Integrity for Good Governance in Latin America and the Caribbean

FROM COMMITMENTS TO ACTION



OECD

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Foreword

Integrity is key to increasing productivity, reducing inequalities and strengthening public sector capacity and as a result sustains and boosts the economic and social development of Latin America. Corruption, however, undermines inclusive growth and endangers the social contract. At least since the Inter-American Convention against Corruption from 1996, governments in the region have taken actions to fight this scour. However, more than 20 years later, corruption seems to be more than ever in the news, and the large majority of citizens in Latin America are unsatisfied with how their governments handle the problem. A perceived lack of integrity is at the heart of the loss of trust in governments and other institutions in the region.

This publication analyses the state of integrity in Latin America, examining the broad range of implementation challenges. Curtailing the impunity experienced in the region as well as citizens' discontent requires additional efforts to bridge the current gap between de jure quality of regulations and their effective de facto implementation. Not always can this implementation gap be explained by capacity constraints. Sometimes, it is maintained by the resistance of powerful interests with stakes in the status quo, putting obstacles to the full implementation of well-intentioned reforms. Managing this political economy aspect of integrity and anti-corruption reform is a challenge in the region.

To address this sensitive, but crucial issue, disentangling the Gordian knot of money in politics is key. Doing so can help prevent policy capture and ensure more inclusive governance. Some countries are already responding to this priority area by driving forward reforms of political finance regulations and election processes. In addition, this publication analyses challenges and opportunities in ten different domains from regulation to public procurement, passing through merit-based civil service and highlighting the role of provincial or regional governments, the private sector and State-Owned Enterprises (SOEs) in the fight against corruption. Enhancing co-ordinated regional efforts, peer-review mechanisms, benchmarking for evidence-informed decisions, as well as citizen participation could be powerful tools supporting reforms in these areas.

This publication provides timely evidence and guidance from which Ministers and High-level Officials participating in the meeting *"Integrity for Good Governance in Latin America and the Caribbean: From Commitments to Action"*, taking place in Lima, Peru, on 18-19 October 2018, can draw useful insights. Moreover, aiming to move "from commitments to action", this document proposes an Action Plan with up to 103 concrete items that governments in the region can undertake to move towards corruption-free administrations and ensure a levelled ground for more inclusive policy-making. In this regard, it complements and provides a way forward for the pledges subscribed in April 2018 by the Summit of the Americas through the Lima Commitment.

The OECD has played a leading role in the fight against corruption and the promotion of integrity. We are also responding to our members' demands to maximise the global impact of our expertise, making it more widely available to non-member countries from all regions along the *OECD Strategic Approach to Combating Corruption and Promoting Integrity.*

This publication, for the first time, gathers the knowledge and expertise from across the OECD and tailors it to the specific needs and demands of the Latin America and the

Caribbean (LAC) context. It aims to support the region towards a public integrity reform agenda, working with national authorities and other international organisations in the context of the OECD Latin America and the Caribbean Regional Programme.

Angel Gurría

OECD Secretary General



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Table of contents

Foreword **3**

Acknowledgements **5**

Executive summary **11**

Integrity is crucial for achieving sustainable and inclusive development 11
The main integrity challenges in Latin America 11
A comprehensive and coherent institutional framework to boost integrity policies 12

1. Introduction **15**

2. Integrity: A condition for inclusive growth and good governance **21**

Integrity and governance: From vicious to virtuous cycles 21
Integrity for productivity: a worthwhile investment 25
Integrity and Social Policies: a drive towards inclusion 32

3. Identifying strategic priorities to create a culture of integrity in Latin America **37**

Mitigating the risk of capture to ensure inclusive development 37
Towards improving efficiency and effectiveness in the public administration 46
Laying the foundations for an ethical and responsive merit-based civil service 51
From compliance to assurance: Reinforcing internal and external control and audit 58
Enhancing trust in the system through effective enforcement mechanisms 66
Preventing corruption in public procurement 77
Developing capacities at the subnational level to promote articulated integrity policies 84
Promoting good corporate governance and a culture of integrity in State Owned Enterprises 89
Promoting a shared responsibility with the private sector in creating a culture of integrity 95
A comprehensive and coherent institutional framework boosts integrity policies 101

4. Conclusion: Towards an agenda for good governance and integrity in the region **107**

References **108**

Annex I Integrity for Good Governance in Latin America and the Caribbean: An Action Plan **119**

1. Mitigating the risk of policy capture 119
2. Improving efficiency, effectiveness and openness of the public administration 120
3. Laying the foundations for an ethical and responsive merit-based civil service 121
4. Reinforcing internal and external control and audit 121
5. Enhancing trust in the system through effective enforcement mechanisms 122
6. Preventing corruption in public procurement 124
7. Developing capacities at the subnational level to promote articulated integrity policies 125
8. Promoting good corporate governance and integrity in State Owned Enterprises 125
9. Promoting a shared responsibility with the private sector in creating a culture of integrity 126
10. A comprehensive and coherent institutional framework boosts integrity and anti-corruption policies 126

Annex II OECD tools to strengthen integrity, public governance and the fight against corruption 129

Public Governance 129
Public Sector Integrity 129
Public Procurement 132
Financing Democracy 133
Open Government 134
Combat to Bribery of Foreign Public Officials in International Business Transactions 136
Corporate Governance and Integrity of State-Owned Enterprises 138

Tables

Table 2.1. Correlations between key governance indicators in 2016: A comparison between World, OECD and LAC countries 23
Table 3.1. In Latin America, only in Brazil the executive reports on steps taken to address findings from SAI audit reports 63
Table 3.2. Comparative overview of administrative procedures in OECD member and partner countries 73
Table 3.3. Corruption risks associated with the different phases of the procurement cycle 78
Table 3.4. Administrative procedures perceived as most corruption and corresponding level of administrative competence in Mexico 85
Table 3.5. Co-ordination mechanisms for integrity policies between the central and subnational level 87
Table 3.6. Witnesses to corruption or other irregular practices 90
Table 3.7. Top 10 corruption risks for SOEs: perceptions of likelihood and impact 92
Table 3.8. Common types of sanctions and incentives 96

Figures

Figure 1.1. On average, higher corruption is perceived in Latin America than in most regions 16
Figure 1.2. Citizens' trust in key state actors is low in Latin America and the Caribbean 17
Figure 1.3. Integrity is perceived as the most crucial determinant of trust in Government 17
Figure 2.1. Corruption and government inefficiency are observed together (OECD, G20 and LAC) .. 22
Figure 2.2. Implementation Gaps in Latin American countries 23
Figure 2.3. Key integrity indicators from the 2017-2018 Global Competitiveness Report 24
Figure 2.4. Informality in LAC countries is high 26
Figure 2.5. Percentage of firms identifying practices of competitors in the informal sector as a major constraint 27
Figure 2.6. Corruption is antithetical to competition 27
Figure 2.7. With higher levels of corruption, incentives to invest in innovation are lower 29
Figure 2.8. Corruption affects productivity of human capital 30
Figure 2.9. Percentage of firms identifying transportation as a major constraint 31
Figure 2.10. Perceived levels of corruption and quality of infrastructure in OECD, LAC and G20 countries 31
Figure 2.11. Wellbeing outcomes for LAC (current and expected, 2016) 32
Figure 2.12. Trust in government vs. poverty rates in Latin America and the Caribbean 33
Figure 2.13. Inequality increases with corruption 34
Figure 2.14. Gini reduction effect of taxes and transfers 35

Figure 3.1. The vicious cycle between policy capture, inequality, low productivity and weak governance 38
Figure 3.2. The majority of citizens in Latin America perceive that a few powerful groups dominate their country 39
Figure 3.3. Selected relevant aspects of political finance regulations (OECD, LAC) 41
Figure 3.4. Composite indicator: stakeholder engagement in developing subordinate regulation 44
Figure 3.5. Percentage of administrative procedures that require three or more interactions to be resolved 47
Figure 3.6. Bribes paid by citizens in Latin America to obtain public services 47
Figure 3.7. The easier the administrative procedures, the more satisfied are the citizens 48
Figure 3.8. The quality of Right to Information Laws is, on average, better than in OECD countries 50
Figure 3.9. Significant improvement of the Civil Merit Index 53
Figure 3.10. High perception of politicisation of the civil service in LAC countries 54
Figure 3.11. Countries with stronger Supreme Audit Institutions tend to experience lower levels of perceived corruption (OECD and LAC countries) 60
Figure 3.12. Judicial Independence is perceived as low in LAC 67
Figure 3.13. Purposes of Bribes 77
Figure 3.14. Subnational levels are autonomous and can decide over their integrity policies 86
Figure 3.15. Respondents that witnessed risks of corruption and other irregular practices materialise, by sector 91
Figure 3.16. On average, companies are perceived as less ethical in Latin America compared to other regions 95
Figure 3.17. LAC countries perceive that the quality of co-ordination depends heavily on the individuals that happen to be in place 102

Boxes

Box 1.1. Public integrity, corruption and policy capture 15
Box 1.2. The 2018 Lima Commitment endorsed at the VIII Summit of the Americas 18
Box 1.3. Corruption scandals of international proportions: the The *Lava Jato* ("Car Wash") and its sequels in the Odebrecht Case 19
Box 3.1. Guatemala: How elites use veto powers and other strategies to block tax reforms 40
Box 3.2. Recruitment procedures in Paraguay 55
Box 3.3. The Colombian Integrity Code 56
Box 3.4. The Three-Lines of Defence Model 59
Box 3.5. Supreme Audit Institutions' activities in supporting the policy cycle 61
Box 3.6. Integrating public management, integrity and internal control: The Integrated Planning and Management Model in Colombia 65
Box 3.7. Collecting, publishing and elaborating data on disciplinary sanctions in Colombia and Brazil 75
Box 3.8. Providing guidance on disciplinary matters 76
Box 3.9. Fighting Bid Rigging in Social Security in Mexico 82
Box 3.10. Take advantage of technology to enhance transparency and detect malpractice in public procurement in Peru and Brazil 83
Box 3.11. Regional Anticorruption Commission in Piura (Peru) 89
Box 3.12. Examples of Governments' efforts in promoting integrity in SOEs in LAC 94
Box 3.13. Three examples of Incentives and Sanctions Programmes in Latin America 99
Box 3.14. Integrity Monitoring in Korea 104
Box 3.15. The use of staff and citizen surveys to improve the evidence-base for integrity policies 106

Executive summary

Integrity is crucial for achieving sustainable and inclusive development

- Increasing productivity, enhancing social inclusion and strengthening institutions are top priorities for countries in Latin America and the Caribbean. However, without public integrity these goals will never be achieved. Integrity is a key condition for boosting markets and securing the social contract. Corruption breeds distrust in government, undermines productivity and exacerbates inequalities.
- Governments in Latin America have recognised the relevance of integrity. As early as 1996, the region adopted the first international convention on corruption, the Inter-American Convention against Corruption. Since then, all countries in Latin America have ratified the 2005 United Nations Convention against Corruption, and seven countries are Parties of the 1999 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The 2018 Lima Commitment is the most recent expression of the political will to fight corruption.
- However, although efforts to fight corruption have intensified, only about 35 % of citizens are satisfied with how their governments are handling the problem. While legal and regulatory systems in the region usually meet international standards, their actual implementation often lags behind.
- Recent scandals and demands from a growing middle-class for better governance and public services provide an opportunity for policy makers to implement sustainable structural reforms to promote a culture of integrity for good governance. A culture of integrity is achieved through resilient systems that emphasise values and establish an environment where corruption risks are identified and minimised, integrity is rewarded, and where accountability and the credibility of the system are ensured through timely and visible enforcement mechanisms.

The main integrity challenges in Latin America

- Almost 75 % of Latin American citizens believe that a few powerful groups are governing their countries for their own benefit. Many citizens perceive politics as not being inclusive. Indeed, regulatory loopholes in political finance, election and lobbying frameworks, and especially weaknesses in enforcement, create opportunities for capture, that is, the undue influence of public policies in favour of narrow interests and away from the public interest. Groups with stakes in maintaining the status quo may also impede necessary reforms.
- A culture of integrity cannot be achieved without a skilled and motivated civil service, committed to the public interest and to delivering value for money to citizens. Despite progress made in merit-based recruitment, significant challenges persist in the region, such as politicisation and high staff turnover, undermining professionalization and thus the potential for firmly embedding public service values and integrity in the public administration.

- Impunity must be addressed through effective criminal and disciplinary sanctions to ensure the credibility and legitimacy of the system. However, prosecution services in Latin American countries do not always function with the expected independence and autonomy. Disciplinary systems often suffer from poor co-ordination, inefficient use and exchange of data and information, and lack of capacity. Additionally, while some progress has been achieved, significant challenges in the region remain with respect to holding private companies responsible for corruption.
- A transparent, efficient and effective public administration, the "back office" of government can reduce integrity risks. However, administrative burdens, or "red tape", are creating opportunities for corruption in everyday dealings with citizens and companies. While progress has been made in promoting transparency and engaging citizens, additional efforts are required to build trust and to effectively implement and make the most of existing open government strategies.
- The standards for internal control and audit in the region are high, but efforts are needed to better mainstream internal control and risk management into day-to-day public management, as well as to shift from a compliance focus to providing assurance. In turn, Supreme Audit Institutions (SAIs) could provide insights and foresight for policy making in addition to playing their traditional oversight role.
- Corruption in public procurement and infrastructure often has its roots in the political sphere, as elected officials need to return favours through public contracts to those who supported them in their campaigns. Exceptions and loopholes in regulations provide opportunities for corrupt deals, making procurement processes suffer from excessive – yet ineffective – controls, slowing them down and undermining the motivation of public procurement officials.
- The integrity challenges mentioned above are often exacerbated at subnational levels. Limited technical or financial capacities, higher discretion of local politicians and weak local electoral systems pose a major risk for corruption and thus undermine development at subnational level. At the same time, at regional and municipal level, integrity policies are often weak or inexistent.
- Finally, the private sector and State-Owned Enterprises (SOEs) have a shared responsibility in cultivating a culture of integrity. From being part of the problem, the private sector and SOEs could become a major driver for change.

A comprehensive and coherent institutional framework to boost integrity policies

- This report builds on OECD country experience and benefits from comparative and country-based evidence and insights from the region. It provides strategic guidance to policy makers on how to deliver on governments' commitment to their citizens in building a culture of integrity. The proposed Action Plan suggests concrete measures in the following priority areas:
  - Strengthen political finance regulations and their enforcement, together with measures to promote integrity and transparency in elections and lobbying activities to ensure inclusive policy making. These measures are particularly urgent, as they address the root cause of corruption issues in other areas.
  - Reinforce fundamental public service values such as merit, probity, and ensure political neutrality and legality in recruitment and career management to provide the basis for a culture of integrity in the public administration.

  - Strengthen prosecution authorities and corporate liability frameworks, and establish basic legal principles for international legal co-operation. Fortify disciplinary systems by improving capacities, promoting better cooperation and co-ordination among entities involved in disciplinary proceedings and by leveraging data and information.
  - Better integrate internal control and risk management into day-to-day management. Empower SAIs to improve the relevance and impact of their work among key stakeholders, including auditees, the legislature and citizens.
  - Achieve highly visible results by reducing the administrative burden for citizens and the private sector, and by linking scattered open government initiatives into a national strategy for greater policy continuity and impact.
  - Review procurement processes in order to make better use of information and technology in official oversight and for social control, as well as to improve risk management throughout the procurement cycle.
  - Involve the subnational level in the fight against corruption and embed integrity in the design of regional development policies and decentralisation reforms. Being closer to citizens, subnational levels are well placed to build trust and show progress through enhanced accountability and strong citizen engagement.
  - Engage the private sector and SOEs, further strengthen incentive programmes and provide guidance to promote business integrity and good corporate governance.
- To ensure the overall coherence and impact of their integrity systems, countries could strengthen their institutional arrangements. In particular, the key actors from each country's integrity system should regularly exchange information and co-ordinate their actions. The creation of integrity units would help mainstream integrity policies throughout the public administration and steer their implementation in each public entity. A national integrity and anti-corruption strategy could commit the different government actors to concrete and ambitious but feasible outcomes. Together with an integrity monitoring and evaluation system, a national strategy is also crucial for communicating progress on the governments' commitments to citizens.

1. Introduction

Increasing productivity, enhancing social inclusion and strengthening institutions are top priorities for countries in Latin America and the Caribbean. Without strengthening public integrity, these goals will not be achieved (Box 1.1). Integrity is a condition for achieving efficient and effective public governance with accountability for results, as well as inclusive and transparent policy-making where the voices of the citizens are heard and taken into account. Integrity enables the development of competitive markets that boost innovation and growth to escape the middle-income trap. In turn, corrupt and unethical practices translate to a waste of scarce resources, lower productivity, lower quality of public goods and services, and policies that are reflecting vested interests instead of the public interest thereby exacerbating existing inequalities. Perhaps even more devastating is that a lack of public integrity, even if only perceived, undermines a government's legitimacy and citizens' trust in it and, in the worst case, even their trust in the system overall. This poses a threat to the social contract and good democratic governance. Indeed, integrity is the glue that holds societies together.

Box 1.1. Public integrity, corruption and policy capture

Public integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector (OECD, 2017[1]).

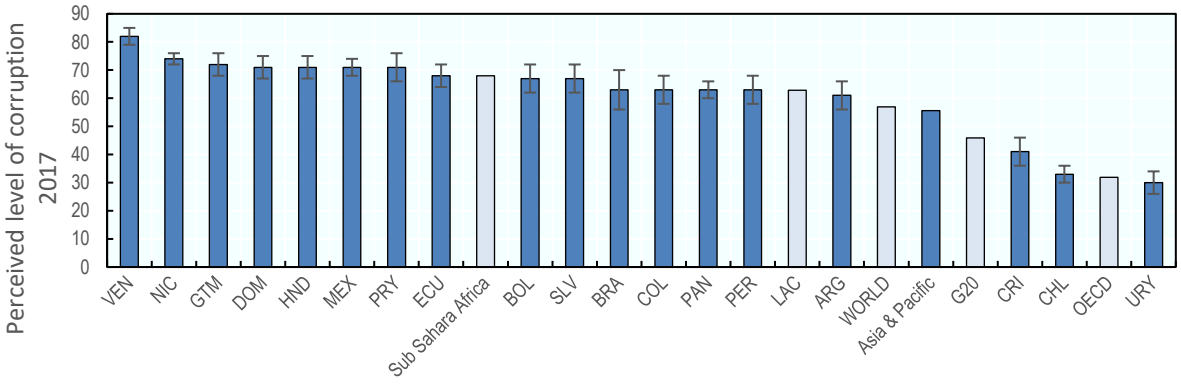
As such, integrity breaches include, but are not limited to, the various practices of corruption, such as bribery of local, national and foreign public officials, embezzlement, misappropriation or other diversion of property by a public official, trading in influence, abuse of functions, or illicit enrichment. Corruption is not limited to money; a practice referred to as "sextortion", for example, refers to the abuse of power to obtain a sexual benefit or advantage.

