

# The Culture of Legality: Context and Trends in Latin America

Ana Díaz-Aldret

*Young democracies face many challenges; they must adopt and develop the values and institutions of liberal democracy and those of the rule of law, while strengthening civil society. The culture of legality can be seen as the means whereby legitimacy is granted to existing institutions, in order to lend them validity. Unless citizens use the law to regulate their behavior or institutions in the legal system to resolve their conflicts and protect and promote their interests, reforms are of little use in everyday life. This paper addresses some of the characteristic features of the way Latin Americans relate to the law and institutions in the legal system. While recognizing the heterogeneity within the region, some distinctive features that appear in the existing comparable information bases are described: the LB and the WVS since 2000. The results suggest that political reforms and the functioning of legal institutions have not had a significant impact on the endemic mistrust pervading the citizens of this region. Although democratic development is gradual, there have been no significant changes regarding how Latin Americans relate to the law, at least in attitudinal terms.*

## I. Introduction

Concern over the quality of democracy in Latin America has been present since the region as a whole underwent processes of transition or political liberalization in the 1980s and 1990s. Between 2009 and 2017, 37 electoral processes were held to elect a head of state or government and there will be another six in 2018 (Morlino 2014, Pineda 2017, Pantaleón 2018). This number of democratic processes is unusual in the political history of the region (Morlino 2014). Without ignoring the progress experienced, in the 21st century, discussion shifted from the elections and the institutionalization of political parties to the development, potential and sustainability of the new democracies in order to avoid the «electoral fallacy» (Karl 2000: 95-6).

As in other parts of the world, Latin American countries became democratic in the quest for the representative liberal ideal. However, narrowing the gap between the ideals of democracy and its empirical achievements is always a challenge. The real possibility for citizens to effectively exercise

the rights enshrined in the new or reformed constitutions remains an unresolved issue.

In addition to the prevalence of high levels of inequality characteristic of the region, it is no secret that many citizens of countries such as Colombia, Mexico, Honduras, El Salvador and Guatemala, among others, are able to exercise their right to vote, yet are exhausted after suffering decades of violations of their human rights, political violence and the uncontrolled operation of organized crime mafias, constant insurrections and uprisings occurring within the framework of political relations that continue to be fundamentally clientelistic. At the same time, in general terms, Latin American countries continue to experience the phenomena of corruption that have characterized the functioning of State institutions. In short, at best, the judiciary branch is perceived as impotent and overwhelmed, if not overtly corrupt and incapable of providing justice in adherence with the rule of law.

The functioning of the rule of law is directly related to the quality of democracy (Morlino 2005), and the fact of rethinking it based on the real possibilities democratic regimes offer to exercise civil, political and social citizenship (O'Donnell 2004 and 2004a). In other words, the way they actually promote the achievement of the ideals of freedom and equality. The basis of the democratic rule of law is that the law is the only game in town. The link between the rule of law and the trust the state inspires is the basis of the legitimacy and stability of democratic regimes. The current «crisis of politics» appears to be linked, in the case of Latin America, to the fact that states have been unable to exercise a monopoly of coercion or to provide citizens with physical and legal security. Moreover, they have failed to establish relationships with them framed in the full respect and exercise of their rights and fundamental freedoms (Díaz Aldret 2010). The truth is, however, that the law does not operate independently of society. It does not suffice for institutions to be well designed or to work properly; it is also necessary for the law be a recognized and valuable reference for citizens. By guiding their behavior by it and using it to solve their conflicts and to promote their interests, needs and aspirations, citizens lend legitimacy to the law and the institutions in the legal system (Krygier 2001; Hendley 1999)<sup>1</sup>.

This paper is part of the set of studies and analyses of the culture of legality in fledgling democracies (Galligan & Kurkchian 2012). Its objective is to explore the scenarios and trends in the provisions and attitudes surrounding

<sup>1</sup> By institutions in the legal system, I mean those that are part of the security system (police corps and pretrial investigation bodies) and those in the justice system (judges, courts and penitentiary or correctional institutions).

the law and institutions in the legal system present in Latin America, which can promote or prevent the advance, by the society and actors, of the rule of law and therefore of democratic development in the region.

The text is divided into five parts. After the introduction, the second section develops the theoretical relationship between the rule of law and the culture of legality. The third section contextualizes the problem with the indicators of the Rule of Law in Latin America. The fourth part provides a statistical description of the indicators most frequently associated with the culture of legality in the region. Lastly, a number of analyses are provided in the final reflections.

## *II. State of Law and Culture of Legality*

Rule of Law, absence of corruption and democracy constitute three social institutions linked to the development of societies. The causal relationship is as yet diffuse, but it is known that, somehow or another, they are mutually conditioned (Licht *et al.* 2007). The rule of law is easy to recognize, yet difficult to describe (Humphrey 2008: 98). It can be recognized by legal security and the trust that emerges from the latter; its weakness is reflected in the insecurity and instability that occur in societies in which the agreed norms are not respected. The consensus indicates that a *democratic rule of law* comprises at least four essential features: 1) citizens have the same opportunities to access institutions in the legal system and receive equal treatment from them; 2) all legal procedures are regulated and standardized in order to guarantee «due process»; 3) rules and legal procedures are transparent; and 4) the legal system as a whole is oriented towards the respect and protection of civil rights, freedoms and political guarantees (Díaz Aldret 2010). In practice, «the rule of law limits the freedom of all people with power to use it only in ways allowed by formal legal rules» (Licht *et al.* 2007: 663), institutions in the legal system are fair, competent and efficient and judges are impartial and independent.

The rule of law is the basis of an orderly society. Rule of law and liberal democracy constitute an indissoluble binomial because the point is not only to govern society, but also to restrict the discretionality of the government. But there is always a tension between the need to strengthen the state so that it can impose the law and the necessity to limit it so that the freedom of citizens is protected, accountability becomes a reality and corruption and the concentration of power are reduced. The dilemma involved in reconciling these objectives in young democracies often operates against the rule of law (Humphrey 2008).

The functioning of the rule of law does not occur outside society; the way obligations are imposed; the control of corruption and democratic accountability are highly contextual and depend on the prevailing value orientations of a society. Cultures that favor individual autonomy and egalitarianism are much more inclined to promote social order through the rule of law and transparency. In addition to culture, economic factors, historical events and the functioning of the legal system play an important role in styles of governance (Licht *et al.* 2007). Accordingly, the way a society relates to the laws and institutions of the legal system is largely determined by its culture of legality (Díaz Aldret 2010). The assumption of analyses of the cultural dimension is that citizens' values, beliefs and attitudes guide their behavior (Almond & Verba 1963). In the case of the culture of legality, the assumption is that people tend to align their behavior with what they consider to be fair and moral (Tyler 2006). There is a culture of legality compatible with the democratic rule of law when the majority of society respects the law based on respect for individual rights and freedoms, encourages others to respect it and rejects illegality because it regards the law as the best way to maintain order and ensure everyone's rights. It includes elements of self-containment, and that general universal principles such as equality before the law have been internalized.

Thus, the culture of legality is the element that updates the principles of the rule of law on the part of the community and mediates the level of connection between citizens and the law and its values (Villagrán 2010). Empirically, it translates into citizens' expectations regarding justice, the law and its procedures, as well as the way it values the institutions responsible for enforcing them (Villoria & Jiménez 2014). In analytical terms, it is possible to distinguish four main dimensions of the culture of legality. The first three correspond to its normative elements and the perception of the strength of the justice system (Tyler 2006, Cortés 2006, Prillaman 2000), while the last one refers to the social internalization of laws (Díaz Aldret 2010): 1) the set of social representations about the law; 2) the notion of justice that prevails in a given society and time; 3) the valuation and legitimacy of the institutions responsible for ensuring compliance with and respect for the legal order; and 4) observance of the law. Since this paper explores the Latin American region as a whole, and given that the availability of information for different countries is not always consistent or compatible, it has not been possible to address each of these dimensions. We have therefore focused on the traits that remain constant despite the enormous number of political, constitutional and organizational reforms that have followed the processes of political change and distinguish the region as a whole despite the enormous heterogeneity within it.

