COVID-19, SOCIAL JUSTICE, AND INSTITUTIONAL DEFICIT IN THE AMERICAS

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INTRODUCTION

During the last three years, COVID-19 has been everywhere on this planet, causing sickness and death. As a world, we mourn the many human lives it has taken and its damage to numerous aspects of our daily life. The experience of the pandemic differs from house to house, town to town, and country to country. Unfortunately, COVID-19 has hit the Americas (North, Central, and South America) especially hard, particularly but not limited to our most vulnerable population.

This paper tries to explain the severity of the pandemic in the Americas from our institutional deficit. Although a complete answer to this question requires taking other factors into account, like a geographical and demographical analysis, I hope that reflecting on our institutional context will help us clarify the impact of the lack of adequate institutions in the aftermath of the pandemic.

II. COVID-19 IN THE AMERICAS

As of September 28, 2022, there have been 613,410,796 confirmed cases of COVID-19, including 6,518,749 deaths, reported to the World Health Organization.[1] The American continent accumulated 178,065,678 confirmed cases, equivalent to 29.02% of the total.[2] The region presents the highest death toll, with 2,835,174 deceased, accounting for 43.5% of total fatalities.[3] As of September 2022, two American countries are in the top three countries with the highest number of infections: the United States is first with 94.8 million, and Brazil is third with 34.6 million.[4] The United States (1st) with 1,045,766 million deaths, Brazil (2nd) with 685,835, Mexico (5th) with 330,286, and Perú (6th) with 216,514 are all in the top six countries in deaths

1. Gobierno de la República Dominicana, Enfermedad por Coronavirus 2019: Situación en la República Dominicana (Sept. 28, 2022), https://coronavirusrd.gob.do/wp-content/uploads/2022/10/Boletin-especial-924-COVID-19.pdf.

2. *Id.*

3. *Id.*

4. World Health Organization, *WHO-COVID-19-Global-Data* 724, 5674 (Sept. 28, 2022), https://covid19.who.int/WHO-COVID-19-global-data.csv.

worldwide as of September 2022.[5] To place it in perspective, six out of twenty people infected with COVID live in this continent, and almost one out of two COVID-related deaths occur in North and South America.[6] To picture the tragedy in the region, these continents represent less than one-seventh of the global population.[7]

The effects of COVID-19 are devastating for the economy as well. The global economy plunged into the worst recession ever measured by contemporary organizations. In 2020, the world had projected negative growth of 4.4%.[8] Emerging markets and developing countries contracted at 3.3%, while advanced economies contracted at an average rate of 5.8%.[9] The countries within Europe and the Americas suffered the strongest decline in economic activity. The four largest economies in America showed important contractions. The United States -4.3%; Brazil -5.8%; Canada -7.1% and Mexico -9%.[10] Other countries shrank at an even worse rate: Argentina -11.8%, Peru -13.9%, Venezuela -25%.[11]

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5. *Id.* at 724, 3374, 4124, 5674.

6. *Id.* (calculated from the previous statistics).

7. *Northern America Population (Live)*, Worldometer, https://www.worldometers.info/world-population/northern-america-population/ (last visited Nov. 23, 2022); *Central America Population (Live)*, Worldometer, https://www.worldometers.info/world-population/central-america-population/ (last visited Nov. 23, 2022); *South America Population (Live)*, Worldometer, https://www.worldometers.info/world-population/south-america-population/ (last visited Nov. 23, 2022).

8. Guay Lim et al., *The Australian Economy in 2020-21: The COVID-19 Pandemic and Prospects for Economic Recovery*, 54 Austl. Econ. Rev. 5, 7 (2021), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8013290/.

9. *Compare* IMF, *World Economic Outlook: A Long and Difficult Ascent*, at 9 (Oct. 2020) (projecting the numbers used), *with* IMF, *World Economic Outlook: Recovery During a Pandemic: Health Concerns, Supply Disruptions, and Price Pressures*, at 5 (Oct. 2021) (estimating a lower but comparable contraction).

10. *Id.*

11. *Compare* IMF, *World Economic Outlook: A Long and Difficult Ascent*, at 57 (Oct. 2020) (projecting the numbers used), *with* IMF, *World Economic Outlook: Recovery During a Pandemic: Health Concerns, Supply Disruptions, and Price Pressures*, at 39 (Oct. 2021) (estimating lower contractions for every country except Venezuela which had a higher contraction).

According to the World Bank's President David Malpass, "COVID already pushed over one per cent of the global population into extreme poverty (between 88 to 115 million people)".[12] In the United States, a study conducted by University of Chicago and the University of Notre Dame found that "...poverty rose by 2.4 percentage points, adding 8.1 million people to the ranks of the poor. For Blacks, poverty has risen by 5.4 percentage points since June."[13] The U.S. Bureau of Labor Statistics published that "...in January 2021, the unemployment rate fell by 0.4 percentage points to 6.3%, and the number of unemployed persons decreased to 10.1 million. Although they are much lower than their April 2020 highs, they remain well above their pre-pandemic levels in February 2020".[14]

According to the UN Economic Commission for Latin America and the Caribbean,

> ...in 2020 Latin America poverty reached 231 million people, a fifteen-year setback; while extreme poverty reached 96 million, a thirty-year regression. Eight of ten people in the region live with a monthly income of less than five hundred dollars. In Latin America, according to the same report, 47 million people lost their jobs during the lockdown, while 2.7 million businesses closed. Fifty-three percent of the labor

12. World Bank, *COVID-19 to Add as Many as 150 Million Extreme Poor by 2021* (Oct. 7, 2020), https://www.worldbank.org/en/news/press-release/2020/10/07/covid-19-to-add-as-many-as-150-million-extreme-poor-by-2021; *see also* Daniel Gerzon Mahler et al., *Updated Estimates of the Impact of COVID-19 on Global Poverty: Turning the Corner on the Pandemic in 2021?*, World Bank: Data Blog (June 24, 2021), https://blogs.worldbank.org/opendata/updated-estimates-impact-covid-19-global-poverty-turning-corner-pandemic-2021#:~:text=In%20January%202021%2C%20we%20estimated,around%20the%20globe%20in%202020 (estimating the additional amount of people in extreme poverty due to COVID-19 is within the range projected earlier).

13. Jeehoon Han et al., Real-Time Poverty Estimates During the COVID-19 Pandemic through December 2020, (Univ. of Chi. Harris Sch. of Pub. Pol. Jan. 20, 2020), http://povertymeasurement.org/wp-content/uploads/2021/01/Monthly_poverty_rates_updated_thru_December_2020-2.pdf.

14. U.S. Dep't of Lab., Bureau of Lab. Stat., The Employment Situation – January 2021 2 (Feb. 5, 2021).

> force works without the protection of a pension system and 48% does not have health coverage.[15]

The pandemic also exacerbated the inequality in the region, already with severe problems of distribution. Before the pandemic, 15 Latin American countries were above 40 countries of the Gini index.[16] It is expected that the Gini index grows five points in countries like Brazil, Chile, and Mexico and more than six in Argentina, Ecuador, and Peru.[17] Many countries have had previously reduced their index under the 50 line, but it's very likely that the pandemic sends them back to levels haven't seen since the nineties.