Integrity breaches also consider the grey area of ethical loopholes that are not defined in laws, but which contribute to organisational cultures that are more vulnerable to corruption (OECD, 2018[2]). It encompasses undue influence exerted on political and administrative decisions, often completed through legal channels such as lobbying or political finance. Such undue influence has been coined as "policy capture": it is the process of consistently or repeatedly directing public policy decisions away from the public interest towards that of a specific interest group or person. Capture is the opposite of inclusive and fair policy-making, and undermines core democratic values. Undue influence can also be exercised without the direct involvement or knowledge of public decision makers, by providing them with manipulated information, or by establishing close social or emotional ties with the public officials targeted (OECD, 2017[3]).

Sources: (OECD, 2017[1]), (OECD, 2018[2]), (OECD, 2017[3]).

Corruption and other integrity breaches exist in all countries worldwide and are not only an issue in Latin America and the Caribbean. Perceived levels of corruption in the LAC region are however higher, on average, than in OECD countries, the G20 or the World, while scoring better, for example than Sub Sahara Africa (Figure 1.1). The problem is not limited to perception, however. The Global Corruption Barometer 2017 showed that almost a third of public service users have paid a bribe (equivalent to over 90 million people in the 20 countries surveyed).

Figure 1.1. On average, higher corruption is perceived in Latin America than in most regions



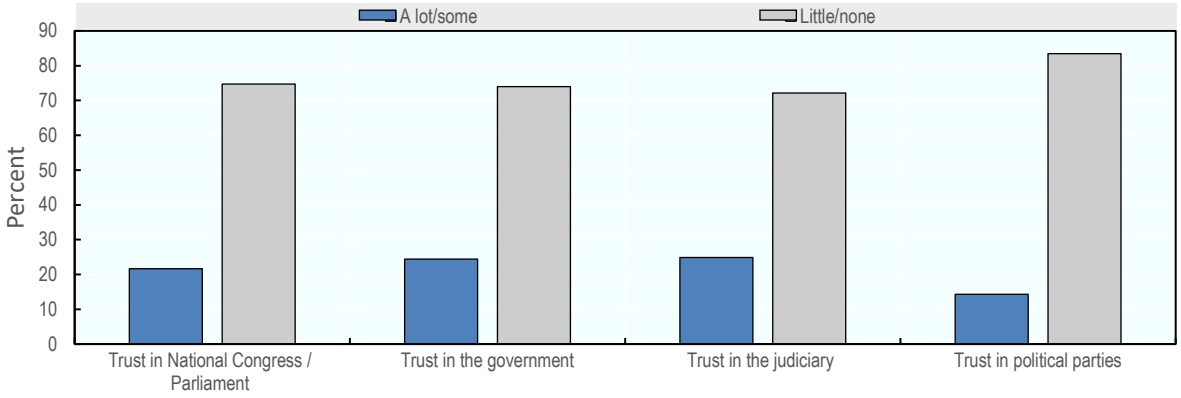
Note: The Corruption Perception Index 2017 has been inversed to allow for a more intuitive interpretation of the results. Error bars are representing the confidence intervals.
Source: Transparency International, 2017.

As such, controlling corruption is a specific Sustainable Development Goal (SDG 16), and indirectly contributes to achieving the other SDGs because corruption endangers the effectiveness of implementing policies aimed, for example, at improving health or education, eradicating poverty, promoting gender equality or fostering economic growth. Various international conventions address the prevention and the control of corruption. In fact, the region of Latin America and the Caribbean was a pioneer in acknowledging in as early as 1996 the relevance of corruption for economic and social development by adopting the first international convention on corruption, the Inter-American Convention against Corruption. All countries in Latin America have ratified the 2005 United Nations Convention against Corruption. Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Peru are Parties of the 1999 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The region is the home of many innovations, in particular concerning open and digital government and – most recently – corporate liability frameworks. Moreover, LAC countries have made progress in various areas of public governance and improved regulatory quality.

Nonetheless, only about 35 % of citizens are satisfied with how their governments handle the problem of corruption (Latinobarometro 2017, Global Corruption Barometer 2017). Worse, citizens are dissatisfied with their governments and public institutions at large: the share of the population having little or no trust at all in governments reached 75 % in 2017, 20 percentage points higher than in 2010 (Latinobarómetro, 2017). Figure 1.2 shows that the levels of trust in political parties, the judiciary, and the national congress or parliament are, on average, similarly low. This growing dissatisfaction and distrust across branches is weakening the social contract of the countries in the region, and corruption is at the heart of this governance trap (OECD/CAF/UN ECLAC, 2018[4]). Corruption erodes citizen's

belief in the political system but it also reduces interpersonal trust, which is a key ingredient for social capital and, amongst others, reduces transaction costs in an economy (Seligson, 2002[5]).

Figure 1.2. Citizens' trust in key state actors is low in Latin America and the Caribbean

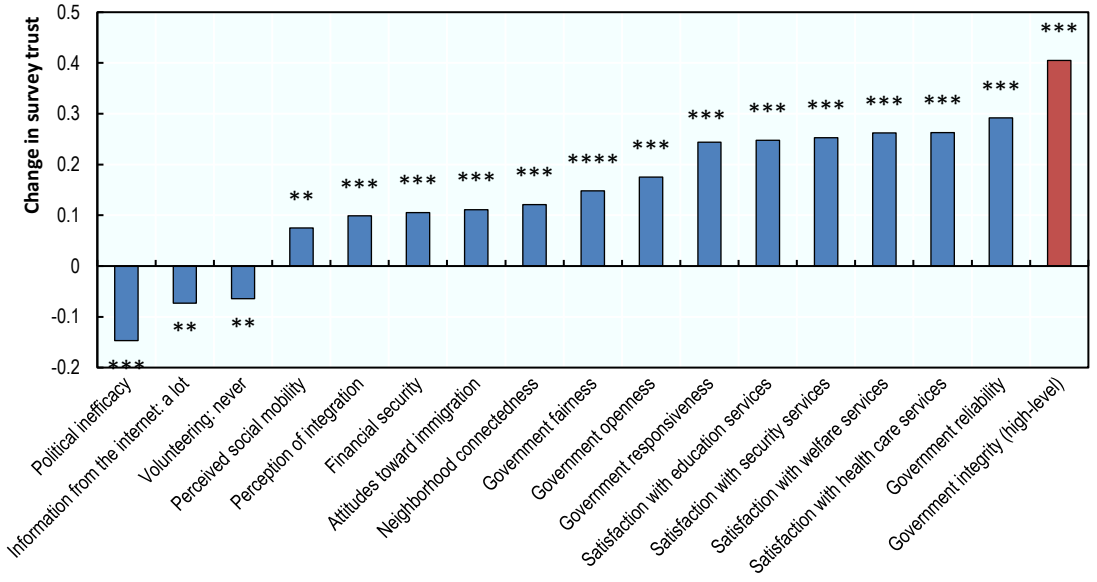


Source: Latinobarometro 2017.

In turn, public integrity is the most crucial determinant of trust in government (Figure 1.3). A culture of integrity is achieved through the promotion of resilient systems that emphasise values and that establish an environment where integrity risks are identified and minimised, integrity is rewarded, and where accountability and credibility of the system are ensured through timely and visible enforcement mechanisms.

Figure 1.3. Integrity is perceived as the most crucial determinant of trust in Government

Change in self-reported trust associated with one standard deviation increase in…



Note: This figure shows the most robust determinants of self-reported trust in government in an ordinary least squares estimation that controls for individual characteristics.
Source: Trustlab (SVN, DEU, USA, ITA).

Governments in Latin America have recognised the relevance of integrity to rebuild trust, and to support their efforts to shift to a more inclusive and sustainable growth path, to promote fairer, more stable markets. The Lima Commitment adopted at the recent Summit of the Americas on "Democratic Governance and Corruption" reflects this pledge at the highest level (Box 1.2). The increase in priority has been prompted by corruption scandals affecting nearly every country in the region, nurturing the perception that politics and markets are rigged in favour of small elites Box 1.3. Coupled with the growing use of social media, a rising and politically active middle-class demanding reforms, and a slow-down in economic growth over the past years, the issue of public integrity has become conspicuous (Casas-Zamora and Carter, 2017[6]). While increasing pressure on governments, this context is above all an opportunity for policy-makers to set strategic priorities for structural reforms aimed at promoting a culture of integrity that provides benefits beyond preventing corruption.

Box 1.2. The 2018 Lima Commitment endorsed at the VIII Summit of the Americas

The VIII Summit of the Americas brought together leaders from the Americas around the topic of democratic governance against corruption. At the meeting, LAC countries reiterated their intention to continue strengthening the fight against corruption and agreed on a set of broad principles as to how to achieve this. The resulting Lima Commitment contains a number of political commitments in the following areas:

A. Reinforcement of Democratic Governance;
B. Transparency, Access to Information, Protection of Whistleblowers and Human Rights, including Freedom of Expression;
C. Financing of Political Organizations and Election Campaigns;
D. Prevention of Corruption in Public Works and Public Procurement and Contracting; International Legal Cooperation;
E. the Fight against Bribery, International Corruption, Organized Crime and Money Laundering and Asset Recovery; and
F. Strengthening of Inter-American Anti-Corruption Mechanisms.

Similarly, the Action for Growth Policy Recommendations and 2018-2021 Action Plan for Growth in the Americas resulting from the American Business Dialogue at the Summit of the Americas highlights the need to strengthen transparency and integrity.

Source: Based on the Lima Commitment (http://www.viiicumbreperu.org/us/lima-commitment-democratic-governance-against-corruption/).

Box 1.3. Corruption scandals of international proportions: the The *Lava Jato* ("Car Wash") and its sequels in the Odebrecht Case

Corruption scandals have become a recurring topic in recent news coverage of LAC countries. No case has garnered more attention – both in the region and globally – as the "Operação *Lava Jato*" or "Operation Car Wash", and as a follow up, the Odebrecht case. The *Lava Jato* investigation focuses on an extensive transnational bribery scheme involving several large Brazilian construction conglomerates and Brazil's state-owned oil company Petrobras. Everything originated from a routine raid on a suspected small-time money laundering scheme being run out of a car wash in the state of Paraná, Brazil. Since then, the investigation has proven to be of monumental proportions and continues to result in new leads and investigations throughout the region. More than a dozen companies and hundreds of individuals were found to have played a role in the scheme, which involved the payment of bribes to politicians at all levels and on all sides of politics – in Brazil and in other countries across the region – for the purpose of securing public works and infrastructure projects (highways, buildings, bridges, dams, etc.). In particular, the case exposed how money was channelled through campaign contributions to candidates and political parties to indirectly influence public decisions.

In order to conceal their illicit activity, the companies created intricate structures to transfer bribes, using multiple layers of financial manoeuvring that included opening secret bank accounts in various financial centres, creating offshore shell companies to funnel the funds to politicians and public officials, and ultimately hiding such activity by inflating costs of budget estimates and public works projects to create a semblance of legitimacy.

Latin America's largest construction conglomerate – Brazil-based Odebrecht – is considered to have established the most complex bribery operation of all of the companies implicated in the *Lava Jato* investigation. Odebrecht applied its influence all over Latin America and the Caribbean, financing politicians and mastering the money-laundering scheme mentioned above by establishing a corporate department specifically dedicated to organizing and paying bribes. Overall, Odebrecht is alleged to have paid approximately USD 788 million in bribes to government officials, their representatives and political parties across Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Peru, and Venezuela. As a result of the *Lava Jato* investigation, Odebrecht entered into a plea agreement with authorities in Brazil, the United States, and Switzerland in December 2016, agreeing to a record USD 3.5 billion in criminal penalties shared between all three countries. More generally, the case certainly contributed to reinforce the perception shared by many Latin-American citizens that governments are not acting in the public interest but are captured by powerful private interests.

Since 2014, the *Lava Jato* investigation has culminated in the conviction of several dozens of individuals in Brazil (including former Brazilian President Luiz Ignácio Lula da Silva and Odebrecht's former CEO, Marcelo Odebrecht) as well as the imposition of hefty fines on over a dozen companies. The investigation has had an equal if not even more significant impact outside of Brazil, leading to the conviction or indictment of numerous high-level politicians and individuals in the region for acts of bribery, including former Presidents of Peru, a former Vice-President of Ecuador and numerous politicians in Colombia.

The scandal and the resulting law enforcement actions by national authorities in the region have sent a signal that the fight against impunity for corruption will indeed bring long-term change and transparency. International cooperation has been critical in this case. Brazil and

other 55 countries made 484 mutual legal assistance requests between 2014 and June 2018 (250 from Brazil and 234 from other countries), and bilateral and multilateral joint investigation teams have been set up. In 2017, the Brazilian Federal Prosecution Service convened a meeting of Attorneys and Prosecutors General from the 10 Latin American countries affected by the corruption in the Odebrecht case, which culminated in the signing of the Brasilia Declaration. However, to rebuild the trust that have been lost, governments will also have to address the gaps in democratic decision-making processes that have been exposed by the case and have enabled to unduly influence political decisions.

Source: News reports; Brazilian Federal Prosecution Service, Transparency International "Exporting Corruption Progress report 2018: assessing enforcement of the OECD Anti-Bribery Convention".

Citizens expect that their governments translate the good intentions into concrete, visible and effective actions. This is in particular relevant today in Latin America and the Caribbean, with the rise in middle-class requests for better governance and public services delivery (OECD/CAF/UN ECLAC, 2018[4]). This report provides strategic guidance to policy makers on how to deliver on governments' commitment to their citizens in building a culture of integrity in both public and private sectors. As such, it takes the Lima Commitment as a starting point. The report builds on OECD country experience and benefits from comparative and country-based evidence as well as on insights obtained through the wide variety of work carried out by the OECD with countries in the region (see Annex 2).

2. Integrity: A condition for inclusive growth and good governance

Despite the marked heterogeneity in Latin America, the region also shares common characteristics and challenges. Addressing these challenges requires tackling both social and economic aspects, especially raising productivity and diminishing inequalities. In turn, to achieve such an inclusive growth agenda and make the respective economic and social policies effective, governance is a key ingredient. Governance determines how policies are made and how they are implemented.

In recognition of their relevance for most countries individually, as well as for the region as a whole, the OECD LAC Regional Programme has adopted the following three challenges as thematic priorities: increasing productivity, enhancing social inclusion, and strengthening institutions and governance. Public integrity stands as a necessary condition to move the region forward towards the fulfilment of each of these priorities and catalyse the wellbeing of its citizens.

2.1. Integrity and governance: From vicious to virtuous cycles

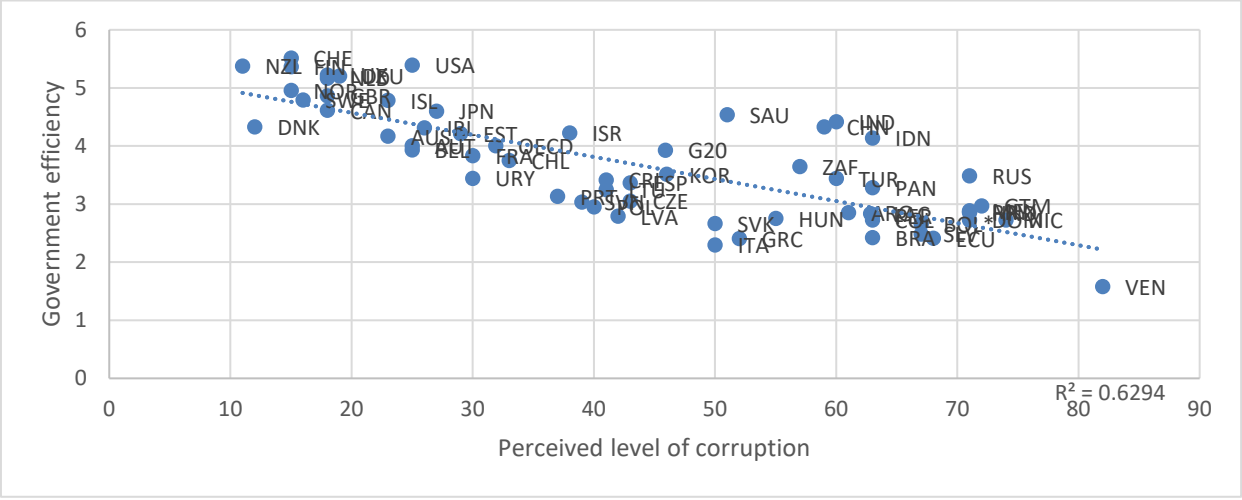
Corruption is one of the main obstacles to good governance. By biasing the decisions of public and private actors, corruption weakens governance and undermines government efficiency (Figure 2.1). Causality between corruption and weak governance, however, is not straightforward. It would be too simplistic to state that corruption is a consequence of weak governance or that weak governance is a consequence of corruption. Both are true.

The relationship between corruption, capture and bad governance is a vicious cycle. On the one hand, vulnerabilities in governance structures and processes due to lack of integrity, transparency and accountability open opportunities for corrupt practices and capture. Weak governance then contributes to causing corruption. On the other hand, those who benefit from these corrupt practices have incentives to invest into maintaining the status quo and impeding effective reforms. Corruption then perpetuates and exacerbates weak governance. Indeed, corruption undermines the institutional capacity of the state across the various levels of government to provide quality goods and services for all and an enabling environment for business and entrepreneurs, while it hinders the design and implementation of effective public policies with properly managed, open and transparent governments. At the same time, when public service delivery is inefficient or lacking, citizens and companies alike will turn away from their responsibility in good governance, rationalising malpractices such as tax evasion, public service fraud (e.g. manipulating the water or electricity meters) or facilitation payments to overcome red tape (see section 3.2). Such practices reinforce the vicious cycle of weak governance.

In turn, strengthening good governance can produce a virtuous cycle that mitigates risks of corruption and capture, levels the playing field in the business environment and in political processes, and contributes thereby to providing incentives for productivity, social inclusion and a fairer society. If citizens are able to engage, see and experience progress on fighting corruption and in the delivery of public services, it is also likely that they will trust that

change is possible and ask for more reforms, reinforcing the incremental path towards better governance (Banerjee and Duflo, 2012[7]).

Figure 2.1. Corruption and government inefficiency are observed together (OECD, G20 and LAC)



Source: Transparency International 2017 and World Economic Forum 2017-2018.

