

Innovation, resilience and urgent transformations towards inclusive justice in Latin America and the Caribbean



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| Contents

Executive Summary	07
I. Introduction	12
II. Towards inclusive justice and a fair social contract	15
III. Justice systems in the face of crisis: challenges and immediate responses	20
A. Global pandemics require comprehensive strategies	21
Recommendations	23
B. The continuity of justice services and the protection of human rights	24
Recommendations	28
C. Alternatives to reduce pressure on the justice system	29
Recommendations	32
IV. Access to justice and social inclusion	33
A. Access to justice, COVID-19 and gender violence against women and girls	34
Recommendations	39
B. Access to justice and the mandate to ‘Leave no one behind’	40
Recommendations	44
V. Institutional transformation	45
A. Institutional capacities of justice systems	46
Recommendations	49
B. The pandemic as a catalyst for innovation processes	50
Recommendations	55
C. A data revolution towards access to justice	56
Recommendations	60
VI. Conclusions	61
A Roadmap for the next generation of reforms	

Executive summary

“In times of greater social conflict, the resilience of the justice sector is a necessary condition to achieve an inclusive and fair social contract. Access to justice is an enabling condition to consolidate the social fabric.”



COVID-19 has generated a pandemic that batters all regions, and Latin America and the Caribbean has been no exception. Although it started as a public health crisis, it soon turned into a crisis in governance, with profound economic, social and political implications. In this sense, this pandemic affects a region that already had extremely high levels of poverty and inequality. Latin America and the Caribbean continues to be one of the most unequal regions in the world. Inequality refers not only to the economic dimension, such as income or access to property, but also to variables such as access to rights and gender equality; in addition, more recently, according to the 2019 Human Development Report by the United Nations Development Programme (UNDP), new gaps are developing around access to technology, education and the climate crisis.¹ Furthermore, Latin America and the Caribbean is the most violent region in the world. In 2018, the regional homicide rate was 21.6 per 100,000 people, well beyond the point at which the World Health Organization (WHO) considers it an epidemic: more than 10 homicides per 100,000 people. Although it contains 8% of the world population, 33% of all homicides are committed in this region. 17 of the 20 countries with the highest homicide rates in the world are in Latin America and the Caribbean. In this context, the impact of COVID-19 on the global economy and its consequences on the countries of Latin America and the Caribbean are generating alterations in and an intensification of historical patterns of social conflict. The region's justice systems, which for the most part suspended their services at the onset of the crisis, confront the serious responsibility of ensuring that access to justice is respected and safeguarded both during and after the pandemic.



In times of greater social conflict, the resilience of the justice sector is a necessary condition to achieve an inclusive and fair social contract. Access to justice is an enabling condition to consolidate the social fabric. To this end, this document proposes a series of conceptual and programmatic guidelines—with practical and concrete proposals—to make access to justice a valid and effective vehicle for social containment and the protection of human rights. In the construction of this 'new improved normality', providing access to justice promptly and effectively becomes essential to rectify on the one hand a deficit of confidence in state institutions, but also to address the demands of various sectors on the basis of an approach grounded in inclusion and the protection of human rights, thus delivering on the mandate to 'Leave no one behind'.



The first axis of analysis and recommendations relate to the immediate responses to the sudden irruption of COVID-19 and its short-term challenges to justice systems. Currently, the average justice system is working in a limited modality, under extraordinary regulations, and striving to adapt to the new context to guarantee access to justice as much as possible. The first challenge consists of the gradual reopening of judicial services in the new social setting to ensure full access to justice. On the other hand, before the pandemic, the justice systems of the region already faced serious challenges in the provision of their services, which reduced or prevented access to justice. Therefore, the process of reopening judicial offices must be understood beyond opening up actual physical workspaces and must be accompanied by the design of a strategy that considers both the consequences of the current reduction of judicial services on pre-existing bottlenecks in justice systems, as well as the new realities of social injustice.



One of the great novelties has been the rapid and unprecedented increase in levels of technology use. This allowed the partial continuity of justice services by facilitating teleworking and conducting virtual meetings and hearings, while at the same time seeking to protect the health of judicial operators. These processes have been positive but, in some cases, disorganized as well. Therefore, it is necessary to consolidate the incorporation of technology to ensure sustainability beyond the recovery phase, providing the corresponding regulatory frameworks and incorporating these as pillars of strategic planning. On the other hand, in those cases where judicial powers established the total or partial suspension of services, strategies must be urgently designed for the reopening of justice services.

¹<https://www.latinamerica.undp.org/content/rblac/es/home/presscenter/pressreleases/2019/unfair-and-unequal--new-undp-report-sheds-light-on-discontent-in.html>



The partial or total closure of judicial services, added to the inertia of the disputes that traditionally reach courts, predicts a marked increase in the number of cases, which could exacerbate issues of congestion and delays. In this context, it becomes necessary to design political and juridical strategies to contribute, in the short and medium terms, to reduce pressure on the demand for services and thus improve the conditions for effective access to justice. To this end, tools such as the promotion of alternative dispute resolution methods, case prioritization systems in civil justice, and the redefinition of selectivity criteria in criminal policy matters may be used to ensure that only relevant cases reach the justice system.



Another pillar of the report focuses on the impact of COVID-19 on certain groups that require special attention and protection. As a result of lockdown measures, the pandemic has had an uneven impact on women and girls. In terms of access to justice and gender, there are two large sets of opportunities and challenges. The first refers to the immediate responses of the judiciary to violence against women and girls in the context of the pandemic. The report encourages the design of contingency plans and the non-interruption of judicial services to women and girls. It also includes a series of recommendations related to urgent measures to safeguard the life and integrity of those who are victims of gender violence, such as supplying anti-panic buttons, offering greater access to shelters or refuges, and generating synergies between the justice and security sectors to prevent new cases. The second set of opportunities refers to the need to carry out a true institutional transformation regarding gender, so that gender stops being an isolated area and becomes one of the strategic pillars of the judiciary. This requires cultural, organizational, budgetary and political changes within the judicial organization. That commitment must be signalled with concrete measures. In this sense, high-level gender bureaus must be created which become true workshops generating ideas and policies to comprehensively reconvert the judiciary, and formulate comprehensive, measurable, assessable gender plans provided with accountability mechanisms. It would no longer be a mere gender component or approach, but rather a reconstruction of the judicial institution around gender policy, which will allow for a powerful and comprehensive permeation of both public justice policy as well as the organization of justice. To achieve an effective and sustained transformation of care and protection services for women and girls, judicial institutions must first be transformed inwardly.



The irruption of the pandemic, added to the closure of judicial services, represents a great threat to access to justice for the different groups at greater risk of facing situations of vulnerability. These groups include the LGBTIQ+ community, people with disabilities, older adults, people facing situations of homelessness, migrants, and temporary or seasonal workers, among others. The heterogeneity between subregions in Latin America and the Caribbean must also be taken into account when designing access to justice policies within the framework of COVID-19. For example, countries that have suffered armed conflicts, such as Nicaragua, El Salvador, Guatemala and Colombia, have vulnerable groups with particularities and dynamics that require special attention, such as ensuring the continuity of judicial inquiries, avoiding the creation of contexts of revictimization or, in regards to the relatives of disappeared persons, carrying on with efforts to locate the remains of the disappeared. On the other hand, the reduction of judicial services and their lack of control over the actions of security forces constitutes a risk for the protection of the rights of migrants, asylum seekers and victims of human trafficking and smuggling, among others. The economic impact of COVID-19 has generated a particularly worrying situation in the Andean region, where a large number of people are trying to return to their countries of origin.



COVID-19 has tested the institutional capabilities of the justice system. In the face of the pandemic, the judicial powers of the region have the opportunity to prioritize the transformation of their institutional capacities, in a way that allows them to have a central and proactive role in defining public justice policy vis-à-vis the scenario generated by the pandemic. Priority should also be given to strengthening the capacities of the judiciary and of strategic planning units to promote reforms and tools that improve the efficiency of judicial services in accordance with the demands of the new normality imposed by COVID-19, placing issues such as innovation, new technologies, citizen co-creation, and inclusion

at the centre of the institutional agenda. Likewise, management capacities for their strategic guidelines and contingency plans must be developed in order to prepare judicial powers for unforeseen situations.



The pandemic is forcing judicial systems to adapt their practices to a new normality and in many cases these adaptation processes produce valuable experiences for innovation. The scenario of crisis and necessity generated by the pandemic has been the engine of an atypical process characterized by the rapid incorporation of technological innovations. This process must be supported to prevent setbacks. Furthermore, public innovation within the judiciary should be an object of utmost attention and interest on the part of judicial powers and international development agencies. There is great potential for incorporating new technologies such as artificial intelligence, machine learning and predictive analytics to solve problems such as delays and congestion. But also for institutional innovation and the adoption of open justice tools, such as transparency, citizen participation, accountability, and people-centred justice.

“Data are the new assets of state bureaucracies and their best use will be key to improve access to justice by designing inclusive policies for the neediest sectors.”



Judiciary powers have the possibility to carry out a data revolution to improve access to justice. As in other state spheres, data are central elements for the formulation of public justice policy and for calibrating the operation of judicial services. This requires consolidated and developed statistical systems, as well as data governance policies, something almost non-existent in the judicial institutions of the region. The judiciaries and governments must work in articulated ways to design strategies to fill existing data gaps, taking advantage of the benefits of new technologies. This is vitally important for justice system governance structures to enter a new level and become intensive data consumers. For this, they can rely on the example of public data policies implemented in other areas of the state. Data are the new assets of state bureaucracies and their best use will be key to improve access to justice by designing inclusive policies for the neediest sectors.



Faced with these challenges and opportunities, **UNDP is positioned as a key actor for the articulation of coordinated responses to ensure that access to justice becomes the frame of reference that promotes reforms which in turn protect the rights of the most vulnerable groups, encourage greater social inclusion, and provide containment and cohesion to the social fabric against the exacerbation of conflict patterns.** UNDP’s extensive track record in furthering spaces and mechanisms for democratic dialogue, added to its technical expertise and extensive geographic presence, allow it to become a platform for coordination between the different actors in justice systems and in regional and international organizations. The new agenda for access to justice reforms must be focused on the institutional transformation of the judiciary, the promotion of innovation, the use of data as a vital input for policy design and decision-making, and the re-hierarchization of the gender agenda as pillar of the institutional improvement of judicial powers.



Innovation, resilience and urgent transformations towards inclusive justice in Latin America and the Caribbean

“The scale and severity of the pandemic have in turn caused a crisis in governance, with political, economic and social implications that affect millions of people simultaneously.”

I. Introduction

COVID-19 has generated a pandemic that batters all regions, and Latin America and the Caribbean have been no exception. The public health crisis that has been generated has no recent precedents. The scale and severity of the pandemic have in turn caused a crisis in governance, with political, economic and social implications that affect millions of people simultaneously. In the most unequal region on the planet, and with the highest concentration of homicidal violence (it holds 8% of the world population yet accounts for 33% of global homicides),² the sum of crises generates preoccupying conditions worthy of special attention. In contexts of unemployment, poverty, economic instability and deep pre-existing structural inequalities, the pandemic has boosted social tensions and conflict, placing the cohesion of the social fabric at risk. It has been so perverse and intrusive that it affects the prompt and effective administration of justice.

“The combination of these health and economic crises is straining social and political relations that threaten to produce a social, cultural and political dislocation.”

The public health emergency in turn led to an economic, labour and financial crisis, the final effects and duration of which will take time to determine. The unprecedented levels of decline in economic activity will negatively impact both employment and macroeconomic stability, including tax collection and the management of public budgets. Finally, the combination of these health and economic crises is straining social and political relations that threaten to produce a social, cultural and political dislocation which will cause changes and transformations in society and the international order for many years³.

Social cohesion and peaceful coexistence in the region are at risk. Regression in human development is inevitable. According to UNDP, human development is on route to recede in 2020 for the first time since 1990, the year measurements began, due to the impact of COVID-19.⁴ Effective governance is required, which mitigates the negative effects of this recession on human development by generating equitable and inclusive opportunities for all people. New social conflicts require rapid and innovative actions that ensure conflict resolution and the protection of human rights which are currently suffering the consequences of the pandemic.⁵ Greater opportunities for inclusion, together with productivity and resilience, may generate

²Muggah, Robert y Katherine Aguirre Tobón (2018) “Citizen security in Latin America: Facts and Figures”. Instituto Igarape, p. 2. Available at <https://igarape.org.br/wp-content/uploads/2018/04/Citizen-Security-in-Latin-America-Facts-and-Figures.pdf>

³Pathfinders for Peaceful, Just and Inclusive Societies, Justice in a Pandemic - Briefing One: Justice for All and the Public Health Emergency (New York: Center on International Cooperation, 2020). Available at <https://www.justice.sdg16.plus/>

⁴UNDP (2020) “COVID-19 and Human Development: Assessing the Crisis, Envisioning the Recovery”, p. 8. Available at http://hdr.undp.org/sites/default/files/covid-19_and_human_development_0.pdf

⁵There is sufficient empirical evidence to prove that women’s human rights have been doubly affected by the COVID-19 crisis. Please refer to UN reports: *Policy Brief: The Impact of COVID-19 on Women* (UN, 2020); *A UN framework for the immediate socio-economic response to COVID-19* (UN, 2020); *Social protection responses to the COVID-19 pandemic in developing countries: Strengthening resilience by building universal social protection* (ILO, 2020); *Debt and COVID-19: A Global Response in Solidarity* (UN, 2020).

the necessary conditions to achieve effective governance and thus preserve the cohesion of the social fabric. **In this context, access to justice is perhaps the most important means of achieving social inclusion, and justice systems are the protagonists of this policy⁶.**

“In this context, access to justice is perhaps the most important means of achieving social inclusion, and justice systems are the protagonists of this policy.”

The limited operation or inaction of judicial services violates human rights and fundamental guarantees in differentiated ways regarding men and women. For example, court closures can prolong preventive pretrial detention, delay the release of detainees on bail, impede the timely protection of women who experience gender-based violence, or frustrate compliance with child support and maintenance payments in family courts. It also prevents adequate attention to emerging conflicts in the context of the pandemic, such as job dismissals, breaches of contract, and disputes over rent and access to housing. Furthermore, conflicts have been registered due to misappropriations and limitations on the lodging of legal instruments designed to protect victims of domestic and gender violence confronting all kinds of aggressions, such as protection orders and neighbourhood conflicts.

It should be noted that restrictions on the functioning of the courts may affect their role as controllers of legality as well as of the validity of the supremacy of the constitution. Faced with the irruption of the pandemic, many governments established states of exception or emergency without the intervention of legislative powers, which were prevented from operating by measures of social distancing. In these contexts, judicial powers must ensure the constitutionality of the actions of the executive, controlling the 1) legality, 2) suitability, 3) temporality, and 4) proportionality of the emergency measures. Hence the importance of ensuring their proper functioning and their immediate reopening.

On the other hand, judges have a responsibility to prevent, control and punish abuses by security forces, including police, prison and border services. The new demands generated by the pandemic and the consequent increase in social conflict invite some sectors to think about resorting to the use of force as a containment or deterrence factor. Another considerable risk is the possibility of summoning military forces to take charge of internal security tasks. This report presents recommendations that go in the opposite direction, since it proposes the expansion of services related to access to justice, both social and judicial, as mechanisms for managing conflict. In other words, the idea of access to justice is promoted as an enabler for the consolidation of the social fabric, leaning on social and inclusion policies and not on policies of public security or improper use of force.

The justice systems of Latin America and the Caribbean have had a diversity of responses to the emergence of the pandemic. This document identifies behaviour patterns and analyses their implications for the different groups with the highest vulnerability as well as those at greatest risk of falling into a vulnerable situation.

⁶The Pathfinders report entitled Justice for All and the Public Health Emergency states that ‘it is more critical than ever that we transform justice systems, support the independence of justice institutions, bring justice services closer to the people who need them most, encourage constructive engagement between the formal system and local alternatives and tackle the root causes of injustice that have left people and societies vulnerable to the broader impacts of the pandemic.’ (p. 9). For its part, the report Ensuring Access to Justice in the Context of COVID-19, published by UNDP, indicates that the responses adopted by states to combat the pandemic have had an unprecedented impact on the functioning of justice systems worldwide. The decrease or closure of court activities has had a negative impact on the timely and equitable provision of hearings, has contributed to increasing both the congestion of cases and the duration of judicial and administrative processes. Certain groups with a higher likelihood of vulnerability may be at risk, such as women and children who suffer violence, undocumented migrants, refugees and asylum seekers, as well as migrants in detention centres.

The demand to transit in the construction of a ‘new improved normality’ requires adopting a democratic governance, human rights and gender approach. This analysis presents strategies, intervention opportunities and recommendations to work with the justice systems of Latin America and the Caribbean on this new imposition. In this sense, this document provides knowledge to improve access to justice policies in the context of the COVID-19 pandemic, and thus guarantee the effective protection of human rights, the approach to new contexts of conflict and the preservation of the social fabric. Based on tools for public management, human rights and innovation, it brings together the experience of UNDP and other organizations in the region in regards to access to justice. Lines of action are proposed to fuel the policy dialogue agenda between UNDP, the judiciary, and the international community of institutions that promote development and social inclusion.⁷

On the other hand, in consonance with the 2030 Agenda, **this document takes into account the mandate to ‘Leave no one behind’**, impelling a sustainable development agenda that is balanced and respectful of the rights of all people. Hence the perspective of access to justice that it promotes, both as an engine for the protection of rights and as a tool for social inclusion, which contributes to effective governance and highlights the contents and goals of SDG 16 to promote peace, justice and efficient, inclusive institutions. This is in tune with UNDP’s warning call that the COVID-19 crisis will have a significant impact on achieving the Sustainable Development Goals of the 2030 Agenda. Therefore, a renewed emphasis must be placed on SDG 16 to achieve more just, inclusive and peaceful societies. This will require a greater effort on the part of justice sector actors such as judges, prosecutors, police, lawyers, access to justice centres, legal counselling and assistance services, and correctional institutions.⁸

Lastly, **the current report contributes to defining an agenda of innovation in access to justice in Latin America and the Caribbean.** In this sense, it generates knowledge on the basis of documented experiences and practices, provides evidence and suggests strategic guidelines to improve access to justice in the next stage of judicial reform.

“A renewed emphasis must be placed on SDG 16 to achieve more just, inclusive and peaceful societies.”



⁷Correspondingly, this document takes into account the call made by Secretary General António Guterres on the occasion of the launch of the UN Women report entitled The Impact of COVID-19 on Women, where he urged governments to put women and girls at the centre of their recovery efforts against the pandemic. This report details how COVID-19 is deepening pre-existing inequalities, which only amplify their impact on the lives of girls and women. For this reason, this document takes a special trans-sectoral gender perspective on the consequences of the pandemic on barriers to accessing justice and protecting human rights. Available at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>.

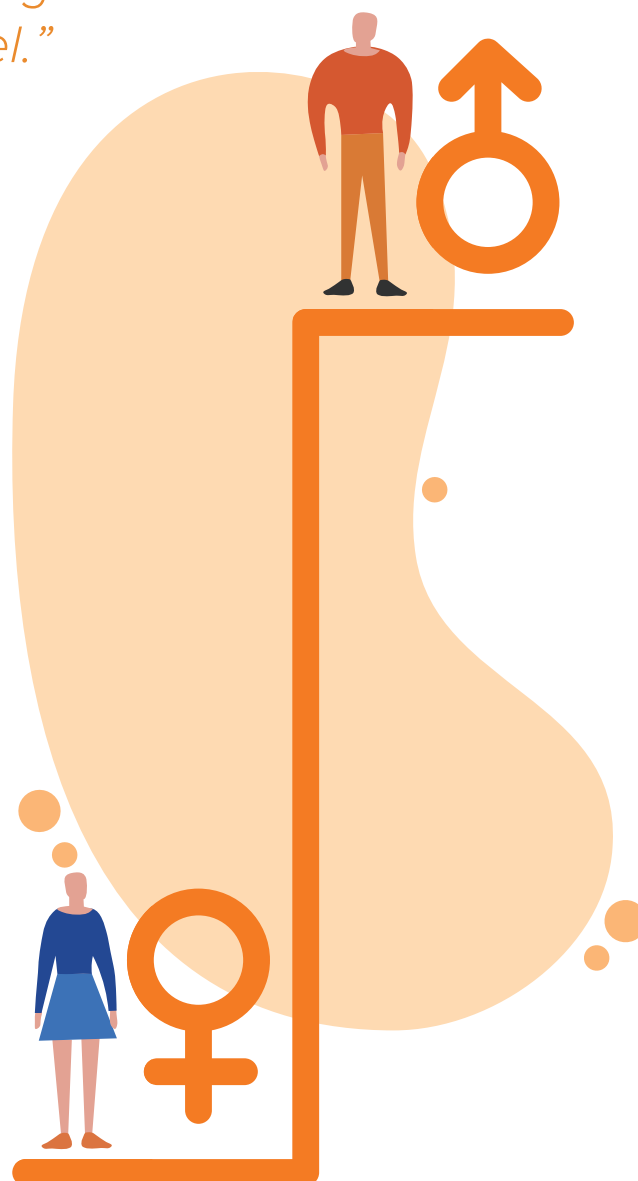
⁸UNDP (2019) Ensuring Access to Justice in the Context of COVID-19, p. 3 Available at https://www.unodc.org/documents/Advocacy-Section/Ensuring_Access_to_Justice_in_the_Context_of_COVID-191.pdf

“Access to justice policies have a cumulative effect of bringing the state closer to citizens, improving trust in institutions and consolidating governance at the local level.”