The COVID-19 pandemic has been controlled through the vaccination process. Globally, as of September 28, 2022, a total of 12,667,499,928 vaccine doses have been administered. In the Americas, 2,011,027,532 of them were administered.[18] Seven hundred six million people have completed the schedule and 790 million received at least the first doses.[19] Among the larger countries in the region, 92% of the population in Chile has received a complete dose. Peru, Argentina, and Canada are also above 80% of the population. Ecuador is at 79.1%, Brazil is at

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15. Econ. Comm'n on Lat. Am. and the Caribbean, *ECLAC Proposes Political and Social Compacts with Broad Participation, More Symmetry between Actors and Transformative Leaderships amid COVID-19 for a Recovery with Equality and Sustainability in the Region* (Oct. 15, 2020) (explaining the length of years Latin America has been set back, the number of businesses closed, and jobs lost because of Covid-19, and the amount of people facing poverty); Econ. Comm'n on Lat. Am. and the Caribbean, *Political and Social Compacts for Equality and Sustainable Development in Latin America and the Caribbean in the Post-COVID-19 Recovery*, at 2 (Oct. 15, 2020) (demonstrating that eight out of ten people in the region live on less than US$ 500 per month and the number of people contributing to pensions).

16. *Gini Index Coefficient – Distribution of Family Income*, Cent. Intel. Agency: The World Factbook, https://www.cia.gov/the-world-factbook/field/gini-index-coefficient-distribution-of-family-income/country-comparison (last visited Nov. 5, 2022).

17. Ivonne Acevedo et al., *The Pandemic is Increasing Inequality in Latin America*, Inter-Am. Dev. Bank (Sept. 22, 2021) (discussing the trends in inequality in Latin America before and during the pandemic). *But see* Econ. Comm'n on Lat. Am. and the Caribbean, *Social Panorama 2021* (2022) (showing that Gini inequality levels did not change as substantially in Mexico and Brazil during the pandemic).

18. *COVID-19 Vaccinations in the Americas*, Pan-Am. Health Org, https://ais.paho.org/imm/IM_DosisAdmin-Vacunacion.asp (last updated Oct. 28, 2022).

19. *Id.*

77%, Colombia is at 71.5%, the U.S. is at 66.9%, and Mexico is at 62.8%.[20]

III. INSTITUTIONAL RESPONSES

Looking at these numbers, I raise the following question: Why is the pandemic specifically ravaging toward our continent? Geography, demography, and other factors are important to answer this question, but I believe that looking at our recent institutional history helps to explain it from a public policy perspective. I think there is room for a deliberation on our institutions to explain why this part of the planet has been especially vulnerable to the pandemic.

During the Cold War era, the western hemisphere placed their hopes in building a long-lasting peace on three pillars: free markets, democracy, and Human Rights. Although the pillars were not necessarily compatible, they help a notion of economic development with redistribution and controls. Along with unprecedented economic growth, the western hemisphere achieved an economic distribution never seen before. Workers were crucial to this development, gaining enough economic and political force to build strong middle classes in most western countries and having real weight in the political scenario. A big network of health, communications, and educational services were available for large portions of the population for the first time. The United States and Europe were at the center of the story while Latin America was peripheral to it. Still, many places in the continent benefit from economic growth as they are able to implement welfare policies.

The end of the Soviet Union brought a global wave of changes around the world. The US and other powers advocated for open markets and free movement of capital. The success of the western economies motivated structural changes in many parts of the world with special enthusiasm in South Asian, Latin American, and the former socialist countries. Many industries were moved to other parts of the planet. Also, technology evolved quickly in a

20. *Overview Table*, Pan-Am. Health Org., https://ais.paho.org/imm/IM_DosisAdmin-Vacunacion.asp (last updated Oct. 28, 2022) (click on orange box reading "Data Table" to see the country-by-country data).

global world. While capital expanded fast, democracy and human rights had less acceptance in the new economic model.

Cheap labor availability in many countries helps capital to be more efficient. This trend changed many institutions in western societies. Labor lost its economic and political force and the welfare state weakened. A global economy built new institutions focused on competitiveness. The public space, an important part of the welfare state, started to fragment into private spheres. A small part of the population had the chance to experience globalization at its top, while most people saw their protection and rights go away. In many countries, the promise of development with globalization never occurred.

For the last 30 years, the welfare state has shrunk in most countries in the Americas. Globalization has made many markets efficient at a high social cost. The welfare state was substituted by the neoliberal state with a new policy agenda: promoting investment, ensuring security to capitals, and creating a network for productivity. Globalization helped to reach high levels of economic growth with severe problems of distribution. The globalization process also had a strong impact on politics. It consolidated a liberal consensus which, for a long time, did not allow challenges to the principles of the economic model. There was very little room for other political options, usually disqualified for being considered out of context. In 2008, when globalization had its first downfall, we missed the chance to correct many failures visible in our institutions.

The liberal consensus crumbled with the arrival of the Trump administration and other populist movements in the region, as an alternative to globalization, and led to disappointment in the Americas and in many places of the world. This kind of populism did very little for building institutions, instead focusing on the centrality of the leader and his rhetoric. Many policies in the last few years were oriented to increase the gaps in society.

Tragedy took place in our countries when the pandemic arrived, among other reasons, because we believed that we could still rely on a welfare state as a safety net that has been weakened for decades. Some blame single political leaders for the disaster, but I believe there is more to the problem. Our societies have done the best they can to control the pandemic, and we need to

recognize many people for that rather than blame any. From doctors and nurses to public officers and citizens, we witness every day that solidarity is still a foundational value of our society. Nevertheless, our best efforts have not been enough. Our real problem is that we lack the institutional structures to successfully confront the pandemic. How can we rely on health systems that have been broken for decades? How can people stay at home when very few enjoy a salary, social security, or even the stability of a formal job? Unfortunately, our health, economic and social institutions were not prepared to face COVID-19 and building them in the middle of the storm is very difficult.

In the US, for example, "early in the pandemic, the federal government offered a relief packaged that included large, one-time stimulus payments to households and greatly expanded unemployment insurance benefits. But some of these benefits have expired."[21] The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) urged to take at least seven actions oriented to tame the effects of the COVID-19 in the short term.[22] Among the most important were introducing a universal emergency income, giving credits to small and midsize businesses with flexible conditions, and providing a digital basic

21. Jeehoon Han et al., Real-Time Poverty Estimates During the COVID-19 Pandemic through November 2020, (Univ. of Chi. Harris Sch. of Pub. Pol. Dec. 15, 2020), https://harris.uchicago.edu/files/monthly_poverty_rates_updated_thru_november_2020_final.pdf. *See generally* Lexi Lonas, *The COVID-19 Shutdown: A Timeline of How the Pandemic Changed the US Economy*, The Hill (May 5, 2022), https://thehill.com/policy/finance/3478647-a-timeline-of-the-covid-19-economy/ (providing a timeline for stimulus payments and other COVID-19 economic mitigation measures deployed by the U.S. government); Alicia Parlapiano et al., *Where $5 Trillion in Pandemic Stimulus Money Went*, N.Y. Times (Mar. 11, 2022), https://www.nytimes.com/interac tive/2022/03/11/us/how-covid-stimulus-money-was-spent.html (detailing the end of COVID-19 employment benefits in 2022).