Table 1. *Results of the World Bank's rule of law indicator Percentile range*<sup>1</sup>

	1996	2006	2011	2016
East Asia and Pacific	59	58	54	57
Europe and Central Asia <sup>2</sup>	63	62	66	66
Latin America and the Caribbean	53	52	52	50
North Africa and the Middle East	45	45	45	44
North America	92	88	90	89
Sub-Saharan Africa	30	31	30	30

<sup>1</sup>The Rule of Law indicator assesses the perceptions of the extent to which trust exists and the rules of society are obeyed, particularly as regards contracts, property rights, the police and courts, as well as the possibility of committing crimes and violent acts (World Bank Governance Indicators 2018).

<sup>2</sup>The new democracies of Eastern European countries are included in the Europe and Central Asia region.

Source: *Compiled by the author based on World Bank indicators for 2018.*

### **III. Indicators of Democratic Governance: the Problem**

Citizens give laws and the legal system as a whole legitimacy based on the degree to which they perceive that they adhere to their principles of justice (Wences & Conde 2014). The culture of legality is the variable that mediates between the supply of institutions and democratic norms, and the demand for laws and legal processes by citizens (Hendley 1999, 2012). This relationship is undoubtedly affected by the legal and social environment.

The rule of law forms part of that environment. One of the comparative indices that allows one to measure various aspects of this is the World Bank's Governance Index, which in turn has been constructed as an indicator of institutional quality (Licht *et al.* 2007: 668)<sup>2</sup>. In the last measurement, the Latin America and the Caribbean region was at a percentile of 50, which implies that half the countries in the world rank better than the region's average (World Bank 2018). As can be seen in Table 1, between 2006 and 2016, the index measuring the rule of law has not shown significant progress in practically any region in the world. Moreover, slight setbacks have been recorded, as in the case of Latin America. The average index of the rule of law in this region is below that of others where there are established democracies such as

<sup>2</sup> The World Bank methodology to build this index is based on the recording of the perceptions and views of experts and influential actors in the public and private sectors of each country, as well as in various Non-Governmental Organizations acting worldwide (World Bank 2018).

North America and Europe. It performs slightly better than the average in the Middle East and North Africa, yet worse than in East Asia and the Pacific.

To speak of the state of the rule of law in Latin America is inaccurate to say the least. Since there are very different positions within the region, it is necessary to zoom in on individual countries. Table 2 shows the place that Latin American countries<sup>3</sup> occupy among the 204 countries evaluated worldwide, both in terms of their gross national income and the rule of law indicator.

Table 2. *Rankings of Latin American countries in World Bank indicators*<sup>1</sup>

Position by GNI with respect to Latin American countries	Position by GNI with respect to the 204 countries present in the indicator	Country	Position by GNI with respect to the 204 countries present in the indicator	Position by GNI with respect to Latin American countries
1	9	Brazil	96	5
2	15	Mexico	134	10
3	21	Argentina	120	8
4	40	Colombia	117	7
5	43	Chile	30	1
6	48	Peru	133	9
7	58	Ecuador	147	13
8	67	Dominican Republic	110	6
9	68	Guatemala	172	15
10	70	Costa Rica	64	3
11	72	Uruguay	51	2
12	73	Panama	87	4
13	89	Bolivia	183	17
14	95	Paraguay	143	12
15	96	El Salvador	148	14
16	103	Honduras	178	16
17	117	Nicaragua	140	11

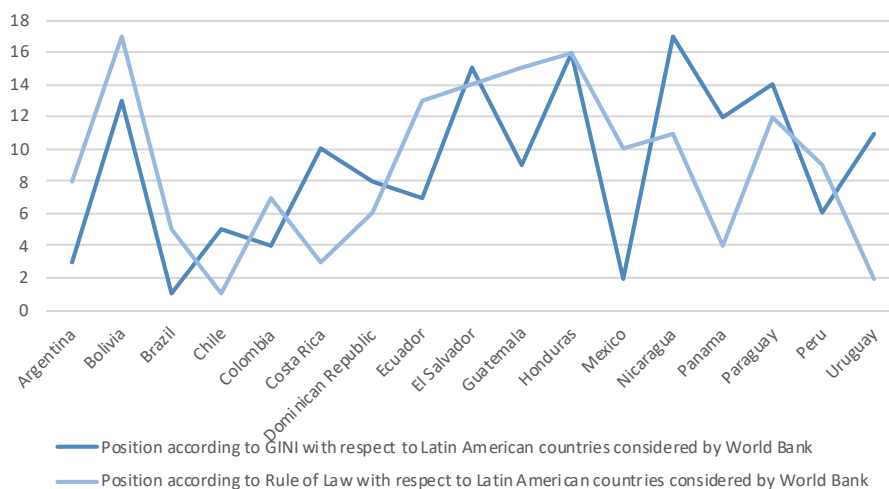
Indicators of gross national income taken from World Development Indicators. The rule of law indicator is drawn from the Worldwide Governance Indicators (World Bank 2018). Rankings are given on the basis of the position obtained in each indicator, only for countries that appear in both databases.

Source: Prepared by the author with information from World Development Indicators and Governance Indicators (World Bank 2018).

<sup>3</sup> Venezuela and Cuba are excluded due to the unavailability of income information.

As one can see, there is enormous heterogeneity within the region. Regarding the rule of law, Chile ranks 30th among the 204 countries analyzed while at the opposite extreme, Bolivia is ranked 183<sup>rd</sup>. The best-positioned countries in this indicator -Chile, Uruguay and Costa Rica- are in the same percentile of high-income countries within and outside the OECD, whereas countries such as Honduras and Bolivia, which fare worst as regards the rule of law, have a gross national income well below the average for the region as a whole. Figure 1 shows the position of countries within the region (the lower the position, the better the result of the indicator). The comparison between the position occupied by the country in terms of gross national income and the rule of law indicator shows a certain correlation between the two variables<sup>4</sup>. However, it is worth noting that Chile, Uruguay and Costa Rica, which rank highest regarding the rule of law, show a gap between this and their gross national income position, together with Nicaragua and Panama. At the opposite extreme, countries with a significant gross national income do not fare as well as regards the functioning of the rule of law. This group includes Brazil, Colombia, Peru, Guatemala, Ecuador and, significantly, Mexico, which, in terms of the rule of law, is on a par with countries with much lower incomes such as Nicaragua and Paraguay.

Graph 1. *Position of Latin American countries in World Bank indicators*



Source: *Prepared by the author with World Bank data (2018).*

<sup>4</sup> Rigobon and Rodrik (2004) identify a significant impact of institutions in the rule of law on countries' income.

The varying degrees of adherence to the rule of law is just one indication of the heterogeneous nature of democracies in Latin America.

#### *IV. Analysis of the Culture of Legality in Latin America*

In order to analyze the culture of legality in Latin America, certain items were selected from the surveys conducted by Latinobarómetro (LB) between 1996 and 2017, the last year analyzed. It is important to recall that the examination of culture implies an approach based on the perceptions, attitudes and values of citizens. Accordingly, we have focused on the features that allow longitudinal monitoring and have remained constant since 2000.