Likewise, **this document is an invitation to reflect on how access to justice contributes to re-establishing the social contract and laying the foundations for the new normality.** Access to justice policies have a cumulative effect of bringing the state closer to citizens, improving trust in institutions and consolidating governance at the local level. Thus, it can become a tool to work on the multidimensional crisis generated by COVID-19 and contain growing social pressure.

This report is structured in six sections.

Section I, which you are reading at the moment, is the Introduction. **Section II** describes the challenges confronting the design of an access to justice policy in order for it to serve as a containment strategy in the face of social conflict. **Section III** focuses on the responses and challenges of judicial powers regarding the irruption of the pandemic. **Section IV** refers to access to justice as a tool for social inclusion, describing the challenges presented by COVID-19 in matters of gender violence against women and girls. **Section V** addresses opportunities for the institutional transformation of the judiciary, with an emphasis on developing new capacities, such as promoting innovation and enhancing data as input for decision-making and public justice policy design. Finally, **Section VI** presents the report’s conclusions.



Towards an inclusive justice and a fair social contract

“Access to justice can act at the local level as a proximity mechanism that brings the state closer to its citizens, in order for them to feel that institutions provide solutions at a time of strong social tensions.”

II. Towards an inclusive justice and a fair social contract

Latin America and the Caribbean is a region with extremely high levels of poverty and inequality. According to various reports, it remains one of the most unequal regions in the world, despite significant progress made by countries during the first decade and a half of the 21st century.⁹ Inequality refers not only to the economic dimension such as income or access to property, but also to variables such as access to rights and gender equality. According to the 2019 UNDP Human Development Report, new gaps are developing regarding access to technology, education and the climate crisis.¹⁰ For example, if current trends continue, it will take 202 years to close the gender gap that exists but only in relation to economic opportunities. In 2018, 30.1% of the region's population fell under the poverty line, while 10.7% lived in extreme poverty.¹¹ This means that approximately 185 million people were below the poverty line in 2018, of which 66 million people lived in extreme poverty, according to UNDP estimates.¹² This region also presents serious levels of violence and insecurity. Latin America and the Caribbean is the most violent region in the world. In 2018, the regional average for homicides was 21.6 per 100,000 people, well beyond the point at which the WHO considers it an epidemic: more than 10 homicides per 100,000 people. Although it harbours 8% of the world population, 33% of all global homicides are committed in this region. In this sense, 17 of the 20 countries with the highest homicide rates in the world are located in Latin America and the Caribbean.¹³

COVID-19 is exacerbating pre-existing social tensions. In the short and medium terms, the accumulation of unsatisfied demands and needs, exponentially enhanced by the pandemic, constitutes a threat to social cohesion and to the role of the state as an actor with a monopoly on the use of public force, guarantor of public security and primary source of conflict resolution. From a human rights perspective, Latin America and the Caribbean face a serious task: "The effects of the pandemic add to pre-existing challenges to the human rights of its populations, with disproportionately greater impacts on certain social groups. Asymmetries regarding medical and sanitary infrastructure in the region, accessed with great difficulties, as well as overcrowded situations in hospitals, prisons and shelters, for example, tend to aggravate cases of respiratory disease caused by COVID-19. Take into account that the Americas is the most unequal region on the planet, characterized by deep social gaps, in which poverty and extreme poverty constitute cross-sectoral problems in all the states of the region, with pervasive lack or precarious access to drinking water and sanitation; food insecurity; situations of environmental contamination; densely populated informal settlements in the cities and urban peripheries of the region; the existence of isolated indigenous communities and groups; as well as lack of housing or adequate habitation. To which are added high rates of informal labour and of precarious work and income, which make the socio-economic impact of COVID-19 all the more alarming."¹⁴

⁹Laís Abramo, Director of the Social Development Division of the Economic Commission for Latin America and the Caribbean (ECLAC), when analysing the findings of ECLAC's 2016 Social Panorama of Latin America report. Available at <<https://www.cepal.org/es/comunicados/cepal-pese-avances-recientes-america-latina-sigue-siendo-la-region-mas-desigual-mundo>>.

¹⁰<<https://www.latinamerica.undp.org/content/rblac/en/home/presscenter/pressreleases/2019/unfair-and-unequal--new-undp-report-sheds-light-on-discontent-in.html>>.

¹¹Data from the ECLAC report Social Panorama of Latin America 2019. Available at <<https://www.cepal.org/en/pressreleases/eclac-region-has-underestimated-inequality>>.

¹²Opening speech by Achim Steiner, UNDP Administrator, at the launch of the 2019 Human Development Report in Colombia. Available at <<https://www.undp.org/content/undp/en/home/news-centre/speeches/2019/launch-of-2019-human-development-report.html>>.

¹³<<https://www.latinamerica.undp.org/content/rblac/en/home/presscenter/director-s-graph-for-thought/killing-development---the-devastating-epidemic-of-crime-and-inse.html>>.

¹⁴OAS (2020) SACROI COVID-19 Work Plan. IACHR. Washington DC <http://www.oas.org/es/cidh/SACROI_COVID19/planTrabajo_SACROI_COVID19_SPA.pdf>.

The deepening of the health crisis and the consequences of health responses have immediate effects on social conflict. The closure or reduction of economic activity and the consequent paralysis of the labour market, both formal and informal, disproportionately impact sectors with low socioeconomic levels and other groups in situations of vulnerability. This will be compounded by the fact that the economic consequences of the pandemic will immediately deepen. According to World Bank estimates, most countries will enter a recession in 2020 and will experience the largest global contraction in per capita income since 1870. Advanced economies will experience reductions of 7%, with the consequent spill-over effect on emerging markets. Thus, in 2020 a contraction of 5.2% of global GDP is expected.¹⁵ **First as a health crisis, later as an economic crisis, COVID-19 has generated a comprehensive crisis of governance that threatens social cohesion.**

To the pressure on the economy, other multidimensional factors are added, such as psychological pressure due to a prolonged lockdown, loss of employment and sources of economic income, restrictions on movement, the closure of educational establishments, and an increase in crime. This panorama leads to greater social pressure. In this context, it becomes essential to implement policies aimed at strengthening a sense of belonging to a community, building trust in institutions and preventing social stigmatization. Thus, access to justice can act at the local level as a proximity mechanism that brings the state closer to its citizens, in order for them to feel that institutions provide solutions at a time of strong social tensions. **When the local dimension of governance fails, the marginalization of some groups increases. This can further accentuate vulnerability and proportionality of outbursts in social conflict.**

The political, social and economic projections are a warning signal for judicial powers, which can thus anticipate these scenarios and plan containment strategies through access to justice reforms. In this process, five major challenges must be taken into account.

The first challenge entails rethinking judicial institutions' culture of interrelationship toward society. Justice systems tend to have passive attitudes towards conflict and social tensions, acting as receivers of conflicts that are brought to court. In the new normal, the justice system must proactively go out to contain conflicts, reach out to people with judicial problems and unmet legal needs, and explore and transit the territories where tensions are taking place. In this way, it will be able to act and also influence conflicts that are not brought to justice, but which equally affect social conflict and reduce peaceful coexistence. **This implies moving from a culture focused on demand ('passive entrance desks'), to a model of intervention that places emphasis on the proactive offer of judicial services as a strategy to contain social conflict ('territorial deployment').**

“In the new normal, the justice system must proactively go out to contain conflicts, reach out to people with judicial problems and unmet legal needs, and explore and transit the territories where tensions are taking place. In this way, it will be able to act and also influence conflicts that are not brought to justice, but which equally affect social conflict and reduce peaceful coexistence.”

A second challenge lies in rethinking the instruments, tools and processes to address social conflict. The change towards a more proactive model requires designing mechanisms to contain and resolve existing tensions in the territory. These mechanisms must include new procedural tools (innovative forms of mediation, community justice or small claims procedures), but must also incorporate methodologies and resources to identify the focuses, areas and patterns of new social conflicts.

¹⁵<https://www.worldbank.org/en/news/feature/2020/06/08/the-global-economic-outlook-during-the-covid-19-pandemic-a-changed-world#>>

This also implies the need to deploy judicial actions and infrastructure closer to those spaces where social tensions are expressed and emerge (e.g., rural, suburban and industrial areas, or working-class neighbourhoods or favelas). Likewise, the increase in social conflict will generate high levels of demand for the justice system, especially in criminal matters. Judicial powers have to prepare for new levels of intra-family conflict as a result of prolonged isolation measures and the contraction of labour markets; for tensions in suburban areas and informal settlements due to the housing deficit; and for the violation of rights due to the excessive use of force by the security establishment.

A third challenge consists in gaining a deeper understanding of the contours of social cohesion and its tensions. In this sense, it involves taking advantage of new technologies to generate, collect, process and analyse large volumes of data. In turn, it presupposes developing or strengthening those areas dedicated to statistics and establishing work models focused on evidence-based decision-making. To achieve this, it becomes imperative to develop new areas within the judiciary, strengthen or renew the profiles of its human resources, and incorporate the use of social research tools. For example, this suggests mapping both the character of conflicts as well as the unmet legal expectations and needs of affected populations.

A fourth challenge involves designing access to justice policies that are centred on people. Conceptually, this is in tune with the mandate of the 2030 Agenda to ‘Leave no one behind’, but in terms of the new paradigms of public administration and institutional innovation, it means that the design of public policies must include users, beneficiaries and citizens at all stages. Placing people at the centre of access to justice reforms implies a cultural and political shift for decision-makers in the judicial system.

A fifth and final challenge entails deploying strategies in an articulated manner with other powers and agencies of the state. Partnerships will be key to the success of access to justice policies and strategies. This is not only due to the efficiency of the investment, but also to the increasing overlap of roles and responsibilities. The need to coordinate modalities of intervention becomes essential, especially in the midst of a pandemic with the dimensions of COVID-19. Access to justice is a complex phenomenon with a multidisciplinary and multidimensional nature,¹⁶ hence it requires an inter-institutional approach. Granted that judicial powers are the driving force, they should interact in greater and more continuous ways with agencies and institutions from other areas of the state and civil society, always preserving their independence and respecting the separation of powers. Given the gravity of the current context, special emphasis must be placed on coordination among all actors to ensure adequate protection of the human rights of those groups in situations of vulnerability.

“Placing people at the centre of access to justice reforms implies a cultural and political shift for decision-makers in the judicial system.”



¹⁶Access to justice requires a multidisciplinary approach because, given its complexity, it requires various social sciences such as law, sociology, anthropology, social work, and others.

Likewise, it can be conceptualized in different dimensions such as poverty, exclusion, rule of law, informality, etc. Lastly, its complexity is enhanced by the different groups and sectors of society that it affects, such as women, children, migrants, indigenous populations, the LGBTIQ+ community, rural communities, and seasonal workers, among others.

This set of challenges must be taken into account to design strategies for access to justice reforms in the context of the COVID-19 pandemic.

This will contribute to improving the coherence of the reforms, making access to justice an effective paradigm to address the demands of vulnerable sectors, and thus act as an enabler of processes to increase social cohesion.

In other words, access to justice reforms will serve as a support element that holds together the different components of the rich and complex network of economic, political and social relations underlying society.



“Access to justice reforms will serve as a support element that holds together the different components of the rich and complex network of economic, political and social relations underlying society.”

Justice systems in the face of crisis: challenges and immediate responses

“The COVID-19 irruption took all humanity by surprise and had an immediate effect on public institutions.”

III. Justice systems in the face of crisis: challenges and immediate responses

This section addresses the challenges that the pandemic imposes on justice systems, and the reactions of the latter to this unforeseen crisis. In addition, it includes the mapping of possible strategies to help courts face up to a new and threatening demand for services, produced by the combination of a historical congestion of cases, on the one hand, and those derived from new social tensions and new patterns of conflict generated by COVID-19, on the other.

A. Global pandemics require comprehensive strategies

The COVID-19 irruption took all humanity by surprise and had an immediate effect on public institutions.

The roles of the state and of public institutions were cast once more into the political arena. In the case of justice systems, reactions were heterogeneous, but in general involved a substantial reduction in the volume of judicial services to citizens. Some judicial powers established lockdown measures that implied the total cessation of services, others maintained some essential or priority services, and others managed to continue offering most services previously in force. The two former groups were not prepared to face such a powerful and compromising situation. Despite this, they gradually adapted and began to react, although in an improvised manner and without adequate preparation.

However, the average justice system is working in a limited modality, under extraordinary regulations, and striving to adapt to the context and guarantee access to justice as much as possible. Many judicial offices and venues remain closed, as do spaces related to access to justice and the protection of rights.¹⁷ All this due to the logical concern not to put the health of system users or operators at risk. This reduction in services has obvious consequences for the protection of people's rights, especially for access to justice by the most vulnerable groups such as boys, girls, women, migrants, persons with disabilities, minorities and informal workers, among others. All of them have been seriously affected by the economic and social impact of social isolation and/or lockdown measures.

If the provision of services is not calibrated to the new social scenario, full access to justice cannot be guaranteed. Reopening services to the public through the courts, tribunals, public prosecutors' or ombudsmen's offices must be accompanied by a meticulously planned strategy that not only supports returning to work under safe conditions, but also carefully considers the deterioration of pre-existing deficits and tensions in the justice system. In other words, it is not possible to return to the normal provision of services without first evaluating the external changes that have occurred in recent months. The transformation of the socio-political reality and the potential aggravation of social conflict must have their counterpart in the response and actions of the administration of justice.

The pandemic has had dissimilar impacts on judicial powers, but with a few troubling common denominators.

A report by the Justice Studies Center of the Americas (JSCA) regarding responses by judicial powers to COVID-19 and the modality of judicial services, highlights three elements which are characteristic to most countries. First, for the reopening by judicial powers, isolated norms were issued that began to accumulate, trying to respond to the problems, but lacking a holistic view of the situation.

¹⁷Access to justice centres, mediation spaces, legal advice centres, offices for counselling and advice to women victims or at risk of violence, etc.

Second, JSCA verified the lack of a comprehensive strategy with an approach that provides solutions for the immediate needs and problems that courts are facing, but also for their medium and long term issues. These include budgetary, human resource and technology aspects. Third, only in a few cases did judicial powers provide orderly and comprehensive access to the new norms and protocols, generating confusion in justice system operators and users.¹⁸

Moreover, before the pandemic, justice systems in the region already faced serious challenges in the provision of their services, which reduced or impeded access to justice. Phenomena such as delays, congestion of cases, lack of territorial coverage and lack of training in high social incidence issues such as gender violence, are just some of the challenges that the administration of justice in the region has hauled along contended with for decades.¹⁹ In the Caribbean, both judicial delays and congestion are long-standing problems, especially in criminal matters, generated by slow police response, delays in taking statements at judicial venues, and lack of human and technological resources.²⁰ Some of these problems have been aggravated or deepened by the suspension of services during the months that lockdown and social distancing measures have lasted. In addition to delays and congestion, courts face challenges such as: 1) the inability to address specific user needs; 2) the absence of specialized resources to deal with issues of increasing social incidence such as juvenile delinquency and drug use; 3) the existence of processes and legislation that inhibit judges from administering cases properly and which hinder case flow management in criminal matters; 4) the lack of knowledge exchange between judicial officials and court administrators, and 5) the absence of specialized professionals in the courts.²¹

The process of reopening judicial offices must be accompanied by the design of a strategy that takes into account both the profound changes that have occurred externally, as well as the consequences of the reduction of judicial services on pre-existing bottlenecks in justice systems. The return to full operation of judicial services cannot ignore the new augmented version of pre-existing social conflicts and the new economic and social tensions generated by the pandemic. The consequences of the pandemic on the economy, the contraction of the labour market and the reduction of gross domestic product (GDP), will generate new social demands directed at the state, including its judiciary. The new context must be analysed so that judicial reopening is accompanied by a strategy to respond to the characteristics of the new normality. This would allow the administration of justice to restart in line with said profound changes and thus ensure that social cohesion is not weakened.

The next step is the full reopening of judicial services. In some cases this will be gradual and phased, in others full service provision will be re-established in tune with the new normality. The return to the new normal cannot simply be an act of reopening the system. Carefully drawn up regulations and institutional character are required, which also allow constant monitoring of the operation of judicial services in the new context. In **Uruguay**, for example, a Coordination and Follow-up Commission was created within the framework of the Supreme Court of Justice of the Nation to monitor regulations issued due to the pandemic and propose the necessary reforms and modifications.²²

“The new context must be analysed so that judicial reopening is accompanied by a strategy to respond to the characteristics of the new normality.”

¹⁸JSCA (2020) The state of justice in Latin America under COVID-19, p. 86. Available at <http://juristproject.org/what-we-do/specialized-courts-divisions>

¹⁹<<http://juristproject.org/what-we-do/specialized-courts-divisions>>

²⁰UNDP (2020) “Towards a modern administration of justice. A needs assessment of the Judicial system in nine Caribbean countries”, p.32.

²¹UNDP (2020), p. 34

²²Resolution S.C.J. Nº 12/2020. Judicial Secretary. The Judiciary. Supreme Court of Justice, Montevideo, 16 March 2020. Available in Spanish at <http://www.poderjudicial.gub.uy/novedades/noticias-institucionales/item/6440-comision-de-coordinacion-difunde-medidas-complementarias-porcrisis-del-coronavirus.html>

Recommendations

- **Carry out studies on the characteristics and variations of conflict, and on changes in the demand for access to justice.**
 - Conduct training, courses and workshops for justice systems operators.
 - Generate meetings between the different actors in the system, such as judges, public prosecutors, defenders, ombudsmen, police and ministries of justice, to analyse the state of the situation, share information and align strategies.
 - Publish and disseminate both updated judicial data, as well as response strategies against the pandemic, and current protocols for customer service and the use of new technologies.
- **Raise awareness among all actors in the justice system regarding the impact of the pandemic on access to justice and social conflict.**
 - Conduct training, courses and workshops for justice systems operators.
 - Generate meetings between the different actors in the system, such as judges, public prosecutors, defenders, ombudsmen, police and ministries of justice, to analyse the state of the situation, share information and align strategies.
 - Publish and disseminate both updated judicial data, as well as response strategies against the pandemic, and current protocols for customer service and the use of new technologies.
- **Accompany and support the reopening processes of judicial systems.**
 - Carry out studies on the effects of total or partial closure on the justice administration itself.
 - Support the design of strategies and roadmaps for reopening and reaching optimal operation levels of justice services.
 - Identify challenges in institutional terms, building infrastructure and human and technological resources, to ensure that the implementation of judicial services adjusts to the new needs and restrictions imposed by the short, medium and long-term consequences of the pandemic (e.g., provide greater physical space for judicial workers, redesign spaces for customer service and for holding hearings or trials, design virtual queue systems to avoid crowds of users or the public, etc.).
- **Support the design of short, medium and long-term strategies to face the consequences of the pandemic.**
 - Promote and support exercises on budget reprioritisation, modification of strategic plans, redesign of purchasing and contracting plans, and adjustments in human resource and training strategies.
- **Promote the use of innovative methodological tools to design new strategies for judicial powers in the face of the pandemic.**
 - Design of user-centred policies, design thinking, co-creation of open government policies, and citizen participation and consultation.

B. The continuity of justice services and the protection of human rights

Guaranteed access to justice and effective protection of human rights depend on the prompt and comprehensive reopening of judicial services. Justice systems are the natural sphere of protection against the violation of rights. The functioning of the justice system is key to maintaining the rule of law and respect for fundamental guarantees. Likewise, in the system of checks and balances of the constitutional designs of many of the countries of Latin America and the Caribbean, judicial powers have the mission of controlling the legality and constitutionality of the acts of other powers of the state. However, despite having such central functions in the operation of political and constitutional systems, the suspension of judicial services has not been widely considered a controversial or outstanding issue in the public agenda. The pandemic has facilitated or allowed executive powers to take emergency measures, such as restrictions on movement, lockdown measures, emergency purchases and budget reallocations. At the same time, many legislative branches have been prevented from holding sessions. While all of this is understandable due to the gravity of the context, restrictions on the operation of the justice administration should be cause for alarm or concern. It becomes imperative that judicial powers become operational again and assume their constitutional functions fully and as soon as possible.

