality and a strengthening of social indicators during the first 14-15 years of the new millennium.²

In the last five years, on the other hand, we have seen both political and economic conjunctures change drastically. According to the Economic Commission for Latin America and the Caribbean (ECLAC/CEPAL), 2019 brought with it a worsening of what was already a long-term regional economic deacceleration (CEPAL 2019c; 2019b). While economies of Latin America were largely able to weather the storm brought about by the 2008-9 economic crisis (Ferreira and Schady 2009; Porzecanski 2009), the stagnation of global trade, global financial turbulence, and decreasing demand for Latin American export products have led most Latin American economies into a long period of stagnation.³ In some major countries, such as Argentina, Brazil, and, most notably Venezuela, a combination of the abovementioned factors and domestic difficulties have led to prolonged economic crises, profoundly affecting the regional economic outlook. This has largely erased the optimistic prospects that marked public debates on Latin America in the first part of the decade. Instead, observers have increasingly framed the period starting

¹ The “pink tide” is usually defined to include the presidencies of Néstor and Cristina Fernández de Kirchner in Argentina (2003-15), Evo Morales in Bolivia (2006-2019), “Lula” da Silva and Dilma Rousseff in Brazil (2003-2016), Michelle Bachelet in Chile (2006-10, 2014-18), Rafael Correa in Ecuador (2007-2017), Mauricio Funes and Salvador Sánchez Cerén in El Salvador (2009-2019), Manuel Zelaya in Honduras (2006-2009), Daniel Ortega in Nicaragua (2007-present), Fernando Lugo in Paraguay (2008-2012), Ollanta Humala in Peru (2011-2016), Tabaré Vázquez and José Mujica in Uruguay (2005-2020), and Hugo Chávez and Nicolás Maduro in Venezuela (1999-present). Five of these presidents were portrayed in Bye (2010). While the term is well-established in the literature, it is also a controversial one, categorizing widely different regimes as part of the same trend. For insight into this debate, see Paramio (2006) Castañeda (2006), Cameron (2009), Iber (2016) and Gonzalez (2019).

² The literature on the “Left Turn” is vast, and some critical works addressing different tenets relevant to this review are listed in the upcoming subsections. For recent scholarly contributions covering the complexities of political change in Latin America under the Left Turn, see for instance the edited volume by Falleti and Parrado (2018), and discussions in Trujillo (2017), Torrico et al. (2017), and the overview of Bull (2013).

³ For an in-depth analysis of how global economic development affect Latin American economic cycles, see Armendariz and Larraín Bascuñán (2017). See Rosales (2013) for a review of some aspects of the political economies of Latin American leftist governments.

around 2015 as the beginning of a “second lost decade”, mirroring the long-lasting economic impact of the debt crisis in the 1980s.

The bleak economic panorama has had profound effects on both government capability of continuing social welfare program and their economic strategies. Although not the general regional norm, two of the largest economies in the region, Brazil and Argentina, have resorted to explicit programs of austerity politics resembling the neoliberal programs of the 1990s. Similar reforms, although less sweeping, have been implemented in Ecuador, Peru, Chile, and Nicaragua. The combination of economic downturn and austerity measures is, along with the issue of corruption and deteriorating governance (see section 3.4), an important factor in creating a wave of discontent and popular protest that has marked many major countries in the region in recent years. Waves of protest have been particularly defining for the political landscape in Brazil, Chile, Ecuador, Argentina and Colombia. In other countries, protests have to a larger degree been met with both increased repression and increasing authoritarianism, a contributing factor to the loss of the “democratic regime” stamp in three countries in the region: Venezuela, Nicaragua, and Honduras (elaborated upon in section 3.1).

The economic difficulties and political instability coincided with, and partly preceded, an overarching political shift in the region. Two clear tendencies are clear. Firstly, the region is no longer dominated by governments associated with the political left. While some observers have professed that the “left turn” was replaced by a “right turn”, or a conservative wave, the political landscape of contemporary Latin America is more complex than such sweeping statements would suggest. Rather than a tilting of the political landscape, we see a profound transformation of political forces. A majority of Latin American political systems have experienced a widespread rejection of traditional political parties and incumbent presidents at-large (elaborated upon in section 3.2), the appearance of an “anti-incumbent moment” in some countries, such as Brazil and El Salvador, and complete or partial reconfigurations of the electoral landscape in others (Zovatto 2019b). In some countries, most notably El Salvador, Mexico, Costa Rica, and Peru, recent elections have completely transformed the political landscape. Other countries, such as Colombia, Paraguay, Uruguay and Argentina, have seen a less dramatic political shift, in which political forces that previously dominated the political arena – from right or left – have made a comeback.⁴

2.1. Democratic breakdown and decline

By the end of the so-called “third wave of democratization” in the late 1980s (Huntington 1993), Latin America had gone from being a region where democratic regimes were exceptions to a region to one where formal democratic governance was the norm – with the notable exception of Cuba. Given a gradual

⁴ Argentina has gone through two shifts in the period in question. First, in 2015, a center-right coalition led by Buenos Aires mayor Mauricio Macri managed to break the political hegemony of the Kirchnerist wing of the Peronist party that dominated Argentinian politics since 2003. In 2019, Macri lost the election, taking place amid a new economic crisis, to Alberto Fernández, a veteran of the Kirchnerist wing that ran on a more center-oriented program than his predecessors. The elections in Uruguay ended a 15-year period of center-left Frente Amplio rule and paved the way for something as uncommon in today’s Latin America as the return of one of the country’s historic parties, the *Partido Nacional*, better known as *Partido Blanco*, represented by the center-right candidate Luis Lacalle Pou.

deepening of democratic structures and a higher degree of democratic stability, the post-Cold War period has been considered as one of democratic consolidation, despite some setbacks and frequent political and economic instability (Mainwaring and Pérez-Liñán 2013). In the later years, however, this discussion has changed significantly. Conforming to a global discussion on democratic challenges,⁵ public debate both in and on Latin America has centered around the question of decline and/or breakdown of democracies once considered to have been consolidated.⁶ Unlike previous periods of authoritarian rule in Latin America, a key observation of the current moment is that democratic decline in Latin America is the result of a gradual, complex process, often linked to a turn toward so-called ‘illiberal democracy’ (Zakaria 1997), where electoral channels remain largely intact but key tenets of liberal-democratic rule erode, and ‘hyper-presidentialism’, where increasing power of the executive branch, obscures the balance of power.⁷ This trend is quite similar to what we have observed in other regions of the world, including Eastern Europe and Turkey (Kadıoğlu 2019) and Africa (Rakner 2019).

The debate includes both development in countries that have gone from having illiberal democracies to being non-democratic, most prevalently Venezuela, Honduras and Nicaragua, and countries in which events of the last few years have demonstrated different signs of democratic erosion.⁸ The examples in the latter group include Bolivia, Guatemala, Brazil and El Salvador. The discussions reflect an overarching trend visible in global surveys of democracy, such as Varieties of Democracy (V-Dem) and the Democracy Index of the Economist Intelligence Unit (EIU), both of which have detected a significant drop in democratic rule in Latin America.⁹ In their newest democracy report, V-Dem scholars highlight that although the region remains one of the most democratic in the world, by the population-weighted measure “Latin America has been thrown back to a level of democracy last recorded around 1992” (Lührmann et al. 2020: 12).

Qualitative observations of domestic development largely concur with the development demonstrated by V-Dem and EIU. The clearest case of democratic breakdown is found in Venezuela, where the process

⁵ The debate on global democratic decline and an alleged “crisis of democracy” have been among the most prevalent debates in political science in later years, with contributions from such authors as Diamond, Plattner, and Rice (2015), Levitsky and Ziblatt (2018), Carothers and O’Donohue (2019), and Inglehart and Norris (2019).

⁶ For a broad regional coverage of this debate, see the special issue of *Nueva Sociedad* 282, and the articles of Malamud (2019) and Svampa (2019). For other general overviews of the debate, see Gamboa (2017) and Corrales (2018). For an extensive overview and discussion on executive instability in Latin American democracies, see Llanos and Marsteintredet (2010).

⁷ For a recent review of democratic regimes in Latin America, see Munck (2017).

⁸ The democratic model of Venezuela under Hugo Chávez has for a long time been seen as a typical case of an “illiberal democracy” (Zakaria 1997), where electoral channels are maintained but other key democratic elements weakened. It also bears resemblance to the controversial term “competitive authoritarianism” (Levitsky and Way 2010; 2020). For other scholars, the emphasis on non-electoral participation has led to a different, more positive take in the so-called “Bolivarian Revolution” (Smilde and Hellinger 2011). Among this latter group of scholars, it is common to perceive the democratic breakdown in Venezuela to coincide with the post-Chávez Maduro regime.

⁹ Although extreme single cases might distort the regional image, both surveys highlight that the regional decline is caused by the development in a number of countries. For an overview of the development over time, consult the annual reports of V-Dem Democracy Reports (Lührmann et al. 2017; 2018; 2019; 2020) and the EIUs Democracy Index Reports (Economist Intelligence Unit 2016; 2017; 2018; 2019; 2020).

towards authoritarianism culminated in the spring and summer of 2017. That was when the Supreme Tribunal of Justice attempted to strip the opposition-controlled National Assembly of its legitimate mandate and subsequently approved the establishment of a National Constitutional Assembly, sidelining the democratic order. In Honduras, the incumbent president Juan Orlando Hernández first sidelined the constitution to enable his own reelection in 2017. The subsequent elections were heavily criticized by international observers, and the aftermath was marred by violence against protesters.¹⁰ In Nicaragua, the effect of long-term erosion of democratic institutions under Daniel Ortega exploded when youth protests in April 2018 broke out over a social security reform program proposed by the government. In the following months, Nicaragua was thrown into a protracted civil conflict involving a level of violence not seen since the end of the Contras wars in 1990, as the government unleashed a massive repression campaign to quell the protest.¹¹ Since 2018, a number of local and international human rights groups have reported that government repression efforts “dramatically limit space for civil society internally”¹². What was considered as one of Latin America’s most rights-respectful police institutions was all of a sudden converted into a brutally repressive force. The repression has however proved highly effective, eliminating practically all organized opposition in one of Latin America’s most politicized countries.

Discussions on democratic decline in Latin America are intimately linked to discussions on the nature of Latin American populism (De la Torre 2017), a topic that also resonates with a global debate on the rise of populism (Mudde and Kaltwasser 2013; 2017). While opinions of both the possible perils of populism and the usefulness of the term differ widely, the surge of candidates with a power base outside of traditional political structures is further evidence that Latin America is living through a moment of substantial political transformation. In the early 2000s, the Latin American populist label was largely associated with leftist government projects. An intense debate took place whether or not left-wing populism would lead to increased polarization and institutional, and subsequent democratic, decay.¹³ With the rise of populist leaders with either a very distinct right-wing program, such as Jair Bolsonaro in Brazil and Alejandro Giammattei in Guatemala, or largely “anti-political” programs, such as Giammattei’s predecessor Jimmy Morales in Guatemala and presently Nayib Bukele in El Salvador, the debate on regional populism has become more complex, to a larger degree illustrating the general political confusion that now characterizes the region.¹⁴

¹⁰ Since the 2009 coup d’état, the state of democracy in Honduras has been a constant concern, culminating in the 2017, in which the OAS electoral mission documented widespread irregularities. For the full report, see OAS (2017). On the post-election violence and repression, see the report from the UN High Commissioner for Human Rights (OHCHR 2018a).

¹¹ The next defining event for democratic development in Nicaragua will likely be the prospected general elections in 2021, after the Nicaraguan government rejected domestic and international calls for early elections as a solution to the political crisis (Lopez 2019).

¹² See call from 25 different local and international organizations, and the annex detailing the repression campaign (Human Rights Watch et al. 2020).

¹³ See Castañeda (2006) for the foundational text in contemporary left-wing populism in Latin America.

¹⁴ For recent contributions in the study of Latin American populism, see Hawkins and Kaltwasser (2017), Gratius and Rivero (2018), Freidenberg and Casullo (2018) Campos-Herrera and Reguero (2019), and Casullo (2019b; 2019a).

Bolivia: The fall of Morales and uncertainties ahead

The 2019/2020 political crisis following the October 2019 elections in Bolivia serve as a prime example of how several of the tendencies highlighted in this review spur political instability and moments of democratic crisis (Anderson 2020; Farthing 2020). Evo Morales, president since 2006 and leader of the Movement toward Socialism (MAS), was according to constitutional limits on presidential mandates not an eligible candidate, and a referendum held in February of 2016 narrowly rejected MAS' petition to let Morales run for another term. Even though Morales had indicated that his government would respect the result of the referendum, the government quickly turned to the Supreme Court of Justice – whose members had been appointed by the MAS-dominated legislative assembly – to get the outcome of the referendum annulled (Watts and Collyns 2016; Miranda 2018).

In October 2019, Morales managed to secure a plurality of the votes and, by very small margin, avoid a run-off with second-placed center-right candidate Carlos Mesa. The elections were, however, ridden with irregularities, according to several NGOs and the OAS observation mission, casting the country into a political crisis. Since their publications, these claims, and the OAS decision to publish them, have been heavily debated (for in-depth discussion on the OAS controversy, see Curiel and Williams (2020), Turkewitz (2020) and Nooruddin (2020)). After weeks of widespread protests and a burgeoning violent situation, Morales first announced a new round of elections, but eventually succumbed to calls from the police and the country's military chief to resign and go into exile, along with the vice-president and the leader of the senate.