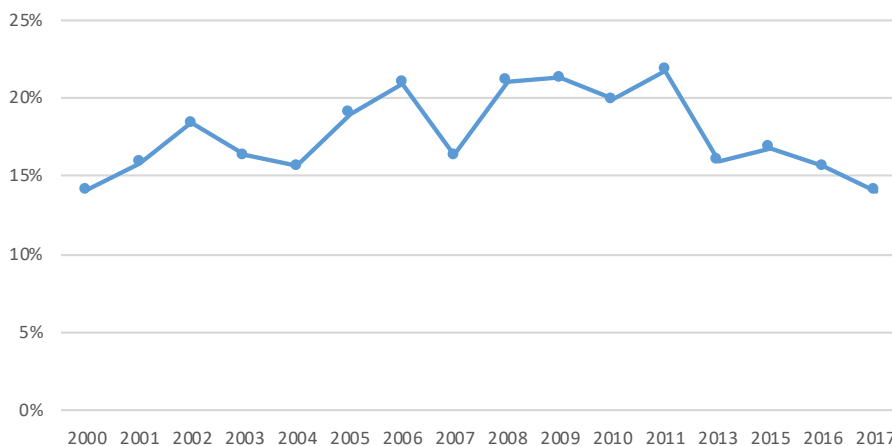
##### *Social trust*

Interpersonal trust can be seen as a feature of culture transmitted through socialization or as a property of the social system expressed in existing levels of trust. Interpersonal trust has been regarded as a feature of social capital related to the proper functioning of institutions (Putnam 1992). By contrast, the institutional perspective holds that trust and capital relationships are integrated and linked to formal political and legal institutions, meaning that the state plays a central role as a source of trust (Rothstein & Stolle 2008: 443-44). Based on available data, the region can be said to be characterized by low social trust indexes with an average of 18 percent of respondents declaring that «most people can be trusted» in the period between 2000 and 2017 (Graph 2). Although the indicator showed a slight upturn between 2004 and 2011, it consistently fell from that year onward until it reached the 14 percent registered in 2017, according to data from the World Values Survey (WVS). In contrast, the average number of western Europeans who trust others is approximately 47 percent.

It is striking that except for Uruguay, where over a quarter of respondents declare that they trust others, countries where the rule of law works best, namely Chile and Costa Rica, have interpersonal trust indicators below the regional average. Conversely, Bolivia, Honduras, Guatemala, El Salvador and Ecuador, which rank worst in the World Bank Rule of Law indicator, have the same -in the case of Bolivia- or more than the average trust in others for the region as a whole (Graph 3). In principle, these data would suggest that there is no relationship between interpersonal trust and the functioning of the rule of law. However, this is because the standard question does not make it possible to distinguish between different types of trust.



Graph 2. *Evolution of percentage of respondents who declared you can trust most people for the period 1996-2017*



Source: *Compiled by the author based on data from Latinobarómetro 2017*

Largely because interpersonal trust has been declining worldwide, research has been conducted in the past decade to explain this fact. The WVS has developed more accurate indicators to record trust in a close group and in other groups. For their part, Fukuyama (2000 in Jorge 2016: 153) proposed distinguishing between the «level» and «radius» of trust. «Level» refers to the strength of the rules of cooperation, and «radius» to the breadth of the circle of people to whom those rules apply. In effect, the «majority of people» acquires different meanings in different cultures; therefore, calculating and applying the radius of trust makes it possible to better adjust the standard indicator of social trust to theory.

The radius of trust is a figure that goes from 0 to 1; the closer it is to zero, the narrower it is. It has been found that economic modernization (measured in per capita income plus the WB knowledge index) has an effect on the radius of trust. General trust, adjusted on the basis of the radius and the percentage of affirmative responses to the standard indicator, is highly predictive of democratic values, the rule of law, institutional transparency indexes and confidence in political institutions. However, the direction of causality has not yet been established (Jorge 2016: 151-158). In a study that calculates and applies the radius of trust on the basis of the WVS (2007-2014) for 69 countries, the average radius of trust in Latin America is 0.5, varying from 0.7 in Argentina to 0.4 in Chile. In Western countries with consolidated democracies, the average range of trust is 0.6, oscillating between 0.4 in Germany and 0.9 in Switzerland. The average overall trust index (adjusted to the trust range) for

the countries in Latin America evaluated shows that 5.2 percent of the population trust most people, whereas in consolidated democracies, this figure is 37.5 percent. The average for Latin America is equivalent to the percentage of people who trust in countries such as Moldova, Rwanda and Jordan (Jorge 2016)<sup>5</sup>. For Rothstein and Stolle (2008:445), a legal system perceived as unfair, biased and corrupt is usually accompanied by low levels of overall trust. When citizens perceive that institutions in the legal system do not do their job effectively, impartially or fairly, they deduce that there are strong incentives for those who break the law to get away with it, which translates into a trust deficit.

From the social point of view, the main thesis to explain the low confidence index points precisely to the extremely unequal distribution of economic resources in the region, since it is less likely for social trust to proliferate in environments that encourage polarization, segregation and social conflict (Knack & Keefer 1997, Jorge 2006).

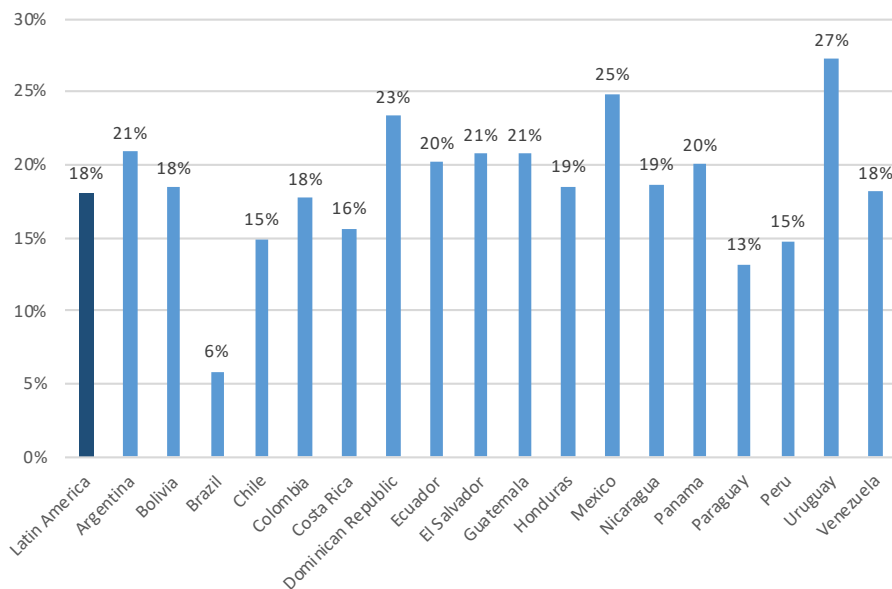
The countries with the highest unspecified interpersonal trust are Uruguay, Mexico and the Dominican Republic (see Graph 3), while the country with the lowest percentage of people who trust others is Brazil. The greatest changes registered in this indicator based on the LB, are Argentina (where it rose from 11 to 21%) and Chile, (where it increased from 13 to 22%). In the opposite direction, in Mexico, interpersonal trust has fallen from 30 to 14 percent over the past 17 years.

### *Judicial system and trust in institutions*

The processes of democratization in Latin America have involved reforms of the judicial system to replace the inquisitorial system with others of an adversarial nature. These reforms involve strengthening the rights of the accused. Although these reforms are not homogeneous, they all seek to improve the speed of trials, promote greater transparency, strengthen public security, guarantee the right of defense and, in general, approach the international standards of the Rule of Law; they involve the transformation of legal culture (Ambos & Woischnik 2005; Nagle 2008). Trust in the institutions in the legal

<sup>5</sup> Based on the results of Jorge's study (2016: 170-71). The countries evaluated in Latin America were Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Uruguay. The country with the highest percentage of adjusted generalized confidence was Argentina with 14% and the lowest, Peru with 1%. It should be noted that the results of the WVS are always more pessimistic for Latin America in terms of confidence than those of the LB. Whereas in the latter, the average number of people who trust others in the countries evaluated is 19%, in the WVS 2010-2014 it is 11%.

Graph 3. *Evolution percentage of respondents who declared you can trust most people for the period 1996-2017*



Source: *Compiled by the author based on data from Latinobarómetro 2017.*

system is crucial to the proper functioning of the rule of law. If skepticism predominates, people are unlikely to resort to institutions to solve problems. The judicial system emerges as one of the most important institutions as regards the assessment of the functioning of the rule of law. Reforms have been implemented at different times in different countries in recent years, and, although they are part of the context, their effects are not necessarily reflected in the way the judicial system is perceived.