Faced with the irruption of the pandemic, in almost all the countries of the region the suspension of judicial services and terms was decreed. This happened almost automatically and without questioning, without it being noticed that a fundamental service such as the administration of justice ceased its work. Services were not suspended in their entirety, but in general terms exceptions were enabled for the attention of certain cases. Some judicial powers authorized the entry of new lawsuits by issuing a restricted list of cases. Others chose to authorize the admission of urgent cases, but without delivering an enumerated list, leaving it up to interpretation by the courts. **Brazil, Chile, Mexico, Colombia, Costa Rica, Ecuador, El Salvador and Uruguay** are examples of this procedure. In **Argentina**, at the federal level, issues related to deprivation of liberty, urban and domestic violence, crimes against public health, habeas corpus, urgent family matters, protection of minors, gender violence and relief were considered urgent. **Guatemala** and the **Dominican Republic** established which courts would continue to work²³. In **Panama**, meanwhile, all judicial processes were suspended, except those related to the control of guarantees. The implementation of telework systems is being analysed in order to accelerate the reopening of judicial services²⁴. In **Trinidad and Tobago**, Virtual Courts were launched along with electronic facilities for virtual hearings in the Tobago Police Service. These initiatives eliminate the need to physically transport prisoners to court. Declarations and other procedures are carried out through videoconferences, speeding up processes, reducing case congestion and eliminating costs associated with transportation. For its part, in **Belize** guidelines on COVID-19 were approved to ensure maintenance of the provision of essential judicial services. Release hearings are conducted by video calls, as are sentencing hearings for people in pretrial detention. For those released on bail, face-to-face hearings with a minimal presence of court personnel are required.

One of the most prominent developments in the context of the pandemic was the proliferation of telework. As in other sectors of government activity, in order to avoid the total cessation of activities, technological tools have been used to hold virtual hearings. This also constitutes one of the greatest innovations in the functioning of judicial powers in recent times. Although the use of information technology was part of the functioning of courts in many countries, its application on a large scale and on a daily basis for conducting hearings and taking statements, both in criminal, civil and family matters, constitutes a novelty. **The Caribbean, for example, has collected valuable experiences in the use of technology for the continuity of justice services.** In **Trinidad and Tobago** virtual hearings were held thanks to the issuance of specific regulations that support such practices²⁵. Between 16 March and 26 May 2020, more than 5,800 hearings were held, many of them through the videoconference centres installed in various penal institutions.

²³JSCA, p. 85.

²⁴Interview with the UNDP Panama Justice team conducted on 24 April 2020.

²⁵The Practice Guides for Electronic Hearings establish eight high-level principles to govern virtual hearings, on aspects such as knowledge about the technology, preparation and remote advocacy, the use of documents and written arguments, confidentiality, and the rules of conduct for the development of hearings, among others.

For its part, the Eastern Caribbean Supreme Court established a guide for the migration of petitions which had been manually filed to the electronic format established through the Electronic Litigation Portal.²⁶ This enabled the continuous reception of new demands and submissions to be maintained, and facilitated remote hearings. Likewise, this court designed a guide for virtual hearings that was circulated among legal professionals and judicial operators to train them regarding the new procedures²⁷.

Although the use of new technologies to support teleworking and virtual audiences have had positive results, it should be noted that in many cases this occurred despite the absence of clear policies or protocols regarding the use of these tools.

Judicial powers do not have contingency strategies for situations like the current pandemic. They do not have action plans for this type of situation and action protocols that clearly indicate to judicial operators which steps to follow. There are no regulations that provide certainty regarding courses of action or available options to guarantee the continuity of judicial services. Even though there was a response, which in many cases emerged from the foundations of the justice system, not always was there homogeneity within judicial powers themselves regarding how to proceed with technological tools. **Colombia, Panama** and the **Dominican Republic** resorted to Microsoft Teams or Zoom²⁸. Other judicial powers used Cisco or free versions of other tools. In the **Dominican Republic**, an application was issued for holding virtual hearings.²⁹ The lack of protocols highlights concerns and questions related to the adequate protection of information, its security and challenges to the storage of recordings.³⁰ The use of technologies cannot fail to consider that the digital divide may be an impediment for some people with fewer resources and technological skills to access justice services. According to UNDP, lockdowns have intensified the digital gap more than ever. There are 6.5 billion people around the world (85.5% of the population) who still lack reliable broadband Internet connections, which restricts their ability to work, to continue their education or to access justice by electronic means.³¹ In Latin America and the Caribbean, only 52.2% of households have access to Internet and only 44.7% have a computer.

The suspension or reduction of services for the administration of justice cannot under any circumstances create restrictions on access to justice or entail new violations of human rights.

Court closures must not impede the investigation of crimes and complaints that are considered urgent due to their consequences for the victims, or whose postponement renders impossible the identification of those responsible or their corresponding punishment. In this sense, the total or partial closure of the courts cannot lead to limitations of criminal cases.

“Court closures must not impede the investigation of crimes and complaints that are considered urgent due to their consequences for the victims.”



²⁶Practice Guide N° 1 of 2020.

²⁷Guidelines were also issued for bail applications for indigent or legally unrepresented persons. Practice Direction No. 4 of 2020 – Bail Applications for Indigent or Unrepresented Persons.

²⁸JSCA, p. 89.

²⁹<https://www.poderjudicial.gob.do/noticia?idNoticia=1825> (only in Spanish).

³⁰JSCA, p. 89.

³¹https://www.undp.org/content/undp/en/home/news-centre/news/2020/COVID19_UNDP_data_dashboards_reveal_disparities_among_countries_to_cope_and_recover.html

For example, with regard to gender, it has been recommended that the operational plans for security and justice policies-vis-à-vis COVID-19 include strategies to prevent sexual violence perpetrators from going unpunished, including the suspension of limitation deadlines.³²

In **Colombia**, within the framework of the peace accords, UNDP supported the government to develop a unit to search for disappeared persons. The suspension of work as a result of the pandemic should not neglect the effort that had been carried out in cemeteries and human burial sites. For this purpose, it was proposed to respect special protocols for these sites so as not to hinder or risk the identification processes of exhumed remains that were underway.³³ For its part, in **Guatemala**, the slowdown in judicial services makes it necessary to ensure a psycho-judicial approach in criminal cases under investigation, especially those linked to serious human rights violations in order to guarantee the participation of victims in these processes and that these produce a restorative effect.³⁴



Another challenge to human rights is the relief and protection of crime victims. The growth of social conflict will generate an increase in claims and crimes. It will be necessary to have a less coercive criminal justice apparatus with a clear vocation for the defence of human rights. Furthermore, criminal justice must ensure adequate treatment and relief for victims. For their part, civil and commercial justice will be absorbed with disputes related to bankruptcies, rents, leases, breaches of contract and evictions. All of these are conflicts that result from the current economic crises and will accumulate together with the historical volume of cases that are already being processed before judicial systems. Given the magnitude of the situation, it deserves the definition of a public policy for the care and defence of victims.³⁵

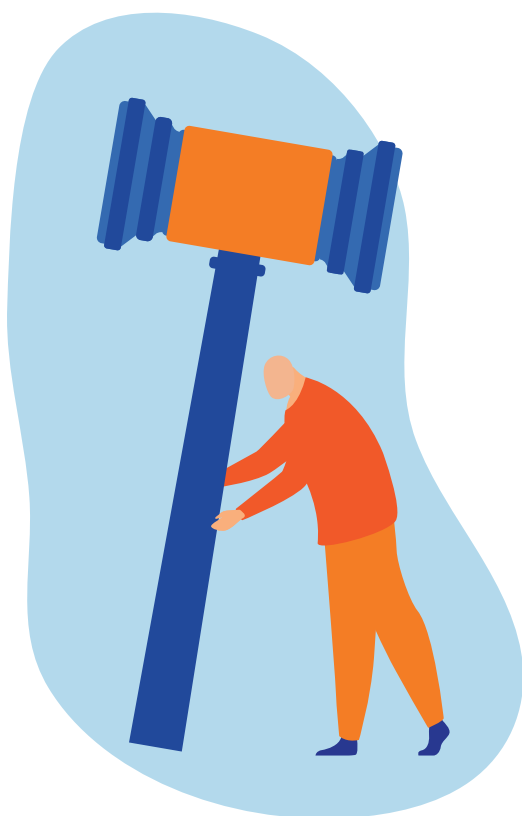
If the suspension of justice services should not lead to human rights violations, neither should measures for the reopening of services. The emergence of technology-based solutions for conducting online hearings must be compatible with full respect for due process guarantees. The use of technologies that violate the rights and guarantees of any of the parties involved in a judicial process, whether accused or victims, cannot be admitted. Likewise, the emergency cannot be used as an excuse to undermine rights or standards of institutional quality. In this sense, transparency and promotion must be ensured in processes related to purchases and contracts, to the selection and appointment of magistrates, and to their judgments and resolutions.

³²UN Women (2020) Policy Brief: The Impact of COVID-19 on Women, p.18. Available at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/report/>

³³Interview with the UNDP Colombia Justice team conducted on 30 April 2020.

³⁴Correspondence with the UNDP Guatemala Justice team conducted on 30 April 2020.

³⁵Interview with Gloria María Borrero, former Executive Director of the Corporation for Excellence in Justice (Corporación Excelencia en la Justicia), and Miguel Cereceda Zambrano, member of the UNDP SIGOB team, held on 30 April 2020.



Ensuring the health and safety of justice system personnel and operators must be a priority.

Teleworking has allowed the flow of service provision to be maintained while at the same time safeguarding the integrity of judicial officials. Despite this, in many countries it may be observed that the in-person system coexists with remote work, while high rates of staff non-attendance are recorded. The functioning of the courts has not been normalised, yet some of the virtual practices have the potential to become consolidated when social distancing measures are lifted, since they facilitate the interaction of justice system operators, contribute to efficiency and constitute an obvious advance in technological matters. For example, the virtual reception desk system developed and implemented by a court in the city of Buenos Aires was quickly scaled to include all courts within this judicial power by resolution of the Council of the Magistracy. It is to be expected that after social distancing measures cease, this service will be preserved.³⁶ The same occurs with Resolution SPL N° 28/20 of the Supreme Court of the Province of Buenos Aires and its new protocol for consultations via virtual reception desks.³⁷

In those cases in which judicial powers established the total or partial suspension of their services, strategies must be designed for their prompt reopening.

As heads of judicial powers, some supreme courts or their equivalents have designed road maps to resume work in the courts. In other cases, strategies are being gradually designed based on the evolution of the pandemic in each respective country. A good practice in the region has been the design of emergency plans for the pandemic and the creation of repositories of information with all the emergency provisions and regulations issued by the heads of judicial powers in relation to the functioning of the courts. **Puerto Rico** designed a gradual plan for the normalization of its justice services and the issues to be addressed in each of the plan's four phases.³⁸ Moreover, it compiled all rules and regulations related to COVID-19 in one site, to serve as a guide for judicial operators, legal professionals and users of the justice system.³⁹ In addition, it established clear and detailed guidelines for the electronic request of protection orders and other urgent matters during the COVID-19 emergency, including explanatory videos for the most sensitive issues.⁴⁰ The Judiciary of **Colombia** compiled regulations and action plans in the face of COVID-19 on its website.⁴¹ All the agreements, memoranda and communications issued during the emergency may be found there, as well as information on the use of new technological tools for the continuity of justice services. The Judiciary of **Chile**, in that same sense, set up a section on a website dedicated to regulations, procedures, manuals for the use of associated technologies and news related to the health emergency.⁴²

³⁶Resolution 488/2020 of the Presidency of the Council of the Magistracy of the Autonomous City of Buenos Aires.

³⁷Resolution SPL N° 28/20. Available at <http://www.scba.gov.ar/institucional/nota.asp?expre=Nuevo%20servicio%20de%20consulta%20remota%20a%20organismos%20judiciales&veradjuntos=no>

³⁸<http://www.ramajudicial.pr/medidas-cautelares/Fases-Operacionales.pdf> (only in Spanish).

³⁹<http://www.ramajudicial.pr/Plan-emergencia-COVID-19.htm> (only in Spanish).

⁴⁰<http://www.ramajudicial.pr/medidas-cautelares/solicitud-electronica-de-ordenes-proteccion-COVID19.htm> (only in Spanish).

⁴¹<https://www.ramajudicial.gov.co/web/medidas-covid19/medidas-covid19> (PDF documents only in Spanish).

⁴²<https://www.pjud.cl/noticias-emergencia-sanitaria> (only in Spanish).

Recommendations

- **Administrative and legislative measures must be taken so that the paralysis of the courts does not detract from the protection of rights or access to justice.**
 - Suspend procedural deadlines to avoid cases of impunity due to the limitation of crimes.
 - Extend the days and hours of attention to the public during the reopening phase.
 - Give legislative support to emergency measures ordered by the courts.
- **Support judicial powers in the design and implementation of strategies for reopening justice services and adapting to the new context, with short, medium and long-term priorities, using the lessons learned during the initial stage of response to the pandemic as input.**
 - Generate inputs through empirical studies, satisfaction surveys, and focus groups aimed at identifying the advantages and shortcomings of the use of technologies for conducting hearings and trials, and for serving legal professionals and the general public.
 - Conduct assessments regarding the effectiveness and adequacy of virtual hearings for different types of cases, identifying which cases are most suitable for this type of methodologies, what implications virtual hearings have on the guarantees of due process of law and for access to justice, what are the effects of virtual communications on the relationships between legal professionals and their clients, and how virtual operations affect citizen perceptions on access to justice.
- **Document and codify cases of good practices and innovation that have allowed the continuity of the provision of justice services.**
 - Establish the use of electronic signature; virtual reception desks; official correspondence and communications by digital means. Design apps to enable legal professionals to access files remotely.
 - Provide electronic release of maintenance payments, compensations for dismissals and traffic accidents.
 - Carry out virtual hearings of witnesses and defendants, as well as online agreements, sessions or meetings between judges to issue judgments or perform other jurisdictional or administrative decisions.
- **Provide technical assistance to judicial powers and ministries of justice for the elaboration of protocols on the use of new technologies for remote work, for conducting virtual hearings and communication, and to guarantee safety and integrity in the use and storage of information.**
 - Consider the cases of Puerto Rico, Colombia and Chile as good practices in which judicial powers issued protocols and guidelines.
- **Articulate spaces for intersectoral dialogue with judicial authorities, legal professionals, prosecutors, defenders and civil society, to consolidate and support reforms, in order to prevent setbacks and consolidate the changes and progress achieved.**
 - Decree the necessary regulations to support, maintain and scale services such as virtual reception desks, electronic communications and digital signature.
 - Continue virtual trials and hearings.
 - Consolidate the electronic practices of notifications, communications and official correspondence.

C. Alternatives to reduce pressure on the justice system

Social distancing measures and the drastic reduction of justice services jeopardize the protection of people's basic rights. Restrictions on access to courts caused by limitations in opening hours, the exacerbation of historical social conflict, pre-existing problems of delays and congestion, and new conflicts and tensions arising as a direct consequence of the pandemic, are generating a disproportionate increase in the demand for the administration of justice, which will be difficult to contain.

In this context, it becomes necessary for political and judicial authorities to design strategies to contribute, in the short and medium terms, to reduce pressure on the demand for judicial services, and thus improve the conditions for an effective access to justice. This can be accomplished through coordinated inter-agency work. Public prosecutors' offices, for example, can establish new selectivity criteria, in order to prevent unimportant cases to be prosecuted. In **Argentina**, public utilities were precluded from cutting off unpaid services by households of people belonging to vulnerable groups.⁴³ This way, administrative claims were avoided, as are thousands of lawsuits for collection of unpaid services. In other countries, evictions for non-payment of rent were temporarily suspended.⁴⁴

In civil and commercial matters, a greater impetus may be given to restorative justice as well as to different types of alternative dispute resolution methods, such as mediation and conciliation. In Guatemala, labour conciliations between employers and employees have been proposed in the medium term through a secure system. This also applies to sub-national judicial powers. Several Argentine provinces, among them Río Negro,⁴⁵ San Luis,⁴⁶ Salta,⁴⁷ the City of Buenos Aires,⁴⁸ Santiago del Estero,⁴⁹ Neuquén and Mendoza,⁵⁰ enabled different ways and tools to carry out mediations and conciliations. In **Uruguay**, Public Defence was empowered to carry out mediations by telephone, email or other auxiliary means.⁵¹ In **Argentina**, the Ministry of Justice and Human Rights authorized the remote processing of mediations, either by videoconference or by any other analogous means.⁵² Correspondingly, the same was established regarding the Obligatory Labour Conciliation Service before the Ministry of Labour.⁵³

Mediation and conciliation practices are also effective in providing people with quick, efficient, and close mechanisms that guarantee access to justice. Mediation is a widespread practice in the Caribbean. In **Dominica**, the National Mediation Committee is responsible for supervising the activity. In **Guyana**, mediation services are provided at judicial venues in Georgetown for civil cases referred or recommended by the courts. In **Trinidad and Tobago**, mediation is used by the Family Court. The majority of cases are referred or sent by judicial officials themselves. In addition, the practice of community mediation has been successfully implemented. The lessons learned indicate that this type of tool has been effective since: 1) parties have more control over outcome than at judicial venues, 2) it is less expensive than traditional litigation, 3) it is faster and more efficient, 4) it takes place in a family environment or under community relief, 5) the agreement does not constitute acceptance of guilt, and 6) the decision to submit a conflict to this type of mediation does not

⁴³Decree 311 of 2020 in Argentina established that public utilities that provide electricity, gas via networks, running water, fixed or mobile telephony and Internet and cable TV, either by radio-electronic or satellite link, may not stipulate the suspension or cut off their respective services to users as indicated in article 3, in case of delay or non-payment of up to three consecutive or alternate invoices, with due dates starting 1 March 2020.

⁴⁴<https://www.theguardian.com/society/2020/jun/05/eviction-ban-extended-in-uk-by-further-two-months?>

⁴⁵In Viedma, the capital of Río Negro, Argentina, 106 mediations and remote reconciliations on urgent issues were scheduled between 6 and 15 April through video calls over the internet or telephone, which did not require the presence of the parties in a room. Spanish language link: <https://www.cij.gov.ar/www.cij.gov.ar/nota-37098-La-Justicia-de-R-o-Negro-habilit-realizar-mediaciones-y-conciliaciones-a-distancia-durante-la-cuarentena.html>

⁴⁶The highest tribunal of San Luis also offers the parties, as per agreement 159/2020, the option of accessing virtual hearings to resolve conflicts through a IT system (Cisco Weber) that can be downloaded to a computer or mobile phone.

⁴⁷The Ministry of Government, Human Rights, Labour and Justice of Salta enabled a single virtual desk for all jurisdictions for distance mediation, and authorized the use of the new system by community and private mediation centres registered with the Directorate of Mediation, Conciliation and Arbitration of the province.

⁴⁸The City of Buenos Aires began to conduct remote community mediations, which are requested via email (melf@buenosaires.gob.ar), for cases that affect the daily life of households or economic conflicts between neighbours.

⁴⁹In regards to justice in Santiago del Estero, remote mediations on family matters are implemented through systems such as Zoom and WhatsApp.

⁵⁰The superior courts of justice of Neuquén and Mendoza gave priority to voluntary virtual judicial mediations on family issues (maintenance claims and communication regimes, among other urgent matters).

⁵¹<http://www.poderjudicial.gub.uy/novedades/noticias-institucionales/item/6438-se-determinan-efectos-de-emergencia-sanitaria-para-la-defensa-publica.html>. (only in Spanish).

⁵²Resolution N° 121/20 of 23 April 2020.

⁵³Resolution of the Labour portfolio N° 344/20.

prevent recourse to justice in the event that an agreement is not reached. For its part, the City of **Buenos Aires** operates an online community mediation system which has been in greater demand since the onset of quarantine and lockdown measures. In April 2020, requests for mediation increased by 158% compared to that same month the previous year and were 88% effective in reaching agreements.⁵⁴ However, these types of practices are not recommended in cases of violence against women.⁵⁵

In civil and family justice, case prioritization practices can be applied according to their complexity and urgency.

This methodology, very frequent in the Anglo-Saxon legal system and originally designed to determine the priority in patient care in hospital emergency rooms, allows scarce human and economic resources to be allocated more efficiently.⁵⁶ For example, less complex cases, such as divorces by mutual agreement and non-controversial inheritance processes, are processed separately from more complex processes. While the consequences of the pandemic last, this type of tool can be very useful to prioritize the selection and treatment of judicial cases on the basis of urgency and complexity.⁵⁷

Restorative justice mechanisms can also serve to decompress the courts and at the same time improve the responses provided to victims.