Improving good governance is therefore not only about strengthening legal frameworks. Table 2.1 provides an overview of correlation coefficient between the six indicators from the World Bank's World Governance Indicators for 2016.[1] The correlation between Control of Corruption and the other indicators are all high. Interestingly, for LAC countries, the correlation is significantly lower for Regulatory Quality. This may reflect the overall relatively good *de jure* quality of regulations in Latin America, while providing some preliminary evidence for the claim that, in the end, *de facto* implementation matters equally – if not more – than de jure quality of laws and regulations. The Global Integrity Reports (2007-2011) confirm the existence of such implementation gaps between de jure quality and de facto implementation (Figure 2.2). However, for the control of corruption, actual implementation matters more than the strength of the legal framework (Lambsdorff, 2008[8]). Qualitative evidence from OECD work with countries in the region seems to support this view further (OECD, 2017[9]; OECD, 2018[10]; OECD, 2017[11]; OECD, 2017[12]).

[1] These World Governance Indicators capture three core aspects of governance: 1. the process by which governments are selected, monitored and replaced (Voice and accountability, Political Stability and Absence of Violence); 2. the capacity of the government to effectively formulate and implement sound policies (Regulatory Quality, Government Effectiveness); and 3. the respect of citizens and the state for the institutions that govern economic and social interactions among them (Rule of Law, Control of Corruption).

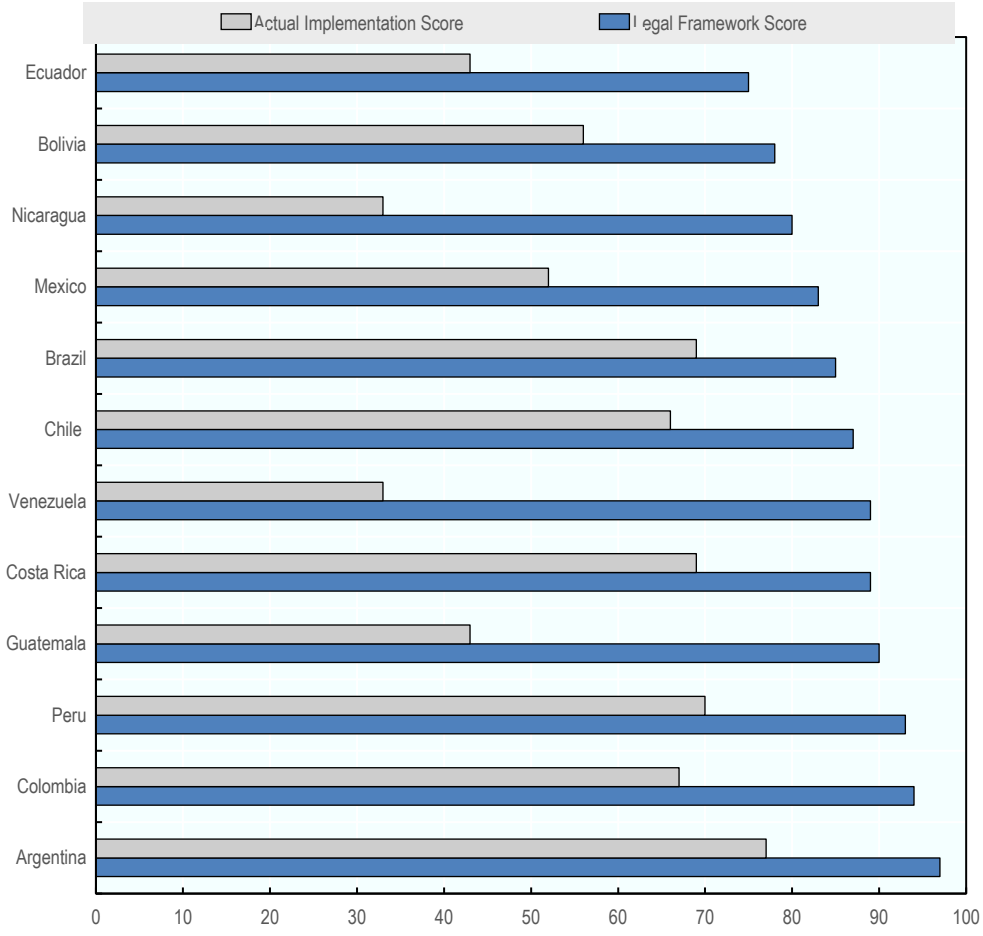
Table 2.1. Correlations between key governance indicators in 2016: A comparison between World, OECD and LAC countries

	Control of Corruption (LAC)	Control of Corruption (OECD)	Control of Corruption (World)
Control of Corruption	1	1	1
Rule of Law	0.824626355	0.944593399	0.942536479
Regulatory Quality	*0.520844039*	0.872652256	0.846815756
Government Effectiveness	0.823623011	0.923651713	0.894102194
Political Stability	0.733719023	0.668805168	0.787121674
Voice and Accountability	0.648430765	0.880990881	0.76885335

Note: The data covers all current OECD countries. For LAC, the following countries were included in the calculation: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, El Salvador, Uruguay and Venezuela.
Source: Own calculations based on World Governance Indicators, The World Bank 2016

Figure 2.2. Implementation Gaps in Latin American countries

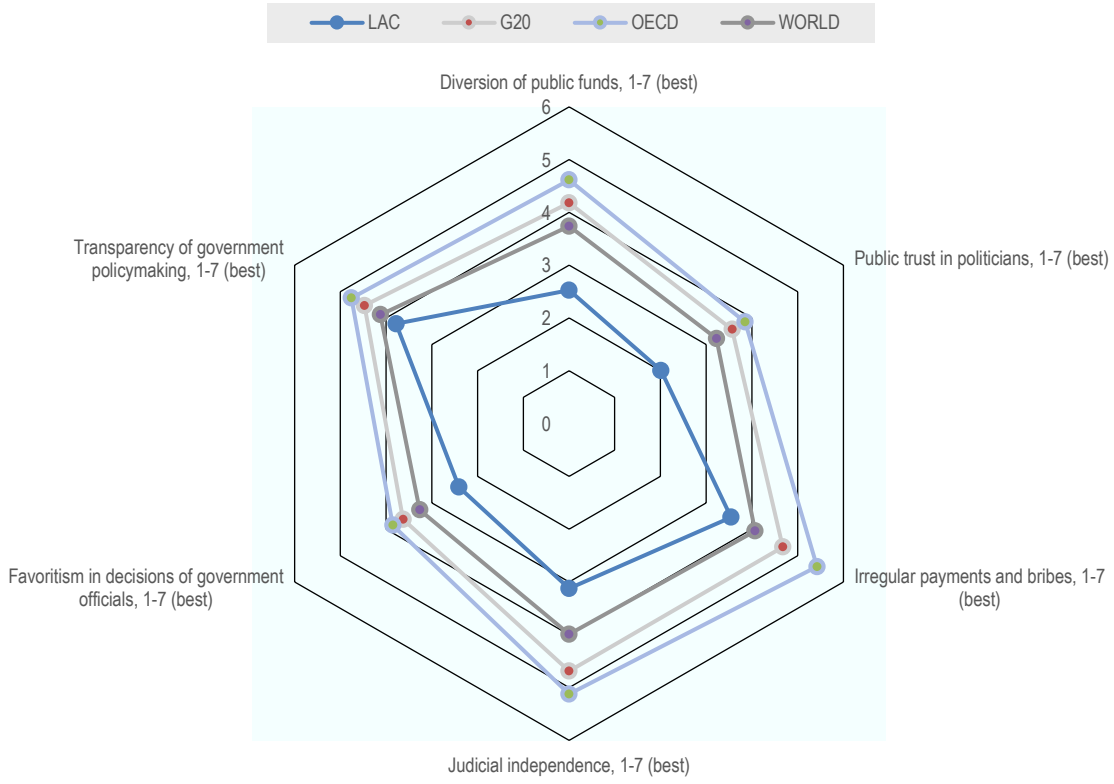
The implementation gap is the difference between the Legal Framework Score and the Actual Implementation Score.



Note: For each country, the most recent available information has been used.
Source: Global Integrity 2008-2011.

Figure 2.3 compares Latin America and the Caribbean to the OECD, the G20 and the World. It displays an overview on the averages of some key integrity indicators reflecting the view of business leaders. First, as in Figure 1.1, they show that the LAC averages are lower than the OECD, G20 and World averages. Second, public trust in politicians is particularly low, on average, in the region. This reflects that not only the citizens, as shown in Figure 1.2, but also the private sector do not trust politicians. Third, while the average for transparency in government policymaking is relatively high, the indicators reflecting some form of misconduct are all considerably worse than in other regions: diversion of public funds, irregular payments and bribes, and favouritism in decisions of government officials. Finally, judicial independence is perceived as quite weak in the LAC region, which is likely to reflect a perception of legal uncertainty and impunity (see section 3.5) and contribute to explain the implementation gaps mentioned above.

Figure 2.3. Key integrity indicators from the 2017-2018 Global Competitiveness Report



Source: World Economic Forum, Global Competitiveness Report 2017-2018.

These and other practices reflecting a lack of public integrity are not only affecting governance quality in the region but also productivity and social inclusion, the other two regional priorities outlined by the OECD-LAC regional programme. Corruption negatively affects both the design of public policies aimed at promoting productivity and social inclusion and their effective implementation. The following two sections provide more details on how exactly corruption imperils productivity and social inclusion. As such, building resilience to corruption through a culture of integrity is conducive to achieving both economic and social development.

2.2. Integrity for productivity: a worthwhile investment

Productivity's limited contribution to growth in Latin America is key to understanding the region's low income. A typical Latin American country could have increased income per capita by 54 % since 1960 if its productivity had grown in line with that of the rest of the world (OECD, 2016[13]). However, corruption undermines productivity growth, and as such contributes to explaining the foregone potential for development in the region (Melguizo et al., 2017[14]). Studies found that a one-point improvement in the corruption perception ranking of a country could lead, all other things being equal, to a an increase in its productivity level of around 2 % (Lambsdorff, 2003[15]).

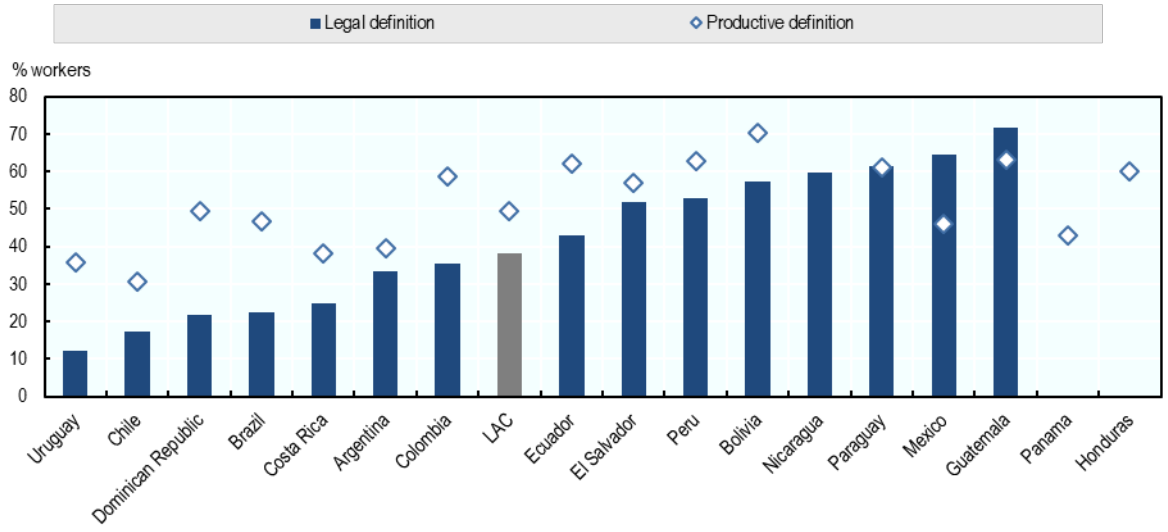
Indeed, there is evidence that corruption directly affects productivity. For firms in Latin America and Caribbean, bribery significantly distorts firm growth (Şeker and Yang, 2014[16]). The study shows that companies that had to pay bribes when conducting business transactions, such as applying for permits, electricity, or water connections, have 23 % lower annual sales growth than firms that do not face such solicitations. It finds that these distortions are more severe for low-revenue-generating and young firms. For instance, these companies may find it more difficult to cope with bribe requests and thus are likely to slow down their operations and delay productive investments.

Indirectly, corruption biases both public and private decisions, ultimately leading to a misallocation of resources (OECD, 2016[17]). In Latin America and the Caribbean, productivity is mainly affected by corruption's corrosive effects on: formality, competition, innovation, human capital and infrastructure.

2.2.1. Informality

A symptom of widespread resource misallocation in the region includes the large size of the informal economy (Figure 2.4) (OECD, 2016[13]). Informal firms provide workers with fewer opportunities for human capital accumulation and are less productive (La Porta and Shleifer, 2014[18]). For example, a study estimates that a 10 pp informality reduction in Mexico could increase its total factor productivity (TFP) by 2.5 pp in the short term and 3.2 pp in the long term; among all institutional quality-related variables, informality has the strongest effect on productivity (Dougherty and Escobar, 2016[19]).

Figure 2.4. Informality in LAC countries is high

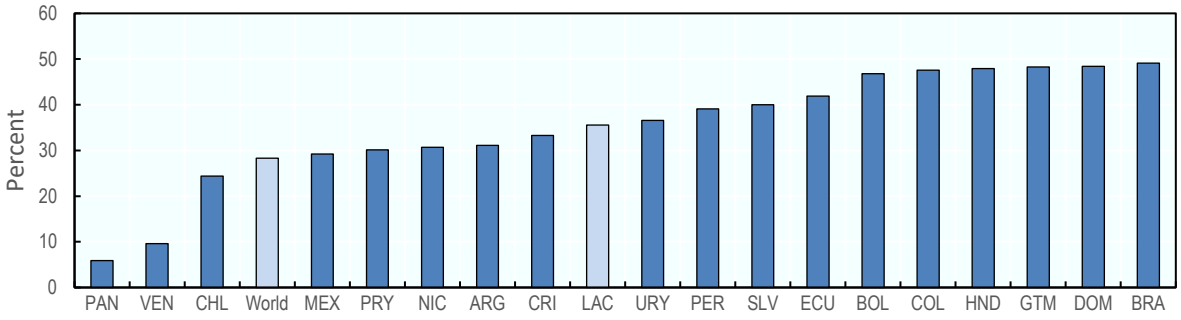


Note: Legal definition: a worker is considered informal if (s)he does not have the right to a pension when retired, for cross country comparability rates are calculated for wage and salary workers only. Productive definition: a worker is considered informal if (s)he is a salaried worker in a small firm, a non-professional self-employed, or a zero-income worker. LAC is the average of the 17 countries included in the chart. Data of Argentina are only representative of urban areas and wage workers. Data from 2017 or latest year available, but not earlier than 2014.
Source: Calculated from CEDLAS tabulations, accessed on 9 July 2018.

In turn, the relationship between corruption and informality is complex. Indicators on corruption and informality correlate strongly, but causality is not one-sided:

- Corruption in the formal economy may provide incentives for firms to remain informal. For instance, bribes extorted by public officials to award operating licences may make formalisation costs prohibitively high, especially for small informal businesses (Soto, 1989[20]). Evidence suggests that informal firms do not see a move to formality as the answer to problems of corruption (La Porta and Shleifer, 2014[18]). In Mexico, the prevalence of corruption and weak legal institutions significantly influences the level of informal employment (Dougherty and Escobar, 2013[21]).
- Informality also causes corruption. Informal firms often need to bribe inspectors to avoid fines. Similarly, informal firms are more vulnerable to become victims of extortion by inspectors who can extract bribes using the threat of imposing fines. Where formal companies compete with informal ones, formal companies may be encouraged to bribe the public administration in order to compete on an equal footing, given that informal companies do not have to comply with regulations and the costs arising from them (Lavallée, 2007[22]). Given that 63.3 % of companies in Latin America compete against informal firms, and 36 % of companies identify practices of informal competitors in the informal sector as a major constraint for doing business, this incentive could be quite strong in the region (World Bank Enterprise Surveys, Figure 2.5).

Figure 2.5. Percentage of firms identifying practices of competitors in the informal sector as a major constraint

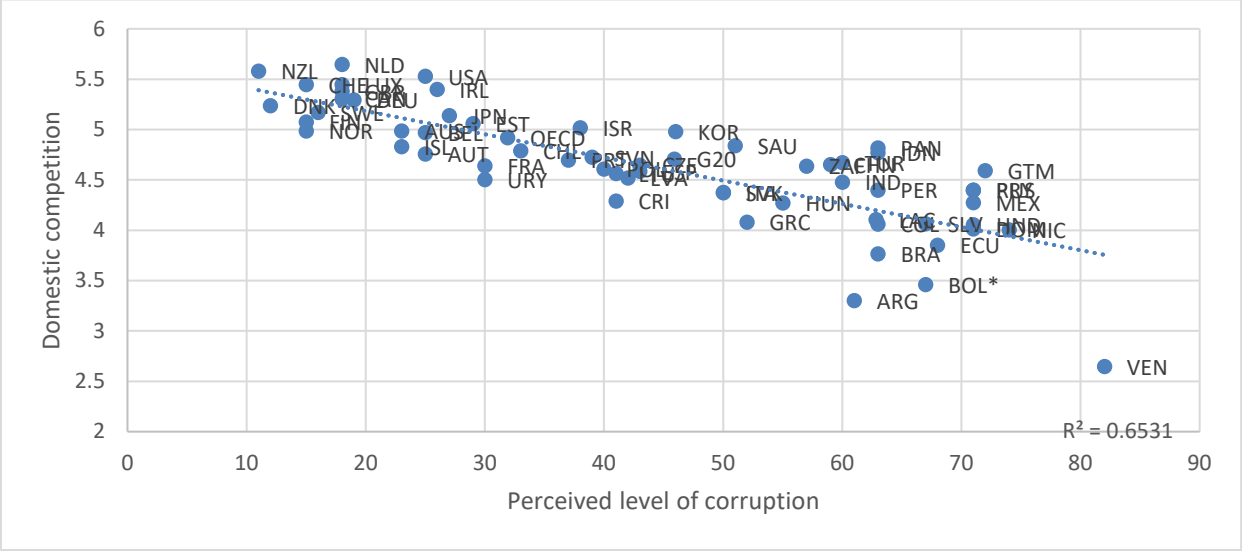


Source: World Bank Enterprise Surveys.

2.2.2. Competition

Making Latin America's institutional framework and business climate more conducive to competition, trade and investment can help bridge the large gap in productivity levels in relation to advanced economies (OECD, 2016[13]). However, corruption and policy capture are tools used by companies to avoid competition in the first place; corruption is antithetical to competition (Figure 2.6) (Emerson, 2006[23]).

Figure 2.6. Corruption is antithetical to competition



Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International that has been inversed to facilitate interpretation of results as level of corruption (the higher the score, the higher the level of perceived corruption). Data on Domestic competition is taken from the World Economic Forum's Global Competitiveness Report 2017-2018. The level of Domestic Competition is an aggregate of the scores on "Intensity of local competition", "Extent of market dominance", "Effectiveness of anti-monopoly policy", "No. procedures to start a business" and "No. days to start a business". Data from Bolivia is taken from the Global Competitiveness Report 2016-2017.
Source: Transparency International 2017 and World Economic Forum 2016-2017-2018.