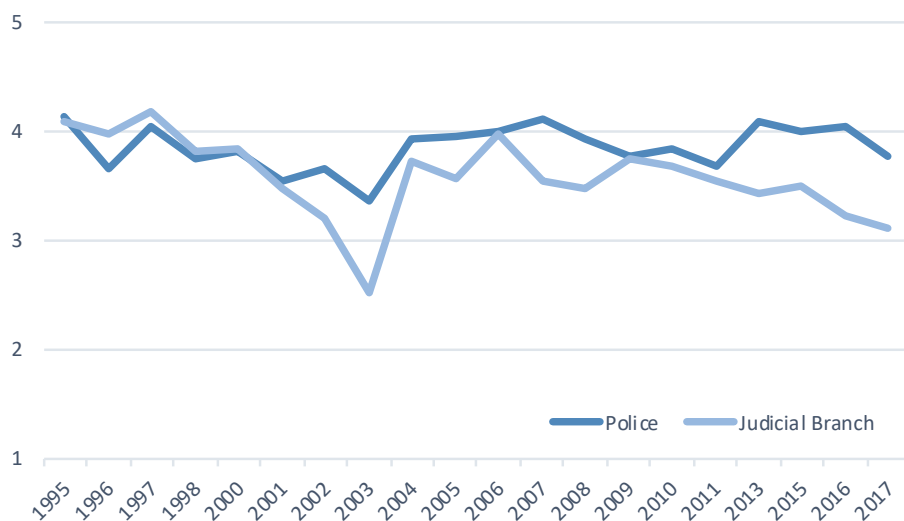
As one can see in graph 4, the LB data show that in 2017, the average of the indicator registering the level of trust in the judiciary was a mere 3.1 (on a scale of one to ten). This indicator has continuously declined since 2009, when it reached an average of 3.8, whereas for the last year for which information is available, 37% of the respondents declared they had no confidence at all in the judiciary branch, a percentage which, when combined with the 36% that reported having very little confidence in it, is equivalent to nearly three quarters of the Latin American population, in contrast with the 6% that declared it had a great deal of confidence in it.

These data reflect the extent to which the judiciary is perceived as overwhelmed or corrupt and ultimately unable to perform its function of providing justice in keeping with the rule of law, to combat crime and protect

fundamental rights and freedoms. Although more specific analyses will have to be undertaken, it is by no means clear that Latin Americans perceive more justice after the processes of political transition or liberalization.

It is interesting to note that in Latin America, the police are more trusted than the judiciary. There is also less variation in citizens' trust of the police forces. While confidence in the judiciary has shown a downward trend since 2009, in 2013, confidence in the police registered an upturn (reaching an average of 4.10) before falling to 3.9 in 2017.

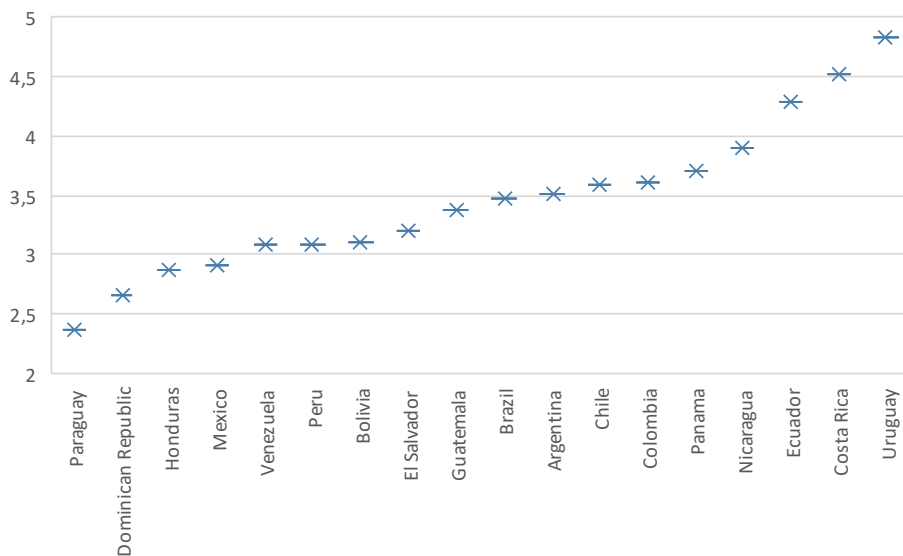
Graph 4. *Evolution of trust in institutions of the rule of law in latin america (1996-2017)*



Source: *Compiled by the author based on data from Latinobarómetro 2017.*

In order to examine the degree of trust in institutions in the legal system, an indicator that combines the Judiciary and the police was calculated on a scale of zero to ten. The results are shown in Graph 5.

As one can see, trust in institutions in the legal system shows significant variations within the region, but is low in relation to the rest of the world. On the basis of the WVS (2018), the average trust score for police in other regions is 5.8 for the police and 5.6 for the judiciary, whereas Latin America has rates of 4.3 and 3.7 respectively. Paraguay, Dominican Republic, Honduras and Mexico have the lowest levels with scores below 3, while Ecuador, Costa Rica and Uruguay report scores of over 4 according to the LB (2017).

Graph 5. *Trust in institutions of the rule of law in latin america (2017)*

Source: *Compiled by the author based on data from Latinobarómetro 2017.*

Regional averages show that institutions in the legal system fare worse than other types of institutions such as the army, the Church and the media (see Table 3).

Institutions that have shown positive changes in terms of the trust they inspire in citizens are the army, the Church and the police; the rest have seen a decline in their trust levels and therefore their legitimacy. If the analysis is extended from 2005 to 2015, only the army has been able to maintain an upward trend in the region.

At the same time, according to the latest data from the WVS, whose sample is more limited than LB's (figure 6), levels of trust of the police are considerably higher, particularly in countries such as Chile and Uruguay, with confidence indicators reaching levels of 5.8 and 5 respectively. Conversely, Mexico, Argentina and Peru maintain low indicators of trust of the police with scores of 3.3, 3.2 and 3.3 respectively, which are not that different from those obtained for the same question in the LB data.

The same survey refers to the degree of trust in the courts or judiciary<sup>6</sup>. In the following graph, we see that this trend is similar to what happens with

<sup>6</sup> According to the 2005-2009 period, the question concerns the Judiciary, whereas for 2010-2014 it refers to the Courts.

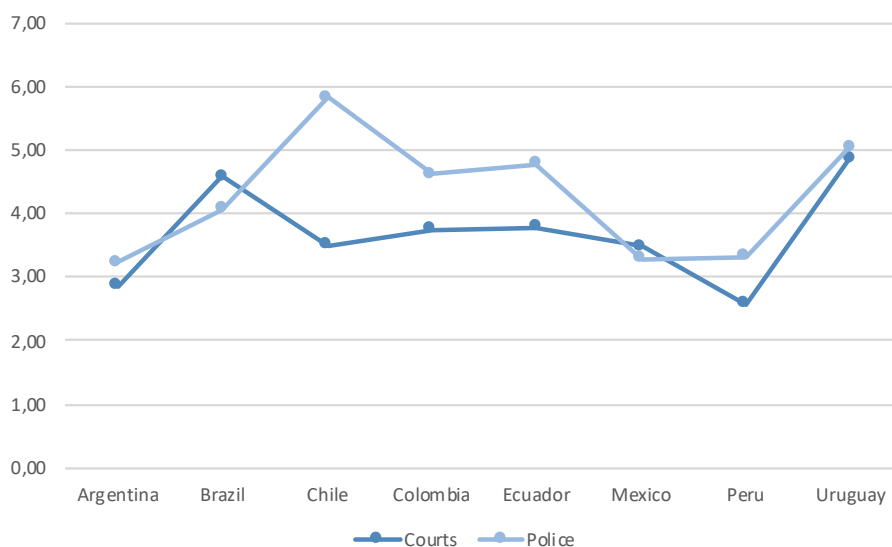
Table 3. *Degree of trust in various institutions for latin america*

	2005	2010	2015	WVS 2005-2009 <sup>1</sup>	WVS 2010-2014 <sup>2</sup>
Parties	2.5	3.0	2.7	2.5	2.6
Police	4.0	3.8	4.0	4.1	4.3
Judicial Branch	3.6	3.7	3.5	3.8	3.7
Congress	3.5	3.8	3.2	3.0	3.0
Firms	4.1	4.4	4.3	4.2	4.7
Government	4.1	4.7	3.8	4.3	4.1
Press	4.8	5.0	4.5	4.4	4.2
Television	4.6	5.3	4.8	4.4	4.2
Radio	5.3	5.4	4.9	NA	NA
Army	4.7	4.6	5.0	4.8	4.9

<sup>1</sup>The Latin American countries considered for the 2005-2009 period are: Argentina, Brazil, Chile, Colombia, Guatemala (without representation for the question on the Judiciary), Mexico, Peru and Uruguay.