22. Econ. Comm'n on Lat. Am. and the Caribbean, *ECLAC Urges for Strengthening Welfare States and Moving Towards a Care Society for a Transformative Recovery with Equality and Sustainability* (Sept. 21, 2021), https://www.cepal.org/en/news/eclac-urges-strengthening-welfare-states-and-moving-towards-care-society-transformative (discussing measures to ease burdens on vulnerable populations); Econ. Comm'n on Lat. Am. And the Caribbean, *COVID-19 Special Report No. 4: Sectors and Businesses Facing COVID-19: Emergency and Reactivation* (July 2, 2020) (discussing the need to implement relief measures for struggling businesses).

box including a laptop or tablet with wi-fi to those with no access. None of the Latin American countries could follow the recipe.[23]

With health privatized in many countries, the state's finances broken, and the public space very limited, the responses to COVID-19 in fact rely on the efforts of the population. Very few have resources to face the pandemic. Minorities, migrants, and vulnerable groups were disproportionately affected by the spread of the virus. The context shows that we were definitively not prepared for a public health issue like this one. I hope that, at least, this experience would help us understand that we need stronger institutions to be prepared when the next pandemic arrives.

Although some countries have a universal health care system, most Latin American countries have large gaps in accessibility caused mainly by out-of-pocket health expenditure, which is 34% of total health spending.[24]

A. Institutional Weakness in Latin America: Education, Security, Health, and COVID-19

In recent months there has been recurrent news that attests to the multifaceted crisis occurring in Latin American countries, from insecurity through the educational and economic crisis to the unique situation of vulnerability in health systems. As there is no glimpse of a solution to the problem, it is necessary to dedicate oneself to the search for solutions in the short, medium, and long term. These developments are not necessarily very different in large parts of the United States as many could believe.

In the words of Miguel Ángel Centeno, "[s]tates in Latin America have never developed the institutional strength of their western European (or even, in some cases, East Asian)

23. *See generally* Econ. Comm'n on Lat. Am. and the Caribbean, *Special Report COVID-19: The Social Challenge in Times of COVID-19*, at 7-14 (May 12, 2020), https://repositorio.cepal.org/bitstream/handle/11362/45544/S2000324_en.pdf (discussing the various social safety measures implemented during COVID-19 by various countries in Latin America and the Caribbean).

24. Org. for Econ. Co-operation & Dev. & World Bank Grp., Health at a Glance: Latin America and the Caribbean 2020 138, 140 (2020).

counterparts. Latin American state power has always been shallow and contested. The interesting and more insightful question is why."[25] One of the answers presented at the table is the lack of strength in the institutions and their inability to react to local problems.

For illustrative purposes, data on the institutional develops in three specific areas of relevance in the Latin American region are shown below: education, public safety, and, precisely, health and COVID-19.

According to the World Bank, improving education is one of the mechanisms that leads to better results in reducing poverty and inequality, laying the foundations for sustained economic growth.[26] In this context, a goal of sustainable development, the United Nations Organization (UN) has proposed for 2030 to guarantee "inclusive, equitable, and quality education and promote lifelong learning opportunities for all."[27]

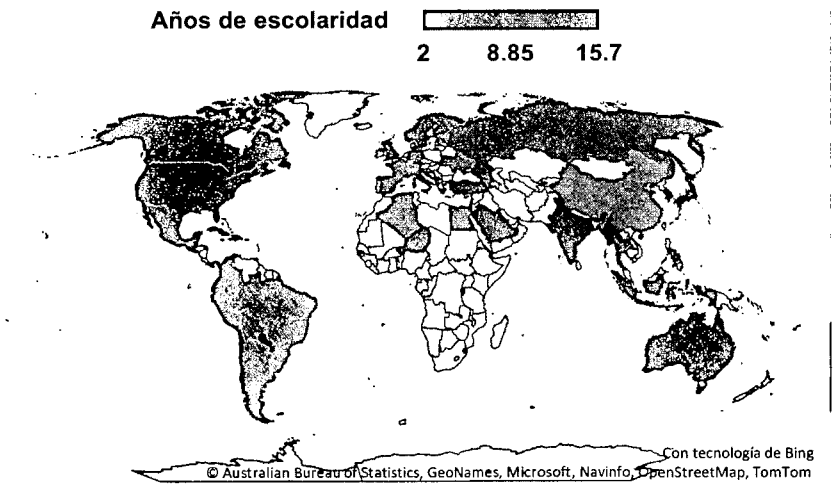
The following comparative map illustrates the situation Latin America is going through in this area.

25. Miguel Angel Centeno, Blood and Debt: War and the Nation-State in Latin America 14-15 (Pa. State Univ. Press 2002).

26. *Education Overview*, World Bank, https://www.worldbank.org/en/topic/education /overview (last updated Oct. 11, 2022). *See generally Education*, World Bank, https://data.worldbank.org/topic/education (2022) (providing thorough data for global and country-by-country regarding education markers).

27. G.A. Res. 70/1, *Transforming our World: the 2030 Agenda for Sustainable Development*, at 14 (Oct. 21, 2015).

Map 1: average years of schooling by country.[28]



Source: Own elaboration with data from UNESCO, the United Nations Organization, and ECLAC.

The average year of education is higher in the northern hemisphere of the planet and is especially low in Latin American countries compared to other countries with a higher level of development and, of course, with a higher level of quality of life.

What happens in the field of public safety and crime? The following table reflects the high propensity for homicides in countries of the southern hemisphere, in contrast to states on the northern fringe of the planet.

28. Graphic 1: Own elaboration with data from UNESCO, the United Nations Organization, and ECLAC. Websites: https://www.education-inequalities.org/indicators/eduyears, https://statistics.cepal.org/portal/cepalstat/dashboard.html?lang=es, and http://data.un.org /DocumentData.aspx?id=419.

Table 1: homicides per 100,000 inhabitants in Latin America v. Western Europe.

Country	rate[29]	Country	rate[30]
Venezuela	40.9	**Rusia**	7.33
Colombia	26.8	**Latvia**	3.71
México	26	**Finland**	1.64
Puerto Rico	19.3	**France**	1.35
Brazil	18.5	**Sweden**	1.23

Source: Own elaboration with data from Statista and the World Bank.

Indeed, the number of deaths per 100,000 inhabitants in the Latin American region is considerably higher compared to the country with the highest incidence. This has been one of the main problems that the Latin American region has faced and until now, has not shown encouraging figures.

Why is this information relevant in a document devoted to studying public health issues and the contrast with countries outside the region? Precisely because those States concerned about saving life and physical integrity – due to conditions prior to a global health pandemic – must [or should] inevitably allocate economic, material, and human resources to attend to a systemic problem that, unfortunately, will continue to exist when the world crisis is finally overcome. The preceding, without considering the prominent and well-known contrast between the states in GDP and GDP per capita.