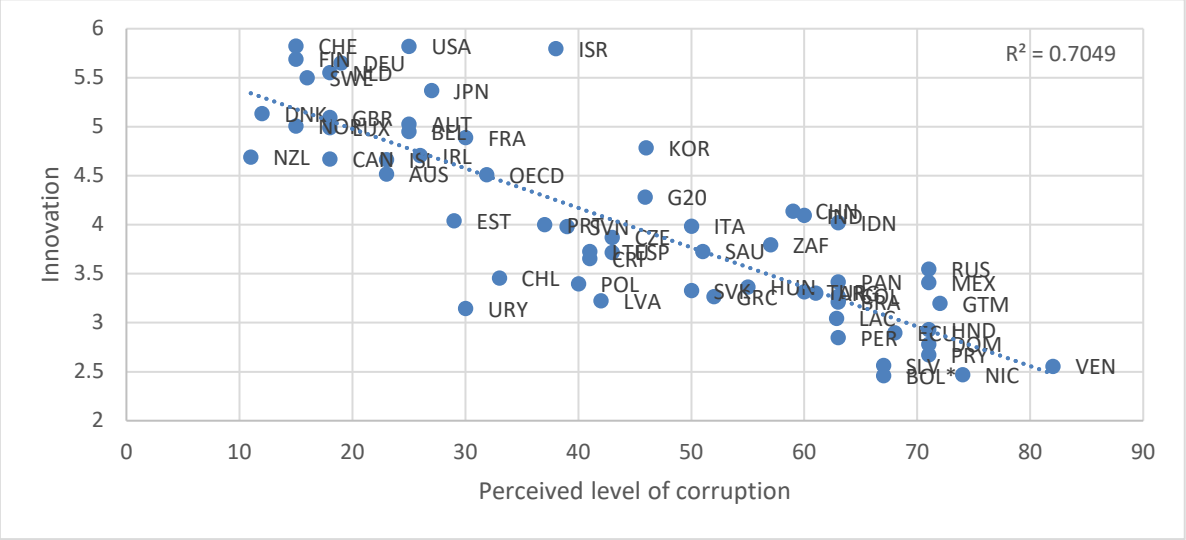
On the one hand, public officials who can demand bribes from formal companies have an interest in limiting the amount of companies to maximise their incomes from bribes. Companies that are not able or not willing to pay the bribe remain informal, as discussed above (Emerson, 2006[23]). On the other hand, companies may use corruption and policy capture as tools to create market entry barriers and thus limit competition in their business sectors or reduce the effectiveness of anti-trust measures aimed at promoting competition. Anti-competitive conduct is a particular threat to the integrity of public procurement. Corruption discourages genuine competitors from bidding for a contract in cases where they are apprehensive of unfair competition or are unwilling, or unable, to pay bribes. It is noteworthy that, although collusion and corruption in public procurement are distinct problems, which usually are tackled by different regulations and authorities, they frequently occur together, have a mutually reinforcing effect and can finance each other (see section 3.6 and (OECD, 2016[24]; OECD, 2012[25]; OECD, 2010[26])).

2.2.3. Innovation

Latin American countries invest less in research and development (R&D) than OECD countries. Brazil is the only Latin American country that spends more than 1 % of GDP on R&D, with about half of that coming from the business sector. In addition, patent registrations are relatively low in the region. On average, OECD countries registered 50 patents per year per million inhabitants in the early 1990s and by the early 2010s this number had risen to 132. In contrast, in Latin American countries, patents per year per million inhabitants were only 0.3 in the early 1990s and 0.9 by the early 2010s.

Corruption and, more broadly, policy capture undermine incentives for product and process innovation (Figure 2.7). On the one hand, costs of bureaucracy and the time it takes to obtain a patent (see section 3.1), as well as the lack of guarantees that these patents will be protected and enforced, are barriers for investing in innovation. On the other hand, in a business environment where corruption is an option, companies may prefer to gain rents by avoiding competition through legal protection rather than by gaining a competitive edge through innovations. Consequently, companies invest more into unproductive rent seeking activities and less into R&D. In the end, every cent spent on bribery is a cent not spend on R&D and product or service improvement. Reducing opportunities for corruption and policy capture thus contributes to creating an environment more conducive to innovation (Mungiu-Pippidi, 2015[27]; OECD, 2016[17]).

Figure 2.7. With higher levels of corruption, incentives to invest in innovation are lower



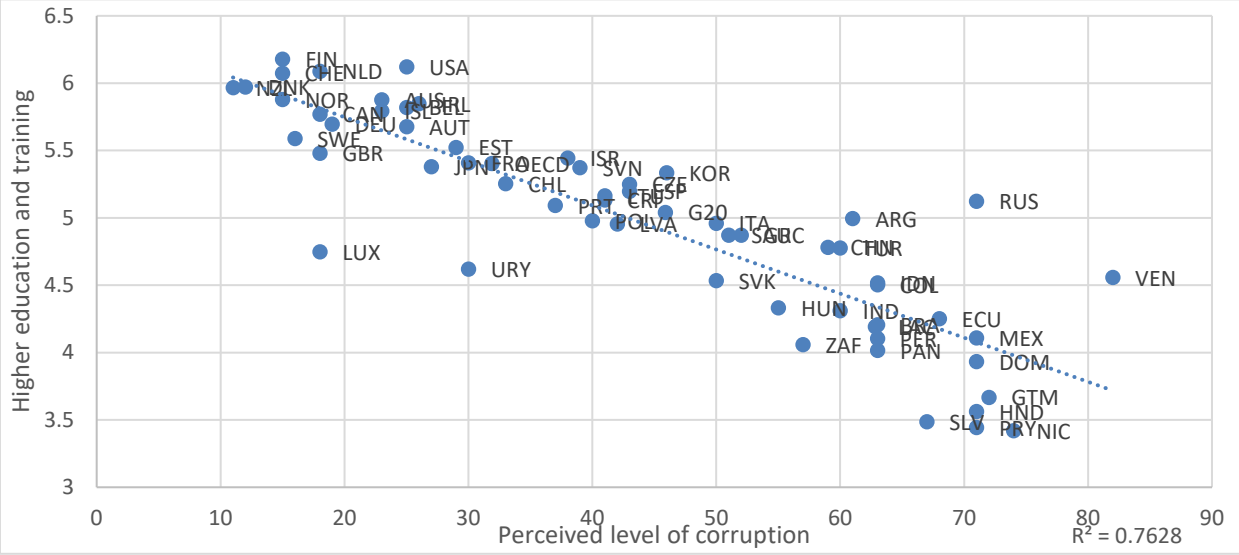
Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International that has been inversed to facilitate interpretation of results as level of corruption (the higher the score, the higher the level of perceived corruption). Data on innovation is taken from the World Economic Forum's Global Competitiveness Report 2017-2018.
Source: Transparency International 2017 and WEF's Global Competitiveness Report 2017-2018.

2.2.4. Human capital

Despite improvements in education outcomes, Latin American countries lag behind the OECD average. School enrolment remains low, both in secondary education (74 %, 17 percentage points below the OECD average) and tertiary education (42 %, 29 percentage points below the OECD average). The average school performance of 15-year-olds in Latin American countries is well below the OECD average, with a gap that is equivalent to almost two years of education. More than half of 15-year-old Latin American students do not acquire the basic level of competencies to perform well in the labour market, and less than 2 % of them are "top performers" in mathematics, compared to the average of 13 % in OECD countries. This skills gap remains a binding constraint for businesses in Latin America (OECD, 2016[13]).

Corruption in education – but also in the health sector – can have indirect impacts on productivity, as they can affect workers' health and skills and thus the productivity of human capital (OECD, 2015[28]). When money for school grants is embezzled or used for political favours and does not reach the target population, or when teachers are moonlighting and are not attending classes, there probably will be an impact on quality of education indicators and thus on the quality of human capital. In addition, corruption can undermine health policies and affect health care access and outcomes. It can also result in the use of defective medical devices or pharmaceutical produces. By investing into mitigating corruption risks in the health and education sectors, a country therefore not only ensures health and education for its citizens, but is also taking an important step in ensuring productivity and increasing long term GDP growth (OECD, 2018[29]).

Figure 2.8. Corruption affects productivity of human capital



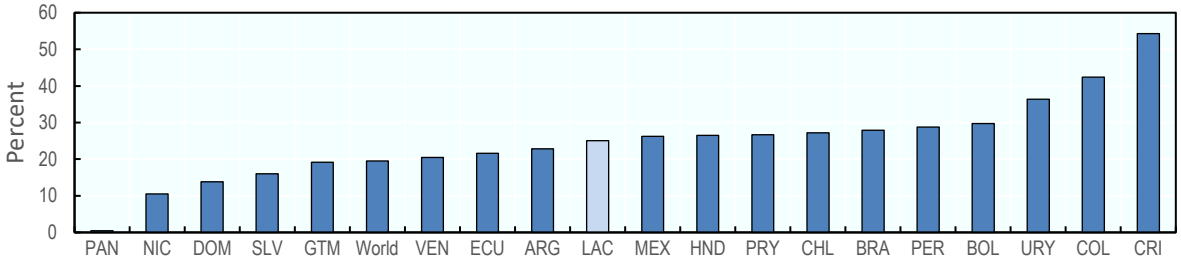
Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International that has been inversed to facilitate interpretation of results as level of corruption (the higher the score, the higher the level of perceived corruption). Data on education and training is taken from the World Economic Forum's Global Competitiveness Report 2017-2018.
Source: Transparency International 2017 and WEF's Global Competitiveness Report 2017-2018.

2.2.5. Infrastructure

Physical capital, and in particular high quality infrastructure, is key to raising productivity levels. Physical and digital connectivity facilitates social interactions and labour mobility, allowing people to draw higher dividends from their skills, efforts and experiences. Latin America has made great strides in providing basic access to services in some dimensions, such as water supply and electricity. However, the region ranks relatively low in several international infrastructure indicators, such as the Global Competitiveness rankings (WEF, 2017-2018). In particular, weak transport links, such as ports and roads, deficient digital infrastructure and public transport are impediment to productivity growth (OECD, 2016[13]). In Latin America, 23.3 % of companies identify transportation as a major constraint for doing business compared to only 9.3 % of companies in Europe and Central Asia (World Bank Enterprise Surveys, Figure 2.9).

Latin America's infrastructure gaps can be reduced through more and better investment. Total infrastructure investment in the region amounts to less than 3.5 % of GDP. To meet medium-term infrastructure needs, this would need to be increased to about 6.2 %, and achieving an infrastructure stock of Asian countries like Korea and Malaysia would require significantly more (OECD, 2016[13]; Perrotti and Sánchez, 2011[30]).

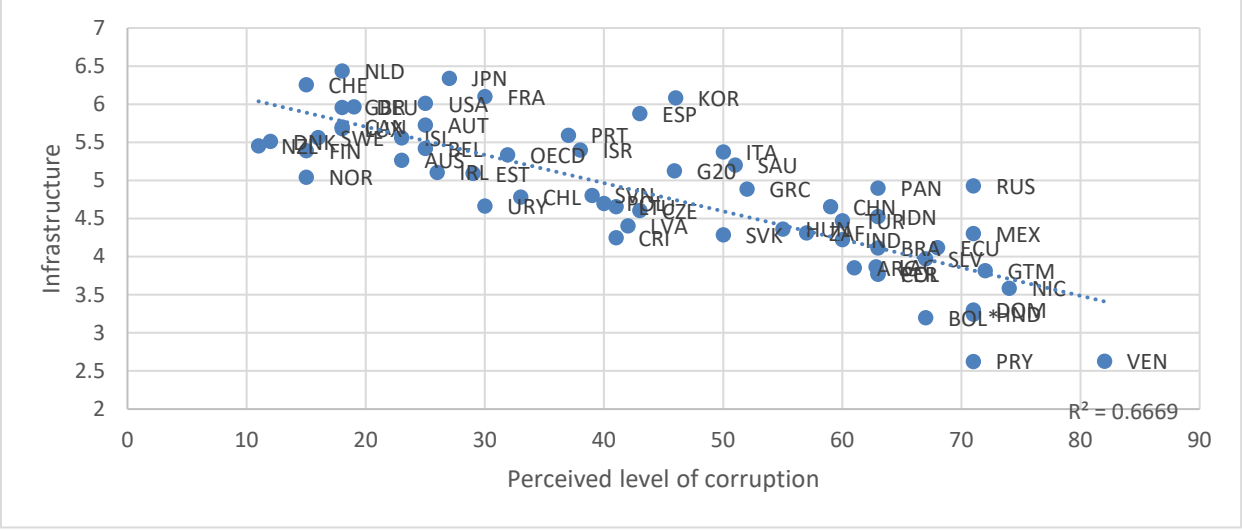
Figure 2.9. Percentage of firms identifying transportation as a major constraint



Source: World Bank Enterprise Surveys.

There are governance challenges related to infrastructure investments, however (OECD, 2016[13]). In particular, large-scale public infrastructure projects are vulnerable to corruption and mismanagement. Figure 2.10 shows that high levels of perceived corruption and low levels of overall infrastructure quality are observed together. Indeed, budget overruns, delays and white elephants – expensive projects without use or value – are common. Corruption risks are particularly high because of the amount of money involved, and because of the modes of delivery through different degrees of private sector involvement or State Owned Enterprises (SOEs) in both construction and operation of infrastructure projects (see sections 3.6, 3.8 and 3.9). Yet, private sector involvement and infrastructure investment also presents an opportunity for the government to display integrity and enhance citizens' trust.

Figure 2.10. Perceived levels of corruption and quality of infrastructure in OECD, LAC and G20 countries



Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International that has been inversed to facilitate interpretation of results as level of corruption (the higher the score, the higher the level of perceived corruption). Data on Infrastructure is taken from the World Economic Forum's Global Competitiveness Report 2017-2018. "Infrastructure" is an index constructed based on the indicators "Quality of overall infrastructure", "Quality of roads", "Quality of railroad infrastructure", "Quality of port infrastructure" and "Quality of air transport infrastructure". Data from Bolivia is taken from the Global Competitiveness Report 2016-2017.
Source: Transparency International 2017 and World Economic Forum 2017-2018

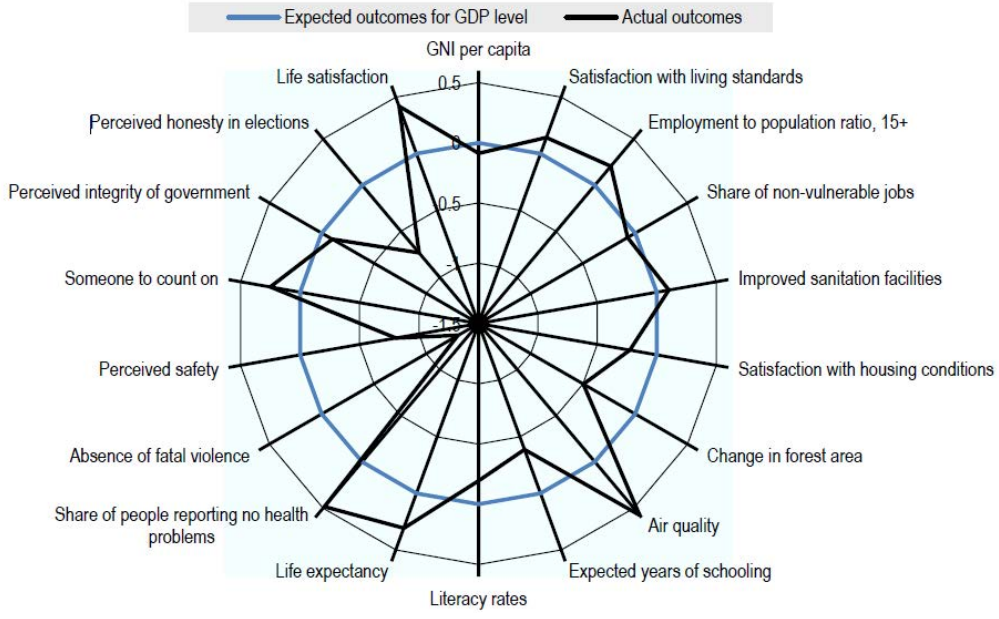
2.3. Integrity and Social Policies: a drive towards inclusion

Social inclusion is a priority public-policy objective in the region, which, despite recent advances, remains one of the most unequal regions in the world. A cohesive society works towards the well-being of all its citizens, fights exclusion and marginalisation, creates a sense of belonging, promotes trust, and offers the opportunity of upward mobility. Inequalities due to socio-economic status, gender, cultural factors and geographical conditions affect inclusive growth in the region.

Inequalities in LAC countries – as in other regions of the world – are also reflected in the multiple dimensions of people's lives (OECD, 2011[31]). Macroeconomic variables, such as GDP and GDP per capita, used to measure a country's level of development can misrepresent actual living conditions and wellbeing. A comprehensive look at inequality encompasses not only economic factors but is compounded with non-economic dimensions as well, providing a broader view of the state of social inclusion in a country or region.

Figure 2.11 presents a selection of indicators, comparing the region's average outcomes against what could be expected given the average GDP level for each group of countries. The region performs well in areas such as health, social connections and life evaluations (a large majority of Latin Americans saying they have someone to count on for help when needed), but sees important challenges in terms of educational outcomes, honesty in elections, and safety and violence. Perceived integrity in government is also lower than what would otherwise be expected.

Figure 2.11. Wellbeing outcomes for LAC (current and expected, 2016)

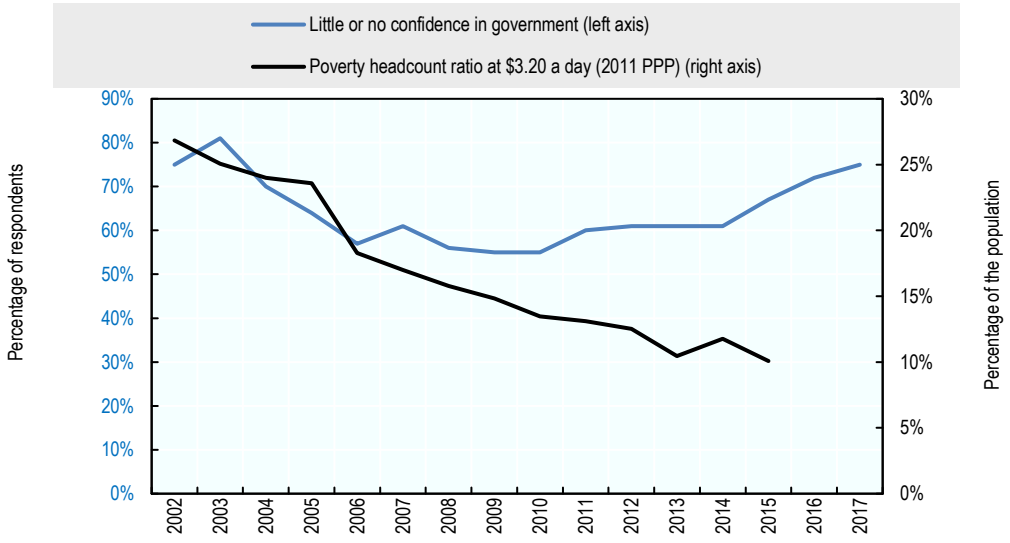


Source: (OECD/CAF/UN ECLAC, 2016[32]).