<sup>2</sup>The Latin American countries considered for the 2010-2017 period are: Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Uruguay.

Source: *compiled by the author based on data from Latinobarómetro 2017 and WVS, 2018.*

Graph 6. *Evolution of trust in institutions of the rule of law in latin america (2010-2014)*

Source: *Compiled by the authors using data from the EMV (2010-2014).*

Table 4. *Degree of trust in various institutions for latin america, 2017<sup>1</sup>*

Institution	Parties	Police	Judicial Branch	Congress	Firms*	Government	Press*	TV*	Radio*	Army	Church
Argentina	2.3	4.0	3.0	3.3	4.0	3.4	4.4	4.4	5.0	4.9	5.5
Bolivia	2.2	3.1	3.1	3.8	4.2	4.2	4.8	5.2	5.1	4.3	7.0
Brazil	1.1	3.9	3.1	1.7	4.5	1.4	4.8	4.5	4.9	5.2	6.7
Chile	1.8	4.4	2.7	2.3	3.7	3.0	5.1	5.1	6.1	4.7	3.7
Colombia	1.7	4.4	2.8	2.4	4.2	2.4	4.3	4.5	5.1	5.3	6.8
Costa Rica	1.8	4.5	4.5	2.7	4.6	3.2	4.6	5.0	5.0		6.0
Ecuador	2.9	5.1	3.5	3.7	4.7	4.3	4.9	5.1	4.9	6.1	6.9
El Salvador	1.6	3.5	3.0	2.9	3.4	2.2	3.3	3.8	3.9	4.1	6.3
Guatemala	1.7	3.3	3.5	2.6	4.1	5.6	4.6	5.0	4.8	4.2	7.7
Honduras	2.0	3.3	2.4	2.4	4.0	2.5	4.3	4.6	4.3	4.5	7.9
Mexico	1.6	2.8	3.0	3.0	4.1	2.2	3.6	3.8	4.2	5.1	5.7
Nicaragua	2.9	4.0	3.8	3.5	4.0	4.7	4.6	5.5	5.0	4.9	7.3
Panama	1.6	4.5	2.9	3.0*	4.5	2.5	4.5	4.9	4.7		7.1
Paraguay	1.8	2.6	2.1	1.9	5.1	2.2	5.5	5.7	5.6	4.1	7.1
Peru	2.0	3.5	2.7	2.2	3.9	2.7	4.0	4.5	4.8	4.7	6.3
Dominican Republic	1.7	2.6	2.7	2.6	4.7	3.0	4.8	5.0	4.8	4.2	7.3
Uruguay	2.8	5.5	4.2	3.8	4.9	3.9	4.6	4.6	5.4	5.6	4.1
Venezuela	3.3	3.1	3.1	4.0	4.3	3.3	4.1	4.6	4.0	3.7	6.8
LAmerica	2.0	3.8	2.9	2.9	4.3	3.1	4.5	4.8	4.9	4.7	6.5

<sup>1</sup> The data marked with \* are information from 2015 due to the absence of data for 2017.

Source: *compiled by the author based on data from Latinobarómetro 2017.*

trust in the police. Uruguay is the country with the greatest trust in the courts (4.9), while Peru reports least trust in the same institution (2.6). The most important variation is found in Chile, because although its level of trust in the police is quite high, the same does not happen with the courts of justice. In this area, it has a score of just 3.5 in terms of the level of trust in this institution.

As mentioned, the past few years have been decisive for the political and economic development of the region, which has translated into the development of more informed citizens, aware of their rights and obligations. Channeling citizen demands is increasingly less the exclusive task of government agents or political parties; new groups and actors with veto power have emerged who can act as links between social demands and the responses to them (Morlino 2014).

*Equality before the law*

Perception of equality before the law is an indicator of the culture of legality. It is important to note that, until 2008, the LB included a question related to the perception of equality before the law; and that after that year, the question was eliminated. In order to examine the global perception of equality before the law, we used the «Guaranteed freedoms, rights and opportunities» section of the LB surveys between 2007 and 2015. An index was created on the perception of equality before the law that adds the following variables: equality between men and women, equal opportunities regardless of a person's origin, freedom of expression always and everywhere and freedom to profess any religion. The «fully guaranteed» option was equivalent to 10 points, «partly guaranteed» to 6.7 points, «barely guaranteed» to 3.4 while «not guaranteed at all» was equivalent to 0 points. The answers referring to the four types of rights/liberties were averaged, to obtain a score from zero to ten, where ten indicates the perception that equality before the law is totally guaranteed (Graph 7)<sup>7</sup>.

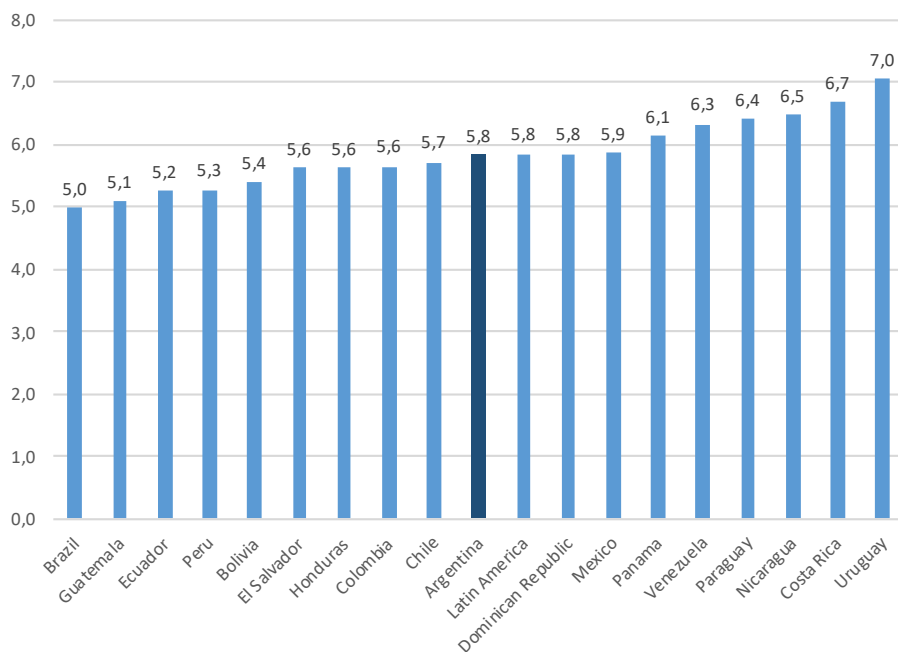
On average, Latin Americans consider that equality between men and women, equal opportunities regardless of one's origin, freedom of expression and freedom to profess any religion are guaranteed somewhere between «partly» and «barely» with a score of 5.8. Only in Uruguay and Costa Rica did the score exceed the 6.7 equivalent to «partly guaranteed». In other words, in general terms, equality regardless of sex or ethnic origin and freedom of expression or belief are not regarded as being properly protected. This is considered to be the case to the least extent in Brazil, whereas in Uruguay, it is considered to be guaranteed to the greatest extent. These rights and freedoms were chosen because the 2010 Report on Democracy in Latin America (UNDP-OAS) rightly emphasized the need to advance these issues (equality before the law in ethnic and gender terms). Disaggregating this indicator shows that between 2007 and 2015, Uruguay and Argentina were the countries with the best perception of gender equality, with rates of almost one point above the regional average (5.4) (see Table 5).