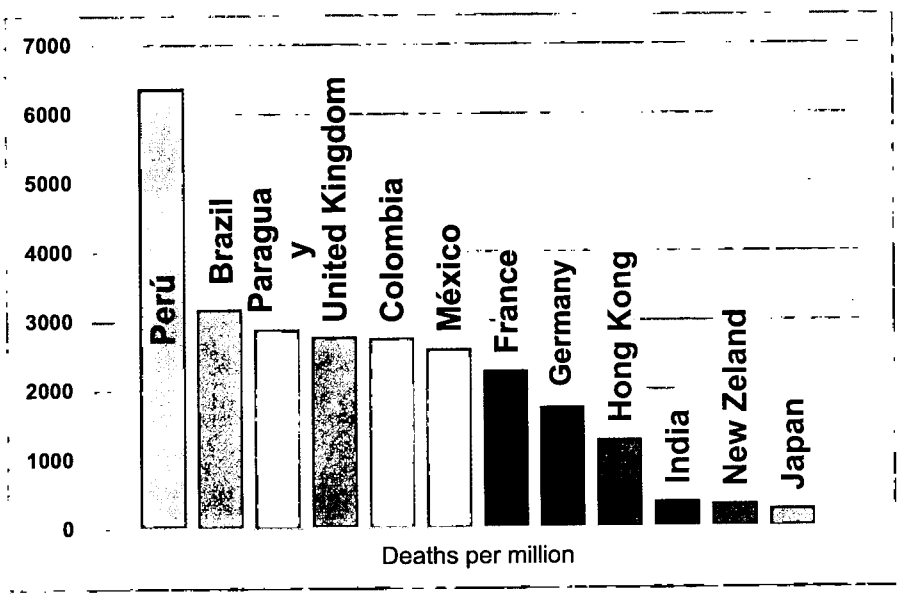
The examples of educational poverty and the fragility of the rule of law in the Americas are only a few of the many challenges we are experiencing. This is how COVID-19 arrived in our

29. *Homicide Rates in Selected Latin American and Caribbean Countries in 2021*, Statista,https://www.statista.com/statistics/947781/homicide-rates-latin-america-caribbean-country/ (last visited Nov. 4, 2022) (showcasing homicide rates in number of homicides per 100,000 inhabitants).

30. *Intentional Homicides (per 100,000 people)*, World Bank Grp. [WBG], https://data.worldbank.org/indicator/VC.IHR.PSRC.P5?end=2020&start=2020&view=map (last visited Nov. 4, 2022) (showcasing homicide rates in number of homicides per 100,000 inhabitants).

countries. The following graph shows the comparative figures concerning the number of deaths due to the COVID-19 pandemic.

Graph 1: Cumulative confirmed deaths from Covid-19 per million people.



Source: Own elaboration with data from Our World In Data. Website: https://ourworldindata.org/covid-deaths

Graph 1 shows that the number of people who died due to COVID-19 in Latin America (especially in the case of Peru) is severe, even when compared to European countries that showed very tragic figures, such as in the United Kingdom.

In a highly complex context, with such specific and profound problems, it was expected that the countries of Latin America would prove incapable of attending to essential state functions.

The inability to attend to a global public health crisis with optimal results is very complex to achieve when there are registrations still pending in education and public safety.

Although there are many other problems in the region, the primary objective of the governments to safeguard people's

physical integrity was chosen according to the explanation of classical political theories. The welfare state was ambitious to cover challenges in terms of social rights such as education and health. Additionally, the neoliberal model that privileged subsidiary attention and the optimization of the conditions for the proliferation of markets was insufficient, if not inoperative.

It is imperative to think again about this approach and pay attention to all these issues. In order to strengthen the rule of law in Latin America, its institutions deserve a deep reflection and an informed reconstruction. However, as we advance, this reconstruction should not be done on the ruins left by redeeming governments, but rather there should be reformist public policies to recover what is useful and we should work on the pending ones.

B. Socioeconomic Inequality in Latin America

According to the 2021 Regional Human Development Report of the United Nations Development Program (UNDP),[31] the Latin American region is caught in a double trap of high inequality and low growth, where a small proportion of the population has too much income accumulated, and another large part do not have sufficient income to acquire the basic food basket. Additionally, Latin America has grown at rates below the world average, at least during the last decades.[32]

This same report points out that inequality, like poverty, is multidimensional; it manifests itself in different spheres of society and between different groups, all related to factors such as gender, race, ethnicity, geographic location, and, of course, income.[33]

One of the indicators that has received greater acceptance by specialists when carrying out a quantitative analysis of

31. Marcela Meléndez (Chief Economist for Latin America and the Caribbean UNDP), United Nations Dev. Programme [UNDP], *Regional Human Development Report 2021 Trapped: High Inequality and Low Growth in Latin America and the Caribbean*, at 21 (2021), https://www.undp.org/latin-america/publications/regional-human-development-report-2021-trapped-high-inequality-and-low-growth-latin-america-and-caribbean.

32. *See id.* at 21-22, 62.

33. *Id.* at 3.

inequality is the Gini Coefficient,[34] due in part to the ease in the way it is calculated and interpreted,[35] as well as to the breadth of additional analysis performed on it.[36]

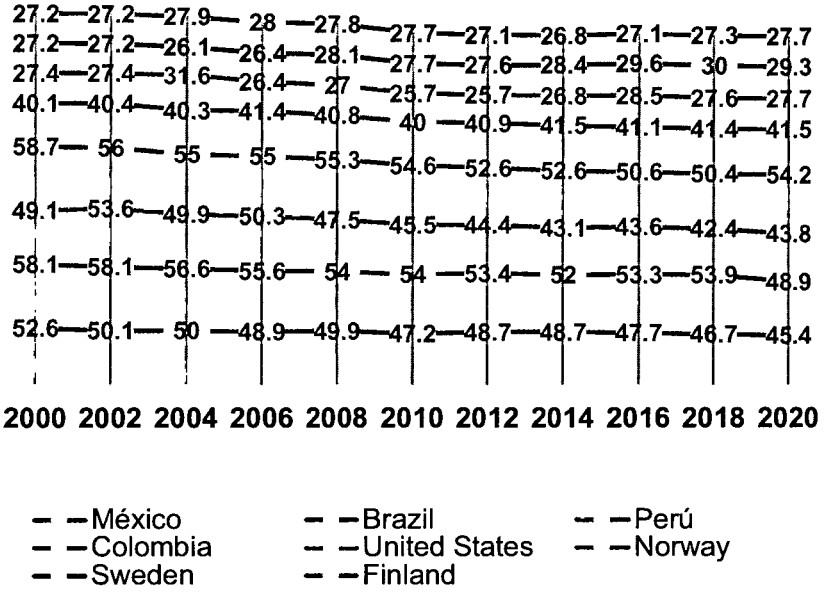
Graph 2 shows in a comparative way the States of the Latin American region and Western European countries that are recognized as developed and with low rates of inequality.

34. *See* Adam Hayes, *Gini Index Explained and Gini Co-efficients Around the World*, Investopedia (Aug. 5, 2022), https://www.investopedia.com/terms/g/gini-index.asp (describing the Gini Index as expressed as a percentage of the Gini Coefficient and presented with the interpretation that the variable closest to 0 indicates the full equality of income distribution among inhabitants, meaning everyone enjoys an equitable income, and the variable 100 represents the maximum inequality, meaning a single individual receives all the income).

35. *See* Fernando Medina, Econ. Comm'n for Latin Am. and the Caribbean [ECLAC], *Consideraciones sobre el Índice de Gini para Medir la Concentración del Ingreso*, at 5 (Mar. 2001), https://repositorio.cepal.org/bitstream/handle/11362/4788/S01020119_es.pdf ?sequence=1&isAllowed=y.