The forced resignation of Morales, and his subsequent exile to Mexico and Argentina, brought the political crisis into a new phase, but did not end it. In a highly controversial move, the constitutional court approved the formation of an interim government led by Jeanine Áñez, the senator who served as the second vice president of the senate. While the interim government initially signaled that it would take on an administrative role and prepare new elections, it quickly began to implement policy changes, especially on Bolivia's foreign policy. Moreover, Áñez initially assured that she would not run for president when new elections were called, before backtracking and announcing her candidacy. Most worrisome was the immediate reaction to protests from sectors of society favoring MAS, although violent acts were committed by both sides. In her first days in power, Áñez adopted a decree permitting the deployment of military troops in quelling protest, a move heavily criticized by international and regional human rights organizations, as well as the UN High Commissioner for Human Rights (Human Rights Watch 2019; TalCual 2019).

The general elections, meant to restore the democratic order, were originally meant to be held within 120 days of the ascension of the interim government. They were later scheduled for May 3, 2020, but have been further postponed because of the coronavirus crisis (ICG 2020; Alanoca Paco 2020). After weeks of uncertainty, Bolivia's opposition-controlled parliament approved a law calling for the elections to be held before August 2, now again postponed to 6 September. The move was condemned by the country's interim government as “putting the lives of Bolivians at risk”, while the opposition accuses Áñez of using the crisis as an instrument to beef up her own electoral prospects. She will now run for the Presidency i.a. against Luís Arce representing MAS and Carlos Mesa making another effort.

This leaves the interim government, without a popular mandate, responsible for coordinating a massive societal prevention effort amid a highly labile situation marked by deep mistrust in large sectors of society. As international attention turns away from the situation in Bolivia, there is also a risk that the international mechanisms meant to ensure the legitimacy of the electoral process, such as EU and OAS electoral missions, will not be able to operate according to plan.

2.2. Attitudes towards democracy and key democratic institutions

Corresponding to both worsening economic indicators and a worrying tendency of democratic decline, an important issue in the debate on Latin American democratic development is the tendencies spotted in survey data on popular attitudes on, and adherence to, democracy and political institutions. Survey data on attitudes towards the political system and the actors pertaining to it should always be considered with significant care, as time- and country-specific events, issues and conceptual interpretations can influence the findings. The generalized format of regional surveys also limits the validity of findings. Nevertheless, as more abstract, ideal-typical and evaluative dimensions, the findings presented below may prove to shed light on a complex and tumultuous political moment. When summarizing the data gathered by the Corporación Latinobarómetro (2015-2018) and the LAPOP AmericasBarometer (2014, 2016/17 and 2018/19), several noteworthy tendencies appear.¹⁵

A notable but unsurprising finding from the last rounds of surveys is a decreasing satisfaction with how democracy works in Latin American countries. Although the dynamic varies substantially from country to country, the share of respondents satisfied with how democracy works has decreased from 58.7 percent in 2010 to 39.6 percent in 2018/19, according to the AmericasBarometer.¹⁶ Such a drop may of course be interpreted in a number of ways. A common understanding within the field of democracy research on third-wave democracies is that satisfaction is highly linked to government performance, rather than the functioning of electoral institutions. Additionally, high levels of corruption or other forms of political mismanagement is thought to contribute negatively to citizen evaluations of democracy, especially in countries without long and well-founded democratic traditions. Thus, it is reasonable to suggest that both economic stagnation and political instability are contributing factors to declining satisfaction. Adding to this impression is the fact that most countries experience a decreasing level of trust in political institutions, such as the different branches of government, political parties, and local political leaders. According to *Latinobarómetro's* last survey (2018:48), non-democratic institutions – the church, the armed forces, and the police – enjoy the highest level of trust among key societal institutions, although only the church has a level of trust over 50 percent (in categories “a lot of trust” and “some trust”).

An even more worrisome tendency is that measures of abstract support for democratic principles, such as explicit support for democracy, is declining markedly. Despite notable cross-country variation, the aggregate tendency is that such explicit support has declined significantly during the last 10 years. It is of no less concern that implicit support for authoritarian measures, such as executive or military coups in times of rising crime and corruption, is on the increase. This is often referred to as a measurement of the degree of missing democratic consolidation. While a vast majority of citizens rejects the idea of *executive*

¹⁵ For a detailed overview of attitudinal developments, see the full survey reports from the three most recent rounds of Latinobarómetro (2016; 2017; 2018) and LAPOP (Zechmeister 2014; Cohen, Lupu, and Zechmeister 2017; Zechmeister and Lupu 2019).

¹⁶ In 2018/19, the highest degree of satisfaction was found in Uruguay, while the lowest levels were found in Panama, Colombia, Peru, and Argentina. In the latter three cases, political turmoil may contribute to explaining the below average evaluation.

coups,¹⁷ the support for *military coups* is rising. A final finding on democratic values is that political tolerance is stable,¹⁸ nuancing the interpretation of declining adherence to democratic values and raising a conceptual issue of what citizens refer to when responding to questions on democracy. It should be noted that the findings do not necessarily indicate a hostility toward democratic ideals. Rather, such tendencies as the those mentioned above may indicate a general frustration directed at both political systems and political actors, such as traditional political parties or incumbents, in the region. Such a general fatigue may give openings to more wide-reaching political changes, positive or negative, depending on the capability of the political systems to manage and channel such attitudinal shifts.

Finally, a comparison between democratic development and attitudinal trends uncovered by Americas-Barometer and Latinobarómetro demonstrate that recent regional trends defy some important assumptions in the scholarly literature on the relationship between the two. It is, for instance, worth noting that satisfaction with democracy increased substantially, albeit from a very low starting point, after the election and ascension of Jair Bolsonaro in Brazil even though both the rhetoric and the policies implemented by his government have caused a multitude of concerns about the state of Brazilian democracy.¹⁹ As interesting is it that support for democracy, contrary to scholarly assumptions, seems not to function as a bulwark against democratic breakdowns. Nicaragua and Venezuela have for instance been the countries in their respective subregions with the highest degrees of support for democracy and political participation. Both are cases of regimes initially based on a high degree of popular mobilization, subsequently turned into highly authoritarian and repressive forms of government. The regimes of these two countries represent a serious challenge for the credibility and electoral prospects of left-wing movements and parties in other Latin American countries.

2.3. Citizenship, participation, and representation

The attitudinal development of Latin American citizens has raised another widely discussed set of topics in the region throughout the last two decades, namely the issues of citizenship, political participation, and the relationship between citizen and government at-large. In the previous decade, the possibility of active citizenship²⁰ was a key issue in discussions on democracy. Centre-left and left-wing governments promoted different mechanisms (including constitutional reform) to deepen participation beyond electoral

¹⁷ A notable outlier in Latin America in this case is Peru, where tolerance of executive coups has enjoyed high support for some time but increased substantially in the last few years. This recent development is likely a result of the high personal popularity of Martín Vizcarra, who continuously has threatened to dissolve congress before making good on his promise (BBC Mundo 2019b).

¹⁸ Political tolerance is a measurement meant to encapsulate a citizen's implicit support for a key liberal-democratic principle, namely that of allowing dissent and voicing of opinions not shared by themselves.

¹⁹ This was the case already before Mr. Bolsonaro's more recent openly anti-democratic behaviour in the handling of the Coronavirus situation.

²⁰ Although a contested term, active citizenship is usually defined as the possibility of exercising of rights and promotion of the citizen as a political subject beyond established electoral challenge. Both in Latin America and elsewhere, it is seen as an alternative, broader conception when contrasted to a marked-oriented, neoliberal version of citizenship (Dagnino 2005).

channels, contributing to a new understanding of political participation (Mayka 2019).²¹ The legacy of these efforts survive in citizen understanding of democracy. There are, however, inherent problems with these mechanisms. Participatory democracy has in several countries been misused by authoritarian leaders, a tendency which has likely led to both an erosion of faith in democratic institutions in those countries, and reduced support for the idea of participatory democracy in the region at-large. The issue has led to a substantial weakening of the virtues of participation in the Latin American debates on democracy (Caetano 2019).

Taking previously explored overarching conjuncture into account, the slow decay of prospects for a deepened democracy may serve as a meaningful partial explanation for the current state of regional democracy. Benjamin Goldfrank (2007; 2017), a specialist in participatory institutions, pointed out already in 2017 that the slow death of participatory mechanisms might have contributed to the declining indicators visible in the survey data referred to above. Moreover, there is little momentum to tackle the ongoing political situation in many countries by turning to a deepening of democratic participation. “With the Left failing to take advantage of the opportunity to create robust participatory institutions and the Right uninterested in doing so,” Goldfrank argues, “a strange combination of citizen apathy and protest has emerged in the region, a combination that traditional representative institutions seem ill-equipped to handle” (2017:157–58). As other observers have pointed out, there is probably also a generational aspect to this, as young people, with less adherence to traditional political parties, movements and institutions are at the forefront of many protest waves (E. González 2019).

It is against this backdrop, along with the economic and political situation at-large, that protests waves in recent years in Chile, Ecuador, Guatemala, Mexico, and Colombia may be interpreted.²² The protests are not only sudden explosions of discontent, but a dramatic outcome of political developments over time. Luna (2016) argues, for instance, that in Chile, the lack of vertical accountability, the degree of political identification with political leaders or leading political movements, along with a long-term “depoliticization of inequality”,²³ was a key element leading to a crisis of representation with which political leaders from both the left and the right failed to deal. Considering this, the outbreak in October 2019 of a protest wave against the Piñera government is no sudden eruption of discontent. Rather, it is the culmination of a continuous process of increasing dissatisfaction over time. It is an example easily transferable to other Latin American contexts, keeping in mind declining political trust and satisfaction with democracy highlighted in the previous subsection. The constitutional process that followed the

²¹ The most expansive efforts on participatory democracy were found in Brazil, in the shape of participatory budgeting and systematic effort to enhance public input on policy, Venezuela, Bolivia, Uruguay and Ecuador created notable mechanisms as well (Dagnino 2005). Efforts to increase civil society input in policymaking also spread beyond leftist governments. For an overview, see Balán and Montambeault (2020).

²² For an overview over the different protest waves of 2019, see Manjón et al. (2020), and Lustig (2020) for an interpretation of the protests as results of rising inequality.

²³ “Depoliticization of inequality” refers to a tendency in which the topics of inequality and redistributive politics are marginalized in political discussions, thereby normalizing the state of inequality (Roberts 2016),

protests in Chile (now postponed due to the coronavirus crisis), will likely therefore be followed regionally, and its development could potentially give an impetus to similar processes elsewhere.²⁴

2.4. Polarization and the state of public debate

A further probable effect of democratic decline in Latin American countries is a seemingly widely held perception that the space for public debate and contestation, deliberative or confrontational, is lower than in previous years (see section 4.2 and 4.3 for elaboration and human rights aspects). Recent protest waves, many of which have been led by students and other groups seeing themselves as underrepresented in the traditional political system, have demonstrated the capability of fundamentally impacting, and even transforming, political discourse. The immediate responses of governments, however, have demonstrated acute deficiencies in the way many Latin American societies deal with contestation, involving a high degree of violence (see section 4.2 and 4.3). It is especially notable that the means employed by some governments in their response to discontent include state of emergency declarations and a greater role for the military (Corrales 2019).

The shrinking space of public debate may often be considered as an effect of democratic decline or erosion, and a consequently lower threshold for committing human rights violations and employ excessive force. It is also considered to be an effect of polarization. In political studies, polarization has traditionally been seen as a process of widening distance between political camps. Recently, based on experiences in Latin America and elsewhere, discussions have turned toward an interpretation of polarization as brought about by parallel cleavages. While polities often contain a specter of horizontal political cleavages, polarization in this view is a process in which such differences occur on a single vertical axis, defining a clear “Us” vs. “Them” perception (McCoy, Rahman, and Somer 2018). In Latin America, Venezuela is often referred to as the standard example of this process (Svolik 2019; García-Guadilla and Mallen 2019). Nevertheless, similar tendencies are visible in other societies where discontent and political instability is prevalent as well (Handlin 2018). It is, however, important to note that the protest movements do not necessarily have to be seen as signs of missing governance. They could also be perceived as a citizen mobilization exercise with transformative and emancipatory potential, and indeed an opportunity to *strengthen* democracy over the coming years. The various political leaders’ handling of protest and discontent, especially when economic burdens in the wake of the coronavirus crisis are dealt with, may be decisive in this regard (see sections 6 and 7).

Tendencies highly interlinked with the question of polarization are issues of “fake news”, disinformation, and alternative channels of mass communication. Although questions of disinformation and questions of

²⁴ A national plebiscite is now (June 2020) scheduled to be held in Chile on October 25, 2020. The planned referendum will ask voters if they want a new constitution, and if they want it to be drafted by a "Constitutional Convention" (made up by members elected directly for this convention) or a "Mixed Constitutional Convention" (made up in halves by currently-sitting members of Parliament and directly-elected citizens). A second vote —on 11 April 2021, alongside municipal and gubernatorial elections— would elect the members of the Constitutional Convention, and a third vote would accept or reject the new constitution after it is drafted, expected to occur in 2022.

media bias are nothing new Latin American public discourse, the social media revolution has had a profound impact on both the political conversations and how citizens relate to the political system. The tendency coincides with a worrying finding of the AmericasBarometer, namely that trust in media dropped markedly in the period between 2004 and 2017 (Rodríguez and Zechmeister 2018). This likely opens the door for a tendency causing concern among civil society actors, namely the rise of “fake news” in public debate, and especially in electoral campaign seasons (Coding Rights Brasil et al. 2018). As exemplified in the 2016 referendum on the peace accord in Colombia (M. F. González 2017), and in the 2018 presidential elections in Brazil (Avelar 2019), misinformation spread on social media and direct message services may exercise considerable influence during electoral campaigns. Adding to this is a tendency in which political leaders are able to avoid the impact of media scrutiny by establishing direct communication channels with citizens. In the recent electoral campaigns in Brazil and El Salvador, the candidates that ended up as winners were both running independent campaigns mobilizing voters through personal communication and frequent use of social media (Twitter, Instagram, and Facebook) and direct message services (most prevalently WhatsApp) (Zovatto 2019a). The confidence gap between citizens, government, and media organizations are, in other words, many-faceted and may not be easy to close. Long-term, one important factor will be a continuous effort to increase government transparency and access to public information, for instance through open government initiatives and digital transparency mechanisms.²⁵

2.5. Governance and corruption

As shown above, many Latin American countries face a multitude of problems impeding effective governance, including economic decline, social and political instability, diminishing political trust, and polarization. Lack of effective governance is, however, also a cause underpinning many of these developments. While Latin American countries face an array of different governance challenges (see section 4.1, on rule of law and security), a topic that has proved to be particularly acute in the last five years is the problem of corruption, a topic that has overshadowed all other issues of governance in terms of global attention. Many, if not most, Latin American countries have been affected by a wave of corruption scandals reaching into the highest spheres of politics and causing widespread political transformations (El Salvador) and even political instability (Guatemala, Brazil, Peru).