Unlike Uruguay, Argentina is one of the countries in the region that modified its perception of gender equality most in the period analyzed, since it rose from 5.2 in 2009 to 6.3 in 2015. Ecuador registered the greatest change from 4.2 in 2007 to 5.7 in 2015. The countries that reported the lowest perception of gender equality are Brazil and Chile, which are almost one point below the regional average.

<sup>7</sup> This same procedure was carried out for all indices constructed from the same answer choices.



Graph 7. Average of the degree to which latin americans consider that equality before the law, freedom of expression and religion are guaranteed in their country (on a scale of 0 to 10)



Source: *compiled by the author based on data from Latinobarómetro 2017.*

Regarding the perception of equality regardless of origin, Uruguay obtained the highest score and was consistently above the regional average for each of the years analyzed. The data reported for Chile are striking because despite being in the highest percentiles of the WB assessment regarding the rule of law and despite being a case regarded as emblematic in democratic development on countless occasions, it is ranked the second lowest in gender equality and equality regardless of origin, only above Brazil. The same is true of Brazil, which ranks lowest for both indicators.

As a whole, the Latin American region is stable as regards the indicator concerning the perception of equality before the law. The average deviation for the period 2007-2015 is just 0.2 (see Table 6). Both Uruguay and Costa Rica continue to obtain the highest averages for this indicator, always above the regional average. On the other hand, Brazil obtains the lowest score on average, below the average for the region of 5.8 (2008) and 5.9 (2015) and below countries which, according to the World Bank indicators (Table 1) rank lowest as regards the Rule of Law such as Bolivia and Honduras.

Table 5. *Evolution of perception of gender equality in latin america (2007-2015)*

	2007	2008	2009	2011	2015
Brazil	4.6	4.6	5.1	4.5	4.1
Chile	5.1	5.1	5.5	5.1	4.5
Peru	4.7	4.9	4.9	5.3	4.6
Colombia	5.2	5.3	5.7	5.5	4.8
Guatemala	3.8	4.5	4.9	4.7	4.9
El Salvador	4.6	5.1	5.5	5.7	5.0
Honduras	5.0	5.3	5.0	5.1	5.1
Bolivia	5.5	5.2	5.7	5.3	5.3
Latin America	5.2	5.2	5.6	5.7	5.4
Panama	5.3	5.1	5.9	6.2	5.4
Costa Rica	5.8	5.7	6.1	6.5	5.6
Paraguay	4.8	5.2	6.3	5.7	5.7
Ecuador	4.2	4.8	5.0	5.6	5.7
Dominican Republic	4.9	5.1	5.6	5.3	5.8
Mexico	5.4	5.1	5.6	6.0	5.8
Nicaragua	5.8	6.0	5.9	6.7	6.0
Venezuela	6.7	6.2	6.5	7.0	6.1
Uruguay	6.0	6.0	6.6	6.2	6.1
Argentina	5.6	5.2	5.2	6.1	6.3

Source: *Latinobarómetro 2017*.

### ***Fighting corruption***

Another element related to the perception of the functioning of institutions concerns the fight against corruption. The LB contains a question on the progress achieved in reducing corruption in state institutions in the past two years. To facilitate the analysis, the answers were converted to a scale of zero to ten. The higher the score, the better the perception of government performance in the fight against corruption. Figure 8 shows that until 2009, Latin Americans perceived a slight improvement in the fight against corruption in their countries and that in subsequent years, this perception has shown a downward trend. The cases of Mexico and Brazil are striking in that they are below the average for the region, except in 2007 and 2009, respectively.

Table 6. *Evolution of the degree to which latin americans consider that equality before the law, and freedom of expression and religion are guaranteed in their country (on a scale of 0 to 10) (2007-2015)*

	2007	2008	2009	2011	2015
Brazil	5.1	5.0	5.4	5.1	4.5
Peru	5.1	5.3	5.2	5.7	5.1
Colombia	5.4	5.6	6.1	5.8	5.4
Guatemala	4.1	5.2	5.4	5.2	5.4
Bolivia	5.5	5.4	5.7	5.0	5.5
Chile	5.4	5.8	6.0	5.7	5.6
El Salvador	5.1	5.6	5.9	6.0	5.6
Honduras	5.6	5.9	5.4	5.5	5.7
Panama	6.1	5.9	6.4	6.6	5.7
Latin America	5.6	5.8	6.0	6.0	5.9
Ecuador	4.4	5.2	5.1	5.6	5.9
Mexico	5.8	5.6	5.8	6.1	6.0
Paraguay	5.9	6.5	7.3	6.3	6.1
Venezuela	6.5	6.3	6.0	6.6	6.1
Costa Rica	6.6	6.4	7.1	7.0	6.3
Nicaragua	6.4	6.7	6.0	6.8	6.4
Dominican Republic	5.5	5.5	5.9	5.6	6.6
Argentina	5.6	5.5	5.4	6.1	6.7
Uruguay	6.7	6.9	7.4	7.1	7.1

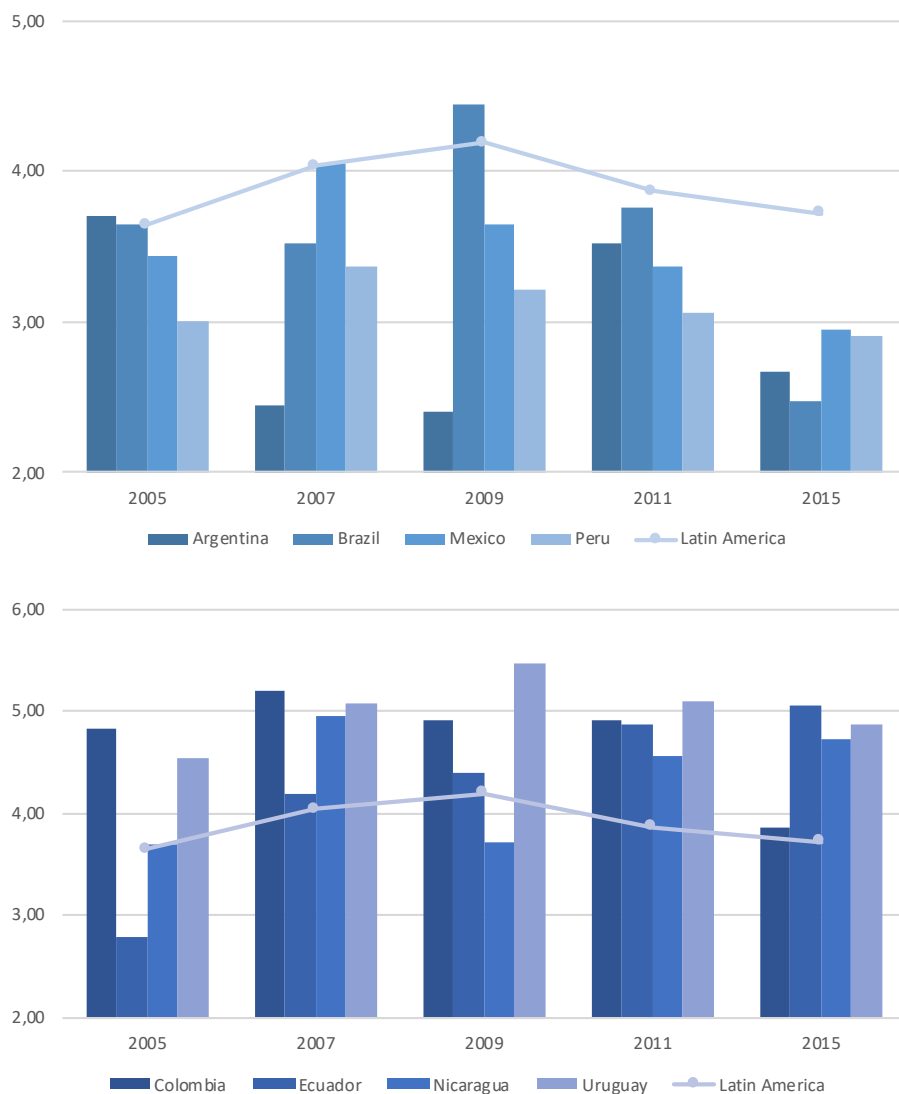
Source: *Latinobarómetro 2017*.