36. *See* Andrea Torres Rodríguez, *Coeficiente de Gini, el Detector de la Desigualdad Salarial*, Banco Bilbao Vizcaya Argentaria (July 28, 2022), https://www.bbva. com/es/ar/bbva-research-revisa-la-prevision-de-crecimiento-de-argentina-para-2022.

Graph 2. Gini coefficient (%) by country (2000 – 2020)



Source: Own elaboration with data from the World Bank. Website: https://datos.bancomundial.org/indicador/SI.POV.GINI?end=2021&locations=ZJ&most_recent_year_desc=false&start=2000&type=shaded&view=map&year=2012

Graph 2 shows that the consistency of this indicator in all the nations analyzed is evident. Thus, it is evident that the developed countries of Norway, Sweden, and Finland have managed to maintain a system with low levels of income inequality.[37] The countries of Latin America have not managed to improve their levels of inequality in at least the last twenty years.[38]

The commented index only reflects how income has been distributed in this region during the last 20 years. However, other

37. *Gini Index - Latin America & Caribbean,* World Bank Grp., https://data.worldbank.org/indicator/SI.POV.GINI?end=2021&locations=ZJ&most_recent_year_desc=false&start=2000&type=shaded&view=map&year=2012 (last visited Nov. 4, 2022) (showing Gini index values for countries in 2012)

38. *See id.*

indicators of a different nature allow us to understand the problems experienced in the region in aspects such as education, violence, the perception of corruption, health systems, and inflation.

As the UN establishes, to provide an approach to the solution of Latin America's problems, it is necessary to "[understand] the nature of the trap, the common factors underlying it, and their complex interactions is the first step to breaking free from it. This report aims to start a conversation by examining some of those factors."[39]

It would be necessary to move away from political positions to give way to specific action to care for the well-being of the population as a historical obligation to systematically regulated groups, such as women, disabled persons, indigenous people, the LGBT+ community, among others, as well as with future generations, as means to guarantee the governability of the region.[40] In the same way, it is imperative to recognize the capacity of Latin America to implement economic policy instruments to carry out relevant changes that break from patterns of inequality that have been reproduced for generations in the region to create a new dynamic and more inclusive and prosperous society.[41]

The widespread impact on public health due to the pandemic is only a reflection of inequities in income, given the failure of the alleged welfare system implemented prior to the 1980s and the neoliberal model implemented during the last 40 years. We can guess that these would inevitably translate into poor medical care in two ways:

1) low access to public health systems, regardless of the quality of the service, and
2) the propensity of the lowest deciles to suffer from associated comorbidities.

39. Meléndez, *supra* note 31.

40. PAHO, *supra* note 20, at 220-21.

41. David de Ferranti, et al., Inequality in Latin America: Breaking with History? 1-3 (The Int'l Bank for Reconstruction and Dev./The World Bank 2004).

This increases a greater affectation by the disease and the consequent, proportional damage to the health of the less favored population.[42]

C. *Human Rights in Latin America*

Today we cannot speak of full respect for human rights in Latin America. It's clear volution over the past 20 years should perhaps be recognized. Authors such as Rosembert Ariza, a National University of Colombia professor, describe them as an unfulfilled promise.[43] This author highlights that Latin American democracy has positioned human rights as the main object of politics and policies; however, the proposed goals are still far from being achieved.[44] Antonio Cançado Trinidade,[45] former judge of the Inter-American Court of Human Rights, stated that the sources of human rights violations have diversified over the years, also involving financial organizations and economic power.[46] Those entities – sometimes international and transnational – affect the sphere of rights of the governed.[47]

From 1980 onwards, in gradual decline, there was systematic and repeated contempt concerning Human Rights. As stated in the text *The History of Human Rights in Latin America*,[48] the doctrine of national security was one of the determining factors for this. This doctrine brought consequences such as the application of torture, forced disappearances, and violations of freedom of speech and expression. In addition, the economic situation, which implies foreign debt payments, and the consequent

42. *Id.*

43. Ariza Santamaría, R. (2010). *Los derechos humanos en América Latina: una promesa sin cumplir. Diálogo Político, 27*(4).

44. Ariza Santamaría, R. (2010). *Los derechos humanos en América Latina: una promesa sin cumplir. Diálogo Político, 27*(4).

45. Antonio Augusto Cançado Trindade, *Balance de los Resultados de la Conferencia Mundial de Derecho Humanos (Viena 1993), in* Estudios Básicos de Derechos Humanos III 17, 45 (Unidad Editorial del Instituto Interamericano de Derechos Humanos 1995).

46. *Id.*

47. *Id.*

48. Héctor Gros Espiell, *La Historia de los Derechos Humanos en América Latina, in* Estudios sobre Derechos Humanos II 65, 81-82 (Instituto Interamericano de Derechos Humanos 1988).

impoverishment of the population, has not allowed the desired resources to be devoted to improving the situation around Human Rights.

The Latin American region has been characterized as being transitional.[49] Since 1980, the region has achieved a downfall of authoritarian regimes and a transition to democratic regimes. Although this transition to democracy implies greater recognition and greater enforceability of human rights, it does not mean the region is not without transgressions.

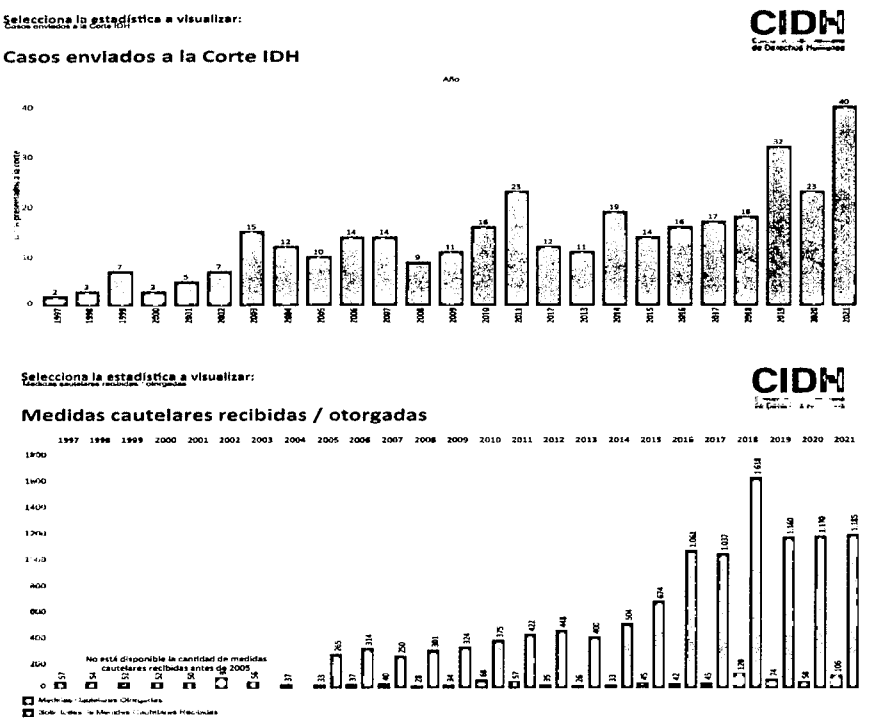
In this way, and as the following graphs from the Inter-American Commission on Human Rights (IACHR) show, the cases received annually are constantly increasing – except for extremes such as the year the COVID-19 pandemic began.[50] In the same way, the precautionary measures granted by the IACHR remain constant with slight variation.[51]

49. Vesselin Popovski & Mónica Serrano, *Transitional Justice Across Continents, in* After Oppression: Transitional Justice in Latin America and Eastern Europe 3, 4-6 (United Nations Univ. 2012).