Taken together, this context undermines trust in a society. Trust is usually understood as "holding a positive perception about the actions of an individual or an organisation" (OECD, 2017[33]). Positive government outcomes in the fight against inequality have been overshadowed by corruption scandals, effectively undermining citizen trust. For instance, although poverty in Latin America has declined in the last two decades, the percentage of

people mistrusting the government has increased, especially in recent years (Figure 2.12). This could reflect the increasing awareness of recent corruption allegations, reaching all sectors of the population through a new vehicle – social media – and generating widespread discontent that goes beyond pure socio-economic outcomes.

Figure 2.12. Trust in government vs. poverty rates in Latin America and the Caribbean



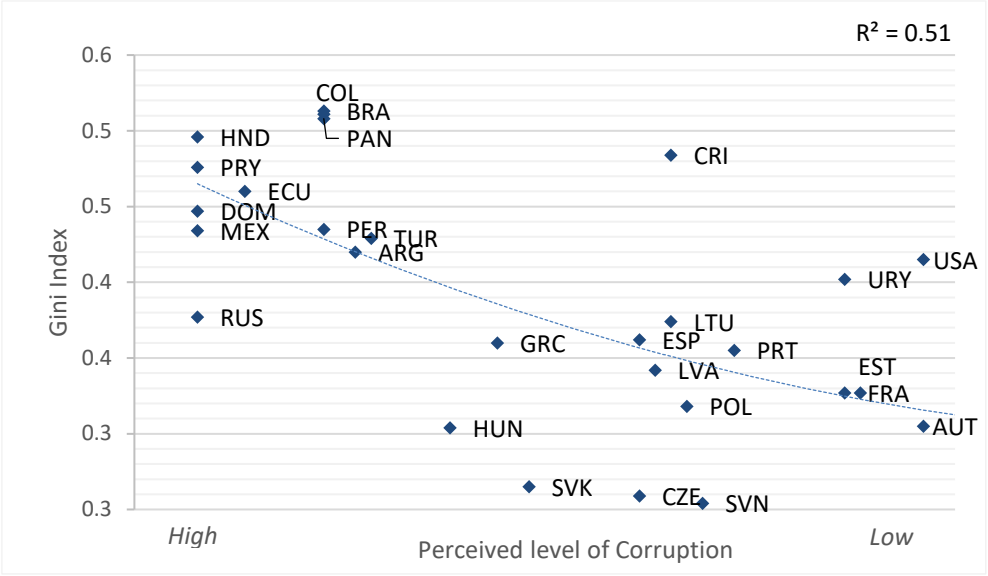
Note: Unweighted averages for all variables for a sample of countries comprised by: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.
Source: OECD/CAF/UN ECLAC (2018).

Corruption has been commonly associated with inequality (Fig 2.11, panel a) and poverty (Fig. 2.11, panel b) (You and Khagram, 2005[34]; Gupta, Davoodi and Alonso-Terme, 2002[35]).[2] Using an unbalanced panel of 18 Latin American countries, a recent study finds that corruption has a positive relationship with income inequality and that improving the mechanisms and policies to control the extent of corruption in the region would yield good results in terms of reducing income inequality (Pedauga, Pedauga and Delgado-Márquez, 2017[36]).

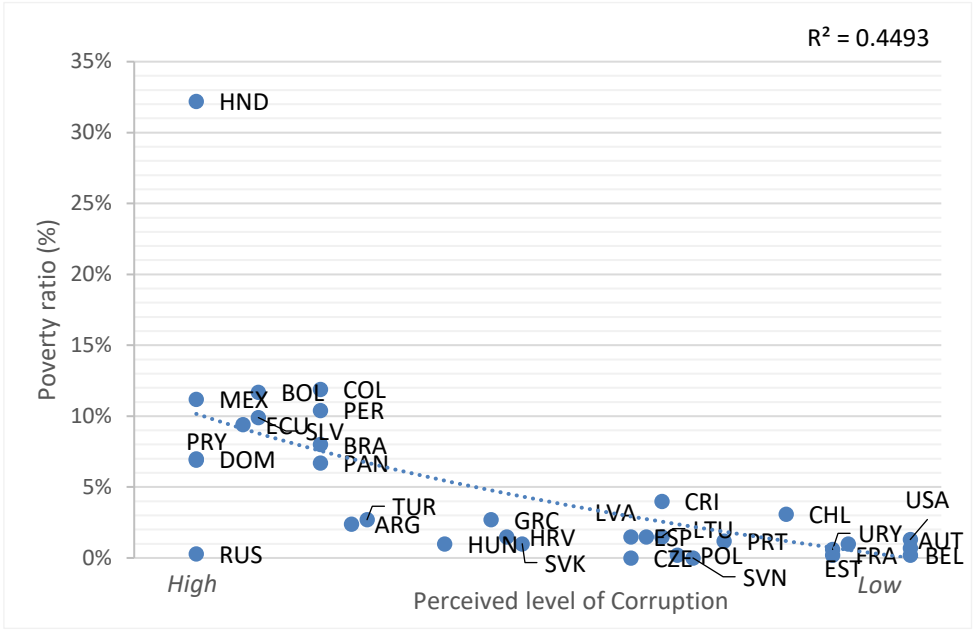
[2] Against common assumptions, (Andres and Ramlogan-Dobson, 2011[151]) suggest that corruption in Latin America decreases inequality, claiming the existence of a large informal sector to be behind such negative relationship.

Figure 2.13. Inequality increases with corruption

a) Inequality increases with corruption



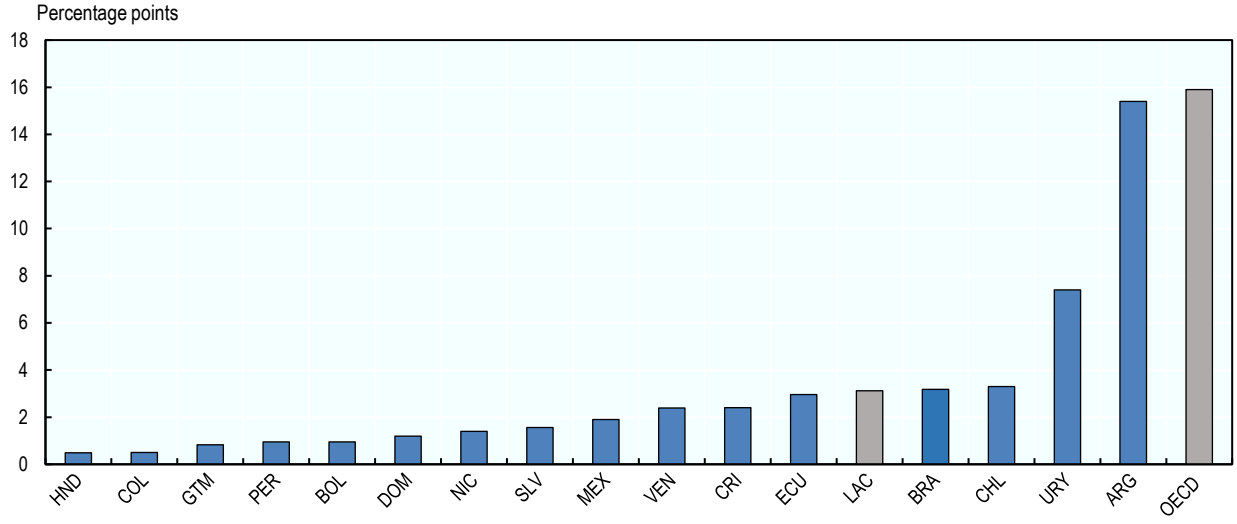
b) Poverty rates increase with corruption



Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International. The Gini Index and the poverty ratio are taken from the World Bank Open Data catalogue. The earlier measures the extent to which the distribution of income (or, in some cases, consumption expenditure) among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of 0 represents perfect equality, while an index of 1 implies perfect inequality. The latter refers to the Poverty headcount ratio at $3.20 a day, namely the percentage of the population living on less than $3.20 a day at 2011 international prices. Gini index and poverty data are from 2015, except for Argentina, Mexico, and the US, for which the missing 2015 values were replaced with available 2016 figures.
Source: Transparency International 2017 and World Bank Open Data, accessed on 28 August 2018.

Less corruption seems to be conducive to a more egalitarian society. This finding is supported by (Gupta, Davoodi and Alonso-Terme, 2002[37]), who show that corruption causes inequality and poverty through mechanisms such as the misallocation of public resources and the reduction in effectiveness of social programme targeting. In consequence, corruption effectively belittles redistributive systems, which are for the most part insufficient and ineffective in most LAC countries (Figure 2.14).

Figure 2.14. Gini reduction effect of taxes and transfers



Note: data for Argentina are representative of urban centres of more than 100.000 inhabitants.
Source: OECD Income Distribution Database (2016b), OECD calculations based on the Encuesta Permanente de Hogares (EPH) for the third quarter of 2016 (INDEC), and Lustig (2017).

As mentioned above, large informal sectors are characteristic of Latin American economies, and corrupt practices might be the grease that keeps their wheels moving by allowing regulations to be by-passed. In turn, informality weakens institutions by limiting the reach of formal rules and reducing fiscal revenues by eroding the tax base (Besley and Persson, 2013[38]; Anton, 2012[39]). In addition, citizens' overall willingness in the region to pay taxes – known as "tax morale" – is low: almost half of the population is willing to evade taxes if possible (OECD/CAF/UN ECLAC, 2018[4]). The interaction between informality, a low tax morale and contributory social protection systems creates a vicious cycle: the majority of informal workers contribute irregularly, if at all, thereby weakening the systems, which then provide insufficient support to workers when they need it.

A trichotomous phenomenon emerges: corruption creates perverse incentives to remain informal; large informal sectors erode a country's tax base; and lower tax revenues inhibit a government's redistributive ability to the detriment of equality. In all regions – and Latin America and the Caribbean is no exception – it is crucial to promote inclusive policy-making to create the right incentives for formalisation while at the same time putting up a firm and resolute fight against corruption. This will create favourable conditions for fairer and more inclusive societies.

3. Identifying strategic priorities to create a culture of integrity in Latin America

What can governments in Latin America and the Caribbean do to effectively control corruption and promote a culture of integrity? What can they do differently? Essentially, corruption is symptomatic: it is not by fighting it that it is controlled or minimised. This insight is not new (Hors, 2000[40]; Kaufmann, 2015[41]). The following sections identify the core governance challenges that underlie corruption risks in the region and propose actions to address these risks both at country level and through an improved regional cooperation across countries in the region.

To effectively advance in the quest for public integrity, governments in Latin America could take concrete actions in the following priority areas:

- Strengthen political finance regulations and their enforcement, and promote integrity and transparency in elections and lobbying activities to ensure inclusive policy-making (section 3.1). Being the root cause of many corruption issues in other areas, such measures are particularly urgent.
- Promote a transparent and efficient public administration (section 3.2), a professional, merit-based civil service (section 3.3) as well as internal and external control and audit (section 3.4).
- Ensure accountability, legitimacy and credibility of the system through effective criminal and disciplinary sanctions (section 3.5).
- Take actions to mitigate corruption risks in public procurement and infrastructure projects taking into account the hidden costs of overly strict and compliance-based controls (section 3.6).
- Recognise that corruption risks at the subnational level are often higher and take concrete actions to promote integrity in municipalities and the regions that are specific to their needs and constraints (section 3.7).
- Consider the key role of State Owned Enterprises (section 3.8) and the private sector (section 3.9) in public procurement and the delivery of public goods and services, including large infrastructure projects, and set incentives to foster integrity and a sense of shared responsibility for results.
- Enhance integrity systems through better co-ordination between integrity actors, promote the mainstreaming of integrity policies throughout the public administration, and follow an evidence-informed strategic approach (section 3.10).
- In general, deepen and enhance the inclusion of citizens and other stakeholders in policy decision-making, implementation and oversight processes to increase trust and legitimacy leveraging the region's active civil society, but taking into account the inequalities that deepen the participation and involvement problem.

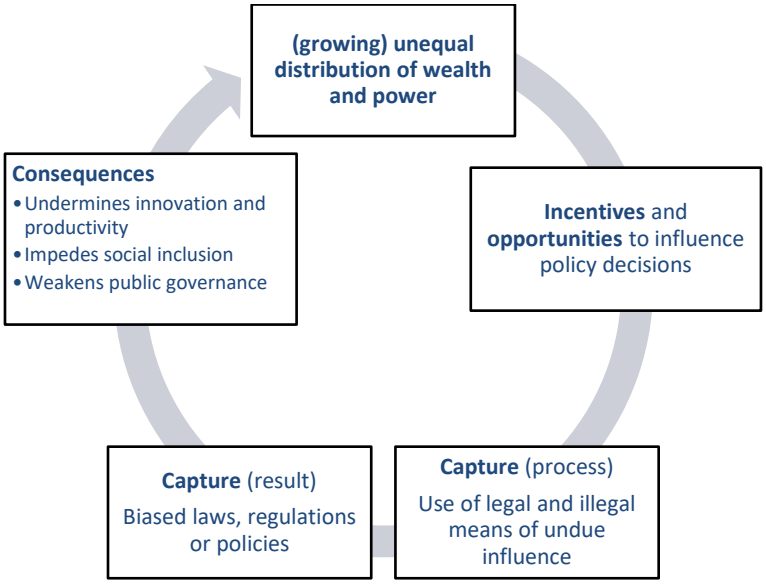
3.1. Mitigating the risk of capture to ensure inclusive development

Public policies, laws and regulations, determine the generation and distribution of costs and benefits in a country. Rules over tax exemptions, subsidies, distribution and use of benefits

from extractive industries, private sector participation in government services, emission standards, public health policies and education grant programmes, to name but a few, directly influence who gets what. Public decisions over policies and law-making are therefore at risk of being captured, that is, unduly influenced away from the public interest towards the interests of specific groups or individuals (OECD, 2017[3]).

Policy capture is by definition the opposite of inclusive policy-making. It perpetuates or even exacerbates a vicious cycle of social and economic inequalities that translate into unequal access to policy-making, policies reflecting the interests of powerful groups, and benefits accruing to them (Figure 3.1). A widespread belief that the country is governed against the interest of the majority of citizens undermines the incentives citizens have to engage and participate in the political process (Bauhr and Grimes, 2014[42]). Political apathy, resignation and cynicism may then nurture the vicious cycle that endangers democratic governance and may open the door to authoritarianism, populism or social conflict.

Figure 3.1. The vicious cycle between policy capture, inequality, low productivity and weak governance

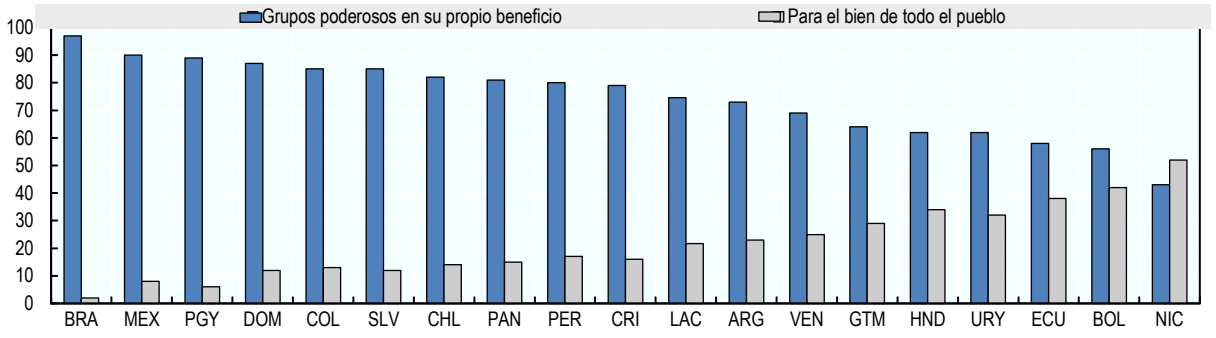


3.1.1. Key challenges

In Latin America, on average almost 75 % of citizens perceive that a few powerful groups are governing their countries for their own benefit (Figure 3.2). The vicious cycle described above has been empirically confirmed for Latin America (Scartascini et al., 2011[43]). Indeed, concrete examples of captured policies exist throughout the region. For example, in Guatemala, evidence suggests that policy capture explains the failures to introduce tax reforms that would have benefitted the majority but harmed the elite (Itriago, 2016[44]) (Box 3.1).

Figure 3.2. The majority of citizens in Latin America perceive that a few powerful groups dominate their country

In general terms, would you say that your country is governed by a few powerful groups for their own benefit, or that it is ruled for the good of the whole population?



Note: The original question is: "En términos generales ¿diría usted que (país) está gobernado por unos cuantos grupos poderosos en su propio beneficio, o que está gobernado para el bien de todo el pueblo?" Overall, this survey has been conducted in 18 countries in the region (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela).
Source: Latinobarómetro 2017.

Box 3.1. Guatemala: How elites use veto powers and other strategies to block tax reforms

Fiscal policy is a key tool for development and the formation of egalitarian societies. Yet, in most Latin American countries tax and transfer systems play a minor role in shaping the income distribution. In 2015, average public revenues as a percentage of GDP in LAC reached 22.8 %, still low compared to 34.3 % in OECD countries (OECD et al., 2017[45]).

In this regard, Guatemala stands out as the country with the lowest tax revenues in the region, with a tax collection that amounts to just over 10 % of its GDP. Over the past three decades, several administrations have attempted to address the issue by proposing comprehensive tax reforms, only to be blocked repeatedly – either partly or completely – by powerful business groups who saw the constitutional amendments as a threat to their own interests. Several methods have been used to capture tax policy in Guatemala:

- Strong Congress influence, forming or promoting coalitions to block or dilute reform proposals.
- Preferential access to legal instruments, such as the Constitutional Court (CC), to challenge, veto or declare unconstitutional what is seen as unfavourable tax legislation.
- Close ties to political parties, through campaign contributions and the provision of staff members.
- Widespread misinformation campaigns, using the media to gather support from large sectors of society against the reforms.

Almost all Latin American countries would benefit from a structural tax reform aimed at reducing inequalities and bringing the large segments of the economy that subsist under informal arrangements under their umbrella. The case of Guatemala offers valuable lessons that underline the importance of designing policy-making systems where the risk of policy capture is identified and minimized for the benefit of all.

Source: (Itriago, 2016[44]) (OECD et al., 2017[45]).