At the opposite extreme are Uruguay and Ecuador, above the regional average as regards the perception of fighting corruption. The case of Ecuador is striking, since it went from 2.8 to 5.44 between 2005 and 2013 only to drop to 5 in 2015, following the trend of perceiving less effort to combat corruption that began in 2009. Nevertheless, it is well above the regional average, surpassing even Uruguay. On average, Latin Americans consider that little progress has been made in combating corruption (3.9).

### *Socioeconomic variables and culture of legality*

Regarding the influence certain socioeconomic variables such as social stratum, educational attainment or age can have on the perception of political

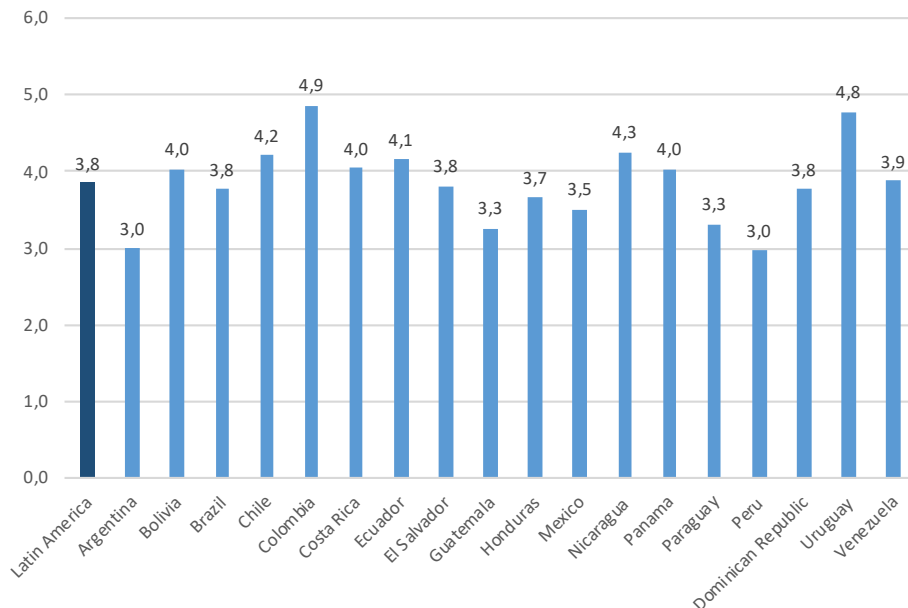
Graph 8. *Evolution of the degree to which latin americans consider that their country has advanced the reduction of corruption*



Source: *compiled by the author based on data from Latinobarómetro 2017.*

institutions, it is thought that there is a generational factor that affects both the positive and the negative relationship between individuals and institutions. Identification with a certain social class or socioeconomic level can also have an impact on the configuration of values and socialization processes and, con-

Graph 9. Average degree to which latin americans consider that their country has advanced the reduction of corruption (2004-2015)



Source: *compiled by the author based on data from Latinobarómetro 2017.*

sequently, the way individuals perceive and are linked to institutions (Arias, Portillo and Ramírez 2010).

In order to complement the descriptive analysis of the variables related to the culture of legality in Latin America, correlation tests were performed on the LB-2015 database in order to test possible correlations between institutional trust and sociodemographic variables. The tests do not make it possible to establish any relationship between the individual variables and the items related to the culture of legality. The correlation coefficients obtained show that age, years of schooling and perception of socioeconomic level are scarcely related to the perception of the guarantee of liberties or the perception of the reduction of corruption. Table 7 shows the variation coefficients found, in which it can be seen that none of them exceeds 10% of correlation strength.

Discontent, dissatisfaction and skepticism towards institutions exist irrespective of a person's age, educational attainment or social status. On the other hand, coherence was found in the degree of trust inspired by various institutions. Thus, there is a positive correlation of 0.5393 between the trust inspired by the armed forces and the police, yet trust in the latter is not related to the degree of trust inspired by the judiciary. There is, however, a relationship between trust in the judiciary and that inspired by Congress and the

Table 7. *Correlation indices indicating the rule of law and socio-economic variables in Latinobarómetro*

	Age	Social class	Years of study
Trust in the Police	0.0636	0.0649	0.0278
Trust in the Judiciary	-0.0156	0.0800	0.0069
Trust in the state	0.0143	0.0786	0.0142
Perception of the judiciary	-0.0463	0.0662	-0.0470
Equality between women and men	-0.0001	0.0408	-0.0117
Equal opportunities	0.0192	0.0474	-0.0358
Freedom of expression	0.0540	0.0376	-0.0333
Freedom of worship	0.0570	-0.0012	-0.0077

Source: *compiled by the author based on data from Latinobarómetro 2017.*

government, whose correlation coefficients were significant, with 0.5691 and 0.5849 respectively.

Due to the low correlation indices found, the regression models lack statistical significance; meaning that there cannot be said to be an influence between the socioeconomic variables and attitudes valued, at least in the case of Latin America. The same can be said for the case of the WVS, where socioeconomic factors did not correlate with trust and some consistency was also found by groups of variables: those who trust television also trust the press; those who declared that they trust political parties tend to trust parliament, and those who reported that they trust environmental organizations tend to trust other civil organizations.

### ***V. Actions and Trends: Some Final Reflections***

The analysis performed confirms, first of all, the heterogeneity within the Latin American region. However, there are certain shared features, such as the widespread distrust and low perception of change regarding corruption. These features are accentuated in cases such as Mexico and Brazil, where trust is actually decreasing. In contrast, there are cases where the development of the culture of legality is much greater and, at times, comparable to that of consolidated democracies such as Uruguay and Chile.

There are few changes in the development of trust, except in the cases of Argentina (at the social level) and Ecuador, a case which, despite scoring low in terms of democratic quality (Morlino 2014, Kaufmann, Kraay & Mastruzzi 2017), shows significant changes in institutional trust.

In general terms, it can be said that, despite the reforms and transformations undergone, which are undoubtedly very important, they do not seem to have a significant impact on the everyday life of the inhabitants of Latin America as regards modifying their perceptions about the institutions in the legal system or developing more confidence in them. Developing a culture of legality remains a challenge. Skepticism and even overt distrust remain constant and, in some cases, have even increased.