More than any other event, the corruption scandals concerning the Brazilian companies Petrobras and Odebrecht have contributed to transforming domestic and regional politics.²⁶ Moreover, corruption scandals have frequently received public attention as an indirect consequence of the rise of political movements and leaders hostile to both human rights and democratic governance, Jair Bolsonaro being the last in a long line of examples. While there is a consensus that corruption is widespread in many Latin American countries, researchers tend to point out that the increase in publicly exposed corruption scandals

²⁵ Progress has been done in this area with the passing of legislation, for instance in Colombia, and some multilateral initiatives. See, for instance Scrollini and Ochoa (2015).

²⁶ For an overview of the so-called **Operação Lava Jato**, “Operation Car Wash”, see Watts (2017).

in later years is not necessarily a sign of increasing corruption. The combination of a more potent effort to tackle corruption, combined with increased access to information may for instance prove relevant in revealing corrupt practices (Casas-Zamora and Carter 2017). When combined with economic downturns and other political factors, an impression that corruption is more prevalent will quite obviously prove detrimental to state-citizen relations. Thus, efforts to combat corruption may simultaneously – and paradoxically – have a positive effect on governance but a negative effect on democratic confidence.

Guatemala: The promise and tragedy of CICIG

The circumstances around the International Commission against Impunity in Guatemala (CICIG) serves as a prime example of a key governance issue in Latin America, namely how governments respond to corruption and impunity (WOLA 2015; ICG 2018b; C. Call and Hallock 2020).

The result of a treaty between and Guatemalan government and the United Nations, CICIG was established in 2006 with support from the US and European countries. While the request was formally made by the government, it was a result of a yearlong effort by human rights groups in the country and abroad to create an independent body to investigate clandestine groups and confronting the massive problem of impunity.

Soon after setting up office, CICIG made progress on a number of both high-profile cases, including that against former president Alfonso Portillo, and against a number of judges and police officers. According to the International Crisis Group, the commission likely contributed to both a considerable decrease in the degree of impunity and a substantial decrease in homicide rates (ICG 2018b).

As the work of CICIG evolved and cooperation with the attorneys general Claudia Paz y Paz and Thelma Aldana expanded, their work on the links between drug trafficking and government corruption proved very promising for both Guatemalan political development and the CICIG itself. In 2015, well-documented allegations on both the sitting president Otto Pérez Molina and vice president Roxanna Baldetti brought with it a wave of popular protests and their subsequent resignation. Further investigations in 2017 into the circles around newly elected president Jimmy Morales first demonstrated the systemic nature of corruption in elite circles. Second, it showed the limits of CICIG's impact.

While civil society pressure was successful in ousting the previous governments, the investigation in Morales did not lead to the same coordinated effort before the political elite was able to mobilize. Through a campaign directed at the commission's legitimacy, Morales accused the commission and its leader Ivan Velásquez of violating Guatemalan sovereignty and exercising "selective justice". Despite the efforts of the UN, some European countries, and Guatemalan civil society to salvage the commission, Morales eventually succeeded in dismantling the commission and barring Velásquez from entering the country (Pradilla 2018; Menchu and Oré 2019).

Although cut short, the experience of CICIG has spurred a number of initiatives, and a potential for regional learning (WOLA 2019a; 2019b; 2019c). MACCIH in Honduras, with a similar mandate, was, however shut down in early 2020, cutting potential results short. In El Salvador, president Nayib Bukele campaigned on a "Salvadoran CICIG", but there are fundamental doubts about the potential of the newly established CICIES (C. Call 2019). Thus, while the legacy of the CICIG was interpreted as extremely positive in international forums, its replication in other countries seems to depend on a willingness of political leader to jeopardize a (for them) favorable status quo.

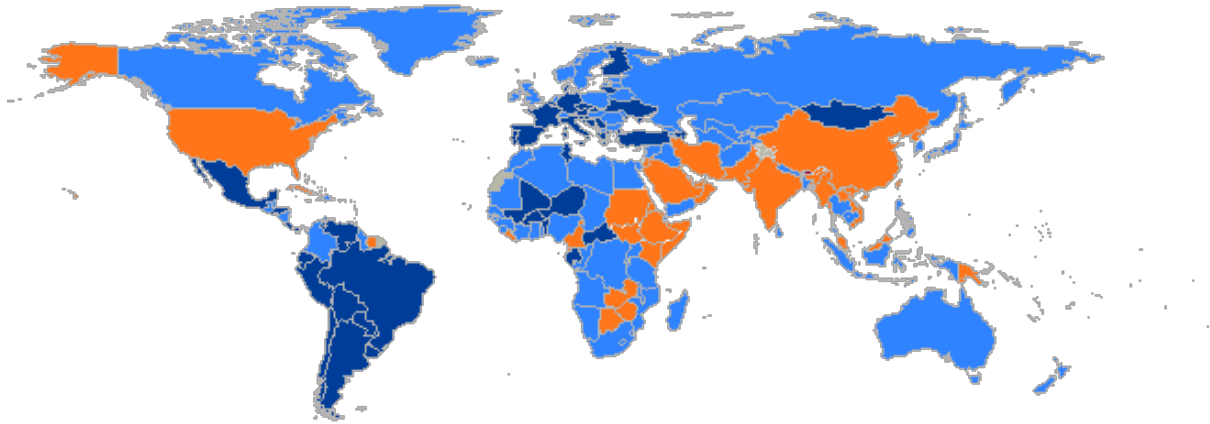
3. Challenges to human rights in contemporary Latin America

The introduction of contemporary human rights discourse was a key element in the Latin American transitions to democratic governance connected to the “third wave”, as both domestic actors and the Inter-American Human Rights System contributed in shedding a light on dictatorship-era human rights violations. As a result, international human rights standards have been a common framework for political and social claims in Latin American societies. As said in the introduction, we have in this document paid most attention to civil-political rights. The most fundamental principle of human rights, however, is that they are universal and inalienable, interdependent and indivisible. As UN Human Rights (OHCHR 2020e) responds to its own question “What are human rights?”:

“All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others.”

This is as true in Latin America as elsewhere. The transition to democracy opened up a wave of constitutional acknowledgement of human rights, and spurred the creation of both national human rights institutions (NHRIs, in Latin America often in the form of Ombudsman offices, or *Defensorías del Pueblo*) and judicial mechanisms for compliance with international human rights conventions.²⁷ As shown in the figure below, Latin America is the region in the world with the highest degree of ratification of international human rights treaties. Moreover, in many if not most Latin American countries, the ratified conventions have been recognized on par with constitutional law, above the ordinary legal frameworks. In recent history, many Latin American NHRIs have played an important role in expanding the human rights agenda in their respective countries, also in promoting different sets of rights not necessarily on the agenda of national governments (Pegram 2011).

²⁷ See summaries in The Ella Network’s policy briefs on the subject (ELLA 2012). On the institutionalization of NHRI, see Pegram (2011; 2019).



According to the UN High Commissioner on Human Rights, Latin America is, along with Europe, the region where ratification of human rights has progressed the most. Dark blue indicates a high number of ratifications, blue a medium number of ratifications, while orange indicate a small number of treaties ratified (OHCHR 2020c).

There is, however, a vast gap between the legal framework and the capacity, or in some cases willingness, of governments to comply and improve the situation on the ground. This gap is further exacerbated by a continuous expansion of the human rights agenda, and the fact that more actors are basing their claims on human rights, in line with the so-called Rights-Based Approach (RBA). In the following subsections, we first summarize the recent contextual development of human rights before elaborating on some key human rights developments in the region.

In terms of progress on the judicial-institutional side, some Latin American governments have shown a willingness, albeit not always coherent, to move forward with a more expansive judicial framework for ensuring political and civil rights. Common themes in discussions on challenges in improving mechanisms are issues pertaining to the lack of resources, faulty implementation, and the inability of different state agencies to coordinate.²⁸ A more acute tendency, related to the issue of rule of law and judicial independence, is that recently established organs meant to encompass the role of national human rights institutions, as a result of democratic decline and faltering rule of law, abandon their independent role. The most prevalent example of this is the Ombudsman's office of Venezuela, which has been seen as an integral part of the regime apparatus. This is also the case in Nicaragua.²⁹ Finally, it is worth noting that while most waves of protests have not led to advancements in the field of human rights, the example of Chilean political actors' willingness to engage in a process of constitutional reform demonstrate that there

²⁸ For an example illustrating all of these tendencies, see the Washington Office of Latin America's (WOLA) publication of the work towards improved mechanisms in Mexico (WOLA 2016; Hinojosa and Meyer 2019).

²⁹ For criticism of the trajectory of the Venezuelan Ombudsman, see the detailed criticism from a number of human rights organizations see Acción Solidaria et al. (2013). For Nicaragua, see Cruz (2019).

is a space for this.³⁰ Depending on the Chilean outcome, similar initiatives may be seen as a possible solution in critical junctures to come.

Compared to the discourse on human rights in Latin America in the first 15 years of the millennium, the debate has shifted, in line with the overall economic and political conjuncture described in section 3. In line with ambitious programs of social equality in many countries and following the Quito Declaration of 1998 on the enforcement and realization of economic, social, and cultural rights, the early twenty-first century represented a time of both innovation and rigorous debate on different conceptions on human rights. As Grugel and Fontana points out, the political conjuncture created a space in which different notions of human rights were vigorously contested. With the inclusion of so-called “third generation” human rights topics (often referred to as “solidarity rights”), the human rights concept was also expanded (Grugel and Fontana 2019).³¹

While such debates are still very much still alive, the shift in the political situation seems to have spurred a return to an overarching emphasis on civil-political (“first generation”) rights.³² A preliminary review of annual reports of national human rights institutions suggests that in the majority of countries, immediate challenges to fundamental political freedoms are perceived as threatened, albeit with vast differences from country to country.³³ This impression is also reflected in cross-country surveys on human rights violations. In their last regional report, Amnesty International highlights that the protest waves that have characterized a majority of Latin American countries in recent years have largely been met with a multitude of human rights violations, including the use of excessive, even lethal force (Amnesty International 2020). There is, thus, an overall recognition that fundamental political rights are at stake in many countries, leading to a subsequent return to focus on those rights.³⁴ It is, however, worth noting that in many cases, the political crisis preceding governmental repression has been spurred by a lack of fulfilment of social and economic demand, confirming the principle noted above of the interdependence and indivisibility of first and second generation rights.

³⁰ The Chilean constitutional process was initiated after the country was brought to a standstill after weeks of protest in October 2019, see Van Lier (2019) and (Beal 2020) for two different views on the upcoming process.

³¹ Third-generation or ‘solidarity’ rights, the most recently recognized set of human rights, include the right to development, the right to peace, the right to a healthy environment, the right to intergenerational equity, etc. Their realization is predicated not only upon both the affirmative and negative duties of the state, but also upon the behaviour of each individual. Contrary to the concept of correlative duties, which exist outside of and complementary to the right, third generation solidarity rights make individual duty one of the components of the right itself. For a discussion on human rights generations in Latin America, see Roniger (2018).

³² See for instances Garavito (2019) and Cruz Parcerro et al. (2019) for recent contributions.

³³ For a detailed overview of recent development in the situation of human rights in individual countries, we refer to Red TDT (2017) and its associated member organizations, in Mexico, the OHCHR (2020a) mission in Guatemala, IDHUCA in El Salvador (2017; 2018; 2019; 2020), the IACHR’s (2019a) recent report on Honduras, Amnesty International (2018b) and CENIDH (2019; 2020) in Nicaragua, the OHCHR (2018b; 2019b; 2020b) mission and Dejusticia (Ball, Rodríguez Garavito, and Rozo Ángel 2018; Rozo Ángel and Ball 2019) in Colombia, Provea (2016; 2017; 2018; 2019) in Venezuela, AODH (2019) in Ecuador, APRODEH (2018) in Peru, CDH-UDP (2017; 2018; 2019) in Chile, CELS (2016a; 2017; 2019) in Argentina, RSJDH (2016; 2017; 2018; 2019) in Brazil, CODEHUPY (2017; 2018; 2019) in Paraguay, and IACHR (2019c) for the latest developments in Bolivia.

³⁴ See for instance the regional non-governmental project of OpenDemocracy, CELS and INCLO (2017) on the right to protest.

3.1. Rule of law, security, justice, and human rights

As reflected both in attitudinal data and survey data on democracy, rule of law, questions of accountability, and the independence of institutions continue to be key challenges for Latin American democracies. According to the Rule of Law Index of the World Justice Project, which assesses development of factors such as power constraints, corruption, government transparency, civil justice and effective governance, many countries in the region are moving toward a *lesser degree* of rule of law (WJP 2019). Among the 128 countries surveyed, Honduras, Nicaragua, Bolivia, and Venezuela are considered among the 25 worst performing countries, with Venezuela ranking as the worst-performing country surveyed.³⁵ While multiple governance challenges face many Latin American countries, two topics have been especially prevalent in discussions on democratic development and human rights in recent years, namely that of corruption (elaborated upon in section 3.5) and the issue of crime and human security.