50. *Statistics*, Inter-Am. Comm'n on Hum. Rts., https://www.oas.org/es/cidh/multimedia/estadisticas/estadisticas.html (last updated Dec. 2021).

51. *Id.*

Graph 3:



Source: graphics taken from the IACHR website. Link: https://www.oas.org/es/cidh/multimedia/estadisticas/estadisticas.html

Amnesty International recently presented its 2021 report[52] with data regarding the most severe time of the COVID-19 disease. The countries were unable to reverse the economic blow brought by the pandemic. In addition, the governments neglected and unprotected economic, social, and cultural rights.[53]

Compared to North America, in Latin America only 25% of the population was vaccinated against COVID-19, while in North America the vaccinated population reached 50%, which showed

52. *International Report 2021/22: The State of the World's Human Rights*, Amnesty Int'l, 2022, at 28-29.

53. *International Report 2021/22: The State of the World's Human Rights*, Amnesty Int'l, 2022, at 28-29.

that the Latin American region was disadvantaged in terms of the right to health.[54] The case of Haiti stands out. At the end of 2021, only 1% of the Haitian population was vaccinated.[55] In addition, the report notes that refugees and migrants were excluded from vaccination; also, no unique protocols were established for appropriately vaccinating indigenous peoples and communities.[56] In terms of the excessive use of force, arbitrary arrests, and forced disappearances, particularly in Colombia and Mexico, vaccination was significantly reduced.[57]

According to Dr. Ana Santano,[58] determining whether the Social State is in crisis is not entirely possible.[59] However, the Latin America region tends to experience crises harder.[60] Further, Dr. Santano affirms that, at this time and as a consequence of the pandemic, the matters of most significant concern are education, health, work, and the exponential increase in poverty.[61] Dr. Santano highlights the need to put central issues such as distributive justice, the fundamental realization of social rights for the change of realities, and the search for material equality to reconstruct the Latin American social fabric.[62]

IV. HEALTH SYSTEM IN THE AMERICAS

Protecting the right to health and the provision of public services to exercise that right has been a part of public debate for many years, especially during the last decades of the 20th century and this 21st century. Due to the increasing demand for quality services and the need to cover larger and more vulnerable

54. *Id.* at 28.

55. *Id.*

56. *Id.*

57. *Id.*

58. Ana Claudia Santano, *Derechos Sociales y el Estado de Derecho en el Future de América Latina [Social Rights and the State of Social Rights in the Future of Latin America]*, IberICONnect (Aug. 25, 2021), https://www.ibericonnect.blog/2021/08/derechos-sociales-y-el-estado-de-derecho-en-el-futuro-de-america-latina/.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

populations public administrations of several countries have to reconsider their available options.

One of the most illustrative examples is the case of the United States of America during the 1980s and 1990s. After having excessive expenses in their healthcare system that put at risk their *Medicaid*[63] program, they took actions to control their expenses, reduced medical services, eliminated a specific number of beds, reallocated the cost burden, and made small changes in their medical coverage that, at the beginning of this century, had only 38.7 million people insured.[64] The foregoing was driven mainly by an individualistic conception from the '80s focused on the market economy and a state that was unable or unwilling to regulate the healthcare market.[65] Therefore, as time passed, the scarce results of these measures had to be reassessed due to the precarious conditions of some sectors of society, which resulted in several reforms in the healthcare system and proper regulation by the State.[66]

In the case of Latin America, the results of these kinds of amendments or reforms have not resulted as expected. They have instead been much less satisfactory, despite being progress in the objectives of the social security programs to guarantee an adequate coverage level and a national strategy that provides quality services to their citizens.[67] According to figures from the Pan American Health Organization (PAHO), this region is one of the most unequal in healthcare services worldwide, with 29% of the

63. According to the government of the United States of America, *"Medicaid is a joint program of federal and state authorities that provides free or low-cost healthcare coverage to millions of Americans, including low-income persons, families and children, pregnant women, elder people and persons with disabilities. The federal government supplies a part to finance Medicaid and establishes guidelines for this program".* Website: https://www.benefits.gov/es/benefit/606 [Searching date: October 12th, 2022].

64. *Id.*

65. Tavarez, T. & Fleury, S. (2005). *La reforma del Sistema de Salud de los Estados Unidos de América en los años '90.* Revista Salud Colectiva. Website: https://www.scielosp.org/article/scol/2005.v1n2/129-153/ [Searching date: October 12th, 2022].

66. *Id.*

67. Tinoco, E. (2015). *El desafío de la seguridad social en América Latina.* International Labor Organization. Website: https://www.ilo.org/americas/oficina-regional/dirección-regional/WCMS_343190/lang—es/index.htm [Searching date: October 12th, 2022].

population living beneath the poverty threshold, which has resulted in a failure to reduce maternal mortality, a lack of inclusion, and low access to health services, among others.[68]

Hence, there isn't a general explanation that allows us to deduce exactly why there is a lack of efficiency in the implementation of healthcare public policies, because it depends on the context and the specific situation of each country; however, the main factors of this relation are funding (probably the main reason) and coverage. This can be seen in countries with *good grades* in their healthcare systems, such as Switzerland and Japan, where both finance their systems differently: while the first one concentrates on expenses of the government's general income, the second does it with specific items to create income, thus ensuring wide coverage, which is essential for these countries with high productivity levels.[69] The foregoing could be counterproductive for countries with less income that have not managed to cover their entire population, such as Greece or Cuba. According to the United Nations, financing in the region is made mainly through contributions based on the salary of insured people, established by means of a legal provision that allocates the payment among the insured individual, the employer, and the State, which also contributes through the establishment of specific taxes.[70] However, there is no financial stability due to increasing expenses and decreasing income.[71]

Figure x will explain the huge challenge of achieving full coverage of medical services for the population, and show an efficient financing plan, analyzing specific cases of relevant countries

68. Regional Committee of WHO for the Americas. (2014). *Estrategia para el acceso universal a la salud y la cobertura universal de salud.* Pan American Health Organization. Website: https://www.paho.org/hq/dmdocuments/2014/CD53-5-s.pdf [Searching date: October 12th, 2022].

69. CIEP. (2018). *Sistema Universal de Salud: retos de cobertura y financiamiento.* Centro de Investigación Económica y Presupuestaria. Website: https://ciep.mx/sistema-universal-de-salud-retos-de-cobertura-y-financiamiento/ [Searching date: October 12th, 2022].

70. *Id.*

71. CEPAL. (1985). *El Desarrollo de la Seguridad Social en América Latina.* Organización de las Naciones Unidas. Website: https://repositorio.cepal.org/handle/11362/8315 [Searching date: October 12th, 2022].

of the region. Finally, we will explain a case of success in the United States.

For this document, we have selected four relevant countries: Brazil, Colombia, Chile, and Mexico. Below, we will briefly describe their healthcare systems.