## References

- Aguilar, J. & L. Andrade (2017), *La percepción de la seguridad y la confianza en las instituciones públicas. Cuarta medición del plan de acción asocio para el crecimiento*, LUDOP-UCA, El Salvador.
- Almond G. & Verba, S. (1963), *The Civic Culture*, New Jersey: Princeton University Press
- Ambos, K. & Woischnik, J. (2005), *Las reformas procesales penales en América Latina. Resumen comparativo*, in «Revista Internacional Derecho Penal Contemporáneo», N° 10, <http://legal.legis.com.co>
- Arias, S., H. Portillo & C. Ramírez (2010), *La influencia de variables sociodemográficas en la confianza institucional: análisis de generación, clase y región*, in Alejandro Moreno (coord.) *Confianza en las instituciones. México en perspectiva comparada*, GESOP-ITM, Mexico.
- Cortés, M.A. (2006), *Cultura de la legalidad en México: creencias sobre la justicia, la ley las instituciones*, in «Acta Republicana. Política y Sociedad», Year 5, No. 5, Universidad de Guadalajara, Mexico, pp. 41-51.
- Díaz Aldret, A. (2010), *Cultura de la legalidad en México y América Latina*, in Juan José Russo (coord.), *Calidad democrática, formación ciudadana y comportamiento electoral*, Conacyt-IFE, Mexico.
- Galligan, D.J. & M. Kurchiyan (2012), *Law and informal practices. The Post-Communist experience*, Oxford University Press, Oxford.
- Gibson, J.L. (2012), *Russian Attitudes towards the Rule of Law: An Analysis of Survey Data*, in D.J. Galligan Y M. Kurchiyan, *Law And Informal Practices. The Post-Communist Experience*, Oxford University Press, Oxford.
- Hendley, K. (1999), *Rewriting the Rules of the Game in Russia: The Neglected Issue of the Demand for Law*, in «East European Constitutional Review», 89, pp. 89-95.
- Hendley, K. (2012), *The Puzzling Non-Consequences of Societal Distrust of Courts: Explaining the Use of Russian Courts*, in «Cornell International Law Journal», 45, pp. 517-567.
- Humphrey, T. (2008), *Democracy and the Rule of Law: Founding Liberal Democracy in Post-Communist Europe*, in «Columbia Journal of East European Law», 2(1), pp. 94-127.
- Jorge, J. E. (2016), *La confianza interpersonal revela sus misterios ¿La Partícula de Dios?*, in «Question Universidad Nacional de la Plata», pp: 143-174.
- Karl, T.L. (2000), *Electoralism*, in R. Rose, ed., *The International Encyclopedia of Elections*, Washington, DC: CQ Press, pp. 95-96.

- Knack, S. & P. Keefer (1997), *Does Social Capital Have an Economic Pay off?*, in «The Quarterly Journal of Economics», (4), pp. 1251-88.
- Krygier, Martin (2001), *Transitional Questions about the Rule of Law: Why, What and How?*, in «East Central Europe», 28(1), pp. 1-34.
- Licht, A.N., Goldschmidt, C. & Schwartz, S.H. (2007), *Culture Rules: The Foundations of the Rule of Law and Other Norms of Governance*, in «Journal of Comparative Economics», 35, pp. 659-68.
- Mishler W. & Rose, R. (1997), *Trust, Distrust and Skepticism: Popular Evaluations of Civil and Political Institutions in Post-Communist Societies*, in «The Journal of Politics» 59 (2), pp: 418-51.
- Morlino, L. (2014), *La calidad de las democracias en América Latina: reporte para IDEA*, Costa Rica: IDEA.
- Nagle, L. E. (2008), *Process Issues of Colombia's New Accusatory System*, in «Southwestern Journal of Law & Trade In The Americas», 14, pp. 223-286.
- National Strategy Information Center (2011), *Fostering a Culture of Lawfulness. Multi-Sector Success in Pereira*, Colombia 2008-2010, NSIC, Colombia.
- O'Donnell, G. (2004), *Human Development, Human Rights, and Democracy*, in G. O'Donnell, J. Vargas Cullell, O. Iazzetta (Ed.), *The Quality of Democracy*, Notre Dame, Indiana, University of Notre Dame, pp. 9-92.
- O'Donnell, G. (2004<sup>a</sup>), *Why the Rule of Law Matters*, in «Journal of Democracy», 15(4), pp. 32-46.
- Pantaleón, I. (11 de enero de 2018), *Las 8 elecciones que transformarán el mapa político en Latinoamérica en 2018*, in «Forbes México» Retrieved from: <https://www.forbes.com.mx/las-8-elecciones-que-transformaran-el-mapa-politico-en-latinoamerica-en-2018/>
- Pineda, R. (September 2 2017), *Ciclo Político latinoamericano: calendario electoral 2018*, in «Siempre! Presencia de México». Retrieved from: <http://www.siempre.mx/2017/09/ciclo-politico-latinoamericano-calendario-electoral-2018/>
- PNUD y Secretaría General de la Organización de los Estados Americanos (2010), *Nuestra Democracia*. Available at: [https://www.oas.org/es/sap/docs/nuestra\\_dem\\_s.pdf](https://www.oas.org/es/sap/docs/nuestra_dem_s.pdf)
- Putnam, R. (1992), *Making Democracy Work*, Princeton University Press, New Jersey.
- Prillaman, W. (2000), *The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law*, Praeger Publishers, Westport, Conn.
- Rigobon, R & D, Rodrik. (2004), *Rule of Law, Democracy, Openness, and Income: Estimating the interrelationships*, in «Nber Working Papers Series», September, National Bureau of Economic Research: USA.
- Rigobon, R. & Rodrik, D. (2005), *Rule of law, democracy, openness, and income*, in «Economics of Transition», 13(3), 533-64.
- Rothstein, B. & Stolle, D., (2008), *The State and Social Capital: An Institutional Theory of Generalized Trust*, in «Comparative Politics», Vol. 40, No. 4 (Jul., 2008), pp. 441-459.
- TransparencyInternational(2017), *Las personas y la corrupción: América Latina y el Caribe. Barómetro Global de la Corrupción*. Available at: [https://www.transparency.org/whatwedo/publication/las\\_personas\\_y\\_la\\_corrupcion\\_america\\_latina\\_y\\_el\\_caribe](https://www.transparency.org/whatwedo/publication/las_personas_y_la_corrupcion_america_latina_y_el_caribe)



- Tyler, T. (2006), *Why People Obey the Law?*, University Press, Princeton.
- Villagrán, V. (2010), *El estado de derecho y la Cultura de la Legalidad*, in «Revista Síntesis», Vol. 56, Year 14, pp. 33 -36.
- Villoria, M & F. Jiménez (2014), *Estado de Derecho, cultura de la legalidad, y buena gobernanza*, in Isabel Wences Rosa Conde and Adrián Bonilla(Eds.), *Cultura de la Legalidad en Iberoamérica: desafíos y experiencias*, Flacso, Costa Rica.
- Wences, I. & R. Conde (2014), *Introducción*, in Isabel Wences, Rosa Conde and Adrián Bonilla(Eds.), *Cultura de la Legalidad en Iberoamérica: desafíos y experiencias*, Costa Rica: Flacso.

### Data Bases

- EMV(2018), *Online Data Analysis*. (Accessed January 2018). Available at: <http://www.worldvaluessurvey.org/WVSONline.jsp>
- INEGI (2015), *Tabulados Básicos de Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública*. (Accessed January 2018). Available at: <http://www.beta.inegi.org.mx/proyectos/enchogares/regulares/envipe/2015/default.html>
- Kauffmann, D., Kraay, A. & Mastruzzi, M. (2009), *Governance Matters VIII: Governance Indicators for 1996-2016*, at [http://info.worldbank.org/governance/wgi/sc\\_country.asp](http://info.worldbank.org/governance/wgi/sc_country.asp)
- World Bank(2018), *Worldwide Governance Indicators*. At <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- World Bank. (2018a). Data Bank, at <http://databank.worldbank.org/data/reports.aspx?source=worldwide-governance-indicators&Type=TABLE&preview=on>
- Latinobarómetro(2017), *Análisis de datos*. (Accessed January 2018). Available at: <http://www.latinobarometro.org/latOnline.jsp>.
- UNAM (2015), *Encuesta Nacional de Corrupción y Cultura de la Legalidad, bases de datos*. (Accessed January 2018). Available at: [http://www.losmexicanos.unam.mx/corruptcionyculturadelalegalidad/encuesta\\_nacional.html](http://www.losmexicanos.unam.mx/corruptcionyculturadelalegalidad/encuesta_nacional.html)
- INE (2016), *Anuario Estadístico*. (Accessed January 2018). Available at <http://ine.gub.uy/anuario-estadistico>