In the area of gender violence, for example, the Spotlight initiative in **Guyana** encourages the creation of policies that promote restorative practices. Their objective is to provide victims with options other than those related to detention.⁵⁸ This can help mitigate judicial congestion problems, speed up court response, and find faster and more satisfactory remedial measures.⁵⁹

Likewise, measures can be taken to decompress the criminal justice system with criminal policy actions that contribute to reduce arrests, charges and imprisonments for minor crimes or minor infractions of the law.

This requires defining criteria that allow a rational and effective use of criminal prosecution during the pandemic. These processes require extensive coordination between the different actors in the criminal justice system. These include ministries of justice, public prosecutors' offices, police and security forces, judges and public defenders, among others. Coordination between them is central to achieve uniformity and coherence between each and everyone's actions.

In the Caribbean, the figure of 'diversion'⁶⁰ is used to decompress the number of cases that reach criminal justice.

Diversion is an alternative to indictment that allows a person to be 'removed' from the criminal justice system. There are two types of diversions: pre-charge and pre-trial. The first allows the police to put 'low risk' offenders or those who have committed crimes for the first time in special rehabilitation programmes as an alternative to traditional arrest. This tends to be effective when dealing with young people in conflict with the law, since their families and communities are often involved, in addition to holding young people accountable for their actions. The second, on the other hand, applies to people who are already subject to criminal proceedings, and requires the agreement of the prosecutor and the defence. Generally, an agreement is reached to drop charges in exchange for the person's successful completion of a given rehabilitation or community service programme. Among the main advantages of this system are the prevention of recidivism, a better use of judicial resources, and a reduction in the number of arrests and prosecutions of young people due to criminal behaviour. Implementing these systems requires legislative reforms, political will and awareness-raising of the public opinion, which is usually punitive.⁶¹

⁵⁴<https://parabuenosaires.com/efecto-cuarentena-las-mediaciones-virtuales-por-conflictos-entre-vecinos-aumentaron-un-158-en-la-ciudad/> (only in Spanish).

⁵⁵The Second Follow-up report on the Implementation of the Recommendations of the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) of the OAS, indicates in its fifth recommendation that the Follow-up Committee to the Belém do Pará Convention urged states to prohibit mediation in criminal proceedings on violence against women, and urged avoiding extrajudicial resolution of cases of domestic violence, recalling the importance of extending such prohibitions to other cases of violence against women. Since 2004, the Inter-American Commission of Women, with other international organizations and specifically in the framework of the report presented by the Gender and Health Unit of the Pan American Health Organization, raised the need to eliminate the practice of mediation or conciliation in cases of violence against women in general and more specifically in cases of intimate partner violence. In this sense, the MESECVI has been arguing that mediation or conciliation frequently operates against women who are victims of violence because there are no equal conditions to participate in an equitable negotiation and reach a fair agreement. In these cases, there is often well-founded fear on the part of the victims and coercion by the aggressor, or 'family or community pressures for the woman to accept a conciliation process.'

⁵⁶A methodology commonly known as 'triage', a term of French origin.

⁵⁷For more information, please see <https://www.ncsc.org/services-and-experts/areas-of-expertise/children-and-families/divorce-case-triage>

⁵⁸These alternative measures are known as 'custodial sentencing'.

⁵⁹Spotlight Initiative, Country Programme Document for Guyana, p. 39.

⁶⁰Know in Spanish as 'desviación'.

⁶¹UNDP (2020), p. 40.

In prison matters, the context of the pandemic merits a re-examination of the situation of persons deprived of liberty.

There are various groups subjected to imprisonment that could benefit from the application of measures that do not involve incarceration, thus reducing the burden on the criminal enforcement system. Such measures would also help to minimize the risks of contagion, since overcrowding in detention centres turns these into focal points for mass transmission of the disease. To achieve this, priority groups must be established, based on clearly defined objective criteria. Such prioritization should include pregnant women, lactating mothers, and incarcerated women with children. Another example involves people who are close to fulfilling their sentences, people incarcerated for minor crimes or those in a situation of excessive preventive detention. In this type of exercise, the category of the crime committed by the offender must be taken into account in order to prevent the release from posing risks to the safety of the population or of former victims.

The private sector is another actor that can contribute initiatives to alleviate the burden of conflicts that reach the judicial system.

In Latin America there is a long tradition of commercial mediation and arbitration, including dispute resolution centres within the chambers of commerce of the region's main cities and capitals. Some of these have adapted their services according to the prevailing context. For example, the Center of Arbitration and Conciliation of the Chamber of Commerce of Bogotá provides virtual services and counsel.⁶² These spaces for the resolution of disputes offer mediation and arbitration services, and are a very valuable precedent for reducing the burden of conflicts that reach the judiciary.

Likewise, there are other innovative initiatives to face conflict in the business sector with the greatest needs: micro, small and medium-sized enterprises. For example, Renegocia Tu Contrato (Renegotiate Your Contract)⁶³ is a platform designed to guide micro, small and medium-sized enterprises in negotiating their contracts in the context of the emergency experienced in **Mexico** as a result of the pandemic. It is made up of a group of academic experts from different disciplines and offers free advice to achieve renegotiation. In this way, conflicts related to breach of contracts are minimized and controversies that reach the justice system are reduced.



⁶²<https://www.centroarbitrajeconciliacion.com/Otros-servicios/Servicios-virtuales> (only in Spanish please see <https://www.centroarbitrajeconciliacion.com/en>)

⁶³www.renegocia.mx (only in Spanish).

Recommendations

- **Promote spaces for inter-branch and inter-sectoral dialogue and collaboration to coordinate joint strategies to take pressure off the demand from justice systems.**
 - Creation of articulation or dialogue tables to analyse measures to mitigate the judicialization of conflicts, involving judicial actors, bar associations, state entities responsible for tax and debt collection, law schools, public prosecutors' offices, etc.
- **Work with the judiciary and justice ministries to design joint strategies to preventively reduce the burden of cases in court.**
 - Sanction regulations that temporarily suspend the judicialization of some issues such as collection of fiscal or tax debts, debts for the provision of unpaid utilities, and debts related to access to housing.
- **Evaluate good practices and prioritization tools and referral of files in civil and criminal matters.**
 - Implement the triage techniques of Anglo-Saxon systems.
 - Promote alternative dispute resolution mechanisms in judicial and pre-judicial venues.
- **Generate spaces for dialogue between the private sector and judicial powers to analyse patterns of conflict and design collaborative strategies to reduce the flow of cases towards the justice system.**
 - Convene business and industrial chambers to identify conflict patterns, contractual breaches and types of debt, to design joint action plans and strategies.
 - Sanction necessary regulations and coordinate with ministries of justice.
 - Design plans to advise companies and businesses on possible non-judicial courses of action in conflicts for breaches of contract.
 - Articulate with Ministries of Labour to tackle labour and union conflicts in the different sectors of the economy and promote alternative mechanisms for conflict resolution.
- **Map cases of good practices and innovation to reduce conflict in private contracts.**
 - The Renegocia Tu Contrato (Renegotiate Your Contract) initiative in Mexico for micro, small and medium-sized enterprises.
The mediation and arbitration services provided by the chambers of commerce of most Latin American countries.
- **Promote transitory or definitive modifications in the organization of the courts to face the new procedural burden.**
 - Create judicial, transitory or permanent secretariats, specialized by subject matter.
- **Promote the regulatory reforms necessary for the adoption of alternative methods of dispute resolution and case prioritization methodologies or triage.**
 - Adapt procedural codes to incorporate this type of methodologies.
 - Document comparative experience; train judicial operators in the use of these methodologies.
 - Perform pilot studies.
- **Work with public prosecutors' offices to define selectivity criteria to divert less relevant cases to other instances of conflict resolution or to restorative justice mechanisms.**
 - Set up spaces for coordination between public prosecutors' offices, ministries of justice and judicial powers for the design of strategies and work plans.
 - Identify the necessary regulatory reforms; streamline mechanisms for monitoring compliance with alternative penalties; and allocate sufficient budgets.

Access to justice and social inclusion

“This crisis of gender violence has generated immediate responses in most countries. These experiences range from the development of comprehensive plans to deal with the situation, to elementary actions that make it easier for women at risk to access state assistance services.”

IV. Access to justice and social inclusion

A. Access to justice, COVID-19 and gender violence against women and girls

Access to justice has been a key tool to fight gender violence, a pandemic that has plagued all regions of the world for years. The emergence of a new pandemic, COVID-19, has only aggravated that situation. In Mexico, calls and messages requesting help against various types of gender violence increased more than 80% in the first month of COVID-19 lockdown, and applications to shelters by women victims of violence increased by 12.7% in the period between 17 March and 20 April.⁶⁴ In Argentina, gender violence complaints increased by 39% during lockdown and between its onset on 20 March 2020 and 20 April 2020, 19 femicides took place.⁶⁵ These figures are replicated throughout the entire region.^{66,67}

UNDP has extensive work experience in the area of citizen security with a gender perspective in Latin America and the Caribbean, which positions it in a place of comparative advantage to address the phenomenon of violence against women and girls (VAWG), and its most lethal expression, femicide. All of this, with a multidimensional lens that encompasses the multiple intersecting problematics that women go through and the generation of knowledge for public action. Within the framework of the Spotlight Initiative's Regional Program, and together with fellow agencies of the United Nations System such as the International Organization for Migration (IOM), the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations Office against the Drugs and Crime (UNODC), UNDP is leading the implementation of a series of multidimensional studies on violence against women and girls (VAWG) and femicide, that will provide qualitative and quantitative information on various associated problematics in order to implement policies and action plans on these issues. These studies also aim to deepen knowledge about dynamics, contexts and territories, where particularly complex issues such as human trafficking, organized crime and enforced disappearances intersect. One of these studies in particular deals with the response of the judicial systems to femicide cases and the latter's interfaces with structural problems in the Latin American region.

This crisis of gender violence has generated immediate responses in most countries. These experiences range from the development of comprehensive plans to deal with the situation, to elementary actions that make it easier for women at risk to access state assistance services. The necessary resources and willpower must be available to ensure the continuity of justice services—even under situations where there are restrictions on the mobility of judges and justice personnel—, through digital and remote mechanisms, especially to resolve situations associated with intimate partner violence, child support, and custody pensions, among others. In Chile, the Ministry of Women and Gender Equity launched a Contingency Plan that seeks to protect all women who are exposed during quarantine, since it could increase the risk of experiencing situations of violence by their partners or cohabitants. This plan contains multiple measures and coordination actions with different state agencies linked to the protection of rights and access to justice. On a smaller scale, telephone hotlines have been set up exclusively for women at risk.⁶⁸

Judicial powers and other institutions with responsibilities in matters of access to justice have the opportunity to point out the urgency and priority regarding questions of gender. It is vitally important that the action plans against COVID-19 include explicit messages communicating to the public that the administration of justice and the rule of law are not suspended during periods of isolation or social distancing.⁶⁹ This should not only be discursive, but should be reflected in practice. In this sense, the continuity of justice services must be ensured, even in situations where there are restrictions on the mobility of judges and sector personnel, through digital and remote mechanisms. This is vitally

⁶⁴Red Nacional de Refugios (RNR, National Network of Refuges) of Mexico. Available in Spanish at <https://www.infobae.com/americas/mexico/2020/04/24/incrementaron-en-80-las-llamadas-por-violencia-de-genero-durante-la-emergencia-por-coronavirus/>

⁶⁵(in Spanish): <https://www.onu.org.ar/se-incremento-un-39-el-pedido-de-ayuda-por-violencia-de-genero-en-argentina-durante-el-covid19/>

⁶⁶(in Spanish): <https://www.dw.com/es/cuarentena-por-coronavirus-dispara-violencia-contra-las-mujeres-en-américa-latina/a-53261868>

⁶⁷<https://www.worldbank.org/en/news/feature/2020/05/15/covid-19-could-worsen-gender-inequality-in-latin-america-and-the-caribbean>

⁶⁸A few examples of telephone contact numbers are: in Chile, number 1445; in Colombia, 01 8000 112 137 or via WhatsApp at 300 755 18 46; in Uruguay, 0800-4141 and *4141; in Peru, Line 100 in Caracas, 02125093634; and in Argentina 11- 2771-6463, 11-2775-9047 and 11-2775-9048, and by email at linea144@mingeneros.gob.ar, in addition to the national toll-free number 114.

⁶⁹UN Women (2020) Policy Brief: The Impact of COVID-19 on Women. Available at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>

important since the pandemic and lockdown exacerbate the risks of gender-based violence, given that women coexist with their aggressors and confinement intensifies the impact of ‘acute stressors’ on men who are already violent, such as financial difficulties or the loss of employment. In addition, it must be guaranteed that women can resort to the courts to resolve legal situations associated with intimate partner violence, child support and child custody, among others.

Along these lines, judicial institutions must design gender contingency and communication strategies, signalling their commitment to gender issues and creating the conditions for inter-institutional coordination. This would allow the vertical alignment of judicial system actors to coordinate strategies and messages for the attention to gender cases. The rapid and timely response depends on the levels of organization of the gears of the judicial system, and on the training and awareness of its operators. Along with health and safety services, justice is one of the first sources of relief for women at risk of or affected by gender violence. This makes it even more necessary to have not only inward care protocols within the judiciary but also deviation to other areas.

The various actors in the justice system have a key role in the articulation and intermediation of social and economic services for women. This function is especially important in the context of the pandemic, since the latter puts women in a situation of greater vulnerability. In many cases the effective access to maintenance and alimony pensions, protection services and shelters, and psychological assistance depends on the continuity of the justice service. These benefits must be mapped in order to stipulate the necessary measures to ensure their continuity and to possess a real dimension of the economic and social implications of effective access to justice for women.

On the other hand, UNDP’s comprehensive focus in the region highlights the need for approaches to stimulate inter-branch coordination. This tends to increase the effectiveness of interventions and to improve both agency interaction and project sustainability. In **El Salvador**, through the Spotlight Initiative, whose objective is to eliminate violence against women and girls, including femicide, a coordinated inter-institutional focus was proposed for a comprehensive approach to this scourge. This way, a thorough response to the violence that affects women was expected. The existence of multiple institutions at different levels of government and a diversity of regulatory frameworks highlighted the need to improve coordination between agencies and to strengthen capacities to develop workplans and inter-institutional approaches. For this purpose, UNDP foresees working with the Coordinating Commission of the Judicial Sector, made up of representatives of the Supreme Court, the Ministry of Justice and Public Security, the National Judicial Council and the Attorney General of the Republic. In that same sense, in **Argentina** the Spotlight Initiative points out shortcomings in coordination, both in the different departments within the judiciary, as well as between judicial institutions providing assistance services dependent on executive powers at national, provincial and local levels.⁷⁰ To this end, strengthening inter-branch coordination and setting up meetings of the Inter-Ministerial Working Table at national and provincial levels were proposed.⁷¹

Access to justice and gender policies must be based on data and evidence. Data allow designing quality public policies, improving investment efficiency and, above all, achieving greater impact. The statistical systems in judicial matters in the region have a key challenge: to produce reliable, sustainable, information at a national scale on gender issues. In terms of security, progress has been registered. The CariSECURE⁷³ project promotes the generation of public safety statistics disaggregated by gender, and the implementation of gender-sensitive victimization and perception surveys in the Anglophone Caribbean region.⁷⁴ The Infosegura project does the same, but in countries in Central America, **Belize** and the **Dominican Republic**⁷⁵ The same could be emulated in the justice sector. The Spotlight initiative in **Honduras** highlights the need to improve research and data on violence against women and girls. In this sense, it points out that most of the studies focused on gender-based violence carried out in that country, characterize women as a homogeneous group, focus only on the central urban area of **Honduras**, only analyse traditional forms of violence against women, and lack data regarding access to justice for victims of violence.⁷⁶

⁷⁰Spotlight Initiative, Country Programme Document: Argentina, p.15.

⁷¹Spotlight Initiative, Country Programme Document: Argentina, p.18.

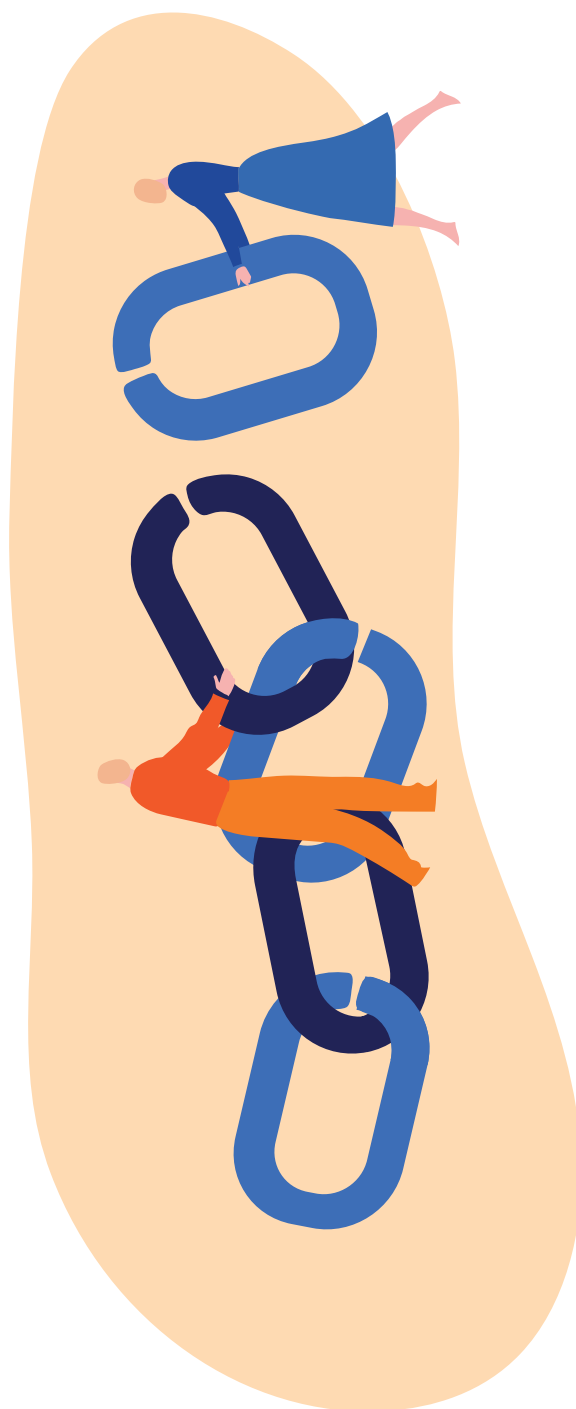
⁷²<https://eige.europa.eu/gender-based-violence>

⁷³CariSECURE is a UNDP project in coordination with and with funding from USAID.

⁷⁴<https://www.undp.org/content/dam/barbados/docs/CariSECURE/Two-Page%20CariSECURE%20Brief.pdf>

⁷⁵<https://infosegura.org/2018/10/23/analisis-regional-sobre-violencia-contra-la-mujer-y-seguridad-ciudadana/>; (article in Spanish; website pages on Belize in English).

⁷⁶Spotlight Initiative, Country Programme Document: Honduras, p.13.



In **Guyana**, a pioneering survey of gender-based violence in the Caribbean was conducted in 2018 through a partnership between CariSECURE and UN Women. Results showed that, among other things, 38% of women had suffered physical and/or sexual violence, well above the global average.⁷⁷ In **Argentina**, the Office for Women launched the National Registry of Femicides.⁷⁸ These kinds of registers, surveys and research allow the design of public policies based on evidence and not on perceptions, articulated between all state and non-state actors dedicated to the subject. In **Guatemala**, UNDP is supporting Criminal Analysis Units belonging to the Directorate of Criminal Analysis (DAC), with differentiated analysis methodologies and elements for issues related to crimes against women and girls. This pilot initiative that began with two public prosecutors' offices is expected to expand to regional, departmental and municipal public prosecutors' offices throughout the national territory.

Articulated work with civil society actors and women's rights defenders is key for removing obstacles to access to justice.