In particular, money in politics is perhaps the single most pressing issue in the region from a corruption perspective. Often, policy capture and corruption starts with influencing the results of elections to ensure that the elected public officials, once they are in office, represent the interests of those who supported them. For example, elected politicians may have to return favours to those who supported them and brought them into office by providing them with public contracts, e.g. infrastructure projects, subsidies, or public employment, e.g. through "bureaucratic quotas" in the public administration (see section 3.3). The financing of political parties and election campaigns is thus a powerful instrument for special interests to exercise undue influence and "capture" the policy process (OECD, 2016[46]). While the phenomenon is not limited to Latin America, the latest most severe corruption scandals in the region – like the "Valijagate" in Argentina, the "Pentagate" in Chile or Odebrecht implications in different national governments – show that these are usually linked to irregularities in political funding to parties and candidates during electoral campaigns.

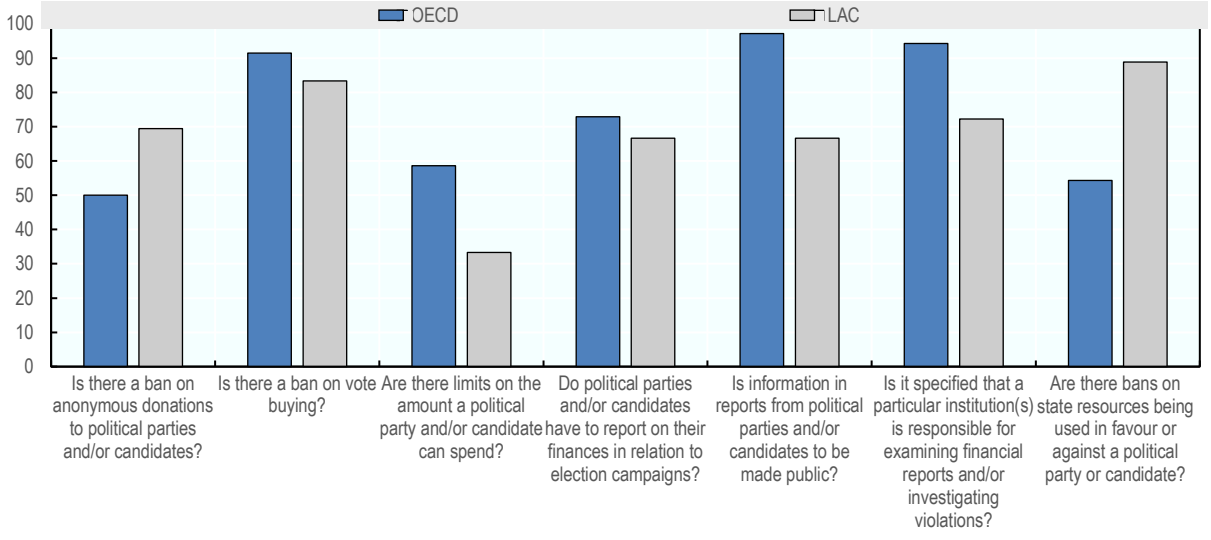
Beyond political finance, the regulation of election processes themselves can incentivise corrupt electoral practices seeking to influence who will be elected into office. Corrupt electoral practices include, for example, vote-buying, bribes to opposition candidates, or manipulating campaign finances to hide illegal contributions. According to the Latin American Public Opinion Poll (LAPOP), around 11,7 % of Latin-Americans report having

received material benefits in exchange of their votes (Faughnan and Zechmeister, 2011[47]) and interviewed experts in the region think most major parties reward their constituents with goods, cash or jobs (V-DEM Project, 2017[48]). In addition, some electoral institutions promote personalisation of politics (as open or preferential voting in Peru or Brazil), and weaknesses in parties' internal democracy are leading to a lack of control with respect to the internal selection of candidates. In some countries, organised crime groups can prosper and operate with impunity by infiltrating and corrupting political institutions. On the one hand, they can launder money by financing parties or candidates in cash, and on the other hand they can make sure that elected officials are turning a blind eye on their activities or, in case of detection, ensure weak enforcement (Casas-Zamora, 2013[49]).

To some extent, these and other practices undermining democratic legitimacy of electoral processes are facilitated either by a lack of legislation or by a lack of enforcement of existing regulations. In general, the de jure quality of political finance regulation has improved in Latin America; it is often even stronger than in OECD countries (Figure 3.3). Nevertheless some gaps remain. For instance, regulations on campaign spending by political parties or candidates is less widespread than in OECD countries. This lack of regulations with respect to spending can trigger a competition towards ever-higher expenses and thus pressure to obtain more and more funds – yielding the risk of being more inclined to accept funds from dubious sources. In addition, Argentina, Guatemala and Venezuela do not explicitly prohibit vote-buying. Finally, while almost 98 % of OECD countries require making publically available the information in reports from political parties and/or candidates, only 67 % of LAC countries do so. A first, straightforward step is thus to close such legislative gaps through legislative reforms – again, avoiding any form of undue influence in the process.

Figure 3.3. Selected relevant aspects of political finance regulations (OECD, LAC)

Answers show percentage of "yes" answers.



Note: Questions asked for candidates and parties separately have been summed and averaged.
Source: Based on IDEA.

Overall, however, it seems that the main issue in the region is that existing regulations often fail to be effectively enforced (OECD, 2017[9]; OECD, 2018[10]). An indication of this lack of effectiveness, is that the de jure quality of political finance regulations only manages to impact on corruption if judicial impendence is high and thus able to ensure the enforcement of these, and other, regulations (Lopez, Rodriguez and Valentini, 2017[50]). According to a study carried out by Global Integrity (2015), in the region there is a gap of around 20 % regarding scores on regulatory framework (65) and enforcement (45). For example, while most countries prohibit anonymous donations and reports from political parties must reveal the identity of donors, contributions in cash are usually allowed and used in some countries to de facto avoid formal regulations, as it is impossible to track money and control all "informal" money incomes, sources, etc. (OECD, 2018[10]). In Argentina, for instance, underreporting have been observed when comparing incomes and expenses declared by electoral alliances during presidential elections in 2015 (Page and Mignone, 2017[51]). Another example is Bolivia, where contributions from unidentified sources are prohibited, but there is an exception during public collections, which means that there is room for contributing without control. Moreover, only 7 % of countries in the region have oversight authorities that impose sanctions very effectively, while 43 % of country oversight authorities' work is not effective at all.

A second way to capture public policies is to exert undue influence on public decision-makers that are already in office, whether in the legislative or in the public administration. Such legislative and administrative decision-making processes often lack the transparency and accountability mechanisms that could refrain interest groups to lobby for policies with dubious, although not necessarily illegal, practices. Lobbying and engaging stakeholders in decision-making processes are essential parts of democracy and can improve policy making by providing valuable data and insights to decision makers. The issue is not that there are interest groups, but *who* is able to exert such influence, i.e. is there an equal opportunity for all interests to participate, and *how* this is being done, i.e. in particular whether this influence is transparent or not.

Also, problems are likely to emerge when:

- different interest groups do not have equal power or opportunities to influence and participate in policy design;
- Interest representation institutions such as trade unions or political parties are not perceived as representing the interests of the individuals they claim to represent; or
- when some interests do not even manage to overcome the problem of collective action and are unable to organise themselves as an interest group.

As such, sound frameworks for transparency and integrity in lobbying, for the internal governance of interest representation institutions, and for stakeholder engagement are crucial to safeguarding the public interest and promoting a levelled playing field for different interests, promoting pluralism and thereby avoiding capture by powerful interest groups (OECD, 2007[52]; OECD, 2015[53]; OECD, 2017[3]).

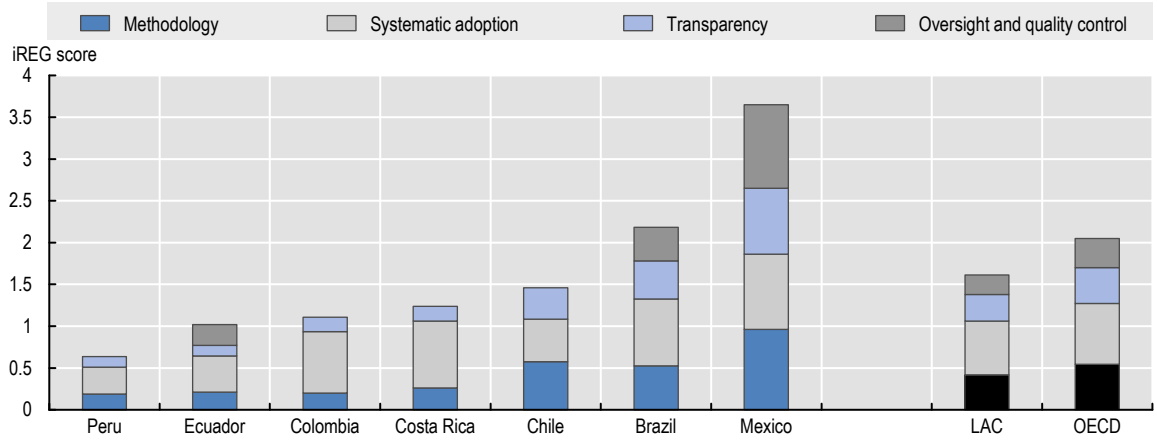
Lobbying regulations are only emerging in most LAC countries. Peru was the pioneer of the region in developing legislation on lobbying in 2003. In addition to Peru, only Chile (2014), Mexico (2010) and Argentina (2003) adopted regulations on lobbying. Yet, in Mexico, the regulation only applies to the Legislative branch, while in Argentina only the Executive branch is covered. In Argentina, a draft law revising the regulation on the management of interests is currently under discussion in the Congress (OECD, 2018[10]). Chile is currently drawing lessons learnt from their experience so far with the aim to improve their lobbying framework. In other countries, such as Brazil, Colombia or Costa

Rica, for example, discussions and draft legislations exist, but no major advances have been achieved until now.

However, legislation per se does not guarantee an effective implementation and achieving results. For example, the OECD Integrity Review of Peru found that as of 2016 only five individuals and one legal entity were registered as lobbyists, due in part to a high administrative burden of compliance while only providing very limited benefits to the registered lobbyists (OECD, 2017[9]). A study analysing and comparing the experiences of Argentina, Brazil, Chile, and Peru concludes that these experiences have been largely disappointing, although also highlights that overall, the challenges are similar to those faced by other countries around the world (dos Santos and da Costa, 2014[54]). In the region, this lack of results is not merely the consequence of weaknesses of the legal framework or its enforcement, however, but more fundamentally related to a widespread culture of informal lobbying and a negative perception of lobbying activities (OECD, 2018[10]; OECD, 2017[9]). From this perspective, even the limited success of lobby regulation to date and the continuing presence of the issue on the policy agenda across Latin America are a positive sign for Latin American democracy (dos Santos and da Costa, 2014[54]).

In turn, countries in Latin America are at different stages in the adoption of good practices to engage with interested parties when developing regulations. Whereas Mexico and Brazil have established fairly advanced consultation systems and score above or around the OECD average on the composite indicator on stakeholder engagement, other countries in the region are currently pursuing efforts to embed consultation more systematically in their rule-making process (Figure 3.4). Though differences remain in terms of scope and implementation, all countries covered in the figure have taken some steps to integrate stakeholder engagement in their rule-making process. For example, they have adopted formal requirements to conduct consultation when developing subordinate regulations. Countries also established, to varying degrees, methodologies to engage with stakeholders, including minimum periods and supporting documentation for consultation. However, transparency of stakeholder engagement is less developed in most countries as information on planned or ongoing consultations is not always available and feedback mechanism are not systematically used. In addition, whilst Mexico and Brazil – and to some extent Ecuador – have established oversight functions of stakeholder engagement, they are, for the time being, virtually absent in the other countries (Querbach and Arndt, 2017[55]).

Figure 3.4. Composite indicator: stakeholder engagement in developing subordinate regulation



Note: The figure displays the total aggregate score across the four separate categories of the composite indicator. The maximum score for each category is one and the maximum score for the aggregate indicator is four. The more regulatory practices as advocated in the 2012 OECD Recommendation on Regulatory Policy and Governance a country has implemented, the higher its indicator score. The data on LAC countries reflect the situation as of 31 December 2015. Data on OECD countries cover 34 OECD countries and reflect the situation as of 31 December 2014.
Source: Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016. Indicators of Regulatory Policy and Governance (iREG) 2015. http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

Consultation in LAC countries often takes place when the decision to regulate has been taken and/or a draft regulation has already been prepared. Countries usually consult with stakeholders at this later stage, albeit with differences in terms of scope and depth. In some cases, consultation takes place only shortly before the planned entry into force of the regulation as in the case of the compulsory pre-publication of regulations in Peru, which happens only 30 days before the planned entry into force. This leaves very limited time to take stakeholders' views into consideration and potentially revise the regulatory proposal (Querbach and Arndt, 2017[55]).

Finally, the existing mechanisms for stakeholder participation sometimes are not well known by citizens or not trusted enough to generate a credible level playing field. For example, in Argentina the Senate (Legislative branch) offers a tool called "citizen vote", through which citizens can learn about various draft bills in the chamber and vote whether they agree or disagree with them. However, this tool had been used only in thirteen opportunities to the date the report was drafted (OECD, 2018[10]). Also, a deeper engagement requires an approach that recognises the gaps and difficulties posed by inequality, lack of trust and political apathy, as well as the challenge of involving citizens outside the capitals.

3.1.2. Opportunities for strategic action

Latin American countries have made significant progress in strengthening their de jure frameworks of political finance. However, regarding money in politics and integrity in election processes, countries could consider the following actions that once implemented, could have transcendental effects on integrity overall.

- Countries could consider making compulsory publicity of reports on campaigns as well providing spending campaign limits and explicitly forbidding vote buying.
- To counteract informality and avoid breaches of regulations countries could make the use of bank accounts compulsory for all private contributions, prohibiting contributions in cash.
- In order to develop enforcement capacities, countries could evaluate their current electoral management bodies with respect to functions and resources to ensure their de facto independence and effectiveness. In addition, countries should invest in professional capacitation of staff.
- To allow control by citizens, governments should make the reports from political parties and candidates publically available, in easily accessible and usable formats, and allow an easy and timely access to all reports.
- Countries could promote democratic candidate selection procedures within political parties, such as through closed or open primaries, to move decisions from back rooms to inclusive and competitive procedures.

Reforms to improve stakeholder engagement are underway in a number of LAC countries, and countries are increasingly considering introducing lobbying regulations or are reviewing their existing laws to strengthen them. To further strengthen these frameworks, LAC countries may consider a number of potential ways to better embed their engagement with stakeholders in the rule-making process and make it more open, transparent and effective:

- By evaluating whether the current definition of lobbyists and lobbying are comprehensive enough, countries can ensure that the framework is robust and misinterpretations or loopholes are avoided.
- To regain citizens' trust, the information that is made public should to include information on who is lobbying and is being lobbied, and on whose behalf, the issues involved in lobbying activities and the intended result of lobbying activities.
- The enforcement of the lobbying regulations and existing codes of conduct for lobbyists needs to be strengthened and sanctions applied to public officials and lobbyists.
- To ensure that the lobbying framework meets its intended objective, the collection of data on costs and benefits for governments and lobbyists is key. A periodic assessment could be established in the legal framework.
- To tackle the negative perception of lobbying activities, countries could consider embedding lobbying regulations in a broader effort of awareness-raising in the public sector, the private sector and in society as a whole. This could initiate a change in culture and perception and create an environment in which formal lobbying regulations could start making sense and informal lobbying becomes an exception rather than the rule.
- Ensuring legal requirements are in place and cover the whole administration is fundamental to make consultation with stakeholders an integral part of the development of regulations from a whole-of-government perspective. For some countries, this may involve introducing or consolidating and expanding existing requirements. Moreover, investing in oversight functions to review whether or not stakeholders' views have been effectively taken into account in the development of regulations is essential to address the existing gap between formal requirements and practice.

- Systematically consulting with stakeholders also early in the process would help regulators gather inputs on the nature of the problem and potential solutions before deciding on whether and how to regulate. When conducting consultation on draft regulatory proposals, countries should provide for sufficient time to take stakeholders' comments into account before a final decision is taken. The use of single centralised government websites listing all ongoing consultations would help reach out to the widest possible audience and ensure easy access to consultations. Current initiatives in this direction should be pursued with the required resources and co-ordination.
- The methodology of stakeholder engagement could be improved by adapting it to stakeholder needs and capacities and by improving access to information so that stakeholders better understand the issue at hand and make informed comments. One way of achieving this and better embed consultation in the rule-making process would be to tie it closely to the RIA process. The transparency of stakeholder engagement in LAC countries could be greatly enhanced by providing consultation participants with feedback and how their comments were used, for instance through online summaries.
- In general, the region has made progress in innovative social accountability mechanisms, such as social audits or participative budgeting that could be leveraged in a more effective manner to reduce the risks of undue influence.

3.2. Towards improving efficiency and effectiveness in the public administration

Reforms of the public administration, the "back office" of government, focus on the quality, timeliness and inclusiveness of services delivered to citizens and businesses and on streamlining and making administrative processes more integrated and efficient. The public administration underpins the internal functioning of the public sector as well as its relation with society, and as such is a central element of good governance.

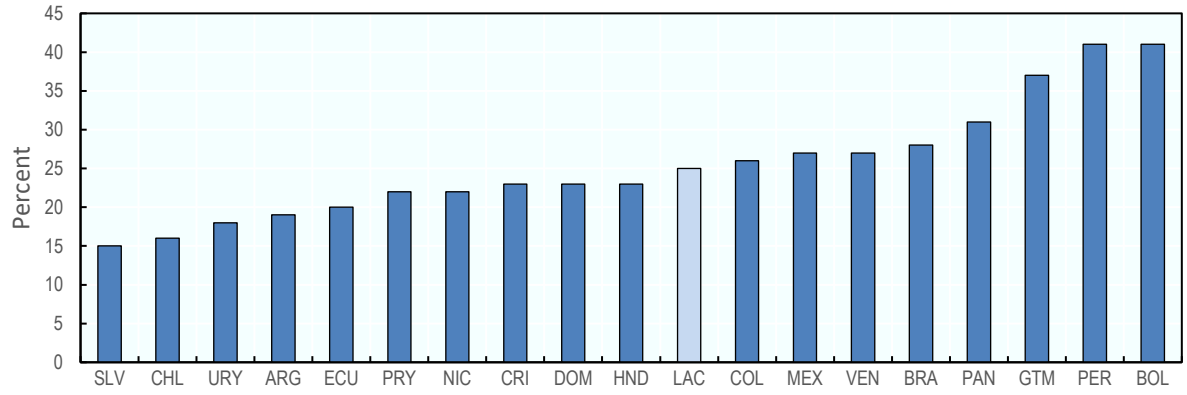
From an integrity perspective, weaknesses in the public administration entail vulnerabilities to corruption especially but not limited to high-risk areas such as public procurement or customs, or the delivery of public services where public officials interact directly with citizens or companies. Indeed, corruption often hides behind or benefits from administrative inefficiency. In turn, a transparent as well as efficient and effective public administration reduces integrity risks and is a condition for effectively implementing reforms aimed at preventing corruption and promoting a culture of integrity.