Even though the region in recent years has largely been spared from both interstate and – with the notable exception of Colombia – civil wars, the level of violence in parts of the region is a prime concern for both governance and human rights. Although the homicide rates are no longer on the rise regionally, and dropping in some countries, Latin America still has far higher rates than other regions. Observers frequently characterize homicide levels in Central America, Mexico, Brazil, Colombia, and Venezuela as epidemic (Muggah and Aguirre Tobón 2018). This is especially notable in slum areas of larger cities, in borderlands, and in areas with limited state control and presence. While explanations commonly refer to the degree of organized crime related to drug and arms traffic as a key driver of violence in Latin American, scholars tend to highlight that causes of violent crime in Latin America are complex and heterogenous.³⁶ A recurring theme in Latin American discussions on crime and justice is the high levels of impunity, both in general and when it comes to particularly exposed people and groups (see sections 3.2-3.7).³⁷

Like the panorama of causal explanations of violent crime, the consequences of crime and violence rates are complex. In scholarly literature, crime is often thought of as a determinant of declining political trust, thereby impeding both democratic and economic development (Corbacho, Philipp, and Ruiz-Vega 2015). Since the 1990s, with the appropriation of the concept of human security by UN organs, crime and violence has increasingly been linked to human rights (Gómez and Gasper 2014). In recent years, both regional and international institutions have raised the issue. While some countries have succeeded in reducing both homicide and crime rates (Muggah 2017), the complex, in many cases transnational, nature of Latin American crime patterns has made long-term prevention effort difficult and contingent on regional cooperation and political stability, which currently is notoriously absent. Combinations of high levels of violence, corruption and delegitimization of political regimes, and the presence of strong illegal economic

³⁵ It is worth noting that the index does not include all countries, as some are difficult to assess due to unavailability of data. For a methodological note on the index, see section 4 of WJP (2019).

³⁶ For literature reviews on Latin America and the topic of violent crime, see (Müller 2018) For an in-depth walkthrough of recent statistical tendencies, see (Chioda 2017).

³⁷ For an in-depth overview of the different dimensions of impunity in Latin America, see, for instance, the documentation gathered through the Global Impunity Index project (Le Clerq Ortega and Rodríguez 2017).

actors (illicit drugs, mining, trafficking, and illegal logging) with capacity to influence the state apparatus and control populations in some regions is an example of such a pattern.³⁸ In many cases, understanding such patterns is key to understanding attacks against HR defenders and environment activists (see section 3.2). On a regional level, traditional “*mano dura*” policies – involving militarization and increasingly repressive strategies – have not only failed to address crime but are often intrinsically expressions of human rights violations in themselves (Muggah 2019).

The relationship between human rights violations, security, crime, and political regimes forms part of a large and extensive literature on transnational justice. Latin America has a long tradition when it comes to transitional justice in post-dictatorial or post-conflict countries, in the Southern Cone as well as in Central America. CMI researcher Elin Skaar has a prominent role among the international scholars on this subject (Skaar, García-Godos, and Collins 2016; Skaar and García Godos 2016). At the present moment, Colombia’s Special Jurisdiction for Peace and the Clarification Commission (JEP and CEV with Spanish acronyms), are playing a crucial role not only in the post-conflict parallel justice process, but also as part of a holistic framework for peace implementation that aims to address the root causes of violent conflict, particularly through rural reforms, drug policy, and guarantees of political participation.³⁹ For human rights activists, historical struggles for transitional justice and the processes surrounding previous truth commissions in many countries serve as lenses for understanding contemporary conflicts.

3.2. The rights of activists and human rights defenders

Since the introduction of contemporary human rights discourse in Latin America in the 1970s, protection of political activists and promoters of human rights themselves has been a key issue in the region (Kelly 2018). Moreover, several scholars have highlighted the connection between the influence of activists and the maintenance and effectiveness of human rights institutions. This is perhaps especially relevant for Latin America, where human rights activists have played a vital role in pressuring transitional justice, specifically for the adoption of stronger legal frameworks for prosecuting human rights violations in the wake of the brutal military dictatorships on both a regional and national level (Keck and Sikkink 1998; Sikkink 2019). Following the UN General Assembly’s adoption on the Declaration on Human Rights Defenders in 1998, the category of “human rights defender” and their working conditions has become a part of discussions on the state of human rights, and multiple entities, both intergovernmental and non-governmental are dedicated to the monitoring and protection. Many of the political movements taking a prominent role during the “pink tide”, had their origin in these human rights struggles, although the respect for human rights were at times ignored when previous rights advocates achieved political power.

³⁸ This may also help us understand the increasing regionalization of the Colombian armed conflict, particularly its expansion to the territory of Venezuela, and the gradual emergence of a situation in which territory is contested and fought over (Collins 2020).

³⁹ For continuous updating on the JEP proceedings, see: <https://www.eltiempo.com/justicia/jep-colombia>

Through the Inter-American System, the IACHR monitors the situations of defenders through a rapporteur system and makes use of precautionary measure mechanisms to implore the protection of individuals or groups.

Despite increased focus on the international arena, the problem of violence against activists persists. According to the international NGO Frontline Defenders, over two thirds of the killings of human rights defenders in 2019 happened in Colombia (by far the deadliest country), Honduras, Brazil, Mexico, and Guatemala, conforming a long-term tendency of Latin America being without competition the deadliest region for human rights defenders (Front Line Defenders 2020). It is worth noting that numbers are higher when including political activists not necessarily falling into the category of HR defender. In a review of protection mechanisms for human rights defenders in four of the countries where they are most frequently killed, Amnesty International notes that while an institutional framework has been developed over the last decades to protect activists and defenders, they face a number of challenges related to coordination and implementation (2018a). Although the killing of political activists and human rights defenders is a phenomenon primarily but far from exclusively found in the abovementioned countries, their peers all over the region face a scenario of threats, including both threats and acts of violence from non-state as well as state actors. In November 2019, the OHCHR and the IACHR published a joint notice expressing alarm about the continuation, and in some cases the worsening, of the regional situation of HR defenders (OHCHR 2019a).

Colombia: Peace is yet to come

There was great optimism, both on the international stage and in many sectors of Colombian society, following the announcement and subsequent signing of a comprehensive peace agreement between the guerilla group FARC-EP and the Colombian government in 2016. However, multiple factors have contributed to a fundamental doubt about the future of the peace process and the general prospect of peace altogether. As the country finds itself in political turmoil, handling a massive influx of Venezuelan migrants, and a backlash from political elites concerning the implementation of the peace process, some observers have even warned that a relapse to a scenario of low intensity armed conflict (Isacson 2019).

Multiple factors threaten the work to get the peace process back on track. While the initial implementation was slow and uneven (Peace Accords Matrix (PAM) 2018), it converted into a virtual standstill after the ascension of Ivan Duque to the presidency (ICG 2018). Moreover, Duque, who's party was the protagonist force fighting against the peace process from the beginning, spent considerable political capital attempting to roll back important aspects of the treaty (Maya 2019). The 2019 breakdown of negotiations between the government and the ELN, a second guerilla group with nationwide reach, exacerbated the impression that the post-peace program was in disarray (Llorente and Garzón 2020).

A final concern after the signing of the peace agreements in 2016 has been the failure to tackle what has been seen as one of the root causes of the armed conflict, namely political violence and targeted killings of political activists. According to the Colombian organization Indepaz (2020), over 800 activists and human rights defenders have been killed since the signing of the accords in November 2016. Although the numbers reported by the OHCHR and other NGOs such as *Somos Defensores*, is somewhat lower, the tendency behind the numbers suggests that the situation has not seen improvement in recent years.

Several international observers, including UN officials, have recently criticized the Duque government for both ignoring the human rights crisis that the killings constitute, as well as his lack of implementation of the peace process in general. Former senior adviser to the UN Resident Coordinator in Colombia, Mariano Aguirre, has argued that "official foot-dragging (...) reveals that the government may well lack a unified and alternative strategy aimed both at state-building and effectively tackling the violent opposition to integration, modernization, and peace," effectively leaving many of the underlying, structural problems causing the conflict unaddressed (Aguirre 2020). In March 2020, a report from the Special Rapporteur on the situation of human rights defenders caused increased tension between UN organizations and the Colombian government, after stark criticism of the government's faulty response and criminalization of human rights defenders by state agencies (Oquendo 2020; United Nations Human Rights Council 2019).

As signaled by the outcome of 2019 local elections, the correlation of political forces in Colombia may be undergoing deep changes in favor of pro-peace and "green" forces connected with the left or center camps (Semana 2019). New uncertainties emerge with the handling of the coronavirus crisis, where there seems to be a competition for hegemony between the President and particularly the left-of-center Bogotá mayor Claudia López. The future of the Colombia peace process may to a large extent depend on the outcome of the 2022 presidential elections.

3.3. Freedom of the press, assembly, and association

As noted in section 3, many Latin American countries experience severe limitations of the public sphere, thereby raising the topic of civil and political liberties. In the 2019 World Press Freedom Index, published by Reporters Without Borders (RSF 2019a), the organization portrays a largely negative regional trend, pointing to the fact that the major countries, such as Brazil, Venezuela, Chile, and Argentina, saw notable deterioration of press freedom. It is worth noting that the last two years have been electoral years in many of these countries, and also marked by popular protest. While there is no surprise that political violence increases and fundamental political freedoms are under pressure when states face important political moments, it is a worrying sign that press freedom is seemingly declining in democracies considered to be consolidated. Central American countries, most notably El Salvador, Honduras, Nicaragua, also registered notable falls. In Nicaragua, both freedom of the press and freedom of assembly has drastically worsened under the protest waves of 2018. Although levels of large-scale protests have decreased since then, government efforts to limit press freedom continue through the revocation of licenses and threat campaigns (Pineda Ubau, Mora, and Orozco 2019), forcing some of the most prominent opposition media personalities to go into exile. In El Salvador, independent media outlets have been subject to a number of verbal attacks and restrictions put forward by the current president, causing reactions both internationally and domestically and contributing to a more hostile sphere for media workers (APES 2020).

Threats toward media freedom may manifest themselves in different forms of structural violence. Both Reporters without Borders and the Committee to Protect Journalists note that killings of journalists remain a fundamental threat to press freedom in Latin America. An in-depth study of existing documentation highlight Mexico, Colombia, Honduras, Brazil and Guatemala as the most dangerous countries for journalists and media workers in the period 2000-2017, with Mexico being the deadliest country (Díaz Nosty and de Frutos García 2017). In 2019, the region saw as many journalists murdered as The Middle East, with a total of 22 cases (RSF 2019b). Impunity continues to be the norm in cases of murders and other violations against the integrity of journalists (Díaz Nosty and de Frutos García 2017). In countries experiencing democratic breakdown, direct censorship, extra-judicial imprisonment, and threats from government officials have increased. Aside from Cuba (where no journalists have been killed or suffered physical damage), Venezuela has throughout the last years been considered the regional worst case, owing to widespread government censorship, frequent detentions, continuous and explicit threats toward media organizations, and a general lack of material print paper of independent outlets (Espacio Público 2019).

The situation of reporters and media organizations is part of a larger problem, identified as criminalization, involving increasing repression of civil society actors and individuals through both use of force and judicial mechanisms.⁴⁰ According to the civil society alliance CIVICUS, which monitors violations of the freedom of expression, assembly, and association, more than half of the Latin American population lived in

⁴⁰ For an overview of regional debates on criminalization of the right to protest and violations of political rights, consult reports from CELS (2016b) and CIVICUS (2017).

countries where the public space was marked by obstruction or repression in 2017 (2017:21). With the events during the protest waves in 2019, where violent confrontations with security forces led to multiple deaths in Chile, Ecuador, Bolivia, Haiti and Colombia, as well as a massive number of injuries and detentions, this tendency is only being strengthened (CIVICUS 2019). While civil society actors in different countries face very different challenges, the tendency witnessed over the latest years is confirming the general phenomenon described above, that fundamental political rights are under threat.

3.4. Migrant rights and the migrant backlash

While debates on migrant rights are nothing new in the Latin American context, the topic has become increasingly acute in the last five years. We are speaking of three main migrant phenomena. The first is a general upsurge in regional migration in recent years, pushing the state of migrants to the forefront of the agenda of both policymakers and civil society actors, and raising a multitude of issues concerning their legal status, the labor market and access to health, education, and other services (CEPAL 2019a; PAHO 2018). The second one is the extent of the Venezuelan refugee crisis, which is as of today considered one of the largest refugee crises globally and unmatched in Latin America (Ávila 2018). While previous waves of Venezuelans that have migrated have been dominated by an exodus of youth and included professionals and people with university degree, the current wave has consisted of people with less formal education, less financial resources, social capital, and proper documentation, creating not only a Venezuelan diaspora but a large Venezuelan precariat in neighboring countries, particularly Colombia (Bolívar 2020). The third phenomenon is the massive exodus of Central Americans through Mexico. US claims of being “invaded” by desperate poor, persecuted and death-threatened Central Americans, along with threats of economic sanctions against Mexico as another measure to quell migration, have created a perilous situation of migrants attempting to reach the United States. Their conditions along the US-Mexico and Mexico-Guatemala borders, and increasingly also along migrant routes through Mexico, are completely inhuman. While this tendency has been developing for decades, the situation has become an acute human rights issue following the anti-immigrant rhetoric of Donald Trump both during and after his presidential campaign, not least provoked by his election promise to “build the wall”. According to the IOM and the Missing Migrants Project, over 2400 migrants have died in US-Mexican border areas alone since 2014 (IOM 2020). Women and children, and unaccompanied children in particular, have been identified as especially vulnerable to the most serious forms of human rights abuses (Fleury 2016).