The design of actions in collaboration with NGOs, social leaders and activists is of vital importance to guarantee the opportunity and sustainability of the reforms. In Grenada, the Spotlight Initiative aims to promote an approach based on cultural change in the judiciary regarding the treatment of cases of violence against women. To this end, it supports the work of different NGOs to: 1) analyse the application of guidelines for judicial sentences; 2) work with the judiciary to change social norms and practices that influence the urgency assigned to cases, their treatment and the sentences applied to the perpetrators; and 3) promote social mobilization on the role of the judiciary, its responsibility in the fight against gender violence, and the impact that its activity generates on public perception regarding the importance of gender violence and its seriousness as a criminal problem.⁷⁹

UNDP, in coordination with the Spotlight Initiative, is deploying resources and transferring knowledge to develop the necessary gender capacities and thus move towards the goal of eradicating violence against women and girls. In **Belize**, awareness-raising actions will be carried out for members of the judiciary regarding international standards on human rights, gender and gender violence. Capacity-building and evidence-based knowledge will also be promoted to identify opportunities for action to combat violence against women, including mentoring activities for family court judicial officers in four districts.⁸⁰

⁷⁷M. Contreras-Urbina, A. Bourassa, R. Myers, J. Ovince, R. Rodney, S. Bobbili, Guyana Women's Health and Life Experiences Survey Report, UN Women Caribbean (2019), p. 19. Available at <https://caribbean.unwomen.org/en/materials/publications/2019/11/guyana-womens-health-and-life-experiences-survey-report>

⁷⁸<https://www.csjn.gov.ar/omrecopilacion/omfemicidio/homefemicidio.html> (only in Spanish).

⁷⁹Spotlight Initiative, Country Programme Document: Grenada, p. 178.

⁸⁰Spotlight Initiative, Country Programme Document: Belize.

In **Mexico**, guaranteeing access to justice and attacking the impunity of perpetrators of violence against women and girls were proposed. To this end, the capacities of public officials, and particularly of those in charge of the management and administration of justice, will be strengthened to prevent, attack, investigate, punish, and repair such crimes.⁸¹

In **El Salvador**, through the Spotlight Initiative, national and sub-national institutions are expected to finance and implement evidence-based programs.⁸² To this end, the quality and competence of judicial system operators will be strengthened, their skills developed through training plans and the curricular adaptation of judicial training spaces. Likewise, inter-institutional coordination between relevant justice system actors will be promoted through the Coordinating Commission of the Judicial Sector while the special unit for the analysis of violent deaths of women of the Office of the Attorney General of the Republic will be strengthened.⁸³

In **Honduras**, work will be conducted with justice system operators of the Supreme Court and the Public Ministry to provide them with better knowledge on and strengthen their capacities to provide comprehensive, coordinated and quality services to women and girls who are victims of violence. To this end, practice manuals and guidelines will be designed for judicial officials, training activities will be carried out on issues of violence against women, and special protocols for the prevention of femicides will be implemented.⁸⁴

The generation, collection and analysis of data on gender and violence against women and girls, including femicide, must be a focus of attention in the region. Beyond the progress achieved, key actors in the justice systems still face great challenges ahead in this area. In crisis contexts such as the current pandemic, the design of containment strategies and evidence-based decision making is made difficult by limited access to official data. To reverse this situation, strategies must be formulated that include the development of capacities, work plans, and monitoring and evaluation systems that allow for a quality leap in the generation of data. This effort must also recognize the important differences and subgroups that comprise women as a category, in terms of socio-economic levels, ethnicity, age, geographic region, and other distinctions, even within each of the countries.

In terms of information, special priority must be given to data related to the interaction of women with the criminal justice system. Given the seriousness and scale of violence against women and femicides, it is worth prioritizing efforts and allocating resources so that the production of data in criminal justice allows accurate diagnoses of the situation, identifies the shortcomings and needs of judicial operators, and understands the reasons for

“The generation, collection and analysis of data on gender and violence against women and girls, including femicide, must be a focus of attention in the region.”



⁸¹Spotlight Initiative, Country Programme Document: Mexico.

⁸²Spotlight Initiative, Country Programme Document: El Salvador, p. 35.

⁸³<<http://www.pgr.gob.sv/index.php/m-genero>> (only in Spanish).

⁸⁴Spotlight Initiative, Country Programme Document: Honduras, p. 41.

Supreme courts, public prosecutors' offices, attorney general's offices, public defenders, and ministries of justice, must coordinate efforts to generate accurate, timely, comparable, and disaggregated information on barriers to access to justice for women and on their interaction with violence before, during, and after contacting criminal justice system operators. Men and women have very different experiences when interacting with the justice system. These differences must be analysed with precision, both as victims and as perpetrators. The impact of crime on women should be comprehensively studied, including indirect impacts as well, such as the re-victimization and intimidation they suffer either as victims or witnesses during the judicial process, and their lack of access to legal advice.⁸⁵

In recent years, the creation of gender units or offices in the judiciary has been one of several ways to show commitment to access to justice and women's rights. Some examples of this type of agency are the Technical Secretariat for Gender Equality in **Chile**,⁸⁶ the Office for Domestic Violence⁸⁷ and the Office for Women in **Argentina**,⁸⁸ the Gender Commission and Technical Secretariat for Gender and Access to Justice in **Costa Rica**⁸⁹ and the Office of Gender Equality in **Mexico**.⁹⁰ However, the mere setting in motion of these offices has not guaranteed their transformative potential, since they additionally require a few minimum conditions to have a real and sustained impact, such as: 1) to hold a high hierarchical level within the judiciary, 2) to have sufficient financial, material and human resources, 3) to promote the integration of specialized human and technological resources with permanent training and 4) to establish mechanisms for planning, monitoring and evaluation of their operational plans.⁹¹

To the four elements described above, a fifth should be added, linked to the judicial budget for gender policies.

The level of commitment and problematization of the subject is reflected both in the assigned budget levels as well as in their effective execution. These gender units could be the ones to lead, supervise and be accountable for the execution of the gender budget in the judiciary. They should have a dual role: to drive real institutional transformations inwards, to be accountable and generate alliances outwards. The involvement of civil society in this task, the publication of open format information on budget execution and the preparation of annual reports, are some of the tools necessary to generate a broader public conversation on access to justice and gender.

In **Honduras**, the Spotlight initiative aims to strengthen the capacities of the Supreme Court of Justice to formulate gender-sensitive budgets. In addition, long-term plans will be designed to raise awareness and train staff from the justice sector and the Office of the Attorney General in results-based, gender-sensitive budgeting.⁹² Just as gender-labelled budgets are promoted to monitor policy engagement for women and girls, the same can be encouraged with the political and administrative authorities of the judiciary (supreme courts and judicial councils).

Strengthening the capacities of the judiciary must inexorably have a cross-sectoral perspective focused on gender.

It is not only about enhancing management and planning tools, but also about acquiring new knowledge and skills to achieve a real impact on access to justice for women and girls. **It is no longer just a mere component, but rather a gender approach that can powerfully and comprehensively permeate within judicial institutions.** This is an outstanding debt in the vast majority of judicial systems in the region.

To achieve an effective and sustained transformation of care and protection services for women and girls, judicial institutions must first transform inwardly. They must reconsider how they plan, train, budget and generate the internal conditions to guarantee gender equality. If there are no structural changes in the area of gender within judicial institutions, it will be difficult for them to thoroughly fulfil their role of protecting human rights and guaranteeing access to justice for women and girls. In summary, judicial powers must reinvent themselves to successfully confront these challenges, they must acquire the necessary tools and human resources to reverse their historical performance and draw a roadmap towards gender equality.

⁸⁵UNDP (2020), p. 56.

⁸⁶<http://secretariadegenero.pjud.cl/index.php/politica-genero-pjud> (only in Spanish).

⁸⁷<http://www.ovd.gov.ar/ovd/> (only in Spanish).

⁸⁸<https://www.csjn.gov.ar/om/index.jsp> (only in Spanish).

⁸⁹<https://secretariadegenero.poderjudicial.go.cr/> (only in Spanish).

⁹⁰<https://www.scjn.gob.mx/igualdad-de-genero> (only in Spanish).

⁹¹ Criteria taken from: EQUIS Justice for Women, Unidades de Género en el Poder Judicial. Informe sobre su Estructura y Funcionamiento a Nivel Nacional (Gender Units in the Judicial Power.

Report on its Structure and Operation at the National Level), p. 39. Available at https://equis.org.mx/wp-content/uploads/2018/02/Informe_Unidades_Genero.pdf (only in Spanish; landing page with general information in English at <https://equis.org.mx/projects/informe-sobre-las-unidades-de-genero-del-poder-judicial/>).

⁹²Spotlight Initiative, Country Programme Document: Honduras, p. 31.

Recommendations

- **Encourage judicial powers to design gender contingency plans.**
 - Develop strategies that articulate vertically and horizontally with the courts and with other state agencies responsible for the provision of judicial services and access to justice, for the deployment of immediate actions to address violence against women in the context of the pandemic.
 - Set into operation services that guarantee permanent, comprehensive and accessible care for women and girls at risk or victims of violence.

- **Promote reforms in judicial powers and other actors in the justice system so that they implement institutional reconversion processes to structurally inject a gender perspective in all of their spheres.**
 - Promote institutional redesign exercises considering gender as a strategic priority.
 - Implement new training and human resource incorporation policies in gender matters.
 - Promote innovation and behavioural economics actions and plans aimed at improving the protection of women and girls.
 - Make comprehensive institutional gender evaluations to identify needs and opportunities in training, management, data generation and budget allocation.

- **Create high-ranking Gender Offices with broad responsibilities in the judiciaries.**
 - Assign them the responsibility of drawing up gender and contingency work plans that articulate vertically and horizontally, to ensure access to justice for women.
 - Also give them the responsibility of monitoring gender-tagged budgets and their financial execution, periodically reporting on progress.

- **Invest in the development of capacities to solve the structural deficit regarding data on access to justice for women and the causes of impunity in violence against women and girls.**
 - Review the regulations regarding treatment of cited cases of violence and femicide.
 - Analyse the jurisprudence related to the application of these penal categories and international human rights law by the courts.

- **Take urgent measures from the justice system to safeguard the life and safety of women and girls.**
 - Incorporate more equipment and tools such as panic buttons, telephone lines for urgent attention and use of social networks.
 - Promote greater celerity in the issuance of distance orders.
 - Encourage greater articulation to facilitate access to shelters.
 - Allow victims and their children, if applicable, to take refuge in shelters.
 - Make criteria for entering shelters more flexible.
 - Carry out permanent police rounds and establish 24-hour guards in justice systems.
 - Follow up cases that reach victims' social and psychological protection services.
 - Guarantee, in the civil and family sphere, the continuity of the demands for alimony and childcare.

- **Justice systems and security forces could deploy proactive prevention strategies in the territory to avoid situations of violence against women.**
 - Use data from judicial files, police complaints, as well as Big Data, new technological tools and other sources of data on women at risk or vulnerability.

B. Access to justice and the mandate to ‘Leave no one behind’

The irruption of the pandemic added to the closure of judicial services represents a great threat to the access to justice by the different groups at greater risk of entering situations of vulnerability. On the one hand, lockdown and social distancing measures place some particular groups of individuals at risk, either because lockdown increases their chances to be victims of violence, mistreatment or abuse (for example, boys, girls and women); because quarantine measures prevent them from procuring basic economic resources to ensure their food supplies and general well-being (informal workers, inhabitants of marginal areas and older adults); or because they have lost their jobs or cannot return to their countries of origin. Against this background, however, the region has a certain advantage since, thanks to the work of governments, international organizations and international cooperation agencies, Latin America and the Caribbean have already made significant progress in infrastructure and institutional development to meet the emerging demand for legal advice, guidance and legal defence services.

The heterogeneity between subregions in Latin America and the Caribbean must be taken into account when designing access to justice policies in the framework of COVID-19. In this vast region, large divergences coexist in terms of social asymmetries, multiculturalism, urban agglomerates versus rurality, native peoples, homogeneous territories and geographical features, countries with multiple ethnic groups, and both Civil and Common law systems. These specificities, which are even repeated within some countries, require tailored approaches. In **Guyana**, UNDP is working to address the challenges of vast geographic distances and connectivity through the use of technologies. This aims to connect the state and the central judicial system with communities living in remote areas of the country and provide them with electronic access to government services.⁹³

In **Guatemala**, a multilingual and multicultural country, access to justice must include linguistic and cultural relevance. Currently, significant steps have been taken in this direction, such as the recent approval of the Policy of the Judicial Organism of Access to Justice for Indigenous Peoples. However, institutional mechanisms are needed to guarantee the training, hiring and evaluation of bilingual interpreters or officials within the institutions of the justice system. Furthermore, there are difficulties in finding suitable interpreters for all the speech variants of the 22 Mayan language communities.⁹⁴ Something similar occurs in **Peru**, where 25.6% of the population (approximately seven million people) identify themselves as indigenous. But despite the constitutional mandate that recognizes the existence of two justice systems, in the last four years no legislation has been enacted to regulate it and make it operational. This facilitates the emergence of enormous challenges for the timely administration of justice, both individually and collectively, not only in criminal but also civil matters, and for the non-application of Convention 169 of the International Labour Organization (ILO).⁹⁵

In **Panama**, UNDP has actively worked on the development and strengthening of community justice of the peace, accompanying the transition that began in 2016 from the old systems of corregidores to justices of the peace. Given the heterogeneity of the territory and its respective populations, work was undertaken to identify the geographical and cultural characteristics of each region in order to facilitate the use of conciliation. Dissemination campaigns were carried out and work was done with the Chamber of Commerce to develop spaces for exchange between the civil and private sectors and the justice system.⁹⁶

In **Peru**, in 2019 a study was carried out in a group of departments to identify rural areas where community justice of the peace does not arrive. In remote or rural areas, a justice of the peace is the closest representation of the state for local people. The study set out to identify what routes exist today and how they work to bring justice to victims. Mappings were carried out in each department to identify the existing routes and to mount on them a strategy for the provision of justice services.⁹⁷

⁹³UNDP (2020), p. 34.

⁹⁴UNDP Guatemala Justice team correspondence on 23 April 2020.

⁹⁵UNDP Peru Justice team interview, held on 22 April 2020.

⁹⁶UNDP Panama Justice team interview, held on 24 April 2020.

⁹⁷UNDP Peru Justice team interview, held on 22 April 2020.

In **Colombia**, the Ministry of Justice and Law has mobile assistance sessions in which victims of the armed conflict are attended in remote areas of the country where the Victims Attention Unit does not have coverage.

In **Argentina**, the Ministry of Justice and Human Rights, with the support of UNDP, implemented a project called ‘Hospital of Rights’.⁹⁸ Launched in November 2018, it entails a superior development of care with respect to the Centres for Access to Justice (Centros de Acceso a la Justicia, CAJ) that operate in the territory. This hospital provides comprehensive legal assistance and access to justice free of charge. Practically all legal problems are dealt with on-site to prevent the most vulnerable people from having to go from one place to another to solve them. This is a space aimed at finding overarching solutions and convergence between the different agencies that offer this kind of services.⁹⁹ This Ministry also implemented a system of mobile offices for access to justice, which cover different regions according to itineraries scheduled in advance, corresponding to the needs for territorial coverage of different population groups.¹⁰⁰ Another way to reach out to the territory is through a system of legal clinics or the decentralized model of Centres for Access to Justice, mentioned before. **Argentina** has 250 centres in different parts of the country that provide guidance, legal assistance and education in rights.¹⁰¹

Countries that have suffered armed conflicts have vulnerable groups with particularities and dynamics that need special attention.

In **Guatemala**, the victims and survivors of the internal armed conflict, mostly from Mayan communities located in the departments most affected by armed violence, have faced a series of basic deprivations that restrict their well-being and are, therefore, highly vulnerable to possible outbreaks of COVID-19. Likewise, within the framework of the Transitional Justice Program (Programa de Acompañamiento a la Justicia de Transición, PAJUST), UNDP has promoted gender equality and the empowerment of indigenous women in their access to justice. The actions implemented have included addressing sexual and gender-based violence during the internal armed conflict, deploying essential legal advisory services and providing psychosocial care for survivors. Additionally sought is the strengthening of the capacities of the Public Ministry to investigate cases of sexual and gender violence against indigenous women during the armed confrontation.¹⁰²



⁹⁸<https://www.ar.undp.org/content/argentina/es/home/presscenter/articles/2018/se-inauguro-el-hospital-de-derechos--un-centro-para-prestar-asis.html> (only in Spanish).

⁹⁹<https://www.argentina.gob.ar/justicia/afianzar/caj/hospital-de-derechos> (only in Spanish).

¹⁰⁰<https://www.argentina.gob.ar/noticias/oficina-movil-del-ministerio-de-justicia-ya-realizamos-1121-tramites-en-la-provincia-de> (only in Spanish).

¹⁰¹To explore its operation in Argentina, please see <https://www.argentina.gob.ar/justicia/afianzar/caj> (only in Spanish).

¹⁰²UNDP Guatemala Justice team correspondence on 23 April 2020.

For its part, in **Colombia** UNDP works with local justice systems since 2018, in an initiative that emerged as a rapid response to peace agreements. Project covers 13 municipalities where it promotes, through the articulation of all actors, the construction of justice routes that link a municipal seat with its rural area so that a connection is established between the two and barriers to access to justice are eliminated for people living in those areas. UNDP also works to protect and strengthen the work of human rights defenders and social leaders in different regions of the country, who have been at risk for their support for the implementation of the peace process. In this sense, it promotes spaces for dialogue between civil society and government to help strengthen the work of human rights defenders and dismantle criminal structures that threaten their integrity.¹⁰³

In the Caribbean, specialized court models are being applied to serve different vulnerable groups. This type of interventions reflects the level of priority that is given to some specific problems, but also pursues a technically more solid approach and an expeditious treatment of cases. In terms of access to justice for boys and girls, in **Trinidad and Tobago**, centres for the care of minors were created employing the ‘one-stop shop’ system, consolidating in one single place all the professional disciplines necessary to provide adequate care.¹⁰⁴ This modality reduces revictimization and facilitates an approach to the needs of those in vulnerable situations. In 2017 the Children Court was also created for minors in conflict with the law, promoting a restorative and rehabilitative approach.¹⁰⁵ In **Belize**, the first child-friendly family courts were opened in 2016.¹⁰⁶ In **Antigua and Barbuda**, a Sexual Offences Model Court was launched in 2019, with the aim of providing a timely, coordinated and gender-sensitive response to victims and witnesses in cases of sexual violence.¹⁰⁷ This new court will test the effectiveness of the prescriptions of the Model Guidelines for Sexual Offence Cases in the Caribbean Region.¹⁰⁸ Likewise, in Guyana there are specialized courts for family cases, sexual assaults and narcotics, through which it has been possible to significantly improve the treatment and resolution times of cases. Such delays were serious barriers for potential users of the justice system.¹⁰⁹

In general, the economic consequences of COVID-19 have had a wide reach, affecting people at higher risk of falling into vulnerability in different ways. This includes the LGBTIQ+ community, people with disabilities, older adults, people facing situations of homelessness, migrants, and temporary or seasonal workers, among others. They experience impacts on many of their fundamental rights, such as access to health, food, employment, housing, clean water, education and culture. The broad spectrum of affected groups makes it imperative: 1) to implement emergency measures to protect their integrity and security, 2) to conduct studies and generate data aimed at accurately identifying the needs and risks suffered by these groups from a multidimensional perspective, and 3) to design comprehensive and sustainable action plans to guarantee their access to justice and the protection of their rights.

On the other hand, the reduction of judicial services and the concentration of security forces in tasks related to the control of lockdown generate conditions for potential abuses and actions by organized crime groups against migrants, asylum seekers, victims of people smuggling and human trafficking, among others. Furthermore, the pandemic has caused the closure of borders and skies, which has immobilized hundreds of thousands of people. It should be remembered that the migration landscape in Latin America and the Caribbean has evolved in the last decade. Between 2010 and 2019, the number of immigrants in the region increased by 66%, while the number of emigrants expanded by 26%. The flow of Venezuelan migrants has been a decisive factor in the new dynamics. It is estimated that by the end of 2019 there were more than 4,800,000 Venezuelan migrants and that 85% chose a country in the region as destination. **Colombia**, a neighbouring country with an extensive border with **Venezuela**, was the main recipient of migrants, receiving approximately 1,600,000 Venezuelans.¹¹⁰

¹⁰³ UNDP Colombia Justice team interview, held on 30 April 2020.

¹⁰⁴ UNDP (2020) Justice Needs Assessment in the Caribbean. Available at [file:///Users/Trabajos/Downloads/Caribbean%20Justice_A%20Needs%20Assessment%20of%20the%20Judicial%20System%20in%20Nine%20Countries%20\(1\).pdf](file:///Users/Trabajos/Downloads/Caribbean%20Justice_A%20Needs%20Assessment%20of%20the%20Judicial%20System%20in%20Nine%20Countries%20(1).pdf)

¹⁰⁵ Examples taken from UNDP (2020), p. 39.

¹⁰⁶ Examples taken from UNDP (2020), p. 40.

¹⁰⁷ <https://ccj.org/wp-content/uploads/2019/01/Remarks-SOMC-Antigua-Mr-Justice-Wit.pdf>.