Table 2: Characteristics of Healthcare Systems in Latin American Countries

Brazil[72]	Brazil's Single Health System, which works alongside the private healthcare sector, is described as public, single, universal, and free. In 2013, they had more than 190 million people registered, with an estimated annual expense of 98 trillion US dollars. The health system is integrated by the Ministry of Health and the state and local Health Secretariats. The provision of medical services is carried out through public and private hospitals; and the affiliated people have private hospital and medical insurance managed by insurance companies. The National Health Agency considers all the procedures and treatments for the diseases that appear in the international disease classification of the World Health Organization and updates every two years.
Colombia[73]	The Health System in Colombia includes the private sector and the General System of Social Security in Health (whose registration is mandatory through healthcare institutions), which includes the following subsystems:

72. Sobral, B. & Schubert, B. (2013). *El sistema único de salud del Brasil, público, universal y gratuito. Su regulación y control en el contexto de la salud suplementaria.* Monitor Estratégico. No. 3. Website: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/IA/SSA/El-sistema-unico-de-salud-de-Brasil.pdf [Searching date: October 12th, 2022].

73. Ramiro Guerrero et al., *Sistema de Salud de Colombia,* 53 Salud Pública de México 144, 145 (2011).

	1. Tax regime: it attends to salaried employees, pensioners, and independent workers with equal or higher income than the minimum wage. Its operations are based on the contributions of the registered people. 2. Subsidized regime: it attends to all the people unable to pay. It operates through a subsidy between the Tax regime and other funds from taxes. Some special regimes attend to people who belong to the following groups: 1. Workers of the military forces; 2. Workers of the national police; 3. Workers of Ecopetrol; 4. Teachers; and 5. Members of public universities. The resources of the health system come from a fund made by healthcare providers and promoters which, in turn, recover the amounts from training payments in the case of the tax regime, adjusted to risk. On the other hand, the subsidized regime works in the same way, but without risk adjustment. Special regimes have their own financing models.
Chile[74]	The healthcare system in this country is mixed because it is formed by a public entity, the National Health Fund, and a private one, the Health Social Security Institutions. The first one includes both employees and independent workers, as well as their families, who have to contribute 7% of their monthly income. People are classified into four groups according to their income level, from the people that do not have any income (attended free of charge) to people with high income that pay up to 20% of fees in public hospitals.

74. Superintendencia de Salud, *Cómo funciona el Sistema de Salud en Chile*, Gobierno de Chile, https://www.supersalud.gob.cl/difusion/665/w3-article-17328.html#accordion-1.

	On the other hand, private Health Social Security Institutions are the ones in charge of financing benefits and health services for people who contribute 7% or higher of their monthly income for healthcare.
Mexico[75] [76]	It includes both the public and the private sectors. The National Health System is classified into three levels: 1. First: the medical contact that is closest to the patients, like medical offices or laboratories. 2. Second: general hospitals to attend emergencies and/or hospitalization, focused on medical procedures of medium difficulty. 3. Third: high specialty hospitals and subspecialties. The public sector includes social security institutions, such as Instituto Mexicano del Seguro Social (Mexican Institute of Social Security), Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (Government Workers' Social Security Services Institute), and Instituto de Salud para el Bienestar (Health Institute for Welfare), aimed to attend to people who are not registered in any social security institution and were previously covered by the Seguro Popular (Popular Insurance). Social security funds come from government contributions, the employer, and the workers, who are the beneficiaries along with their families and retired people; in the case of the Health Institute for Welfare, their beneficiaries are independent workers, workers in the informal sector, and unemployed people.

Source: Own elaboration with information from several sources.

75. BiHux, *Sistema Nacional de Salud en México*, BiHux Technology for Health (Dec. 12, 2020), https://bihux.mx/sistema-nacional-de-salud-en-mexico/.

76. Colegio Nacional de Especialistas en Medicina Integrada, *El Sistema de Salud en México: de la fragmentación hacia un sistema de salud universal*, (Jan. 15, 2017), https://www.conaemi.org.mx/single-post/2017/01/15/El-Sistema-de-Salud-en-México-De-la-fragmentación-hacia-un-Sistema-de-Salud-Universal.

States can deal differently with the necessary public policies in the health sector depending on the specific context of each one of them; however, they have not been entirely satisfactory.

According to the data from the member countries of the OECD, most of them have attained universal coverage for a group of basic services; however, seven countries still report very low rates, like Poland, Ireland, the United States of America, and Mexico. In Latin America, 30% of the population doesn't have access to free public health services, and according to experts' recommendations, only four countries in this region comply with the expected expenses.[77] Below, we present two opposite cases regarding coverage in two of the aforementioned countries:

- In Mexico, at the beginning of this century, there were more than 55 million people that were not registered in any social security institution.[78] The number of people without access to healthcare services reduced to 22.4 million people when *Seguro Popular* came into full force and effect.[79] Through the operation of the *Instituto de Salud para el Bienestar* (Health Institute for Welfare), the Government projects in 2024 the number of people without healthcare services will decrease to 11.8 million.[80] Data from 2016 shows there were some improvements to basic indicators, such as the decrease in maternal mortality, as well as in the mortality caused by heart attacks or cerebrovascular accidents, along with the ongoing fight against obesity, diabetes, and

77. TeleSur, *¿Cómo avanza América Latina en cobertura sanitaria?*, (Dec. 12, 2020), https://www.telesurtv.net/news/avances-america-latina-cobertura-sanitaria-salud-publica—20180406-0057.html.

78. Judith Senyacen Méndez Méndez & Alejandra Llanos Guerrero, *De Seguro Popular a INSABI: Mayor población con menor atención*, Centro de Investigación Económica y Presupuestaria, A.C. (June 21, 2021), https://ciep.mx/de-seguro-popular-a-insabi-mayor-poblacion-con-menor-atencion/.

79. *Id.*

80. *Id.*

hypertension because of Popular Insurance.[81] Nevertheless, a large number of people in the country are still deprived of access to the healthcare system. As of October 4, 2022, the government reported a total of 330,139 deaths from COVID-19 and 6,760,826 confirmed cases, which suggests many people still lack access to healthcare.[82] However, at the end of August 2022, there was an excess of mortality between 678,000 and 758,000 deaths with no clearly determined cause.[83]

- In Colombia, there is a better outlook, because the coverage between both the tax and subsidized regime accounts for 92% of the whole population. In 1993, the registration rate was 23.7%, which elevated to 93.4% in 2009.[84] The subsidized regime has been the main driver in reducing regional and urban-rural differences.[85] In the context of the COVID-19 pandemic, as of October 2022, there were 42,000 deaths, or 2,777.86 deaths per million.[86]

Although the situation in Latin America regarding public health, its financing and coverage, is not encouraging, there are examples

81. Org. for Econ. Coop. & Dev., Estudios de la OCDE sobre los Sistemas de Salud: México [OECD Review of Health Systems: Mexico] 7 (2016).

82. COVID-19 General Information in Mexico, Gobierno de México, https://datos.covid-19.conacyt.mx/#DOView (last visited Nov. 6, 2022).

83. Redacción Animal Político, *Durante pandemia, México acumula un exceso de mortalidad de hasta 758 mil decesos desde 2020* [-], Animal Político (Aug. 29, 2022), https://www.animalpolitico.com/2022/08/mexico-muertes-primer-trimestre-2022-inegi/.