3.2.1. Key challenges

Fighting red tape to address corruption in public services

Administrative burden, also known as red tape or, in Latin America, *tramitología*, is not only annoying (Figure 3.5), it also provides incentives to both citizens and entrepreneurs to pay bribes to speed up administrative processes. These processes include many day-to-day activities, formalities and procedures that are vital to access the health and education systems (birth certificate, ID card, etc.), participate in the labour market (social security/fiscal numbers), and start-up or sustain business activity (clearing imports at customs, obtaining a driving licence, getting a construction permit/business licence). Figure 3.6 shows how often citizens in the region need to pay bribes to a wide variety of public services.

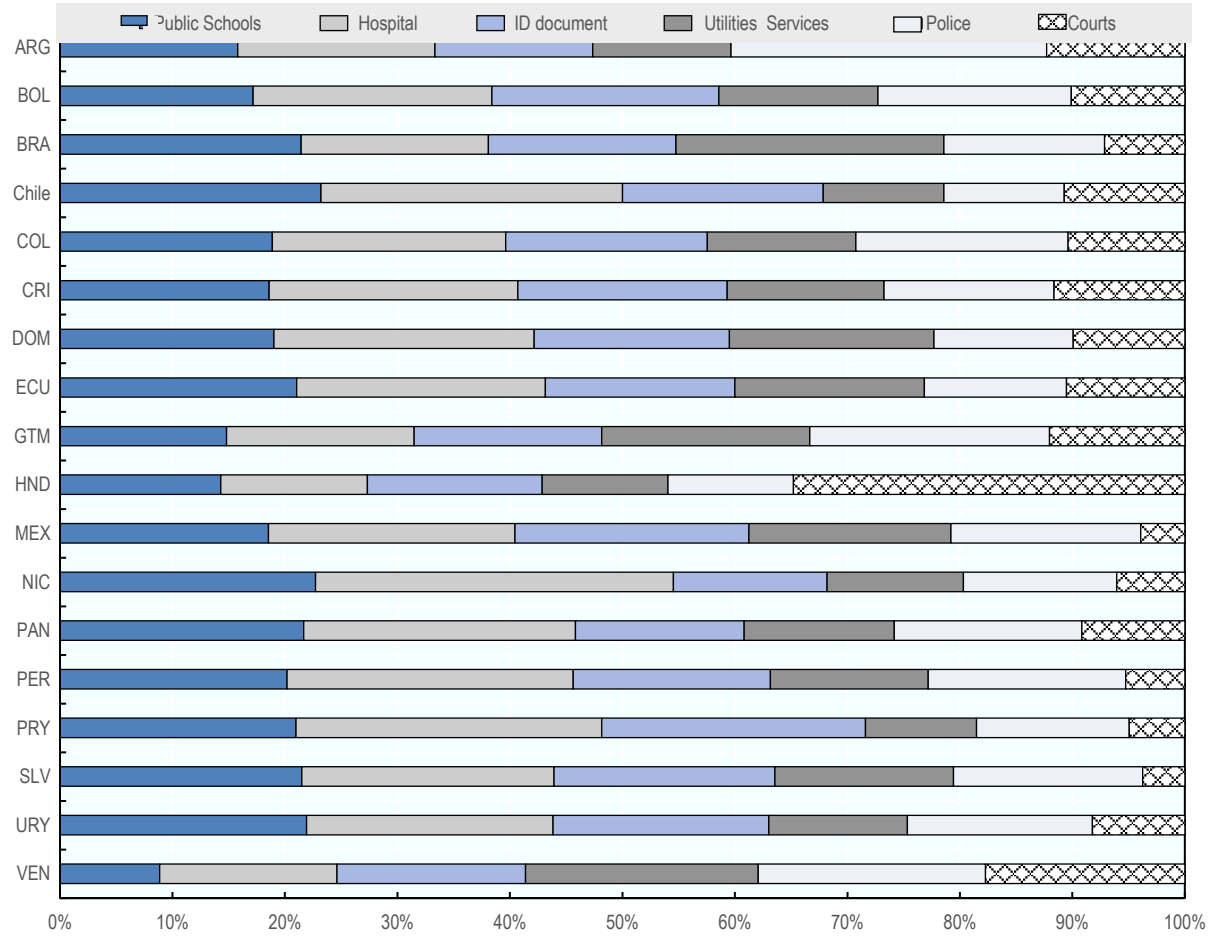
Figure 3.5. Percentage of administrative procedures that require three or more interactions to be resolved



Source: (Roseth, Reyes and Santiso, 2018[56]) and Latinobarometro 2017.

Figure 3.6. Bribes paid by citizens in Latin America to obtain public services

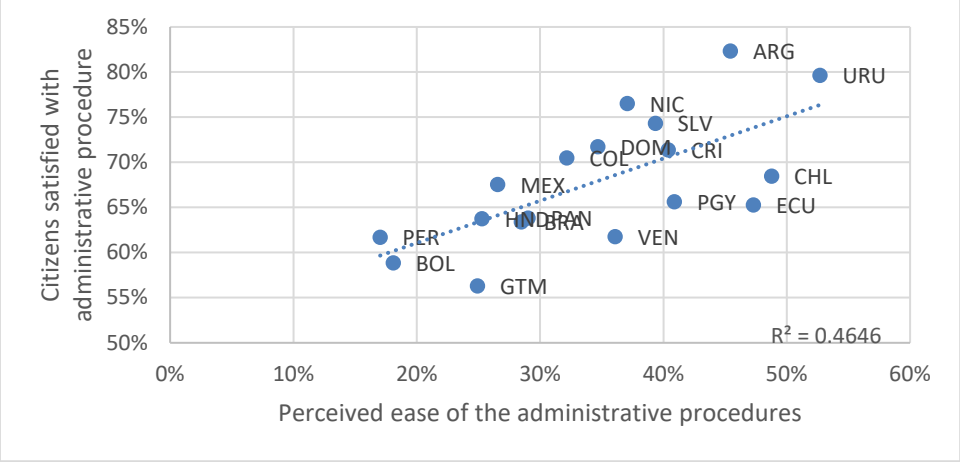
How often, if ever, did you have to pay a bribe, give a gift or provide a favour for the following services?



Source: Global Corruption Barometer Latin America 2017.

What is illegal and may yet seem perfectly rational from an individual perspective as it allows moving forward, backfires when looking at the dynamics from the perspective of society as a whole. If citizens or managers are paying bribes to overcome administrative inefficiencies, the incentives in the public administration are actually to work even slower and to create *more*, not less, inefficiency. Indeed, evidence shows that companies that pay more bribes also waste more, not less, management time negotiating with public officials; the "grease-the-wheels" view of bribes as facilitation payments has been refuted (Méon and Sekkat, 2005[57]; Kaufmann and Wei, 2000[58]; De Rosa, Gooroochurn and Goerg, 2015[59]; Gamberoni et al., 2016[60]). However, merely strengthening the control of public officials may backfire as long as the cause for corruption arising due to red tape persists (OECD, 2018[2]). Of course, both citizens and the private sector will reward leaders who are able to reduce administrative and regulatory burden, reducing at the same time the risk of corruption at this level. These visible results and political benefits can well be the incentive to bear the costs of reforms aimed at reducing red tape in the first place (Figure 3.7).

Figure 3.7. The easier the administrative procedures, the more satisfied are the citizens



Source: (Roseth, Reyes and Santiso, 2018[56]) and Latinobarometro 2017.

Most countries in the region have taken steps to simplify administrative procedures, including at different levels of government. In Costa Rica, for instance, several institutions at different levels of government were involved in a process to simplify 41 prioritised procedures to facilitate construction and operation permits. In 2014, the Chilean government set up the *Tu empresa en un día* ("Your Business in one Day") programme destined to facilitate the start-up of new businesses through an online platform (www.empresasenundia.cl). In addition, countries have also made efforts to harmonise all existing formalities and administrative procedures and make them easily accessible online, e.g. through the use of the Single Text of Administrative Procedure in Peru (*TUPA*).

Digital government efforts across LAC countries have played a key role in terms of reducing administrative burden imposed to citizens. For instance, in Mexico, the Coordination of the National Digital Strategy (a body within the Office of the President) in coordination with authorities at the state level, developed the On-line Birth Certificate service (*Tu acta de nacimiento en línea*). This enabled citizens to access and download a copy of their birth certificate with legal validity from anywhere 24/7. Before the launch of this on-line service, Mexican citizens had to visit physically their birthplace (often not the state or municipality of the current residence) to request a copy of their original certificate

and wait weeks for the copy to be issued by the respective authority. The service was launched in January 2018 and has led to roughly 1.53 million of downloads with a level of satisfaction 93%, according to figures provided by the Mexican government (OECD, Digital Government Scan of Mexico forthcoming). This a) reduced the risk of petty corruption resulting from the direct interaction between citizens and public servants, and the need of citizens to speed up formalities, and, b) highlights the relevance of digital government strategies in the fight against corruption while concurrently bringing more convenient services to citizens.

However, administrative simplification programmes in the LAC region are often not systematically targeted on the most burdensome areas of regulation. Methodological guidance on administrative simplification is available in some countries, but in many cases, administrative simplification is carried out on an ad hoc basis without clear target areas or prior engagement with stakeholders. One noticeable example of an administrative burden reduction programme is that of Ecuador where the Unit for Regulatory Improvement and Control is currently assisting the National Transport Agency in its efforts to measure administrative burdens in the transport sector, and to develop a simplification programme (Querbach and Arndt, 2017[55]).

Promoting transparency as a necessary yet not sufficient condition to fight corruption

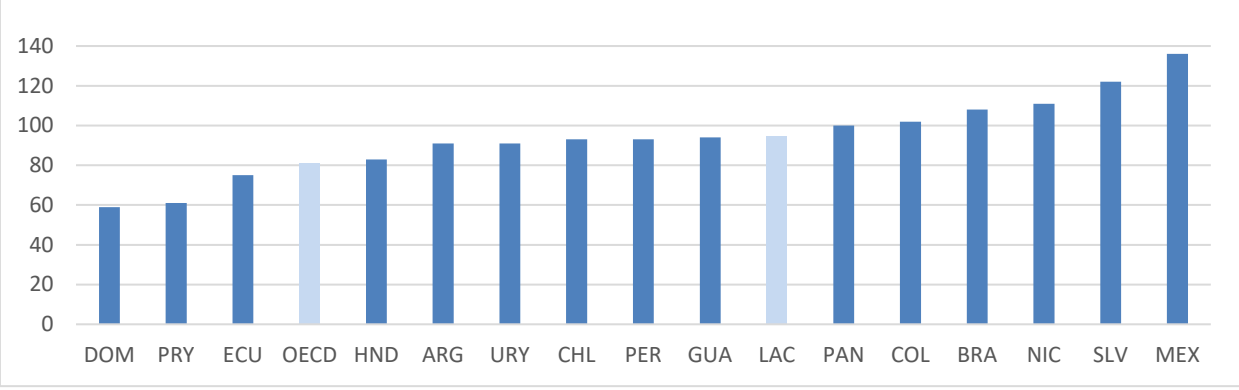
In addition, weaknesses in the management of the "back office" are not only creating inefficiencies but also opening opportunities for corruption because embezzlement and corrupt favours can more easily be concealed and are less easy to detect by control agencies and society. Indeed, weaknesses in planning, financial management, performance budgeting or monitoring and evaluation entail weak accountability for results of the government overall and of the individual public manager in particular. In particular, a lack of transparency (information) may facilitate corruption. Many elements that form part of the open government and digital government reform agendas, including procurement transparency, access to information legislation, asset disclosure and open data are crucial elements for the fight against corruption. In turn, budget transparency is essential to ensure openness, trust and public accountability about how public money is raised and spent. Promoting budget transparency and providing spaces for direct citizen engagement in budget development through participatory budgeting practices is vital to ensure integrity in public governance and strengthening anti-corruption policies. Furthermore, it is an important tool to ensure taxes are being used to deliver quality public services and to achieve real improvements in living standards (OECD, 2017).

However, the link between transparency and corruption is not direct and is empirically contested (Islam, 2006[61]; Escaleras, Lin and Register, 2010[62]). In essence, transparency is a necessary, yet not sufficient condition for preventing corruption. In addition, there needs to be an ability to process the information, and the ability and incentives to act on the processed information (Kolstad and Wiig, 2009[63]). Given the profound lack of trust in government, transparency may even lead to resignation instead of indignation (Bauhr and Grimes, 2014[42]). Transparency therefore needs to be complemented by other types of policies and in particular, requires he existence of civil society and does not work in its absence (Mungiu-Pippidi, 2013[64]).

In Latin America, the *de jure* quality of right to information (RTI) laws is on average stronger than in OECD countries (Figure 3.8). Also, the 2015 OECD Survey on Open Government Co-ordination and Citizen Participation in the Policy Cycle found that 80 %

of OECD member countries and 54 % of LAC countries are currently implementing or already have implemented integrity and anti-corruption initiatives as part of their open government reforms. Moreover, 77 % of Latin American countries currently aim to prevent and fight against corruption by implementing open government initiatives. In addition, the information included in the executive budget is increasing among LAC countries. For example, most LAC countries, with the exception of Barbados and Jamaica, produce a pre-budget report that is published prior to the budget proposal and is meant to encourage debate on budget aggregates and their potential effect on the economy (OECD and IDB, 2014[65]). Beyond publicly providing budgetary information, LAC countries have made good progress regarding citizens' budgets, which are easy-to-understand summary documents of the main features of the annual budget as presented to the legislature, including explanations and definitions of technical terms (OECD and IDB, 2014[65]).

Figure 3.8. The quality of Right to Information Laws is, on average, better than in OECD countries



Note: The maximum achievable composite score is 150 and reflects a strong RTI legal framework. The global rating of RTI laws is composed of 61 indicators measuring seven dimensions: Right of access; Scope; Requesting procedures; Exceptions and refusals; Appeals; Sanctions and protection; and Promotional measures.
Source: Access Info Europe (AIE) and the Centre for Law and Democracy (CLD), Right to Information Rating.

Yet, citizens in Latin America often do not trust or simply do not know how to engage and how to obtain relevant and credible information (OECD, 2018[10]). In part, this is also due to the high inequality in the region, which deepen the participation and engagement problem. As such, the effect of providing information on corruption seems to be limited at best.

Also, despite the progress in budgetary transparency, many countries in LAC have budget earmarks embedded in the constitution or created through primary legislation. In Brazil and Costa Rica, earmarks constitute between 81 % and 100 % of total central government expenditure. As highlighted by the OECD Principle on Budgetary Governance excessive use of earmarking of revenues hinders transparency, limits government ability to reorient resources to priority sectors, and reduces the role of the budget as an instrument to support government policy.

Finally, digital technologies in Latin America are not fully capitalised by public sector institutions to transform how the administrations functions and interacts with the society, and efforts are focused on the mere digitising of existing formalities and internal processes rather than transforming them. The input of key partners such as citizens and civil society organisations is often limited to consultation efforts leaving behind the relevance of user

engagement across the whole service design and delivery cycle. New technologies, such as open government data, are still driven by a strong focus on open data publication rather than emphasising the reuse for value creation (OECD, 2018[66]). This hinders the value of open data as a tool to prevent and identify corrupt practices in areas such as public procurement and conflict of interest (e.g. open contracting data) in collaboration with external stakeholders such as journalists (e.g. data-driven journalism)..

3.2.2. Opportunities for strategic actions

To strengthen public administration from a perspective of reducing corruption risks, Latin American countries could take the following strategic actions.

First, highly visible results are achievable by reducing the administrative burden for citizens and the private sector. This can be achieved by:

- Systematically target the most burdensome and irritating areas of regulation to increase significantly the effectiveness of administrative simplification efforts.
- Actively engage stakeholders to support the identification of such target areas.
- Once specific target areas of administrative simplification are identified, the use of quantitative burden reduction targets would help LAC countries to boost the effectiveness of simplification programmes and foster accountability.

Second, the development of robust open and digital government frameworks can positively contribute to countries' ongoing integrity efforts. In particular, the following actions could be considered:

- Latin American and Caribbean countries could design National Open Government Strategies that includes the development of open government initiatives at the subnational level and across all branches of the central administration and that make explicit reference to their integrity agenda.
- Countries could strengthen the role of the Centre-of-Government to align the wide range of existent parallel policies (e.g. anti-corruption policies, transparency policies, digital government strategies etc.) with the National Open Government Strategy.
- Foster and leverage budget transparency by actively engaging citizens and by limiting the use of budget earmarks.
- Access to public sector information could be improved by reinforcing the existing legal frameworks and strengthening compliance across the public sector.
- Comprehensive and institutionalised consultation processes that are permanently embedded in the whole policy-making cycle can help to improve the quality of public policy-making and reduce the risk of policy capture, integrity and corruption.
- Proactively publish public sector information with no need of citizen action, promoting in particular access, sharing, and re-use of open government data.

3.3. Laying the foundations for an ethical and responsive merit-based civil service

A culture of integrity cannot be achieved without a skilled and motivated civil service, committed to the public interests and delivering value for money for citizens. The human dimension, each single public official of the civil service, is at the heart of the public sector. Reinforcing the professionalism of public employees and the values that guide ethical

behaviour are therefore critical dimensions for a highly performing civil service, with reduced risks of corruption.

Key actions to cultivate a culture of integrity in the public sector comprise, but are not restricted to (OECD, 2017[67]):

- Promoting a merit-based, professional public sector dedicated to public service values and good governance.
- Investing in integrity leadership to demonstrate a public sector organisation's commitment to integrity.
- Providing sufficient information, training, guidance and timely advice for public officials to apply public integrity standards, including on conflict-of-interest situations and ethical dilemmas, in the workplace.