The two migration crises (Venezuelans and Central Americans) are entrenched in highly different, albeit equally complex, political contexts. There are also some commonalities between the two crises. One is that the situation of migrants in both contexts is marked by lacking rule of law and, subsequently, entrenched in patterns of crime and corruption (see section 3.4). Central American refugees in Mexico, as well as Venezuelan refugees in Colombia (and IDPs in the latter country), are systematically exposed to drug cartels, paramilitaries and other criminal organizations, where state institutions have little or no capacity or are entrenched in intricate systems of corruption (local police, military or civilian leaders). Another is that both Venezuelans and Central Americans abroad face a rising tendency of xenophobia, impeding both

integration in job markets and access to services (Grattan 2020; Rivero 2019). It should be noted, though, that many South American countries and particularly Colombia and Brazil have been admirably receptive for Venezuelan refugees – of course not without concealing their political interests in naming and shaming the Venezuelan government for the mass exodus.

This development forms part of a larger trend of increasing skepticism of intraregional migration in several countries. During discussions around the Global Compact for Migration, aimed at addressing the legal state obligation to accept asylum seekers, the governments of Brazil, Chile, and the Dominican Republic joined the US and several far-right populist governments in Europe in rejecting these international commitments (Fuchs 2019). A final commonality between the two addressed contexts is that it is difficult to see how the human rights challenges connected to migration waves may be mended or solved without a comprehensive international effort involving both transit countries, receiving countries, and the international community. As of now, there are few signs that the US government is interested in addressing migrant rights. In the case of the Venezuelan migrants, the UNHCR, Unicef and and IOM Joint Representative for Refugees and Migrants from Venezuela coordinate international and regional efforts, but lack sufficient resources to address the needs of the close to 5 million Venezuelans that have migrated to other Latin American countries (UNHCR 2019; Vargas and Symmes Cobb 2019). As addressed in section 6, the coronavirus crisis makes this situation even more acute.⁴¹

3.5. Women's rights, LGBTQ+ rights and cultural backlashes

Women's rights have been on the Latin American rights agenda since the 1970s. There are ample regional efforts to promote women's rights and gender equality on a regional-institutional level.⁴² Latin American feminist and women's movement have in many countries been important parts of civil society for many years. As in other areas of human rights, one may identify a gap between commitments and the reality on the ground, reflected in recent surveys on violence and discrimination (IACHR 2019b) and the socio-economic position of women (Stab 2017). Women rights have also been frequently highlighted in discussion on migration, and especially regarding Central American migrants to the United States (Ahmed 2019). In terms of political participation, recent years have seen much improvement in the struggle of women participation, with Latin America being one of the regions where the share of women in

⁴¹ Since May 2020, we have seen a somewhat increasing willingness from international donors to address this issue, after coordinated pressure from several international humanitarian actors and governments in the region. On May 26, the Spanish government, the EU, IOM, and UNHCR hosted a joint conference for international donors to address the acute situation (Government of Spain 2020).

⁴² For an overview of regional initiatives, see the collections of the Gender Equality Observatory of ECLAC (2020) and the Special Rapporteur on the Rights of Women at OAS (2020).

parliament is the highest (28.1 percent in 2017).⁴³ In many countries, affirmative action mechanisms have been promoted. While there are still a multitude of challenges, a positive tendency is visible.⁴⁴

In recent years, political discourse has also been characterized by an increased focus on women's rights. The *NiUnaMenos* campaign, started in Argentina in 2015, served as a watershed event for raising the issue of violence against women, and the issue of femicide in particular, in Latin America. The campaign demonstrated not only the ability of Latin American women's movements to mobilize important sectors of society but the transformative power of transnational activism in the digital era (Accossatto and Sendra 2018). Since then, a multiple number of women's issues have been raised on a regional level, such as the gender pay gap and the struggle for legal abortion (the latter particularly in Argentina, Colombia, and Chile).⁴⁵ In the middle of the Chilean protest wave of 2019, the participative performance *un violador en tu camino* represented a highly successful effort to highlight violence against women, a campaign that quickly spread to both other Latin American countries and to other regions. The 8 March manifestations in 2020 saw a historically massive participation across the continent (Corona et al. 2020). On March 9, 2020, Mexican women organized a historic national strike, bringing important societal sectors to a virtual standstill, to call attention both to the violence against women and women's vital role in all aspects of society at-large (Beauregard 2020). During the present pandemic crisis, the topic of domestic violence has been raised as a main concern following the implementation of quarantine in many Latin American countries (El Espectador 2020a).

A human rights area that has evolved substantially in the last two decades is the topic of sexual minorities. While there was virtually no legal protection of these rights in Latin America at the beginning of the millennium, both protection mechanisms and anti-discrimination laws have meanwhile improved in almost all Latin American countries. Seven countries had in addition legalized adoption for same-sex couples, while same-sex marriage has been made legal in Argentina, Brazil, Colombia, Uruguay, in some Mexican states, and most recently in Costa Rica as the first Central American country.⁴⁶ The same was proposed by the Cuban government as part of the Constitutional reform in 2019, but withdrawn prior to the referendum due to heavy resistance from a combination of religious groups and macho attitudes and a perceived fear of losing the vote (Bye 2019a).

Attitudes towards LGBTQ+ persons have also changed notably, albeit unevenly, in the region, seemingly coinciding with a shift toward secularization (Encarnación 2016, 50–51). There is, however, a notable gap

⁴³ Among the ten countries in the world with highest female participation in parliaments, six are Latin American / Caribbean, with Cuba and Bolivia as two of the three with a majority of women and Mexico, Grenada, Costa Rica and Nicaragua all having more than 44% women in their legislative bodies. At the other end, several countries in the region find themselves among the 100 countries with lowest female participation. These are Haiti (2.5%), Paraguay and Brazil (15%), Colombia and Guatemala (19%) (situation as of 1 February 2019 as recorded by the Inter-Parliamentary Union (2019).

⁴⁴ For an analysis on women participation in politics and efforts to promote best practices, see overview by Rozas and Floru (Rozas and Floru 2017).

⁴⁵ For an in-depth look into abortion rights and the political struggles concerning them, see Bergallo (2018).

⁴⁶ According to Corrales, all Latin American countries made progress in the period 1999-2016, while 12 countries had seen major improvements in their LGBT legal scores (2020). For the background of the index, see Corrales and Pecheny (2010).

between the speed in which the legislative improvements have occurred and popular opinions on the subject. The so-called “Gay Rights Revolution” in Latin America is, thus, largely a legal rather than a cultural revolution (Encarnación 2011), being met with tremendous resistance from religious groups and “macho politicians” (with Bolsonaro in Brazil as an extreme case) (Cândido Barbosa 2019). In many countries, most prevalently in Costa Rica and Colombia, anti-LGBT rhetoric, through the label of “gender ideology” have become a method of mobilization for conservative forces in electoral campaigns (Álvarez Vanegas, Mazzoldi, and Cuesta 2016).

3.6. Environmental rights

In 2018, 22 Latin American and Caribbean countries signed the Escazú agreement, considered one of the most important regional steps to make environmental rights binding to the state parties. While recognizing its limitations and the long road to implementation, civil society actors were instrumental in the negotiation process and have highlighted some mechanisms as important steps to achieving compliance with environmental rights, for instance a commitment to protect environmental defenders at risk.⁴⁷ This development conforms with a general trend in which, as observed by Malayna Raftopoulos (2017), human rights, both those embedded in constitutions and in international treaties, have become a weapon for environmentalists in Latin America. This has, however, happened in a period in which policies of indiscriminate natural resource extraction at the cost of local communities have become more intense and widespread.⁴⁸ The result has been a greater degree of articulation of environmental rights but also a more conflictive panorama. Three months after the signing of the Escazú agreement, the international NGO Global Witness demonstrated that 2017 was the deadliest year on record for environmental activists in Latin America (Global Witness 2018).

Traditionally, accusations of “extractivism” without concern for environmental and societal impact have been directed at neoliberal agendas of center-right governments. Under the so-called “pink tide”, however, it also became evident that left-of-center governments would come up against many of the same issues.⁴⁹ The confrontation between Minister of the Environment Marina Silva and Minister of Energy Dilma Rousseff marked a watershed polarization in Lula’s presidency in Brazil, leading the two to become principal opponents in the 2010 presidential campaign. One of their bitter struggles was about the emblematic case to build the Belo Monte hydropower complex (L. C. Fleury and Almeida 2013; Fearnside 2017). Similar conflicts on the left emerged in Evo Morales’ government in Bolivia around the TIPNIS highway projects (Achtenberg 2013; Fabricant and Postero 2019; Hirsch 2019; Reyes-García et al. 2020). The latter case is an especially interesting one, as it details the political conflicts and dilemmas of a government that claims to be the direct representative of the indigenous majority in the country and came to be known internationally as a symbol of participation of indigenous peoples at the highest levels

⁴⁷ For the role of civil society, see Pagiwa (2019).

⁴⁸ The latest report of REPAM (the Pan-Amazonian Ecclesial Network) highlights a number of cases of systemic human rights violations in Colombia, Brazil, Ecuador, Peru and Bolivia, largely in conflicts related to extractivism (REPAM 2018).

⁴⁹ See McNeish (2018) and the special issue it introduces for an overview of the complexities of resource extraction in Latin America.

of politics. The conflict reveals a differentiated treatment of highland versus lowland (Amazon) indigenous groups, and a power strategy by ex-president Morales to establish alliance with leading forest-industry groups. As economic difficulties continue in many Latin American countries and issues of climate change and environmental rights are pushed to the forefront of public debate by civil society, it is likely that environmental conflict continue to be a highly relevant topic in human rights discussions, despite positive regional efforts.

3.7. The rights of ethnic minorities: indigenous peoples and afro-descendants

Environmental rights as a topic in Latin America has traditionally been intimately linked to the Rights of indigenous peoples, but the agenda of indigenous rights is also a far broader one, and an important part of human rights discussions in the region, especially in countries with a substantial indigenous population (Bolivia, Guatemala, Peru, Colombia, Paraguay, Mexico, Chile, Argentina, Brazil, and Venezuela). Since the passing of the ILO Convention 169/89 on the rights of Indigenous and tribal Peoples, which as of 2020 has been ratified by 15 Latin American and Caribbean countries (of a total of 23 verifications worldwide), rights of indigenous peoples and forest-dependent communities, afro-descendants, and ethnic minorities have been an increasingly prevalent part of Latin American human rights discussions. Three long-standing issues that are still highly relevant, have marked both domestic and regional debates and the discourse of international and ODA actors since the passing of ILO169/89.

Firstly, although some governments saw this better in the first decade of the 2000s, the gap between non-indigenous and indigenous peoples in terms of both income and access to government services is still both wide and stagnant. After a decade of socioeconomic growth, the World Bank reported that indigenous people in Latin America were still twice as likely to live in poverty and three times more likely to live in extreme poverty, compared to the general population (World Bank 2015, 2).

Secondly, indigenous claims of territorial autonomy and the right to “free, prior and informed consent” (FPIC) continue to be issues of conflict in spite of The Inter-American Court having established this principle as powerful jurisprudence for OAS member states. Researchers and activists have identified a notable gap between obligations and practice in this regard (Wright and Tomaselli 2019). These topics are especially relevant for projects involving the expansion of hydropower, mineral extraction, agrobusiness, and in land disputes concerning access to land by non-indigenous peasants (Zaremborg and Wong 2018). In the rapidly developing discussion about Business and Human Rights (ref. U.N. Guiding Principles on Business and Human Rights), standard-setting for the rights of indigenous peoples has become a key issue, demonstrated by IFC’s Performance Standard 7 (2012).

Finally, the promotion of political representation and participation have been key issues in discussions on indigenous rights in Latin America, both in the form of participation of corporate channels (through collective organization as a tool for influence), electoral channels, and through contestation and confrontation (Rice 2017). While many of the governments on the left claimed to support greater

indigenous participation in a number of ways, the relationship between many governments and indigenous movements became strained (ibid). Even the government of Evo Morales, who's political project was highly influenced by the indigenous movements that served as its organizational pillars, ended up with bitter conflict between different indigenous groups.

In recent years, some indigenous movements have played important roles at critical political moments. In the 2019 protests against an FMI economic package in Ecuador, CONAIE, the main indigenous confederation, played a decisive organizing and mobilizing role forcing President Lenin Moreno to relocate his government to Ecuador's second city, Guayaquil, and later to negotiate a settlement of the uprising. The same has happened in previous protest waves in the country's recent history (Brown 2019). Although not the most prevalent group in the 2019 Chilean protests, some observers have noted that the protests opened a wider political space for Mapuche peoples, a group that to this day suffer under different forms of governmental repression (Krausova 2019). Indigenous movements also played an important role in the mobilizations that led to the resignation of Otto Pérez Molina in Guatemala in 2015 (Flores 2019).

Aside from concrete conflicts related to indigenous rights, there is seemingly also a cultural backlash against the promotion of indigenous rights. This tendency is most prevalent in Brazil (Bolsonaro) and in Bolivia, where the interim government of Jeanine Áñez has been accused of anti-indigenous rhetoric and practices (Collins 2019; openDemocracy 2019). In the former case, the rhetoric of the government coincide with a long line of attempts to weaken both the judicial framework for the protection of indigenous rights and the institutions meant to be responsible for implementing it, most prevalently the FUNAI (Fundação Nacional do Índio) and the INCRA (the agency charged with administering land reform) (Human Rights Watch 2020). While some attempts to weaken the judicial framework has been halted by the Supreme Court (Turollo and Arbex 2019), the continuous attempts of the Bolsonaro government to weaken protection mechanism, in addition to an increasing violence against indigenous activists in the country, has surged as one of the greatest concerns of observers of indigenous rights in Latin America, including for the UN Special Rapporteur on the Rights of Indigenous Peoples (Phillips 2020; Coimbra Sousa 2020; Chade 2020). The Bolsonaro philosophy represents a return to the predominant thinking during Brazil's military regimes in the 1960s and 1970s: that the Amazon is simply a vast dormant resource waiting to be "developed", and that it is Brazil's sovereign right to decide over what the rest of the world considers a decisive factor for global climate. Even an environmentally concerned country like Norway may end up in complicated conflicts as a major investor in Brazil – pioneered by partly state-owned companies – under these circumstances (Leira 2020).