¹⁰⁸ <https://www.juristproject.org/publication/model-guidelines/206-frequently-asked-questions-model-guidelines-for-sexual-offence-cases-in-the-caribbean-region> >.

¹⁰⁹ Examples taken from UNDP (2020), p. 39.

¹¹⁰ <https://www.undp.org/content/undp/en/home/blog/2020/harnessing-the-potential-of-migration-in-latin-america-and-the-c.html> >.

COVID-19, with its consequent impact on the economy and governance, has created a worrying situation due to the large number of people who are returning to their countries of origin, especially in the Andean region. For example, there is a great flow of people from **Colombia, Peru** and **Ecuador** to **Venezuela**. There are also second-generation Guyanese Venezuelans who are returning to **Guyana** from **Venezuela**. In all of these cases, serious problems arise in providing documentation proving nationality. The lack of documentation prevents access to rights, facilitates abuses and precludes reporting them, in addition to rendering invisible a group that is not accounted for in statistics.

It should be noted that the phenomenon of migration and deportation has a disproportionate negative impact on women. The closure of borders affects migrant women, as they are victims of abuse due to the vulnerability they are in, either owing to problems with their documentation or for being alone. It also affects trans women and the LGBTIQ+ population, who suffer persecution in many countries, and who may be disproportionately affected at the moment for not being able to flee or leave their countries. Abuses are also reported in domestic and care work, since many migrant women carry out these tasks and, in the context of the pandemic, they may not get paid or may be dismissed. These women are often victims of gender violence in their respective households, set in overcrowded, deprived and precarious contexts. On the other hand, although deportations affect men by 80%, they also impact women since, when men return home unemployed and without prospects, the ensuing stress tends to exacerbate problems of gender violence¹¹¹.

Many countries have closed or restricted the operation of 'non-essential' public services, which affects access to legal documentation. This may include departments responsible for registering births, deaths, marriages and divorces. Legal documentation is a prerequisite for access to many rights and services. Lack of legal documentation often has more consequences on legal identities, inheritance and property rights, but also documentation in terms of residence, citizenship and voting rights. For example, lack of documentation prevents access to national health systems and other protection services. Birth registration in particular is essential to prevent a 'stateless' situation in migrants. The UN Legal Identity Task Force has indicated that civil registration should be considered an 'essential service' mandated to continue operations during a pandemic. Although some physical offices may need to be closed, or opening hours limited or staggered, operations should be maintained as far as possible, whether in-person, or virtual, during the crisis. Depending on the capacity, certain registration processes (such as legitimations) may be put on hold, but registration of births, deaths, foetal deaths and recording of causes of death, should continue as a priority.

¹¹¹Interview with David Khoudour, conducted on 24 April 2020.

Recommendations

- **Carry out specific sector studies aimed at precisely identifying the legal needs and risks suffered by different groups in situations of vulnerability as a consequence of COVID-19.**
 - Conduct studies on the impact of the pandemic on indigenous peoples, the LGBTIQ+ community, women in the formal and informal labour market, migrants and refugees, in terms of new conflicts and unmet legal needs.
 - Carry out workshops, seminars and spaces for dialogue aimed at detecting the state of the situation of said groups, gathering information and coordinating actions.
- **Promote spaces for coordination between the different areas and branches of the state that provide access to justice services (Ministries of Justice, offices of judicial powers, public prosecutors' and defenders' offices, ombudsmen bureaus, municipal or local governments, etc.).**
 - Create a table of dialogue on access to justice incorporating all judicial service, judicial guidance and legal advice providers to share information on levels of service provision, bottlenecks, challenges and needs, in order to design coordinated work strategies.
 - Promote publication by each of these actors of updated information on services provided, quantity and type of consultations, among others.
- **Promote the generation of disaggregated data on the specific situation of each of the groups at highest at risk for UNDP in the context of the pandemic.**
 - Identify the impact of the use of technologies and virtual audiences on each of these groups. Investigate the consequences of gaps in technology, in digital education and in Internet connectivity for access to justice among the aforementioned groups.
 - Evaluate the real levels of accessibility of the new virtual models utilized for customer service and for holding hearings in the response phase to COVID-19 amongst the indicated groups.
- **Sensitise the personnel of the judiciary and other agencies of the justice system about the situation and needs in terms of access to justice for vulnerable groups.**
 - Prepare dissemination and awareness materials, design workshops and training courses, hold webinars and face-to-face meetings for judicial personnel with civil society and grassroots organizations that work on the provision of judicial advice or legal guidance for said groups.
- **Promote feedback between the different areas of UNDP that work with vulnerable groups for the design of intersectoral strategies.**
 - Hold round tables with representatives from areas such as justice, gender, poverty and inclusion, citizen security, migrants, human rights, LGBTIQ+ and transitional justice, to share information, identify common challenges and draw up a coordinated roadmap on access to justice with short, medium and long term milestones.
- **Promote comprehensive approaches and territory-based deployment and coordination strategies for access to justice, such as access to justice centres, legal clinics, and alliances with grassroots organizations.**
 - See the guides prepared in Colombia to support the incorporation of a gender perspective in the implementation of the Development Programmes with a Territorial Approach (Programas de Desarrollo con Enfoque Territorial, PDET)¹¹² supported by UNDP.¹¹³
- **Coordinate strategies for access to justice and relief with other state and social actors who receive victims or are on the front line of social conflict, such as hospitals and health centres, police stations, centres for women and girls, educational establishments at all levels, community centres and sports centres, among others.**
 - Create territorial working groups at the sub-national level organized by geographic areas with the aforementioned actors to identify needs, bottlenecks and patterns of legal conflict and unsatisfied legal needs.
 - Establish high-level coordination tables with ministerial representatives for the harmonization of responses, information gathering and budget allocation.
- **Guarantee the continuity of operations of civil registry offices as well as of any other state agency responsible for issuing or legalizing documentation related to the civil status of people, nationality, residence and work permits, among others.**
 - Establish customer service for priority issues.
 - Organize customer service through online queue systems.
 - Publish protocols and orientation guides for customer service.

¹¹²Guides prepared by RIMISP-Latin American Centre for Rural Development, in conjunction with UN Women and the Territory Renewal Agency. Available in Spanish at <<https://colombia.unwomen.org/es/biblioteca/publicaciones/2018/04/pdet-funcionarios>>.

¹¹³<<https://www.co.undp.org/content/colombia/es/home/projects/capacidades-locales-para-la-implementacion-del-programa-de-desar.html>> (only in Spanish).

Institutional transformation

“The access to justice goes beyond the courts and also includes interaction with civil registries, offices for violence against women and girls, public and private mediation centres, legal advisory services, among others.”

V. Institutional Transformation

A. Institutional capacities of justice systems

COVID-19 has tested the institutional capacities of all branches of government. In general terms, this implies the ability to design plans to face the crisis, defining actions and strategies in coordination with other actors. It is also necessary to identify the needs of vulnerable groups, carry out budget reprioritization exercises, and collect the necessary data to be able to assess the state of the situation and set courses of action, among others. The health crisis has generated a crisis of governance, which has put stress on all public and private institutions.

Faced with the pandemic, the judicial powers of the region have the opportunity to prioritize the transformation of their institutional capacities, in such a way that these permit them to have a central and proactive role in the definition of public justice policy. This would have enormous implications in terms of access to justice, since it would allow estimating or evaluating the impact on groups in situations of vulnerability of measures such as social distancing, the cooling of the economy, the paralysis of the labour market and the suspension of public care services, among others. Thus, judicial powers could recalibrate their intervention strategies, adapt the provision of services to the new map of needs, and reorganize budget allocations based on the new configuration of the map of vulnerable actors.

This role includes important and sophisticated functions that will allow judicial powers to play a leading part in addressing the challenges associated with access to justice and in formulating policies to confront them. These functions require a series of institutional capacities, which include: 1) carry out strategic planning and control of institutional development, 2) design and promote initiatives, both legal and organizational and of judicial reform, 3) determine the allocation of resources, and 4) monitor and evaluate the implementation of their policies and work plans.¹¹⁴

In other words, the strengthening of capacities for innovation, for priority project management, for data generation, and for evaluation and monitoring must be prioritized in order for the judiciary to be a protagonist, both in the definition and in the transformation of its main policies. Judicial powers must become genuine promoters of public justice policy, debating, negotiating and convincing other actors who by constitutional design have a say in the matter, such as members of legislative powers and ministries of justice or their equivalents.¹¹⁵ The judiciary must also think strategically about future evolutions and adaptations, in the new context of the pandemic, in relation to sociodemographic trends, changes in conflict and the progress of technology, among others.¹¹⁶

Likewise, the capacities of the judiciary at the local level must be strengthened. This goes in line with the need to decentralize justice administration services, aiming for the widest possible geographic coverage. The centralization of judicial services has been a historical problem in the region. A 'people-centred justice', as stated in the 2030 Agenda, requires that citizens have close access to state offices, including judicial ones. However, access to justice goes beyond the courts and also includes interaction with civil registries, offices for violence against women and girls, public and private mediation centres, legal advisory services, among others. The proximity and accessibility strategy must be comprehensive, encompass all these services and facilitate access to rights for all sectors of the population.

The 2020-2024 Strategic Plan of the Judiciary of the Dominican Republic, designed with the support of UNDP-SIGOB, reflects the proposed vision described in the preceding paragraphs¹¹⁷. This exercise demonstrates the priorities set by the judiciary itself in matters of access to justice, quality of judicial service and integrity for trust in justice. In each of these axes a series of actions and goals are catalogued, which allow the judicial body to position itself as a leading actor in the definition and construction of its own priorities and objectives. In addition, the plan was drawn up with collaborative design tools and through a participatory, open process with consultation with the public. It was also validated with magistrates of all levels. The exercise that resulted in the 2020-2024 Strategic Plan

¹¹⁴Germán Garavano, The Judicial Government in Argentina. Judicial System Magazine, Issue N° 10

¹¹⁵Interview with Miguel Cereceda Zambrano, conducted on 23 April 2020.

¹¹⁶In the 1990s, the Supreme Court of Puerto Rico created the Futuristic Commission of the Courts, with the purpose of analysing contemporary reality, the trends that were looming for the 21st century, the impact that these would have on the courts, and thus propose a vision of the courts for this new stage. This commission was made up of citizens representing various sectors of society and the Judiciary. Its mission consisted of developing and proposing a vision about the future of the courts of Puerto Rico, indicating their main characteristics, as well as identifying basic instruments that would promote said vision so that it became a reality. For more information in Spanish, please see <<http://www.ramajudicial.pr/sistema/supremo/futurista.htm>>.

¹¹⁷Available in Spanish at: <https://www.poderjudicial.gob.do/documentos/PDF/Plan_Estrategico_poder_Judicial_2015_2019.pdf>.

proposed to think about reforms into and within the judiciary, with innovative lines of work, new guidelines on human resources and a gender perspective into and within judicial institutions. Much emphasis was also placed on communication policies towards the citizenry.¹¹⁸

The same considerations apply to the 2019-2024 Institutional Strategic Plan of the **Costa Rican** Judiciary(PEI).¹¹⁹ This plan was developed in a participatory manner and among its cross-cutting axes it includes themes such as innovation, open justice, the environment, gender, and access to justice. The PEI addresses key issues such as ‘the development and implementation of artificial intelligence tools and bots to support judicial, administrative and auxiliary justice bodies’ management and processing’ or ‘that by the end of 2024, the institution has been provided with technology tools and solutions that integrate information, systems and other solutions, according to the existing work flows in the jurisdictional, auxiliary justice and administrative areas.’ These goals reflect a strategic view of the judiciary, both in its jurisdictional dimension and in its quality of bureaucratic structure, which needs to be in tune with technological, institutional and management developments, to provide quality service to users. In addition, a website was designed where information related to the design, implementation and accountability of PEI execution can also be found.

The development of strategic plans requires not only planning skills, but also management and prioritization capacities. The phase for conceptualization, strategic vision and definition of lines of work is followed by a management phase. This implies the prioritization and allocation of political capital to ensure that the set goals are met. In this sense, many judicial powers could benefit from the strengthening of management capacities, especially through the introduction of tools similar to those used by government centres in executive powers. It is not a question of replicating the delivery units originated in the government systems of Anglo-Saxon countries and later popularized in other regions, but rather of identifying which of their work tools and methodologies could be useful to ensure compliance with the priorities established by the strategic plans’ vision.¹²⁰

The judiciaries in Latin America have shown great progress in developing planning capacities, but not in the management of these plans. In this sense, efforts are necessary to acquire the knowledge, technology and human resources to be able to put plans into practice. In other words, not only is it enough to have a plan, it also takes a plan to govern the plan. This raises various questions such as, for example, what are the characteristics that the areas responsible for the latter should have? What skills and abilities need to be acquired? What is the profile of the human resources that must carry out these functions? A look at the experience of executive powers in the region, both at national and sub-national levels, may be useful.¹²¹

On the other hand, the COVID-19 pandemic highlighted the lack of preparation of judicial institutions for unforeseen situations or exceptional events. An obvious learning is the need to design policies to be able to face crises, transition them and return to the previous state. This is in tune with **resilience programmes** that in recent years have grown considerably in executive powers and, particularly, in large cities. These programmes consist of exercises to identify potential scenarios that generate great tensions in the system and design strategies to deal with them subsequently. These stresses may be climatic catastrophes, massive and unexpected migration processes, long-term cyber blackouts, and pandemics. In the case of COVID-19, lockdown measures brought about the sudden adoption of technology in the provision of judicial services. Today this transformation is taken for granted even though it does not have solid foundations, since it lacks a regulatory framework and public policy. The surprise pandemic led to the rapid resort to technological solutions almost without thinking. UNDP has the opportunity to work with the judiciaries to consolidate these achievements, deepening their crises management skills and adaptability to change.¹²²

¹¹⁸Dominican Republic Justice Team interview (21 April 2020) and Miguel Cereceda Zambrano (23 April 2020).

¹¹⁹Plan Estratégico Institucional (PEI), website in Spanish at <<https://pei.poder-judicial.go.cr>>.

¹²⁰M. Alessandro, M. Lafuente and C. Santiso, *Governing to Deliver: Reinventing the Center of Government in Latin America and the Caribbean*, Inter-American Development Bank, Washington DC (2014). Available at <<https://publications.iadb.org/en/governing-deliver-reinventing-center-government-latin-america-and-caribbean>>.

¹²¹Interview with Miguel Cereceda Zambrano (23 April 2020).

¹²²Interview with Gloria María Borrero, former Executive Director of the Corporation for Excellence in Justice (Colombia), held on 23 April 2020.

Resilience strategies consist of the design of contingency plans with clear protocols for action, risk identification, appointment of responsible actors in the different agencies, deployment actions, and inter-institutional coordination and articulation policies between the different key actors. Vis-à-vis the materialization of some of the stress hypotheses, the plan is put into operation. In the current context of the pandemic, the main virtue of this type of programme is that it lays the foundations for coordinated work in situations of crisis. Precisely, the lack of coordination and comprehensiveness has been one of the weaknesses that became evident with the emergence of COVID-19.

Gender is another area where the transformative capacities of the judiciary can be developed and enhanced. Developing institutional capacities is no simple matter, even less if the aspiration is to achieve a transformative impact. In this case, strategies are required that provide high-level judicial officials with adequate information systems for decision-making; specific training on the subject; ad hoc tools and work methodologies; technology; financial resources; and appropriate coordination mechanisms with other institutions involved in the subject.

In **Mexico**, through the Spotlight Initiative, a project was designed to reduce violence against women and its impunity. One of the components of the project focused on providing knowledge, skills and capacities to public officials in charge of the management and administration of justice to allow them to develop a gender, life cycle, equality and human rights approach within their institutions. This in order to enable that their efforts to prevent, combat, punish and redress cases of violence against women, especially femicides, would provide a better and more effective response to victims, survivors and their families¹²³.



¹²³Spotlight Initiative, Country Programme Document: Mexico, available in Spanish at <https://procurement-notices.undp.org/view_file.cfm?doc_id=180293>.

Recommendations

- Promote the strengthening of the institutional capacities of judicial powers to have a proactive role in the definition of public justice policy.**
 - The strategic plans of Costa Rica and the Dominican Republic constitute roadmaps for a modern and preeminent judicial power.
- Support inter-branch and inter-sector dialogue spaces for the collaborative and participatory elaboration of justice system reforms.**
 - Judicial powers can convene work and dialogue spaces with other state actors to carry out research, design policies in a collaborative way, and generate work agendas focused on the needs of the justice system, such as agendas that require legislative reforms.
 - To formalize secure environments for the exchange of experiences and active listening with universities, research centres and civil society organizations, to identify priority issues for the judicial reform agenda
- Promote the design of strategic plans based on evidence, incorporating technologies and with broad consultation with the public.**
 - Study the strategic plans of Colombia, Costa Rica and the Dominican Republic, among others.
 - Incorporate open government tools, such as citizen participation methodologies for the co-creation of policies in the design of strategic plans.¹²⁴
 - Conduct consultations and surveys to users of the justice system, as in the cases of Paraguay;¹²⁵ the provinces of Río Negro¹²⁶ and San Juan¹²⁷ in Argentina, Chile¹²⁸ and Peru.¹²⁹
 - Foster studies on legal needs, in partnership with universities and civil society organizations.¹³⁰
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 - Foster studies on legal needs, in partnership with universities and civil society organizations.¹³⁰
- Strengthen the capacities of judicial powers for the management, prioritization and coordination of their strategic plans, as well as their monitoring and evaluation skills.**
 - Since these are poorly developed in the judicial powers, the experiences among executive powers can be taken as a model, by studying the literature on government centres in Latin America³¹ and on their role in promoting innovation.³² The cases of Colombia³³ and, at the subnational level, of Pernambuco³⁴ and the Autonomous City of Buenos Aires³⁵ can also be taken into account in terms of compliance management units.
- Support judicial powers in the design of resilience or contingency plans.**
 - The Judiciary of Colombia, for example, has developed valuable practical knowledge in the matter.¹³⁶ For experiences in promoting resilience programs in local governments, see the cases of the 100 Resilient Cities Network¹³⁷ and the Global Resilient Cities Network.¹³⁸

¹²⁴<https://www.opengovpartnership.org/policy-area/justice/>.

¹²⁵<https://www.pj.gov.py/contenido/1704-encuesta-de-satisfaccion-de-usuarios-del-sistema-de-justicia/1704> (only in Spanish).

¹²⁶<http://servicios.jurionegro.gov.ar/inicio/comunicacionjudicial/index.php/noticias/item/1965-casas-de-justicia-encuesta-de-opinion-para-continuar-mejorando-el-servicio> (only in Spanish).

¹²⁷<https://www.jussanjuan.gov.ar/gestion-y-calidad/los-usuarios-ya-pueden-calificar-a-la-justicia/> (only in Spanish).

¹²⁸<http://decs.pjud.cl/analisis-encuesta-a-usuarios-de-tribunales-estudio-modelo-organico-para-la-nueva-justicia/> (only in Spanish).

¹²⁹<https://www.minjus.gob.pe/wp-content/uploads/2013/11/INFORME-RESULTADOS-DEFENSA-PUBLICAok.pdf> (only in Spanish).

¹³⁰<https://www.dejusticia.org/encuesta-nacional-de-necesidades-juridicas/> (only in Spanish).

¹³¹<https://publications.iadb.org/en/governing-deliver-reinventing-center-government-latin-america-and-caribbean>.

¹³²<https://publications.iadb.org/en/do-delivery-units-deliver-assessing-government-innovations>.

¹³³Visit their official Twitter account @ConsejeriaGC.

¹³⁴<https://publications.iadb.org/en/publication/17427/leading-center-pernambucos-management-model>.

¹³⁵<https://www.buenosaires.gob.ar/compromisos>.

¹³⁶<http://sistemagestioncalidad.ramajudicial.gov.co/ModeloCSJ/archivos/M-MFJ-01/plan%20de%20contingencia%20ejrlb%201.pdf>.

¹³⁷[https://www.rockefellerfoundation.org/100-resilient-cities/#.:"text=In%202013%2C%20The%20Rockefeller%20Foundation,part%20of%20the%201st%20century](https://www.rockefellerfoundation.org/100-resilient-cities/#.:).

¹³⁸<https://www.resilientcitiesnetwork.org/recovery>.

B. The pandemic as a catalyst for innovation processes

The emergence of the pandemic has had a double effect on innovation and access to justice. On the one hand, it gave visibility and prominence to some of the ongoing innovation experiences in many of the region's justice systems. In general, these are technology-based processes already underway that had an impact because they allowed justice services to be kept in operation. On the other hand, COVID-19 highlighted the need, already known and evident, to accelerate processes of institutional and technological innovation in the administration of justice, both in central aspects, such as file management systems, conducting hearings and the connection with users, as well as, in general, any measure that contributes to improving access to justice. In many countries, even today, courts continue to record and control case files manually, there is a dearth of data on the functioning of the courts, and classic approaches to social conflict are maintained.