84. Carlos Alberto Agudelo Calderón et al., *Sistema de salud en Colombia: 20 años de logros y problemas* [*The Colombian Healthcare System: 20 Years of Achievements and Problems*], 16 Ciência & Saúde Coletiva 2817, 2817–2819 (2011).

85. *Id.* at 2819, 2822.

86. Colombia COVID-19 Statistics, World Health Org., https://covid19.who.int /region/amro/country/co (last visited Nov. 6, 2022); *see generally* Population of Colombia, The World Bank, https://data.worldbank.org/indicator/SP.POP.TOTL?locations=CO& name_desc=false (last visited Nov. 6, 2022).

of public policies that, even though they are perfectible, have provided positive objective results in relation to health protection.

Indeed, one of these cases is the Affordable Care Act (ACA), sponsored by former President of the United States of America, Barack Obama. This program aimed to turn medical insurance into an affordable good for most of the population by subsidizing health services for individuals and their families based on age, household size, and income. It allowed more than 40 million people, who did not previously have the means to provide for their health expenses, to have medical insurance.[87]

People who have legal status in the United States and meet certain income requirements through this health program could access preventive care services, medicines, attention to medical emergencies, hospitalizations, pediatric care, and follow-through of pregnancies, among other benefits.[88]

Many of the people who benefited from ACA were either unemployed, had low income, or even were unable to work due to disabilities, injuries, or chronic diseases. Here are some of the main benefits of this system:[89]

1. More than 16 million Americans got medical insurance in the first years of the validity of this Act;[90]
2. Insurance companies were forced to spend, at least on an 80% rate, medical insurance premiums, as well as to reconsider the rates of these premiums to avoid any excess;[91]

87. *See generally* Lena Borrelli, *How Does the Affordable Care Act (Obamacare) Work?*, Forbes (Aug. 12, 2022), https://www.forbes.com/advisor/health-insurance/what-is-obamacare/; Tami Luhby, *First on CNN: A Record 35 Million-Plus Americans Have Affordable Care Act Coverage – but the Gaines May Not Last Long*, CNN (Apr. 29, 2022, 12:30 PM), https://edition.cnn.com/2022/04/29/politics/aca-obamacare-coverage-record/index.html.

88. *Obamacare*, Braojos Ins., https://www.braojosinsurance.com/que-es-el-obamacare/ (last visited Nov. 6, 2022).

89. James Roland, *The Pros and Cons of Obamacare*, Healthline, https://www.healthline.com/health/consumer-healthcare-guide/pros-and-cons-obamacare (Aug. 16, 2019).

90. *Id.*

91. *Id.*

3. People with previous health conditions weren't deprived of getting quality medical insurance;[92]
4. There are no longer limits to the amounts of money that companies could spend to care for certain health conditions;[93]
5. More affordable and cheaper medicines.[94]

Nevertheless, these achievements did not come easy, because there were some disputes between the legislative and the executive powers, along with some pointing to the Executive. One of the main challenges was promoted by the National Federation of Independent Business and developed in the Supreme Court of Justice. The plaintiffs argued that the Law demanded an unconstitutional order and it should not be applied.[95] The response of the Court was that Congress exceeded its powers in accordance with clause 3, section 8 of article 1 of the Constitution of the United States of America (*commerce clause)* by enacting an individual order; however, this would be part of the tax authority of the State.[96] On the other hand, it stated that the obligation established to the States of the Union of extending Medicaid violated the Tenth Amendment for setting forth unduly coercions, leaving the extension at their own discretion.[97]

V. SOME IDEAS FOR WHEN THE NEXT CATACLYSM COMES

COVID-19 has proven our societies to be very vulnerable. We lack the institutions to confront this kind of disaster. Nevertheless, we need to think what to do to overcome the negative effects of the pandemic and to be better prepared when the next global challenge hits. These are the questions that we will need to answer in the short to medium term. The first step is to

92. *Id.*

93. *Id.*

94. *Id.*

95. Sarah Somers, *The Affordable Care Act: Reflections on 10 Years*, The Network for Public Health Law (May 6, 2021), https://www.networkforphl.org/news-insights/the-affordable-care-act-reflections-on-10-years.

96. *Id.*

97. *Id.*

recognize that we need to strengthen our institutions and to start reversing the process of dismantling them. If we continue the path of social fragmentation, the next pandemic could be even tougher. As many of us, I'm far away from having a plan on how to do it, but I'd like to share some ideas with you that might help to build better social institutions.

I think it is urgent to rebuild the public sphere. Inequality, corruption, and violence are part of a broken public sphere. Ultra-privatization has generated extremely expensive services accessible only to a small percentage of the population. The inequality in the continent is bad, not only for the poor but for everyone, because it makes the access to basic goods, like health or education, very expensive for all. The pandemic could help to restore the social tissue if we understand that it is easier to fight the big social problems as one body instead of individuals. Our new public sphere needs inclusion for those that have been traditionally excluded like minorities, migrants, etcetera.

Also, it is essential to set priorities for public spending. Enough support for universal access to public education and efficient health systems tops the list. Reducing gaps in technology is important too. Likewise, it is important to fund scientific research, cultural activities, and rebuilding physical public spaces.

It is important to set new goals in the economy. Strong public institutions promote economic development. Healthy, educated, and protected workers are as important as prosperous business. Becoming greener will help to avoid the next cataclysm. We need to discourage and prevent excessive competition in the global markets and look back to local economies.

We need to protect the working class. The middle classes are about to disappear because the worker's rights are not protected anymore. Workers need contracts, a minimum wage, careers, health services, social security, and a retirement plan. They need houses and credits and school for their kids. They also need the opportunity to organize on behalf of their best interest. These are rights, not privileges. Migrant workers and minorities should be afforded them too.

Correspondingly, I think we need to open our democracies to new ideas and new people. For a long time, we have been afraid of ideas of redistribution because of the legacy of the Cold War

era. That attitude has helped to dismantle the welfare state and added to the fragmentation of the public sphere. Every time there was a progressive government in a Latin American country, it lacked the support of the international community. Every time a progressive policy is promoted in the US, it comes with great cost for the proponent's career. We need a wider political spectrum where redistribution can be discussed seriously. The formation of new institutions will require democracy. It is an important time for new ideas, new proposals, and new actors.

As a final note, I don't want to forget about lawyers and our role. As lawyers, on the one hand, we have served the process of dismantling the welfare state; but on the other hand, we have advocated for more inclusion, opportunities to minorities, women's rights, and other changes in society. Although we love to present our cases as revolutionary, I'm inclined to think that lawyers, courts, and judges scarcely bring about substantial social change. I lean towards the understanding of our profession as a means of facilitating the rationalization of social processes. As lawyers, we need to bring cases to the courts because it helps the democratic process and encourages the transit of ideas and public discussions. It helps us discern a good policy from a bad one, and supports the best understanding of our institutions and norms.

Because of the former, I would like to see a generation of lawyers presenting cases, defending worker's rights, litigating for the expansion of the political sphere and the protection of a universal health care system, and protecting the environment. Also, I would like to see judges and courts in the region encouraging the advance of a social agenda that allows a better redistribution, a more rational public spending, and improving conditions for free speech and democracy. I think that we as law professors have a big responsibility to generate ideas and knowledge as well as making the classroom into a space for discussion and free speech.

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