Often underestimated in the discussion of ethnic minorities in Latin America, is the situation of the afro-descendant population, constituting one third of the population of Latin America and the Caribbean. Although this segment of the population has a stronger presence in urban areas compared to the indigenous, they are also systematically marginalized in terms of economic, social and cultural rights as well as civil-political rights. They are frequently barred from effective access to health, education and the

labor market. Often living in slum areas, they are more frequently exposed to criminality and violence. They have a low representation in the political life (CEPAL 2009). As with the rights of indigenous peoples, Brazilian President Bolsonaro takes a prominent position in attacks on historically recognized rights. As noted by BBC's South America correspondent in February 2020, by appointing the black evangelical pastor Damares Alves as Minister of Women, Family and Human Rights, the president put a "racism denier in charge of defending black rights in Brazil" (Watson 2020). Simultaneously, Sergio Camargo, a black journalist characterizing himself as "black right-winger, an anti-victimist", notoriously known for denying that real racism exists in Brazil, was appointed to head the Palmares Cultural Foundation, responsible for promoting and preserving the cultural, historic, social and economic values of black society in Brazil. Such appointments may have contributed to provoke a particularly strong protest movement in Brazil as part of the global campaign after the killing of George Floyd in Minneapolis on 31 May 2020. The number of police killings in Brazil is at least six times larger than the more than 1,000 persons killed in the US. 80% of the victims of police killings in Brazil in first-half 2019 were black (Amparo 2020).

4. The special case of Cuba⁵⁰

Cuba is so different from the rest of Latin America that we have found it necessary to treat this country separately from the rest. The concept of “Cuban exceptionalism” is a testimony to this uniqueness (Hoffmann and Whitehead 2007). It is the only country in the Western Hemisphere that has been suspended from membership in the OAS and the other regional inter-governmental institutions. The suspension was based on the argument that the «adherence by any member of the Organization of American States to Marxism–Leninism is incompatible with (...) the principles and objectives of the inter-American system» (with reference to democracy and human rights) (OAS Resolution 31 January 1962). With a very different correlation of forces in Latin America, the OAS in 2009 passed a vote in favor of lifting the suspension. The argument then was that "the suspension was made in the Cold War, in the language of the Cold War. What we have done here is to fix a historic error" (Miami Herald 2009). Cuba turned down the invitation to return to the OAS.

On the other side, Cuba is probably the only Latin American country that can argue with confidence that it has been able to build what we may call a welfare state, with a well-functioning system for health, education and social security,⁵¹ and actually also (as mentioned elsewhere) exported significant health services to the rest of the region. On this basis, and although the economic crisis has drastically reduced the country's capacity to maintain its social welfare (Mesa-Lago 2017), Cuba is consistently emphasizing its positive human rights status with reference to economic, social and cultural rights, paying much less attention to civil- political rights. The defense of its human rights record is a vital element in Cuba's international diplomacy, having achieved to be elected and sit on the 47-member UN Human Rights Council for most of the 16 years since its foundation, longer than almost any other UN member states. Putting itself in this position, the Cuban government has exposed itself to a continuous criticism of its civil political rights record.

4.1. Political aspects of Raúl Castro's reform plan

When then-President Raúl Castro launched his comprehensive reform plan in 2011, the primary emphasis was on economic and social issues. However, several of the reform proposals also had a deep political significance and impact. The most prevalent examples included expansion of the non-state sector of the economy, opening up of the internet (resulting in the effective end to the information monopoly), and lifting of migration restrictions. In addition, the 2014 joint decision by Cuba and the US (under then-President Obama) to normalize diplomatic relations transformed the former's international position and the relationship to its closest neighbor and prime adversary. Prior to that, only four days after Raúl Castro had formally taken over as Cuba's president in 2008, he decided to *sign* the two basic human rights treaties, the covenants on civil and political rights (ICCPR) and economic, social and cultural rights (ICESCR).

⁵⁰ Where no other references are made, the source of this section has been Bye 2019a and Bye 2019b.

⁵¹ See Cuba's National Report to the UN Human Rights Council (OHCHR 2018c).

But the next announced step, to *ratify* these treaties, was for some reason never followed up and has never more been mentioned in public discourse (Bye 2019:4).

Some aspects of the constitutional reform (see sub-section 5.4), although basically confirming the eternal character of the one-party state, may prove consequential for the long-term prospects of democracy in Cuba. The most important of these are the decision to limit the term of top government positions to two four-year periods, to introduce a maximum age of 60 years for future presidential candidates, and to establish a certain distinction between executive and legislative office holders. These elements may potentially point towards a quite different political system compared to the two generations of Castro dominance. With the scheduled Communist Party Congress in 2021, all historical leaders are supposed to leave both government and party leadership.

An important reform wave – also involving improvements in democratic and human rights standards – could be observed in Cuba until 2016. Then, two years before the formal position as Head of State was left to a non-Castro, most reforms were put on hold, in reality amounting to a counter-reform which is still characterizing the Cuban society. What seemed to have happened is that the more orthodox communists within the Party and State became increasingly worried that transformations took place in such a way that the political power monopoly control was under threat. A more instrumental analysis could lead to the conclusion that a large part of the party and state leadership and bureaucracy were among the losers of the reforms (all these elements are discussed at length in Bye 2019a and b).

4.2. Polarization and space for civil society

Until 2016, space for civil society was expanded, and a general redefinition of citizen-state relations took place as a consequence of the growing share of the population working outside of the state economy, depending less on public propaganda, and also having access to travel abroad. Hoffmann (2016) speaks of a “pluralization of Cuba’s public sphere” and a “reshaping (of) the country’s media landscape”, while Rojas (2015) coined the dual term “civil pluralism and political authoritarianism” in Cuba. Perhaps the most far-reaching pro-political reform document that was allowed to be debated on the public agenda during these years was a manifest released in 2013 called *Cuba soñada – Cuba posible – Cuba futura* (the Cuba we dream about, the possible and future Cuba), promoted by a group originating within the Catholic Church that subsequently consolidated itself as the think-tank *Cuba Posible*. This document was in reality a demand for nothing less than the recognition of full liberal democracy in Cuba.⁵²

Several important independent media expressions were in this period allowed or tolerated, although always struggling with serious restrictions. Bloggers emerged rather massively. A web-based daily, *14yMedio*, was launched (and still exists – although it is normally not accessible in Cuba). Its director, the strong regime

⁵² The document was reproduced, along with several discussion articles, in the Catholic journal *Espacio Laical* no. 3, 2013, a journal that in principle was distributed through all Catholic churches in Cuba (Cuba Posible 2013). The document was also reproduced and commented by several prominent intellectuals on the website of the cultural magazine *Temas*, issued with support from the Ministry of Culture.

critic Yoani Sánchez, claimed in mid-2016 that independent journalism was possible in Cuba (Havana Times 2016). For a while, even some young journalists in official media took the opportunity to sell articles to the alternative media, thus avoiding the extremely narrow limits of official journalism and getting some highly needed extra income.

With the counter-reform that was introduced through the 7th Party Congress in April 2016, many windows of opportunity were gradually closed, but not without protest from those within the system that had appreciated the opening. A protest letter from a group of young journalists in one of the official provincial newspapers, affiliated to the Communist Youth League, clearly marked the depth of the discontent with the re-emergence of the orthodox line.⁵³

There was a clear dividing line between those who – at least until 2016 – expressed opposition and reform proposals within the limits of what was tolerated (some of them referring to themselves as “loyal opposition”), and the dissenters that argued for an overthrow of the regime, often also receiving economic support from the US, criticizing the Obama administration for the rapprochement and later supporting President Trump’s hardening of the embargo/blockade (Miami Herald 2017). Among these were no less than three persons / movements who were awarded the prestigious Sakharov Prize by the European Parliament. While these rather small groups got ample attention internationally, they mostly had very limited impact internally, partly due to very effective government policy to infiltrate, silence, ignore and ban them from public protest. During the period covered here, these dissenters were only exceptionally jailed for longer periods. Probably in order to avoid too strong international protest, they were normally detained for some hours, at times a few days, before being released. Paradoxically, the number of such arbitrary detentions increased sharply up to 2016 (peaking at more than 9000), before the number dropped to a little more than the half.⁵⁴ The most famous recent political prisoner case is that of the leader of Cuba’s supposedly largest dissenter organization, the Patriotic Union of Cuba (UNPACU), José Daniel Ferrer, who today is Cuba’s most prominent victim of political oppression. Ferrer was imprisoned in September 2019, tried at the end of February 2020 and released and sentenced to house arrest for four-and-a half years (Miami Herald 2020).

There are clear indications that the Cuban government feared more the “loyal opposition” – by some regime defenders despicably called “*centristas*” – than the implacable dissenters. At the 7th Party Congress, Raúl Castro lashed out against what he quite contemptuously called “the agents of change”. They were groups like *Cuba Posible*, independent journalists and bloggers, artists, academics and intellectuals, and not least parts of the rising private entrepreneurs. Among the latter, there was particular worry about those who tried to organize independently from party structures, such as the taxi drivers in Havana. This is what some analysts called “the grey sector” in the Cuban society, and many of them were seriously harassed,

⁵³ “Carta de protesta del Comité de Base de la UJC del diario ‘Vanguardia’”, published and commented in Diario de Cuba (2016a).

⁵⁴ See monthly overview of detentions recorded by CCDHRN (nd).

silenced or felt obliged to leave the country (Penton 2019, 14ymedio 2020), to the extent that this reformist group today is almost absent in the country's public debate.

Under the pretext of hardened US embargo and explicit regime-change policies, there is in 2020 a clear trend of increased harassment and criminalization of journalists, artists, human rights defenders and opponents in Cuba, with arbitrary detentions and prosecution in clear violation of their freedom of expression (IACHR 2020). Of particular concern has been the passing of Decree 349/018, implying greater restrictions on cultural and artistic expressions i.a. by demanding prior approval of public artistic expression and imposing an inspection mechanism with powers to forbid or close any cultural event. It was first celebrated as a half-victory when the Decree in late 2018 was put on hold after heavy protests. It was made effective in late 2019. Another Decree, 370, is an attempt to control the internet. Yet, the government has until now been incapable of stopping the circulation of critical information and protest, particularly through blogger networks comprising resident and diaspora activists.

4.3. Elections and constitutional reform

Announcements during the reform period had created certain expectations to the general elections that were to take place in 2017/2018, concluding with the end of the Castro presidential era. The hope was that these elections might be of a somewhat more competitive character. Such expectation did not materialize. Several independent initiatives were presented before the election process, but to no avail, with threats that any candidate proposed outside of the official organizations was perceived as a "counter-revolutionary".⁵⁵ Not one single independent candidate was even nominated by the neighborhood meetings that started the election process, from which representatives were directly elected to municipal assemblies. The further process was indirect: The National Assembly was elected as a confirmation of pre-selected candidates, after which the National Assembly unanimously elected the new President, Miguel Díaz-Canel in April 2018. The election turnout was however historically low: 86% in 2018 versus 91% in 2013 and 97% in 2008.

In 2018, a new Constitution was proposed and submitted to a quite impressive popular consultation, allegedly with 7.4 million participants in neighborhood and working place meetings. The most interesting aspect of this process was that a proposal for the legalization of same-sex marriage was met with an unusually open protest from a mix of religious and popular macho advocates, leading the government to withdraw the proposal for fear of seeing the entire Constitution defeated or at least being met by a high number of no-votes in the referendum that was held in February 2019. After the modified proposal had been put forward, only yes-propaganda was allowed in the public domain. Again, however, the silent protest was considerable. Only 78 percent of the electorate voted yes, versus 98 percent under the preceding constitutional referendum in 1976. While the large majority of Cubans still follow the official line in these popular consultations, a significant minority now dare to disagree or abstain. Some observers are even

⁵⁵ Then Vice-President Miguel Díaz-Canel quoted in *14ymedio* (2017).

claiming that the Communist Party's total grip on power is slowly evaporating (Chaguaceda and Geoffray 2015).

4.4. International health brigades as an example of the Cuban human rights dispute

The pandemic has once again brought the issue of Cuban health brigades back on the agenda, where it is handled as an ideological and geopolitical question. Cuba now has around 30,000 health workers (55,000 at its highest level) – half of them physicians – on international missions to 60 countries, most of them in Latin America and Africa. These health professionals have indisputably made a tremendous contribution to poor peoples' *right to health* in a large number of Latin American countries. The majority of poor countries around the world have benefitted from health brigades as well as the massive Cuban training program for physicians (Bye 2020). The US, however, considers Cuban health workers on international missions to be the victims of “modern slavery” and “human trafficking”. The US argument for this is that three-quarters of their salary is channeled back to the Cuban state, and that, in some cases, Cuban officials have been confiscating the doctors' passports to discourage defection (or “brain theft”). The dissenter group UNPACU managed to get two of the Human Rights Council's Special Rapporteurs bring up these concerns in an official communication to Cuba (UNPACU 2018, OHCHR 2019d).

Cuba's response is that the payment kept by the state is what makes it possible to keep their domestic health system working, plus the program to educate doctors from all over the world (OHCHR 2020d). In fact, incomes from the health brigades represent by far Cuba's most important foreign exchange earnings. Yet, most participants in these missions are attracted by the fact that this after all offers them better economic conditions than they have in Cuba, in addition to an attractive international experience.