Technological innovation has multiple benefits. It can serve to bring remote populations closer to the places where judicial services are provided, to resolve conflicts between people without them ever leaving their homes,¹³⁹ and to generate data that improve judicial management, among many other possibilities. For its part, institutional innovation makes it possible to modify the operating practices of the courts, both in their relationship to the citizenry (transparency and citizen participation), and in relation to new approaches and tools to solve gaps in access to justice (legal clinics, justice laboratories, and new territorial approaches). All these modifications have a positive impact on the bond with the citizen, on public opinion and on institutional legitimacy.

The challenge of providing access to justice and protecting human rights amid the COVID-19 crisis highlighted the strengths and weaknesses of judicial institutions. Those justice systems that had already made progress in incorporating technology, promoting innovation, and rethinking their processes in light of new technologies or the needs of their users, demonstrated a much greater capacity to respond to the crisis. On the contrary, those institutions that had not updated their practices and technology according to new standards, have faced many difficulties during the crisis to administer justice, keep their services open, protect the morale and health of their workers¹⁴⁰ and, especially, safeguard the rights of vulnerable groups.

The need caused by the pandemic has been the engine of innovation. It has also been the driving force behind measures for the incorporation of technology and the adoption of practices that could have been implemented long ago. For example, accepting electronic signatures, sending official correspondence by electronic means,¹⁴¹ conducting virtual hearings, amongst others. Simple reforms, often inexpensive or without cost, were suddenly adopted by judicial authorities. This transformation process should be used to promote other necessary low-cost and transactional reforms, whether technological, procedural or administrative, which can have a positive impact on access to justice.

In Córdoba, **Argentina**, the judiciary developed an application for the public consultation of files. This tool, called 'My Justice', shows the main data of the process, its filing and status.¹⁴² In Buenos Aires, **Argentina**, two local criminal courts took advantage of having reconverted their processes using new technologies to adapt their service to the public and not suspend operations.¹⁴³ One of the courts, for example, was able to quickly adapt to lockdown and hold virtual hearings to deal with cases regarding fines, where all parties involved participated online.¹⁴⁴ In addition, hearings enjoy the —albeit virtual— participation of the public, something unusual when they are carried out in person. The other court, for its part, developed a virtual reception desk system that allows any lawyer or person involved in a case, to request an appointment through the Internet and be attended in the agreed date and time in a virtual courtroom.¹⁴⁵

¹³⁹The City of Buenos Aires and the province of Misiones in Argentina provide online or virtual mediation services. Please see, in Spanish: <<https://cejume.jusmisiones.gov.ar>> and <<https://www.buenosaires.gov.ar/tramites/mediacion-comunitaria>>.

¹⁴⁰Pathfinders for Peaceful, Just and Inclusive Societies. (2020) p. 24.

¹⁴¹For example, the Supreme Court of Justice of the Nation in Argentina ruled that as of 1 June 2020, official correspondence to public or private organisms that are released repeatedly and regularly will only be processed digitally. Please see, in Spanish: <<https://www.cij.gov.ar/nota-37407-Acordada-15-2020-de-la-Corte-Suprema-de-Justicia-de-la-Naci-n.html>>.

¹⁴²<<https://www.justiciacordoba.gov.ar/JusticiaCordoba/Inicio/indexDetalle.aspx?codNovedad=22055>>.

¹⁴³Criminal, Contraventional and Misdemeanour Courts N°10 and N°13 of the Autonomous City of Buenos Aires.

¹⁴⁴<<https://www.infobae.com/sociedad/2020/04/05/justicia-en-tiempos-de-coronavirus-se-hizo-una-audiencia-virtual-con-publico-y-participo-mas-gente-que-en-una-en-tribunales/>> (only in Spanish).

¹⁴⁵This court had also designed communication channels on Instagram, YouTube and Twitter. See for example, in Spanish: <<https://juzgado13pcyf.webnode.com/contacto/>>.

Both courts had started a trial process, a couple of years ago, for incorporating technology and opening all their resolutions, sentences, hearings agenda, and statistics. This explains why they were able to quickly react to the restrictions of the pandemic and ensure the continuity of justice services. All this at zero or practically zero cost, though starting from a pre-existing technological infrastructure base, which is not always common in the region. This entire information is available in open data format through a Google Drive, which is also publicly accessible through each court's Twitter account. The digitization and opening of all their documents allowed them to adapt to online work once lockdown was implemented, since all their materials were easily accessible to the parties, prosecutors and public defenders.

Public innovation in justice should be an object of attention and interest on the part of the judiciary and international development organizations. While spaces dedicated to innovation are increasingly being installed in executive powers, these are atypical in the institutions that make up justice systems. The context of COVID-19 provides a unique opportunity to reverse that trend. Not only could judicial powers implement reforms that contribute to solving historical problems in the administration of justice, but these could also modernize their practices in institutional terms. Along this path, it is necessary to rethink strategies, incorporate multidisciplinary teams, prioritize innovation and identify technological needs, among others.

Some judicial institutions are already using new technologies such as artificial intelligence, machine learning, and predictive analytics to solve problems such as delays and congestion. The UNDP in **Brazil**, in association with the National Council of Justice (CNJ), carried out a project to develop a technological tool to expand access to justice in the country. The project designed a solution with machine learning algorithms developed with data used by the CNJ on judicial efficiency. The created instrument aims to speed up the adoption of rules that increase the quality of data collected in each Court of Justice, facilitating analysis and allowing the application of new methods. Based on the knowledge generated in the project, the Judiciary may create automated tools for the cleaning, normalization, standardization, validation and separation of inconsistent records, to request their correction. All this allows the preparation of projections to support Court planning. Using this information, the Court can project resource allocation and take steps to address identified procedural bottlenecks, improving case management in the judiciary.¹⁴⁶

“The context of COVID-19 provides a unique opportunity to reverse that trend. Not only could judicial powers implement reforms that contribute to solving historical problems in the administration of justice, but these could also modernize their practices in institutional terms.”



¹⁴⁶<https://www.br.undp.org/content/brazil/pt/home/presscenter/articles/2019/cnj-e-pnud-investem-em-inteligencia-artificial-para-fortalecimen.html> (only in Portuguese).



The Constitutional Court of Colombia is applying a tool that combines artificial intelligence, intelligent assistance, automation and blockchain technologies, in order to improve the resolution times of the 600,000 guardianships that it receives on average per year. This initiative aims to make the selection process much more transparent, objective and equal. In addition, it allows to quickly identify those cases that reach court which contradict their precedents, enabling prioritizing and focusing the attention of the Court,¹⁴⁷ which receives 2,700 tutelage actions per day, of which 51% are linked to fundamental rights such as health.¹⁴⁸ According to initial trials, the new tool would allow an improvement of 900% in terms of management of guardianships on health, which is equivalent to real time responses to requests.¹⁴⁹

However, innovation in justice faces the same challenges as in other state areas. Perhaps one of the biggest lies in scaling successful pilot experiences. If innovating in any area of public administration is already a huge challenge, scaling innovation to the rest of the administration is even more difficult. Mechanisms need to be designed to quickly identify, document, and share innovation cases. It is also essential to identify the promoters of innovation, its architects and funders.¹⁵⁰ All of them play a decisive role in materializing processes of change or transformation that give rise to new practices. In **Chile**, for example, the Judiciary holds a competition to identify innovative experiences that encourages the detection of significant improvement opportunities in the institution and the development of solutions which allow optimizing management within the courts and improving the quality of service.¹⁵¹

Judicial branch leaders, international organizations and development agencies have the opportunity to leverage these transformations and generate a catalytic effect through the injection of funds and technical assistance to form teams dedicated to innovation in justice. This could be enriched by taking advantage of the experience of public innovation labs or citizen labs, a very widespread practice in different cities, provinces and nations of Latin America such as Quito¹⁵² (Ecuador), Santa Fe¹⁵³ (**Argentina**), León¹⁵⁴ (**Mexico**), Nariño¹⁵⁵ (**Colombia**) and **Chile**.¹⁵⁶ These labs are spaces to experiment with new ways of generating public value, modernizing the relationship with citizens, providing new channels of participation and collaboration, and finding user-oriented solutions.¹⁵⁷

¹⁴⁷ <<https://www.eltiempo.com/justicia/cortes/se-parte-en-dos-la-historia-de-la-tutela-presidenta-de-la-corte-constitucional-455344>> (only in Spanish).

¹⁴⁸ <<https://ialab.com.ar/prometeacolombia/>> (only in Spanish).

¹⁴⁹ <<https://www.ambitojuridico.com/noticias/informe/constitucional-y-derechos-humanos/prometea-inteligencia-artificial-para-la>> (only in Spanish).

¹⁵⁰ This refers to those who finance innovation in public administration, those who act as architects of reforms, and those who promote these reforms in a transversal way ('missionaries'). On the stages and actors of open innovation, see Castagnola and Herrero (2018) The Open Government ecosystem in the City of Buenos Aires: A model that generates changes. Inter-American Development Bank, Washington DC, p. 15.

¹⁵¹ <<http://convocatoriainnovacion.pjud.cl/innovacion/#queEs>> (only in Spanish).

¹⁵² <<http://linq.quito.gob.ec>>.

¹⁵³ Santa Fe Citizen Innovation Lab, SantaLab. Available at <<https://www.santafe.gob.ar/ms/gobiernoabierto/colaboracion/santalab/>> (only in Spanish).

¹⁵⁴ <<https://www.facebook.com/lab.leon.DGI/>> (only in Spanish).

¹⁵⁵ <<http://labcapital.veeduridistrital.gov.co/CISNA>> (only in Spanish).

¹⁵⁶ <<http://www.lab.gob.cl>> (only in Spanish).

¹⁵⁷ <<https://blogs.iadb.org/conocimiento-abierto/es/que-son-los-laboratorios-de-innovacion-publica/>> (only in Spanish).

Innovation is not only limited to the incorporation of technology, but is also associated with institutional reforms and new approaches.

The introduction of new work practices, new tools and new approaches to recurring problems are also mechanisms for innovation.¹⁵⁸ In **Chile**, UNDP, in alliance with the Gender Crimes and Intrafamily Violence Prosecutor's Office (VIF) of the North Central Prosecutor's Office (Metropolitan Region), has promoted a pilot initiative to reduce the abandonment of lawsuits of intrafamily violence by means of the design and testing of behavioural science-based interventions.¹⁵⁹ The reasons of such abandonment are multiple and are related both to institutional factors (duration of the process, access to information and treatment received, among others), and to social factors (lack of support networks, economic dependence and adjustment of expectations). Likewise, the Inter-American Development Bank (IDB), together with the Behavioral Insights Team, published a report with recommendations for using such tools to combat violence against women by their partners.¹⁶⁰ This report demonstrates the potential of using behavioural sciences, including economic behaviour, social psychology, and neurosciences, to formulate recommendations to improve the design of victim services in Latin America and the Caribbean. The study covered the five most common services (hotlines for attention and support, the criminal justice system, the health sector, mental health services, and shelters) and contains specific recommendations for each of them.

Innovation is also reflected in new approaches to long-standing problems. In **Argentina**, UNDP supported various initiatives aimed at improving and updating strategies regarding access to justice, such as the creation of the first Hospital of Rights, the strengthening of a network of free legal sponsorship, the implementation of the Body of Lawyers for Victims of Gender Violence, the implementation of the 'Deaf Women Without Violence' initiative in order to adapt access to justice services for people with hearing loss, and the strengthening of a national network of Centres for Access to Justice.

Along these lines, open justice policies are conducive vehicles to address obstacles to access to justice through institutional practices such as citizen participation, accountability and innovation.

The open government paradigm applied to justice has the potential to improve both its social legitimacy as well as the public's trust¹⁶¹. It also provides tools for collaboration and transparency to identify barriers to access to justice and collaboratively create people-centred solutions. The spaces for citizen participation and co-creation, at their different levels of the judiciary's character as an institution (applied in the territory or through citizen laboratories), can contribute to fostering innovation in the judiciary, improving judicial services and, therefore, the protection of human rights and access to justice both in times of crisis and normality¹⁶². Likewise, citizen participation can generate a valuable alliance between judicial institutions and individuals. Such societies are vital in the context of the pandemic, especially in rural areas or informal settlements where the presence of the state is scarce.¹⁶³ The Council of the Magistracy of the Autonomous City of Buenos Aires created the Open Justice and Innovation Lab (#JusLab) to generate a multidisciplinary environment that encourages the design of transparency policies, accountability mechanisms and citizen participation to identify and remove barriers to access to justice. Likewise, it promotes the search for solutions, based on agile methodologies, to frequent problems faced by users of the justice system.¹⁶⁴

In the framework of open justice, innovative communication strategies can also be analysed, designed and implemented. In **Panama**, training guides are being designed for communities and mayors' offices, accompanied by radio broadcasts to bring institutions closer to communities.¹⁶⁵ In **Mexico** and **Brazil**, judicial powers have created television channels and radio programmes dedicated entirely to disseminating the work of justice, thus bringing judicial institutions closer to the citizen.¹⁶⁶ In **Mexico**, the Court of Administrative Justice of Mexico City does the same and in the City of Buenos Aires there are several criminal courts that publish decisions, sentences and other information about their activities on Twitter and Instagram.¹⁶⁷

¹⁵⁸ According to Raffaelli and Glynn (2015), institutional innovation is a novel, useful and legitimate change that has a disruptive effect –to varying degrees– on the cognitive, normative or regulatory patterns of an organization.

¹⁵⁹ <https://www.cl.undp.org/content/chile/es/home/presscenter/articles/Noticias/pnud-desarrolla-propuestas-para-apoyar-a-las-mujeres-en-procesos.html> (only in Spanish).

¹⁶⁰ <https://www.bi.team/press-releases/the-behavioural-insights-team-and-the-inter-american-development-bank-unveil-new-report-to-help-tackle-intimate-partner-violence-in-latin-america/>.

¹⁶¹ Alvaro Herrero, 'De la Justicia Transparente a la Justicia Abierta: Nuevo Paradigma, Mismos desafíos' ('From Transparent Justice to Open Justice: New Paradigm, Same Challenges', 2019).

¹⁶² Pathfinders for Peaceful, Just and Inclusive Societies, (2020), p. 17.

¹⁶³ Pathfinders for Peaceful, Just and Inclusive Societies, (2020), p. 17.

¹⁶⁴ <https://jusbaireabierto.gob.ar/primer-reunion-del-juslab-2020-co-creacion-de-las-visualizaciones/> (only in Spanish).

¹⁶⁵ UNDP Panama Justice team interview, conducted on 24 April 2020.

¹⁶⁶ A. Herrero and G. Lopez, Acceso a Información y Transparencia en el Poder Judicial. Buenas Prácticas de América Latina (Access to Information and Transparency in the Judicial Power. Good Practices of Latin America, 2009).

¹⁶⁷ The cases mentioned are Criminal and Misdemeanours Court N°10 (@jpcyf10) and Criminal and Misdemeanours Court N°13 (@jpcyf13) of the Autonomous City of Buenos Aires.

These social networks are also used by the Florida Supreme Court, the Supreme Court of the United Kingdom and the Judicial Information Centre of the Supreme Court of Justice of the Nation of **Argentina**. Many of these courts, such as the Supreme Courts of Korea and the United Kingdom, also use Instagram, YouTube, RSS, and additional local platforms to share information. All these instances are led from the communication or institutional relations units of the supreme courts or councils of the magistracy.¹⁶⁸

Within judicial systems there are actors that promote innovation through constructive leadership. In the **Dominican Republic**, a bold and innovative strategic plan was drafted with collaborative design tools and citizen participation, thanks to the support of its high-level judicial authorities.¹⁶⁹ In other judicial powers there are also judges, prosecutors or defenders at different levels of the judicial apparatus, who design and advance with reforms built on innovative leadership. Often, these innovations do not depend on having financial resources, but on new organizational models, new circuits for the bond with users or on the establishment of protocols or internal quality standards for providing services to customers and legal professionals. These cases must be identified, studied and documented, in order to then share and disseminate them in the justice systems of the region and through innovation and training networks. In **Chile**, a network of public innovators was formed with more than 11,000 public servants and other actors in society, who work to improve the services that the Chilean state provides to people.¹⁷⁰ These kinds of experiences can be emulated in the judiciary.



UNDP also has a valuable opportunity to foster innovation in the sector through the SDG Acceleration Labs. These places have the potential to generate discussion and collaboration spaces for the design of projects that remove barriers to access to justice. The methodology used by these labs is based on three protocols (mapping solutions, experimentation and collective intelligence) and aims to enhance the use of data for innovation, facilitating instances of co-creation and citizen participation. Likewise, UNDP has an extensive presence in the region in the field of justice, thus positioning it as a natural interlocutor to promote such practices through high-level dialogue with judicial authorities.¹⁷¹

However, the pandemic has redefined the 2030 Agenda and in particular SDG 16. On the one hand, the 2030 goals will be difficult to meet as a result of the generalized disruption caused by COVID-19. On the other, SDG 16 will be a key instrument to generate public and political dialogue on the rule of law and social conflict. SDG 16, and its expanded version, ‘SDG 16+’, constitute a valuable methodological framework for planning coordinated actions and joint work plans between the judiciary and other state agencies with competence in matters of access to justice and vulnerable groups. Target 16.3 establishes a clear mandate to ‘Promote the rule of law at the national and international levels and ensure equal access to justice for all’, which must also be combined with the principle to ‘Leave no one behind.’ Thus, policies for access to justice for the most vulnerable populations become a priority. In this sense, the Rapid Integrated Assessment (RIA) can be useful to identify if development plans or sector plans contain national objectives related to the specific goals of SDG 16.

¹⁶⁸For a detailed analysis on innovation in the communication policies of the courts, see Alvaro Herrero, ‘De la Justicia Transparente a la Justicia Abierta: Nuevo Paradigma, Mismos Desafíos’ (‘From Transparent Justice to Open Justice: New Paradigm, Same Challenges’), in M. Heller, *Justicia Abierta (Open Justice)*, Editorial Jusbaibes, Buenos Aires (2019).

¹⁶⁹UNDP Dominican Republic Justice Team interview held on April 21, 2020.

¹⁷⁰<https://innovadorespublicos.cl/> (only in Spanish).

¹⁷¹<https://acceleratorlabs.undp.org/content/acceleratorlabs/en/home.html>.

Recommendations

- **Promote the creation of innovation programmes in the judiciary, fostering interaction with other actors in the justice system and with civil society organizations and academia.**
 - The experience of the Open Justice and Innovation Lab (#Juslab) in the City of Buenos Aires (Argentina), the creation of citizen labs in sub-national governments, and innovation and technology labs in academic institutions.¹⁷²
 - Institute prizes and contests for the detection of instances of judicial innovation as in the cases of Chile¹⁷³ and Argentina.¹⁷⁴ Learn about public innovation models designed for the public sector.¹⁷⁵
- **Advance the open justice agenda, promoting practices of transparency, accountability and citizen participation in justice.**
 - The Open Government Partnership has documented various open justice initiatives at national and subnational levels.
 - Argentina's open justice data portal brings together information from the national and provincial justice systems.¹⁷⁶
 - Take note of good practices in matters of transparency, communication, citizen participation and accountability identified at regional and global levels.^{177,178}
 - Use digital platforms to generate conversations with key actors in the justice system.¹⁷⁹
- **Support the creation of open justice networks in the region, as well as networks of innovators and creative leaders in justice.**
 - See the International Open Justice Network launched by the Open Justice and Innovation Lab of the Council of the Magistracy of Buenos Aires, the Network of Public Innovators of Chile,¹⁸⁰ and international studies on judicial innovation.¹⁸¹
- **Map and document innovation experiences in the justice sector of Latin America and the Caribbean.**
 - View the maps on judicial innovation produced by the United Kingdom,¹⁸² along with the maps developed by the Observatory of Public Sector Innovation of the Organization for Economic Co-operation and Development (OECD).¹⁸³
 - Through regional UNDP offices, identify cases of judicial innovation that can be documented and subsequently shared in Latin America.
- **Document and promote the use of new technological tools in the judiciary to improve access to justice, such as artificial intelligence, machine learning, Big Data and blockchain, and generate regional working groups to identify needs and share experiences.**
 - Take note of the cases from Colombia and Brazil cited in this report, and the artificial intelligence system 'Prometea' in the Public Prosecutor's Office of the City of Buenos Aires.¹⁸⁴
- **Promote and finance projects associated with the advance of the 2030 Agenda in the justice sector.**
 - Finance or support pilot projects that enable the judiciary to adapt SDGs in their planning.
 - Provide training and methodological support to judicial powers and their planning units, to incorporate and label the goals of SDG 16 in their strategic planning.
 - Provide training to judicial operators (judges; prosecutors; defenders; management, planning and communications personnel) on the subject matters of the 2030 Agenda.
- **Promote planning exercises in the justice sector using the methodological framework of SDG 16 in conjunction with the ministries of justice and related state agencies.**
- **Apply knowledge economy tools in the justice system.**
 - Access UNDP's experiences with the United Kingdom's Behavioural Insights Team and with the IDB, both in the prevention of domestic violence.