After the political turn to the right, more than 10,000 physicians and other health workers were sent home from Brazil, Ecuador and Bolivia. Confronted with the catastrophic prospects of the pandemic, strong voices in these countries are now demanding to get them back. Covid-19 has also prompted countries like Argentina, Mexico and Honduras to invite sizable Cuban brigades to beef up the medical response to the crisis. Cuban doctors, when following the US encouragement to defect, are offered permanent residency in the US. More than 7,000 of them have accepted this between 2007 and 2018 (Bye 2020).

With the outbreak of the pandemic, Cuba has once again been on the offensive to offer international health brigades when national health systems are on the point of breaking down, as in Italy. 23 countries have so far (5 May) been receiving almost 3,000 Cuban health workers sent on anti-Corona missions. The United States is going out of its way to discourage other governments from receiving Cuban missions even during the corona emergency. Secretary of State Pompeo has been harshly criticizing countries like South Africa and Qatar for receiving large contingents of Cuban health brigades as key elements of their anti-pandemic strategies.

Depending on how catastrophic the coronavirus pandemic will turn out to be in Latin America, it could well be that Cuban health brigades will be increasingly called on to play a decisive role in a number of Latin American countries. The battle against the pandemic in Cuba itself has largely been a success, based on its quite unique mobilization capacity when it comes to emergency situations. As of 10 June 2020, the island had reported 2,200 infection cases and 84 deaths, representing 0,73 fatalities per 100,000 inhabitants and one single fatality in June so far.⁵⁶

4.5. Into the critical juncture with the corona crisis

As Cuba now finds itself at a critical juncture, with the definitive departure of the historic leadership and a full generational change foreseen at the upcoming party congress in 2021, the regime is passing through a deep crisis of legitimacy (Bye 2017). Cuba has an exceptionally robust system to mobilize the population against natural disasters and health emergencies, like the present pandemic. The problem now is more related to the lack of economic and material resources. It still remains to be seen how capable the country is to handle this new catastrophe.

More than anything, the coronavirus pandemic is hurting the Cuban economy – already in its deepest crisis since the Special Period of the 1990s – very seriously by halting tourism, drastically reducing family remittances from relatives in crisis-stricken US, and impeding access to vital import of food products as world trade almost grinds to a halt. The ghost of another Special Period is visible on the horizon (Frank 2020, Augustin 2020). The big question is whether a new generation of Cubans – the millennials – will accept a repetition of the 1990s without following the example of youth from the rest of Latin America and take to the streets. Fear of such a scenario has already been expressed by higher-ups in the system:

"Gentlemen, this country cannot stand another 93, another 94, if you do not want to see street protests and there is no Fidel to appear on the Malecón or at least until now there has been no figure in this country that shows people their face in order to calm their tempers".⁵⁷

In this situation of deep crisis, sanctions and threats from the US administration are only increasing, in spite of appeals from world leaders to lift sanctions for humanitarian reasons in this situation. In particular, a recent ban on US money transfer and credit card companies to work with the completely dominant Cuban partner, Fincimex, may have further devastating effect on the island's economy.

The official justification of missing democratic freedoms in Cuba has always been the hostile US policy (Ramonet 2007:491), although Fidel Castro may have been skeptical to lose "the anti-imperialist card" (Leogrande and Kornbluh 2014:406) and even successfully played it against his brother during the last

⁵⁶ The data on the spread of the coronavirus is gathered from Worldometer (2020), basing its data on source material from a variety of different governmental and academic sources.

⁵⁷ *Diario de Cuba*, 1.07.16," La subdirectora de 'Granma' alerta de que en Cuba se dan las condiciones para un estallido social en las calles" (S/E). The young journalist in a provincial party newspaper (*Vanguardia*, Santa Clara) who published this speech on his personal blog was harshly criticized and fired from his job.

year of his life when President Obama went out of his way to normalize relations (Bye 2016). What seems to have been demonstrated so far is that the effect of US sanctions has been to strengthen repression and make any democratic transformation less likely. What might change this scenario would be the election of a democratic president in the US later this year, with a policy of return to rapprochement with Cuba. If that occurs, the post-Castro Cuban leaders can hardly permit themselves the luxury of missing another opportunity to help a US president lifting the sanctions. There are some signs, one year before the decisive 2021 CP Congress, that the new deepening of the economic crisis is provoking some debate at the very top of the system regarding the need to open up the economy, a possible first step towards a more general liberalization of the Cuban polity (see Torres 2020).

5. Regional and international mechanisms for democracy and human rights

In comparison to other regions, the existence of regional institutions with an explicit mandate to promote democratic governance has since long been seen as a strength for the ambition of democratic stability in Latin America. The Organization of American States (OAS) continues to be the dominant inter-governmental regional body. Historically seen by many left-wing actors as an instrument of US dominance and even imperialism in the Western hemisphere, it has once again been criticized for political selectivity when it comes to the situations it chooses to address. The recent challenge to the re-election of Luis Almagro as Secretary General demonstrated the controversial and strongly ideological nature of the current leadership, not least its role in the political crises in Venezuela and, more recently (2019-2020), in Bolivia (Laborde 2020). During the “pink tide”, the center-left forces gained the upper hand in the OAS, for the first time relegating the US to a secondary role. This situation reached its climax with the decision in 2009 to welcome Cuba’s return to the organization, after a suspension in effect since 1962 (an invitation turned down by Cuba). During Barack Obama’s tenure as president, the US was obliged to accept Cuba’s participation in interregional summits (Panama in 2015), a situation that was taken advantage of in the historic rapprochement between the two regional archenemies. With the election of President Trump and the strengthening of the political right in Latin America, the OAS has again come to take a very confrontative political stance against remaining leftist regimes (particularly Venezuela and Cuba), with the Secretary General leaving all consensus-making efforts aside.

While the regional political fragmentation has affected the OAS, it has also changed the panorama of Latin American efforts to create alternative mechanisms for regional cooperation. As of 2020, the regional projects that surged during the so-called “pink tide” have either disappeared, the most prevalent example being UNASUR, or spun into irrelevancy, as is the case with CELAC and ALBA (Covarrubias 2020). The result of the so-called “crisis of multilateralism” is that there is now hardly any venue for effective conflict resolution in the region (van Klaveren 2020). The lack of regional coordination has been evident in the political and social crisis of Venezuela (Torres, Solís, and Bello 2019). Even though some ad-hoc groups serve as meeting points for certain crises, most prevalently that of Venezuela (The Lima Group, The International Contact Group), there is no institutionalized initiative for conflict-resolution supported by all countries. In the absence of coordinated efforts, sub-regional integration alternatives such as CAN, PA, and Mercosur play a role as meeting points, although they largely concern themselves with trade policy, being seemingly contingent on ideological affinity of leading members (Caballero 2019). Key regional financial institutions, most importantly the multilateral development banks (IDB, CABEL, CAF), according to a recent ECLAC report, may consolidate their dominance as the World Bank intends to scale back its investments in Latin America (Artecona, Bisogno, and Fleiss 2019).

Regional fragmentation, and the political situation of Latin America as such, has also likely had an effect on the regional capacity for human rights promotion and compliance with human rights obligations. Although the Inter-American Human Rights System (consisting of the Commission and the Court) is

not necessarily perceived as an integral part of OAS, Engstrom (2019) highlights that the legitimacy of the system has been challenged in multiple ways in the last years.⁵⁸ The most obvious example is again Venezuela, who withdrew from the convention underpinning the system in 2013 and recently barred Commission officials from entering the country (Singer 2020). There is also a more ample tendency, stemming from conservative governments, to gradually question the legitimacy of the IACHR. A recent example of this appeared in June 2019, when five governments (Argentina, Brazil Chile, Colombia, and Paraguay) submitted a statement questioning the “operation, functioning and effectiveness” of the regional HR institutions. For some scholars and many civil society organizations across the region, the message was perceived as an attempt to curtail the court, sparking considerable outrage (Contesse 2019; CEJIL et al. 2019).

There are also signs that government leaders see the cost of non-compliance, or even hostility, towards the UN and regional human rights mechanisms as lower than in previous periods. Unsurprisingly, this is especially evident in the actions of authoritarian regimes. The government of Venezuela has, for instance, accused the High Commissioner for Human Rights, Chile’s former center-left president Michelle Bachelet, of presenting a “selective and an openly biased vision” following the publication of a highly critical report on the human rights situation in the country in 2019 (BBC Mundo 2019a; OHCHR 2019c; 2019c). However, several other countries have used similar rhetoric when facing criticism from UN entities. As mentioned elsewhere, the topic of violence against human rights defenders in Colombia has recently caused increased tension between the UN and Colombia (Oquendo 2020). Following the forced resignation of Evo Morales, the interim government has made similar claims as those of their Venezuelan counterpart when responding to criticism from the high commissioner on serious allegations of human rights abuses (Chauvin and Faiola 2020). This trend is also strengthened by the Trump administration’s general ignorance of, and at times hostility towards, the multilateral system.

⁵⁸ Both bodies can decide individual complaints concerning alleged human rights violations and may issue emergency protective measures when an individual or the subject of a complaint is in immediate risk of irreparable harm. The Commission also engages in a range of human rights monitoring and promotion activities, while the Court may issue advisory legal opinions on issues pertaining to the interpretation of the Inter-American instruments at the request of an OAS organ or member state.

6. The impact of the 2020 coronavirus pandemic in Latin America

Both the extent and the long-term impact of the spread of the coronavirus pandemic (COVID-19) in Latin America is developing as this document is being drafted.⁵⁹ It is therefore impossible to fully assess the outcome. However, regardless of its further spreading, it is already clear that the pandemic, and the governmental responses to contain it, will have far-reaching consequences for both the economic and political panorama in the region (Call 2020). This includes impact on several areas related to economic growth, social benefits, human rights and democratic governance. Some preliminary assessments are therefore included in this report.⁶⁰

Many Latin American countries quickly implemented drastic measures to prevent the spreading of the virus at a relatively early stage compared to many European countries and the US. Structural challenges, such as the precarious state of public health systems and control over the informal sector, have, however, turned out to seriously impede efforts of containment (Lafuente 2020). It took almost two months after the serious situation in much of Europe had become clear, with the impression that Latin America for unknown reasons might be less affected. Explanations for this varied from the temperature element, the predominance of young people, the fact that elderly people are less concentrated in retirement institutions.⁶¹ But gradually, Latin America actually became the very epicenter of the pandemic, as declared by the WHO on 22 May. The first dramatic outbreak took place in Ecuador's largest city Guayaquil, which quickly led to a collapse of the health infrastructure (Philips and Moncada 2020).

Since April, Brazil has been the center of attention and the epicenter of the outbreak in the region. President Bolsonaro refused to accept the seriousness of the coronavirus, accused governors and two consecutive ministers of health of undermining his authority, and witnessed the country's death toll soaring over 40 000, second only to the US (as of June 12, 2020). São Paulo and Rio de Janeiro had the highest number of deaths, but the state of Amazonas had the highest mortality per capita. The situation among the 3 million Amazon indians, divided among 420 tribes in the nine countries surrounding the world's biggest rainforest, is particularly critical. Spreading from cities like Manaus in Brazil and Iquitos in Peru, the virus is now reported to have reached 120 villages. Fatality is believed to be twice as high among these indigenous peoples compared to people of European origin. When attempting to isolate from virus infection, they may instead die from hunger.⁶²

⁵⁹ An earlier and somewhat more extensive version of the findings presented in this section was published in the middle of May 2020 (Østebø and Bye 2020). Where no other reference is given, the data on the spread of the coronavirus is gathered from Worldometer (2020), who bases its data on source material from a variety of different governmental and academic sources.

⁶⁰ For an in-depth analysis of the political and social impact of the coronavirus crisis, see Blofield et al. (2020).

⁶¹ For some interesting reflections about the highly varying nature of outbreaks in different countries, including in Latin America, see Beech et al. (2020).

⁶² <https://reliefweb.int/report/brazil/amazon-faces-humanitarian-and-environmental-tragedy-because-pandemic>

Mexico, another country where the head of state was late to recognize the seriousness of the pandemic, also saw a steep rise in number of infection cases and deaths, followed by Peru. Measured in deaths per capita, Ecuador was the most serious case in the region (21.7 per 100 000), followed by Brazil, Peru, Chile and Mexico. The total number of fatalities in the region is approaching 75 000 (statista.com). Generally, as elsewhere in the world, the larger metropolitan areas were hardest hit, while the rural areas far away from urban centers had the weakest public health infrastructure to cope. There were some interesting phenomena, for instance that the Andean highlands (*altiplano*) was left almost unaffected (Escobar 2020).

6.1. Medium- and long-term economic consequences

The immediate consequence of the coronavirus pandemic is a virtual hiatus in many economic sectors, throwing off balance all Latin American economies.⁶³ Moreover, economic conjunctures in Latin America are as noted very much dependent on global markets of raw materials and commodities. As noted by the Council of the Americas, China is either first or second-largest trading partner for many Latin American countries, and a plummeting demand in Chinese industry will likely affect the region dramatically in the short term (Horwitz et al. 2020). A quick recovery in China would also better the region's short-term economic prospects. In early March, OECD projected a notable reduction in prospected economic growth for 2020 (Hannon and Torry 2020). Similar surveys from other analysts paint an even gimmer picture, forecasting economic contraction in the region. As the crisis deepens, and the consequences of drastic preemptive and precautionary measures implemented all over the region begin to take effect, these projections will likely be revised (O'Boyle and Andrade 2020). The latest World Bank projection signals a possible negative growth of 7,2% (Peru as the worst case with 12%), two percentage points more than the expected world average (Fariza 2020). If these forecasts are proven right, it would be the most serious recession since the Second World War (Bitar and Zovatto 2020).