¹⁷² <<https://ialab.com.ar/>>.

¹⁷³ <<http://convocatoriainnovacion.pjud.cl/innovacion/#queEs>> (only in Spanish).

¹⁷⁴ Please see the experience of FORES, an NGO in the justice sector that rewards judicial excellence every year. <<https://foresjusticia.org/category/premio-excelencia-judicial/>> (only in Spanish).

¹⁷⁵ <<https://www.oecd.org/gov/innovative-government/a-framework-for-public-sector-innovation.htm>>.

¹⁷⁶ Please see <<https://www.opengovpartnership.org/stories/promoting-open-justice-assessment-of-justice-related-commitments-in-ogp-national-action-plans/>>.

¹⁷⁷ For international cases and examples of open justice, please see Herrero and López (2009) and Herrero (2019).

¹⁷⁸ For a set of recommendations and examples of open justice reforms in the context of the COVID-19 crisis, please see <<https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus-justice/>>.

¹⁷⁹ <<https://www.sparkblue.org/>>.

¹⁸⁰ <<https://innovadorespublicos.cl/>> (only in Spanish).

¹⁸¹ <<https://www.hiil.org/wp-content/uploads/2019/02/Task-Force-on-Justice-Innovating-Working-Group-Report.pdf>>.

¹⁸² <<https://justiceinnovation.org/mapping-innovation>>.

¹⁸³ <https://oecd-opsi.org/case_type/opsi/>.

¹⁸⁴ <<https://publications.iadb.org/es/prometea-transformando-la-administracion-de-justicia-con-herramientas-de-inteligencia-artificial>>. (only in Spanish).

C. A data revolution towards access to justice

Data are central elements for the formulation of public policies. This encompasses all stages, from design and implementation to monitoring and evaluation. Likewise, data allow comparative analyses between regions or within them. They facilitate the realization of diagnoses and the identification of needs, bottlenecks, trends and failures of public policy. Data also make it possible to measure the impact and efficiency of public justice services, the levels of user satisfaction and their unmet legal or juridical needs.

“Data are the new assets of state bureaucracies. They are the new oil, not only of economies but also of governments. states and justice systems generate large volumes of data.”

However, these tasks presuppose the existence of consolidated and developed statistical systems, which is not necessarily common practice in all judicial institutions in the countries of the region. The justice systems of Latin America have the opportunity to re-hierarchize the role of data, granting it a centrality that it has lacked until now. This way, the performance of the courts, their relationship with citizens, the impact and efficiency of justice policies, and the judicialization of tensions inherent to the prevailing social conflicts in each of the countries of the region could be analysed with precision. It should be noted that the region has already undergone similar processes, for example, in terms of statistical information on public safety, having accomplished outstanding achievements that today facilitate obtaining an X-ray of the region based on solid, comprehensive and updated data.

COVID-19 has had an impact, both in the provision of justice services, as well as on the pre-existing tensions in the region. The dimension and projection of this impact in the short, medium and long terms, as well as the measures to counteract it, will only be possible to estimate using data. This challenges judicial institutions, which have before them the opportunity to enter a new era in the field of statistics.

Advantage should be taken of all available technical instruments and tools to build a systematic and comprehensive approach to the production of judicial statistics in the field of access to justice in the three main branches: criminal, civil and family. This includes victimization surveys, unmet legal needs studies, and user and general surveys.¹⁸⁵ In the Caribbean, UNDP has promoted CariSECURE, a joint initiative with the United States Agency for International Development (USAID), that is very valuable in terms of data generation. This project aims to improve public policies related to, among other things, juvenile delinquency and violence through the use of quality, comparable and reliable data at a national scale.¹⁸⁶ Having this type of data will allow, among other things: 1) to independently produce credible data for the analysis of trends in juvenile crime, and 2) to generate quality, evidence-based, public policy analyses. CariSECURE generated practice-oriented instruments, such as the Caribbean Citizen Security Toolkit, which includes: 1) the Caribbean Composite Citizen Security Indicator Framework (CCSIF), 2) the Guidance Notes on Citizen Security Data Collection and Dissemination, 3) the Citizen Security Data Collection Form and Coding Structure, and 4) a model Information Sharing Agreement. In that same sense, Infosegura developed protocols for the collection of citizen security data (System of Standardized Indicators) that are applied in the different Central American countries covered by said initiative.¹⁸⁷

Some available reference tools on statistics and access to justice are:

- **OECD-OSJI:** Legal Needs Surveys and Access to Justice (2019)
- **UNODC:** International Classification of Crime for Statistical Purposes (2015)
- **UNODC-UNECE:** Manual on Victimization Surveys (2010)
- **OECD:** **Equal Access to Justice for Inclusive Growth:** Putting People at the Centre (2019)
- **OHCHR:** **Human Rights Indicators:** A Guide to Measurement and Implementation (2012)¹⁸⁸
- **UN WOMEN:** A Practitioner’s Toolkit of Women’s Access to Justice Programming (2018)¹⁸⁹

¹⁸⁵Please see the UN Handbook of Governance Statistics.

¹⁸⁶https://www.bb.undp.org/content/barbados/en/home/operations/projects/democratic_governance/CariSECURE.html.

¹⁸⁷<https://infosegura.org/2016/12/20/protocolo-para-conciliacion-de-datos/> (only in Spanish).

¹⁸⁸https://www.ohchr.org/documents/publications/human_rights_indicators_en.pdf.

¹⁸⁹https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Consolidated.pdf.



Judicial powers and governments must work in a coordinated manner to design strategies that make it possible to cover existing gaps in judicial data.

This requires not only the allocation of budgetary and human resources, but also the implementation of coordination mechanisms to ensure that data is produced from all levels of the administration of justice. In **Colombia**, for example, judicial statistics come from various sources such as the Ministry of Justice and the Superior Council of the Judiciary.¹⁹⁰ However, the disaggregated data only reach the departmental level, with no data available at the municipal level. In federal countries, such as **Argentina** and **Brazil**, it is also difficult to access centralized judicial data sources that contain information from all levels of the administration of justice (federal and provincial). Reversing this situation requires joint work between high-level authorities of the judicial powers, the ministries of justice and their counterparts at provincial and/or municipal levels.

Data gaps are especially visible when trying to make regional comparisons or formulate evidence-based policies.

Regarding gender, femicide data from administrative records vary in quality between the countries of the region, which affects the prioritization of resources, the design of prevention strategies tailored to the particular needs of each context, and the development of public policies based on rigorous evidence. In this framework, through the Spotlight Initiative's Latin America regional programme, UNDP and ECLAC lead the work on analysis and use of data on violence against women and girls and femicide, drawing on the work that ECLAC has done to measure femicide. This effort will include promoting the use of the regional indicator on femicide developed by ECLAC's Gender Equality Observatory for Latin America and the Caribbean (OIG-ECLAC) and the harmonization of administrative records, which are its source of data. Likewise, it should be noted that UNDP has been working with security, justice and civil society institutions to register femicide. UNDP will collaborate with ECLAC to develop a methodology that enables the harmonization of administrative records on femicide and the expansion of analysis variables that are collected in these registries by different state institutions, including the justice system.

¹⁹⁰UNDP Colombia Justice team interview, conducted on 30 April 2020.

This methodology has the ultimate aim of promoting quality, valid and reliable data that allow comparisons at the regional level. In **Belize**, for example, through the Spotlight Initiative, UNDP works jointly with strategic partners such as statistics departments' officials, service providers from different areas of government and women's rights defenders, to strengthen their data collection capacities on gender violence following international standards. This also includes working with the judiciary to collect and manage data to improve access to justice, court case management, decision-making, and accountability.¹⁹¹

The revolution of new technologies also allows generating management tools based on data. Some common examples are management monitoring dashboards, both oriented to the public as well as to decision makers. Another initiative is the development of visualizations and the publication of data in open format. The latter contributes not only to improving citizen perception of judicial work, but also to generating synergies by enabling the reuse of data by the private sector and civil society. It also enables collaboration between the population, civil society and the justice system. For example, in **Guyana** a collaborative platform ('crowdsourcing') was designed that allows citizens and different organizations to collect information on crimes and gender violence.¹⁹²

It is vitally important that the governance structures of justice systems become intensive consumers of data. The investment of resources in the production of data loses sense if there is not an intensive internal demand. This investment must therefore also include the strengthening of capacities to analyse and process data and make decisions based on evidence. This may additionally comprehend the setting up of areas dedicated to the evaluation of projects and policies within the spheres of judicial government. In this way, the processes of data production, planning and management evaluation would be linked in a harmonious and efficient way. These capacities are rarely common in the judicial structures of the region. The regional Spotlight project will support the analysis of a selection of judicial cases and sentences in Latin America to generate evidence about the multiple variables that must be considered to accurately understand the problem of femicide, and how it affects victims in different social

¹⁹¹UNDP (2020), p. 36.

¹⁹²UNDP (2020), p. 34



and geographic contexts according to individual variables such as the link with the aggressor, education, race, ethnicity and other factors that have been underestimated.¹⁹³

The judiciary should consider the public data policies that are being implemented in other areas of the state.

Data are the new assets of state bureaucracies. They are the new oil, not only of economies but also of governments. States and justice systems generate large volumes of data. These data are central to policy formulation and evaluation, to design policies centred on citizens or users of the justice system, and to monitor the overall performance of the system.

Taking advantage of large volumes of data may be key to exponentially improving access to justice.

The more data available on both supply and demand of justice services, the greater the capacity to design inclusive policies for the sectors most in need. In addition, data will enable carrying out the necessary corrections in the provision of services, in the allocation of resources, in planning and in the evaluation of policies and investment in justice.

However, unlocking the potential of court data requires moving to a new level of institutional development.

The judiciary should invest in areas especially dedicated to the governance of public data generated by its various areas. In the executive powers these structures have different names, such as Chief Data Officers, Data Office, or other. Their functions include the design of standards for the generation and collection of data, the definition of criteria for their interoperability, the training of human resources in the different areas and, finally, the exploitation of the data. The City of Buenos Aires created the Sub-Secretariat for Evidence-based Public Policies, which brings together the functions described above.

In **Peru**, a major challenge lies in solving problems of interoperability between the information systems of justice sector institutions. Each actor in the system uses its own tools and standards, thus making it complex to process information from different sources. Even within the same institution there may be interoperability issues. In the Peruvian case, the systems of just five institutions were mapped, yet 15 different information systems were detected.¹⁹⁴



¹⁹³Spotlight Initiative, Regional Program Document: Latin America, p. 46. Document available at <[https://info.undp.org/docs/pdc/Documents/LA%20RP%20ProDoc%20-%20\(May%2030%202019\)%20FINAL.pdf](https://info.undp.org/docs/pdc/Documents/LA%20RP%20ProDoc%20-%20(May%2030%202019)%20FINAL.pdf)>.
¹⁹⁴UNDP Peru Justice Team interview conducted on 22 April 2020.

Recommendations

- **Research and document best practices in data governance, to replicate them in judicial powers, with their consequent exploitation.**
 - Take into account experiences developed for national and city governments.^{195,197,197}
 - Study the data exploitation experience of the Office of the Attorney General of Colombia.¹⁹⁸
- **Promote institutional capacities for the use of data for decision-making by judicial powers.**
 - Take evidence-based policy offices used in executive powers at national and sub-national levels as models.¹⁹⁹
Promote courses and training on data and public policies.²⁰⁰
 - Design projects based on data for decision-making, such as crime maps,²⁰¹ to apply them to access to justice.
- **Support the development of judicial data standards that allow for comparative and comprehensive analyses of access to justice, including at all levels of the administration of justice (national, provincial or departmental, and municipal).**
 - The Infosegura and CariSECURE experiences with the standardization of citizen security data have obvious analogies with the justice sector.
 - Promote actions that aim towards the uniformity of data generated by judicial powers, including the definition of standards of quality, integrity and interoperability.
- **Encourage the development of open judicial data portals, as well as collaborations with civil society for the analysis and reutilization of these portals.**
 - Look at the examples of the Open Data Portal of Argentine Justice,²⁰² of the Superior Tribunal of Justice of Buenos Aires²⁰³ and of the Ministry of Justice and Law of Colombia.²⁰⁴
 - Design training courses on opening data for judicial officials and those responsible for statistical areas.
 - Perform hackathons with the community of open data users, NGOs and universities, to value open data and solve challenges related to the functioning of the justice system.
- **Support the development of guides and manuals for the opening and publication of open data in the justice sector.**
 - Design manuals and toolboxes that explain step by step how to design and implement a data opening strategy in the judiciary.
- **Document experiences and lessons learned in open and collaborative justice projects focused on openness of data.**
 - Identify and document the results of the open justice commitments included in the Open Government Partnership's database, based on the commitments of its member countries' action plans.
 - Issue a publication with best open justice practices from Latin America and the Caribbean.
 - Work with UNDP country offices to detect and document successful open justice cases that impact access to justice.

¹⁹⁵<<https://datasmart.ash.harvard.edu/news/article/data-leadership-at-the-executive-level-761>>.

¹⁹⁶<<https://www.innovations.harvard.edu/sites/default/files/Data-Driven-Government.pdf>>.

¹⁹⁷<<https://www.oecd.org/gov/open-government-policies-in-latin-america-9789264223639-en.htm>>.

¹⁹⁸<<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-992077893-22>> (only in Spanish).

¹⁹⁹<<https://blogs.iadb.org/efectividad-desarrollo/en/4-recommendations-for-promoting-evidenced-based-public-policy/>>.

²⁰⁰<<https://blogs.iadb.org/efectividad-desarrollo/en/4-recommendations-for-promoting-evidenced-based-public-policy/>>.

²⁰¹<<https://mapa.seguridadciudad.gob.ar>> (only in Spanish).

²⁰²<<http://datos.jus.gob.ar>> (only in Spanish).

²⁰³<<https://datos.tsjbaires.gov.ar>> (only in Spanish).

²⁰⁴<https://www.minjusticia.gov.co/Servicio-al-Ciudadano/Ley_de_Transparencia_y_del_Derecho_de_Acceso_a_la_Información_Publica_Nacional/Datos_Abiertos> (only in Spanish).

Conclusions

A Roadmap for
the next generation
of reforms

VI. Conclusions

A Roadmap for the next generation of reforms

1. **The COVID-19 pandemic has generated a global crisis of unforeseen dimensions.** Its immediate impact became evident in public health matters, but its most important medium and long-term consequences will be in economic and social matters. Throughout this report, the risks it poses for social cohesion were described, especially for a region like Latin America and the Caribbean, which has spent decades trying to solve serious structural problems that have generated unusual levels of poverty, inequality and social exclusion.
2. **In this context, the potential of access to justice as a mechanism to contain legal needs and the violation of human rights generated by the pandemic is postulated.** Furthermore, it is suggested that, in the face of a political, economic and social dislocation, access to justice may have a containment effect on the social fabric, subjected to extreme tension due to the worsening of historical patterns of conflict.
3. **Faced with the pandemic, UNDP has an undeniable comparative advantage in promoting a reform agenda that mitigates the described consequences.** First of all, its extensive presence in Latin America and the Caribbean, both in geographical and historical terms, makes it a central interlocutor in the countries of the region. Secondly, due to his long history in promoting access to justice, the protection of human rights and social inclusion, it is endowed with a unique technical and institutional knowledge of the justice systems of the region. Thirdly and lastly, UNDP has unparalleled experience in promoting democratic dialogue and containing social unrest.
4. **For years, UNDP has supported dialogue and conflict resolution processes throughout the region.** Since the beginning of the 1990s UNDP have participated and led processes such as Visión Guatemala (post-conflict), the Argentine Dialogue Table (post-crisis 2001), the National Agreement Against Poverty in Bolivia (2000), the Public-Private Participation Law in Guatemala (2005), Visión 2020 Panama, the Colombia-Ecuador Binational Dialogue (2008/2009), the Haiti National Dialogue (2007) and the Law for the Protection of Natural Resources in the Ngäbe indigenous Community in Panama, among others. This has led UNDP to become a relevant actor in matters of great political and institutional importance, and to develop coordination and articulation capacities.
5. **This extensive experience positions UNDP as one of the key actors to promote spaces for coordination and dialogue for the design of an articulated strategy to improve access to justice in the context of COVID-19.** Its long trajectory in dialogue processes in times of crisis, added to its valuable methodological legacy²⁰⁵ and its ability to coordinate with other regional organizations, place it in a privileged situation to promote inter-institutional work spaces. This, in practice, would consist of convening the different agencies that make up justice systems (members of the tribunals, supreme courts, ministries of justice, public prosecutors' offices, defenders, public advocates and security forces, among others), as well as civil society and specialized regional and international organizations,²⁰⁶ to identify needs, opportunities and challenges. On the basis of this information, a roadmap would be developed towards the thorough functioning of justice services and, therefore, the complete validity of access to justice for all sectors of the population.

²⁰⁵https://www.latinamerica.undp.org/content/rblac/en/home/library/democratic_governance/guia-practica-de-dialogo-democratico.html.

²⁰⁶Some examples are the Organization of American States, the World Justice Project, the Justice Studies Center of the Americas, the Ibero-American Judicial Summit, the Conference of Ministries of Justice of the Ibero-American Countries, and the Inter-American Association of Public Defenders, among others.

6. **At the same time, UNDP could serve as a mechanism to drive deeper transformations of justice systems, as described in the sections of this report.** In this way, the crisis generated by COVID-19 would become a platform to launch a new generation of programmatic reforms, in an articulated manner and with the support of the different sectors related to the provision of justice services. Likewise, it would make it possible to strengthen pre-existing regional alliances, networks and projects. In different ways, UNDP already actively leads, participates in and articulates, with varying levels of prominence, initiatives such as CariSECURE, Infosegura and Spotlight, among others. This provides it with a capacity for convocation, dependability and legitimacy, which, added to the technical knowledge of UNDP teams in the countries of Latin America and the Caribbean, allows it to generate work spaces with the most prominent regional and international development institutions. In this sense, UNDP can coordinate with regional human rights protection organizations such as the Inter-American Commission on Human Rights (IACHR)²⁰⁷; with institutions such as the IDB, the World Bank, and the Organization of American States (OAS); and with international co-operation agencies.
7. **The reform agenda proposed in this report to consolidate access to justice, increase social inclusion and protect human rights is solid and relevant, but it is not immune to challenges and risks.** Issues such as the institutional transformation of judicial powers, the promotion of innovation, the use of data as a vital input to design policies and decision-making, and the re-hierarchization of the gender agenda as a pillar of the institutional reform of judicial powers, are pioneering, disruptive and unexplored in the justice sector. This requires coordinated actions between the different actors of justice systems, governments and international organizations, aiming to: 1) generate knowledge in the appropriate cases and validate experiences and document successful cases, 2) design mechanisms and tools to transfer this knowledge to justice systems, 3) promote articulation among all actors to advance a coherent reform agenda, and 4) build broad consensus and long-term involvement of the international community to ensure the sustainability of the reforms.
8. **Innovation in justice is innovation in governance and, by extension, innovation in development.** The COVID-19 pandemic has exposed the structural weaknesses of public and private institutions. The functioning of justice systems has not been the exception. Access to justice has been affected by lockdown measures, which prevent the achievement of prompt and complete justice. The reform agenda proposed in this report aims to learn from innovative practices bent towards ensuring that justice institutions continue to function, even if it is necessary to declare new states of emergency.
9. **Access to justice is a human right and a vehicle for conflict prevention.** The economic and social consequences of the pandemic are multidimensional, but can be summed up in an increase in anxiety and social insecurity among citizens, particularly in marginalized and vulnerable sectors. This insecurity extends to the legal sphere. Justice and access to institutions that provide justice must be incorporated as a sine qua non of strategies for recovery and socioeconomic reconstruction.
10. **The achievement of the 2030 Agenda in Latin America and the Caribbean requires effective governance that generates development opportunities and equitable access to said development opportunities.** Justice institutions are in charge of ensuring that access to these opportunities is fulfilled, so that citizens can peacefully resolve their welfare needs and aspirations.

²⁰⁷The IACHR recently launched its Rapid and Integrated Response Coordination Unit, in relation to the COVID-19 pandemic (SACROI COVID-19). Available at <http://www.oas.org/en/iachr/SACROL_COVID19/>.



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