6.2. Consequences for human rights

The most widespread effect of an economic downturn following the coronavirus crisis may have a devastating impact on economic and social rights. CEPAL, at the end of March 2020, estimated that the number of persons living in poverty may increase from 185 to 220 million, the number of those living in extreme poverty may increase from 77 to 91 million, also leading to increasing inequality (Vatican News 2020). There will be a further strain on public budgets, and a general urgency of meeting short-term demands during the crisis, especially for those working in the informal sector.⁶⁴ The UN Food and Agricultural Organization (FAO) has warned of a historical setback in the struggle against hunger, with more than 40 million people suffering from food insecurity – not because of failing production but because of lacking incomes (Montes 2020). Furthermore, the crisis will likely put a further strain on public health care systems, jeopardizing the right to adequate health care. While the health care systems of all Latin

⁶³ The US organization Americas Society/ Council of the Americas maintains an online tracker of the development of the coronavirus in Latin America and the different governments approaches to it (Horwitz et al. 2020). See Romero et al. for a preliminary analysis of societal consequences (2020a; 2020b).

⁶⁴ See Horwitz et al. (2020) for an overview of different Latin American governments to mend this challenge.

American countries will face enormous challenges amid an outbreak of COVID-19, some countries are more exposed than others.

The Global Health Security Index,⁶⁵ which assesses the preparedness of individual countries when facing a pandemic, highlights Venezuela, Haiti, Honduras, Guatemala, several smaller Caribbean countries, and in part Paraguay and Bolivia, as among the least prepared countries for a pandemic akin to that of COVID-19. In Venezuela and Haiti, a pandemic would be an almost unimaginable challenge in what has long been described as public health crises by both domestic and international observers⁶⁶ In the case of Venezuela, the crisis is further exacerbated by the sanctions regime imposed by the United States (heavily criticized by the UN High Commissioner for Human Rights), which also impedes provisions of medical supplies. In addition, the ongoing institutional crisis prevents the country from seeking emergency loans from the International Monetary Fund (IMF) (Detsch 2020). Although opposing domestic actors have been signaling the need to coordinate during the crisis, recent actions of the US government, such as the indictment of Nicolás Maduro and senior government officials have further complicated such efforts (Ramsey 2020). Cuba is a victim of similar increasing US sanctions, which also include Cuba's efforts to send medical brigades and take part in the R&D for effective drugs and even the vaccine that the entire world is waiting for (see more in section 5).

Migrant populations are considered to be among the most vulnerable in a situation of closed borders, lockdown, and other wide-reaching government prevention measures. Overrepresented in informal sectors, many migrants will find themselves without a minimum of social protection or safety net. They are also among the most vulnerable when it comes to access to adequate medical care. Human rights organizations and humanitarian actors in Colombia (Abramovits 2020; El Espectador 2020b), working with Venezuelan migrants, and US and Mexican actors (Conexión Migrante 2020; Reina and Camhaji 2020), working primarily with Central American migrants on both sides of the border, have already warned about the enormous mismatch between the potential risks for migrants and the resources allocated to mend them.

6.3. Political consequences

From the beginning of the coronavirus outbreak, a considerable worry has been the consequences for democratic development in a region finding itself in a moment of general political instability. Two prospects are particularly worrying. In some cases, most prevalently in Brazil and Nicaragua, prominent

⁶⁵ The Global Health Security Index 2019, a project of the US NGO The Nuclear Threat Initiative, John Hopkins University's Center for Health Security, and The Economic Intelligence Unit, assess countries preparedness in categories such as emergency prevention, detection and reporting, rapid response and mitigation, and the overall robustness of the healthcare system. For more details on individual countries, see the 2019 report by Cameron, Nuzzo, and Bell (2019).

⁶⁶ In Venezuela, the public health crisis followed in the aftermath of the economic crisis (since 2014), and include lack of medical personnel (caused by migration), lack of proper sanitary conditions in hospitals and clinics because of frequent power and water shortage, as well as a severe lack of equipment and pharmaceuticals (Page et al. 2019; Hodal 2019). Haiti faces similar challenges, following the 2010 earthquake and subsequent years of economic and political instability (CEPR 2020).

government figures have downplayed the magnitude of the crisis. In Brazil, Bolsonaro's sustained downplaying and politicization of the threat has caused widespread chaos, as different levels of government have perceived the threat very differently. With talk of an impeachment already looming before the corona crisis, there are now growing calls that Bolsonaro should resign (Brum 2020). Another worry, keeping in mind general tendencies in the region in later years, is that governments will resort to excessive measures in attempts to maintain public order, including more expansive efforts of power concentration and militarization. If containment efforts last for an extended period of time, the risk of social conflict, and subsequent confrontations, will increase. There may, however, be a tendency that some of those leaders most questioned by protests last year, may take advantage of their commanding role in the anti-Corona campaign to improve their standing.⁶⁷

In countries where social dissatisfaction is high, and which have seen large waves of protest in the last years, both economic anxiety and a general straining of state-citizen relations caused by prevention efforts may further increase tensions (Albertus 2020). The situation in Bolivia is particularly worrisome, as different political forces had united behind an electoral solution to the political crisis. Elections have now been postponed until second half 2020. The coronavirus crisis has also led to a temporary halt in the Chilean constitutional process (McGowan 2020). Even in Nicaragua, the country where the government has most consistently refused to take anti-corona measures, the opposition perceives the direct link between the pandemic and the struggle to re-establish democracy. In the words of one of the country's most prominent regime critics, Carlos F. Chamorro: "The prevention of the coronavirus and the departure of the dictatorship are inseparable: they are part of the same process to dismantle a regime" (Chamorro 2020). After a long period of considering the pandemic as "fake news", Sandinista leaders may now have to pay a high price themselves for their rejection of the danger it represents (Miranda 2020).

⁶⁷ While President Piñera's popularity fell to a historic minimum (around 10%) after the protest wave, there is a clear tendency that he has taken advantage of the coronavirus situation to see his approval ratings increasing significantly to around 25 % in late April. Something similar may be happening with President Duque of Colombia. It is highly uncertain how sustainable such political recovery will be.

7. Conclusion and prospects

Summarizing and presenting an overview of democratic development and human rights in contemporary Latin America is a highly difficult task. The authors of this report recognize that any such attempt will lead to an incomplete overview. This is partly because of regional diversity, partly because it builds on the authors' areas of interest and expertise, and partly because existing literature is only beginning to grasp the complex societal developments that have been taking place over the last half-decade. Nevertheless, addressing regional developments is a necessary exercise, as paying close attention by overarching shifts and specific contexts is a key to better understanding for both the academic community, media workers and practitioners in both state and non-state functions. Understanding past developments is especially acute during the current coronavirus crisis. While the crisis has thrown the region into turmoil, the dynamics deciding its outcome will be shaped by existing capacities, cleavages, and conflicts.

Since 2014/15, the region has gone from being dominated by center-left governments ("the pink tide") to a more complex panorama marked by a general weakening of traditional political forces in some countries. The new political landscape has in many places been dominated by the rise of anti-incumbent, often populist, political leaders, widespread social and political protest, popular discontent, and declining confidence in political actors. It is worth noting, however, that the cases of democratic breakdown have occurred in contexts where incumbent forces have, over time, undermined key democratic institutions. This, along with the emancipatory potential in many forms of social protest, should remind us that cause for concern should not be defined by political actors' traditional place in the political system, but rather by their intentions, values, and political projects at-large. Protests against corruption and broader protest waves against the functioning of existing democratic regimes tap into two overarching and connected topics that Latin American political leaders must address to change political dynamics. Firstly, that of performance, transparency, and lacking delivery of welfare policies. Secondly, a more open and including political system, enabling citizens to exert citizenship in a substantial and meaningful way.

Although treated separately in two different sections, human rights and the nature of democratic rule are intimately connected, as they have been since the 1970s, when human rights became a central element of public discourse. While the human rights agenda has expanded tremendously, and continues to expand still, a current trend is that many human rights actors see fundamental political rights as threatened. In some cases, most prevalently in the authoritarian context, the government itself must be seen as the principal violator of human rights. The majority of Latin American countries, lack appropriate rule of law institutions, and reveal a wide gap between governmental pledges and their willingness and capacity to properly address acute human rights issues. This must be seen in light of weakened regional mechanisms and decreased international presence and pressure by international actors truly committed to human rights work. It must also be seen in the context of the cultural conservative backlash taking place in many countries, in which both new and old human rights agendas are being systematically undermined.

When concluding this effort to summarize the public debate about what has happened in Latin America over the last five years, we may quote from the concluding article of a series of analyses recently presented in the Spanish daily *El País* under the heading “The crossroads of Latin America”, by the two Mexico-based historians Vanni Pettinà and Rafael Rojas (2020):

“In Latin America, the last years of the last decade were characterized by a succession of social outbursts evidencing the exhaustion of two models that, although characterized by important internal differences, had disputed the hegemony of the region since the beginning of the century: the *neoliberal* one and the *progressive* one. The outbreaks had begun by summoning governments located at the left pole (Brazil, Venezuela, Nicaragua, Ecuador, Bolivia) and quickly spread to governments that promoted right-wing projects (Argentina, Chile, Peru, Colombia, Puerto Rico).”

“The series shows, in all its seriousness, the social cost of neoliberal economic policies that, in terms of income, education, health, housing and work, have taken their toll through discontent with democracy and popular mobilizations...visualizing all the limits of a model that has favored the empowerment of meager economic elites, without offering the majority a credible response to their problems of decent livelihood (...with) ravages generated by the deregulatory prescriptions and the impact they have had on democratic institutions and norms.”

“The series also shows the problematic way in which Latin American progressives tried to correct the structural deficiencies of the neoliberal model, through development and extractive strategies... Progressive governments, more than a radical transformation of societies and political-economic systems, produced a containment, in many cases moderate, of historical deficits (...with) a positive impact on the redistribution of wealth but (without) pushing those transformation processes towards more ambitious horizons.”

The current unstable and complex political landscape, economic conjunctures, and the sudden and unexpected outbreak of the coronavirus pandemic makes it difficult to make reasonable and credible projections for the coming five-year period. It is, however, possible to suggest some key factors that will greatly influence the development of democracy and human rights in the region.

- (1) The regional economy is currently in disarray – possibly on the brink of total collapse – putting a strain on state capacity and opportunities for individuals. As economic downturn is intimately tied to political instability, a key variable for Latin American democratic development is how and when the global economy recovers and develops from its current state. At the time of concluding this Report, it is difficult to rule out the most catastrophic prospects.
- (2) Although traditional political parties and movements still have considerable influence in many Latin American political systems, both current tendencies and a regional dissatisfaction with

established political parties – left and right – suggest that there is a room for new political movements in many countries. The dynamics of such movements – particularly those brought about by spontaneous youth protest – and the response from entrenched power groups, may give us an indicator of the region's political future.

- (3) The coronavirus crisis will likely impact the region in a number of ways. It may serve as a litmus test on both democratic credentials of political leaders, and their capacity to confront a massive societal problem through a functional public health system, while at the same time craft a state response that does not fuel existing political conflict even further.
- (4) Basic human rights are under serious threats, particularly regarding basic socio-economic rights (including right to food and right to health) following the pandemic, but also basic security and right to life. Civil-political rights, believed to have been quite consolidated in the region, may again be threatened if authoritarian trends continue with Brazil as the most worrisome case.
- (5) When it comes to a more effective promotion of human rights, a key factor will be civil society's capability to create a climate in which rights discussions thrive and political polarization is prevented from overtaking rights agendas. For that reason, the relationship between governments, civil society and more spontaneous youth protest will be essential in determining to what degree human rights will be effectively protected and promoted.
- (6) Cuba, here treated as a special case, has seen a backlash of the economic and political reforms started by Raúl Castro when he took over as head of state from his brother Fidel. The deep economic and social crisis now threatening the country seems to be provoking a new debate about a return to and possibly deepening of the economic reform agenda. The CP Party Congress in 2021 will imply the definite departure of historic leaders and the full generation change. That may be the last chance for the present regime to secure a soft landing, rather than exposing the country to a full regime change.
- (7) On a regional level, an effective governance is contingent on the crisis management capacity of political leaders in the most important countries (Brazil, Mexico, Argentina, Colombia and Chile), and their willingness to invest the required political and economic capital. Elections in those countries, and not least in the United States, will determine the potential for regional cooperation.
- (8) On an international level, the geopolitical rivalry between the US on one side and China and Russia on the other, will have an important effect on political development. In this situation, European countries may have to take a vital role in facilitating conflict resolution and the promotion of human rights and democracy.

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Through a review of scholarly and other well-informed articles as well as media reports, this CMI Report aims to summarize discussions on challenges for democracy and human rights in Latin America during the last half-decade. The region faces a highly difficult economic outlook, consisting of low commodity prices and stagnant growth, threatening a historic backlash in the access to basic goods (including food) and services (not least health). The coronavirus pandemic may have a completely devastating effect on Latin American societies. After the end of the “pink tide”, the survey registers a regional democratic decline, breakdown of democratic systems in some countries and more widespread concerns of democratic erosion; electoral success for anti-incumbent candidates but also a rise of youth protest and fundamental political reform claims. While the human rights agenda has expanded tremendously, a current trend is that fundamental political rights may be endangered. There are serious threats to security and the right to life, and an increasing authoritarian trend (most visible in Venezuela, Nicaragua, Brazil, and El Salvador). Cuba, here treated as a special case, finds itself at a critical juncture, right before the definitive end of the Castro era, leaving the fundamental challenge for younger generations to prepare for a soft landing or risking a full regime collapse. Geopolitical rivalry between the US, China, and Russia leaves a particular responsibility to Europe to facilitate conflict resolution and peacemaking as well as resolution.

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Find us here



Contact us

Phone: 47 93 80 00

Phone: +47 55 70 55 65 (from abroad)

cmi@cmi.no

www.cmi.no

P.O. Box 6033,

N-5892 Bergen, Norway

Jekteviksbakken 31, Bergen

CMI CHR.
MICHELSEN
INSTITUTE