3.3.1. Key challenges

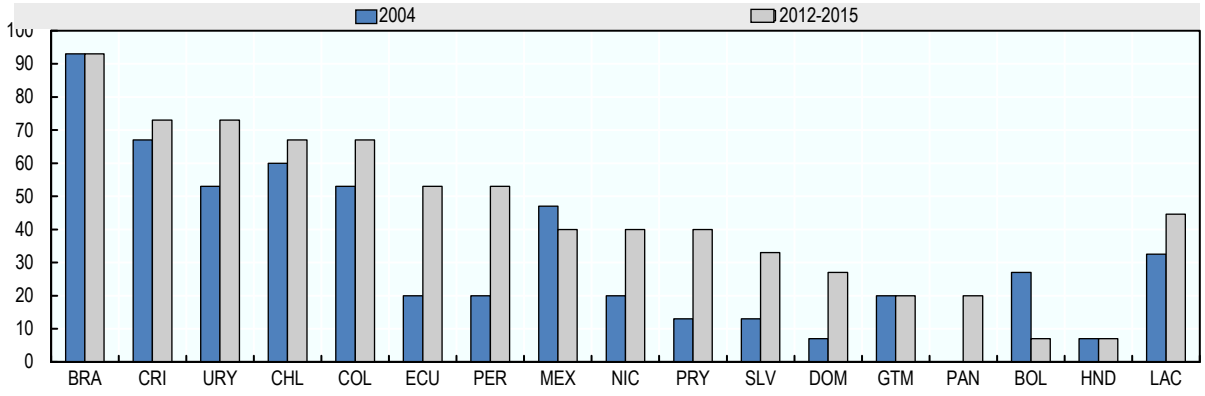
Strengthening the merit principle in the civil service

A merit-based civil service is a fundamental element of any public sector integrity system. It can reduce corruption risks, counterbalance *clientelism* and private interests in favour of a professional civil service working in the general public interest (Dahlström, Lapuente and Teorell, 2012[68]). The reasons for this are multiple:

- As a first step, having merit systems in place reduces opportunities for patronage and nepotism, which, in extreme cases, can be serious forms of corruption when jobs are created solely for the purpose of awarding salaries to friends, family, and political allies. This constitutes a direct diversion of public funds for private gain.
- Merit systems also provide the necessary foundations to develop a culture of integrity and public ethos. By bringing in better-qualified professionals and providing for longer-term employment, merit systems reinforce civil servants' commitment to public service principles and values and reinforce an open culture, where employees do not risk losing their job when raising integrity concerns.
- Having merit systems in place provides the necessary infrastructure and processes to integrate integrity testing and values-based assessments to HR decision making (GOV/PGC/INT(2018)2[69]).

Most countries in the region have made significant progress on meritocratic recruitment for civil servants with scores of the Civil Merit Index significantly improving in almost all countries since 2004 (Figure 3.9). The merit index assesses the following factors: hiring is open to all candidates with required qualifications and is established according to technical considerations, adequate safeguard mechanisms against arbitrariness during the hiring process are in place and dismissals that affect professional positions are not motivated by political changes. One of the main drivers for the improvement is the introduction of public employment web portals through which hiring competitions are more open and wider publicised, a stronger emphasis on selection tests and the strengthening of civil service agencies (OECD, 2016[70]). In 2013, Paraguay, for example, created the portal *Paraguay Concursa*, which covers admission and promotion for competitions, and establishes procedures to create and validate competitive examinations, advertise job positions, evaluate candidates and announce competition results (OECD, 2018[71]) (Box 3.2).

Figure 3.9. Significant improvement of the Civil Merit Index



Note: This index measures the guarantees of professionalism in the way that the civil service system works, and thus places a value on impartiality in decision making in each management subsystem. Specifically, the Merit Index measures the degree of effective protection against arbitrariness, political capture or *clientelism*, and the different ways that interested groups or sectors engage in rent-seeking. The scale is from 0 to 100, with 100 being the best possible score.
Source: (OECD, 2016[70]).

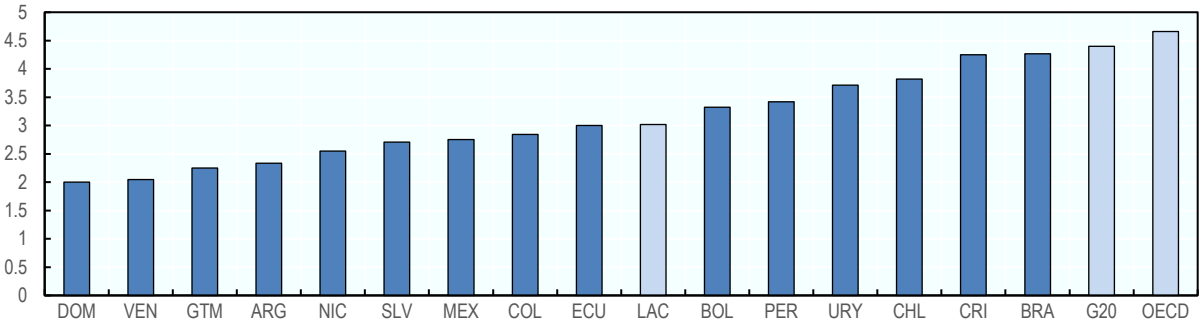
However, several challenges continue to undermine a merit-based public service in Latin America:

- **High degree of politicisation resulting in frequent staff turnover.** In the region, high rotation in the civil service is the norm rather than the exception, favoured by its high dependency on political cycles. The Quality of Governance Expert Survey, data based on the survey of experts on public administration, confirms the high degree of politicisation of the public administration in Latin America which is on average (3.0) perceived to be below the G20 (4.4) and OECD average (4.6). Indeed even the highest scorer, Brazil and Costa Rica, score below the G20 and OECD average (Figure 3.10). It is an indication of the extent to which politics and/or political affiliation impacts staffing in the civil service. This corrodes the professionalisation of the civil service and can lead to patronage and favouritism leading to loyalty not to the public but to the party or "patron" in power. The emanating high turnover rate can threaten management stability and continuity necessary for reforms. If citizens perceive civil servants to be appointed based on political affiliation rather than skills and competences, it can result in the loss of trust in institutions (OECD, 2017[72]).
- **Incoherence of public employment regimes.** Many Latin American (LAC) countries struggle with incoherence across multiple public employment regimes in the public service. In Costa Rica for example, although success has been achieved partly through the Civil service regime (CSR) that regulates employment in the national executive branch, most public institutions outside the CSR have their own legislation regulating public employment and HRM practices (OECD, 2015[73]).This system has led to a significant disparity in employment conditions across institutions. Furthermore, employment regimes designed for temporary employees often allow employers to bypass merit-based recruitment. In Argentina, estimates statistics from the Secretariat of Modernisation suggest that 34 % of the workforce in the public serve is on short term contracts, despite a law stipulating that organisations are expected to limit non-permanent contracts to 15 % of the total workforce (OEA/Ser.L. and SG/MESICIC/doc.490/16. rev. 4, 2017[74]). These

employees on short-term contracts are often renewed indefinitely, effectively making them a permanent employee without having undergone a merit-based recruitment process (OEA/Ser.L. and SG/MESICIC/doc.490/16. rev. 4, 2017[74]).

- **Lack of performance culture.** Creating a performance culture is essential to build a skilled workforce. However, the implementation of performance management systems in LAC countries tends to be formalistic and to suffer from ratings' inflation. For example, in Colombia objectives are often not linked to the duties and functions of the public official and the incentive structure within the public service is inadequate as there are no clear benefits for performing well in the evaluation, such as career progression (Strazza et al., 2016[75]). If implemented effectively, performance evaluations can be used as an anchor point for transmitting values and expectations or clarifying any doubts. The incorporation of integrity and public ethics in evaluations is important, both as a formal assessment criterion and in the way the assessment is conducted. For example, performance objectives can focus on the means as well as the ends, by asking not only if the performance objectives have been achieved, but also how the public official achieved the objectives (OECD, 2017[11]).

Figure 3.10. High perception of politicisation of the civil service in LAC countries



Note: The index measures to what extent the public administration is professional rather than politicized. Higher values indicate a more professionalized public administration. It is based on four questions from the survey: Thinking about the country you have chosen, how often would you say the following occurs today: When recruiting public sector employees, the skills and merits of the applicants decide who gets the job? When recruiting public sector employees, the political connections of the applicants decide who gets the job? The top political leadership hires and fires senior public officials? Senior public officials are recruited from within the ranks of the public sector? The scale for each question is 1-7 (from "hardly ever" to "almost always").
Source: (Dahlström et al., 2015[76]).

Box 3.2. Recruitment procedures in Paraguay

Establishing meritocracy in the recruitment process has been one of the main challenges for the Paraguayan administration. The Secretariat of the Public Service (*Secretaría de la Función Pública*, SFP) started to implement merit-based recruitment in 2009 in 20 institutions, although some institutions, such as the Ministry of Foreign Affairs, already had some meritocratic policies in place. The biggest efforts to improve merit-based recruitment have been made since 2013 through the Centralized Integrated System for Administrative Career (*Sistema Integrado Centralizado para la Carrera Administrativa*, SICCA). SICCA's job position planning and selection subsystems allow for a classification of organisational units (CUO), job positions (CTP) and other organisational units (CCE). Selection is managed through the portal *Paraguay Concursa*, which has been operational since 2013 and registers all information related to the recruitment procedures

Job applicants register and apply for job positions. Job descriptions include minimum and additional qualifications related to professional experience, education and competencies (soft and technical). They also include a 1-10 grading system for working conditions (pressure, mobility requirements, environment and physical effort). The weight of the evaluation criteria depends on the position but usually include academic training, continuous training, working experience, an exam related to the position, performance evaluations, psychometric testing, and an interview with the selection commission. Academic training and work experience tend to have the highest weight.

Job descriptions are established by the selection committee and are analysed by the SFP to make sure that pay and expectations for the position line up. SFP also suggests which recruitment tools should be used and monitors the recruitment process accordingly.

Source: (OECD, 2018[71]).

However, many of these challenges are symptoms of deeper underlying governance issues related to political interests in maintaining the status quo. Indeed, political costs may outweigh the political benefits of civil service reforms, thus impeding progress in the areas above (Geddes, 1991[77]). This explains why reforms have proven difficult to implement while the problems related to a weak civil service are recognised and the remedies are known. Deeper challenges related to political financing and campaigns may thus have to be addressed, too (see section 3.1).

Cultivating a culture of integrity in the civil service

In order to cultivate a culture of integrity in the public sector, measures to promote public ethics and values, such as providing guidance and training for identifying and managing conflict-of-interest situations for resolving ethical dilemmas need to be integrated into public management and not perceived as an add-on, stand-alone exercise. Codes of conduct and ethics can build and raise awareness of common values and standards of behaviour in the civil service (OECD, 2017[11]). However, in LAC countries, codes of ethics are often legalistic and suffer from a high degree of vagueness, fragmentation or limited practical applicability for public officials.

Some countries have recently undertaken efforts to update their codes of conduct to unify and strengthen the framework by clearly defining a set of public ethic values, the

procedures for conflict-of-interest management, and guidance for resolving ethical dilemmas. This is supported by the development of additional codes to address high-risk areas such as contracting, procedures and services, human resources, internal control, finance, public managers. For example, Colombia has recently elaborated a general Integrity Code that is not a legal document and applies to the whole public administration (Box 3.3).

Box 3.3. The Colombian Integrity Code

In 2016, the Colombian Ministry of Public Administration initiated a process to define a General Integrity Code. Through a participatory exercise involving more than 25.000 public servants through different mechanisms, five core values were selected:

1. Honesty
2. Respect
3. Commitment
4. Diligence
5. Justice

In addition, each public entity has the possibility to integrate up to two additional values or principles to respond to organisational, regional and/or sectorial specificities.

Source: Departamento Administrativo de la Función Pública, Colombia, (http://www.funcionpublica.gov.co/eva/codigointegridad/index.html).

In addition to codes of ethics, clear procedures for identifying and managing conflict-of-interest situations are necessary to strengthen integrity in the public sector. The identification of a conflict of interest is exacerbated by a deficient and limited definition of conflict of interest in the legal framework, which is often fragmented throughout various provisions. Due to limited awareness of what constitutes a conflict of interest and how to manage it, public servants in LAC often equate conflict of interest with corruption (OECD, 2017[11]) (OECD, 2017[12]). As a result, they are reluctant to proactively declare a conflict-of-interest situation out of fear of sanctions. In addition, in many LAC countries the procedure to declare a conflict of interest lacks clarity and does not explicitly explain to public servants how and where to declare a potential conflict of interest.

To effectively implement the core values and standards, entities need to continuously educate and train public servants on applying public ethics and identifying and managing conflict-of-interest situation. However, in Latin America, the same causes undermining merit also undermine training and capacity-building efforts. First, training efforts often depend on the contractual status of employees in the public service and thus do not extend to staff that does not form part of the administrative career. For example, in Colombia the total number of staff outside of the administrative career is estimated around 60 % of the total staff (OECD, 2017[11]). Second, building capacities for integrity and the longevity of training efforts are weakened by the frequent and high staff turnover rate (OECD, 2017[72]). Continuity to build a culture of integrity is threatened.

At the same time, short-term service contracts imply integrity risks, such as potential conflicts of interest arising out of pre- or post-public employment. In Peru, budget law limitations on recruitment in the public sector led to an increase of 63 % of the

administrative service contracting (Contratos Administrativos de Servicios, CAS) regime between 2010 and 2014 (OECD, 2016[78]). Such a rapid increase in short-term contracts, can also negatively impact the sense of belonging to the public entity and ownership with respect to the values of the public service. It can result in less importance placed on the implementation of a strong ethics culture in the workplace, as employees are not employed long enough to feel engaged with public integrity values and apply these measures in practice (OECD, 2017[12]).

Furthermore, senior public servants play an important part in cultivating a culture of integrity in which public servants feel confident to speak up. They exemplify and transmit the public service and organisational values. Ethical leadership strengthens credibility in the norms and standards by making the values applicable to the daily work and acting according to these. In order to fulfil this role, senior public servants need to be trained specifically in public ethics. One priority area in such training is how to encourage employees to come forward when faced with a conflict-of-interest situation. However, this is often neglected in the region and instead a lack of guidance and weak tone from the top persists which is counteractive to an open organisation culture (Brown, Treviño and Harrison, 2005[79]).

3.3.2. Opportunities for strategic actions

Considering the challenges indicated above, LAC countries could consider the following recommendations:

- Strengthen fundamental public service values such as merit, probity, or political neutrality and legality in recruitment and career management. Meritocratic recruitment is fundamental to get the necessary skills into the civil service. Chile's Senior Executive Service (Sistema de Alta Dirección Pública, or SADP) stands out in the LAC region as the successful merit-based selection and management system for senior public leaders, which has helped to ensure highly qualified executives are selected to lead the modernisation of Chile's public sector and the overall economic and social development (OECD, 2017[80]).
- In order to have a merit based civil service system, there needs to be a transparent and logical organisational structure, which clearly identifies positions and describes the role and work to be performed by this position. This ensures that the creation of new positions is done with the right intent, based on functional need, and that the selected public official fulfils the necessary requirements. In systems where patronage and nepotism is a high risk, it is necessary to make the full organisational chart open to public scrutiny.
- Reinforce the role of performance assessments, which need to be transparent and efficient. Reliable performance assessment information can be a valuable asset to adjust existing policies or processes, and to link individual performance to broader organisational goals. Integrity could be included as one performance indicator, in particular for senior public servants. Special recognition could be given to those public officials that consistently engage in meritorious behaviour or contribute to building a climate of integrity in their department.
- Ensure that the public integrity management framework is based on corruption risks, applies to all public employees independent of their contractual status, clearly defines public values, provides guidance and procedures for conflict-of-interest situations and ethical dilemmas and clearly distinguishes between asset declarations and ad-hoc procedures to resolve a conflict-of-interest situation. For

example, Mexico's Specialised Unit for Ethics and Prevention of Conflicts of Interest (UEEPCI), of the Ministry of Public Administration (SFP), which in March 2016 issued a document to guide public officials in identifying and preventing conducts that could constitute a conflict of interest for public officials.

- Continuously train and raise awareness of public ethics and develop public servants' capacities to react to conflict-of-interest situations and ethical dilemmas. Dedicated integrity actors can shape the integrity culture in an organisation by providing guidance and advice in case of doubts and dilemmas in a personalised manner and on an ad-hoc basis (see section 3.9.1).

3.4. From compliance to assurance: Reinforcing internal and external control and audit

Ensuring compliance with standards and regulations and achieving efficiently the results the government promised to deliver is the strategic role of the internal control system, as well as external control and audit. As such, a solid internal control and risk management framework is the cornerstone of an organisation's defence against corruption and other unethical practices and key in achieving good governance.

An internal control and risk management framework safeguards the integrity in public sector organisations, in particular by ensuring a favourable control environment and a strategic approach to risk management that includes assessing integrity risks and addressing control weaknesses. All public officials have a role within a high functioning internal control system, which generally has three core elements: management, oversight and internal audit (Box 3.4). A credible control environment also includes clear procedures for responding to suspicions of violations of laws and regulations, and facilitating reporting to the competent authorities without fear of reprisal through effective whistleblower protection frameworks (OECD, 2016[81]).

Box 3.4. The Three-Lines of Defence Model

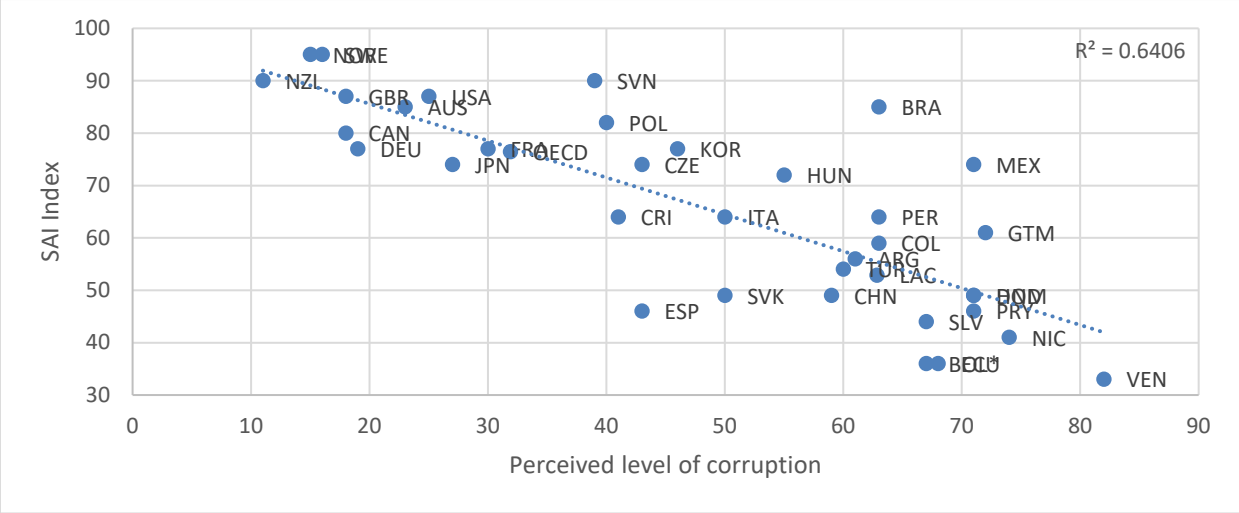
The three-lines of defence, or assurance, model provides guidance on the core functions of an internal control system.

- **Management (First Line):** Functions responsible for designing, developing, implementing, and executing controls, processes, and practices to deliver services, objectives, and drive intended results (i.e., outcomes). This line is responsible for the effective and efficient management of the service delivery and the daily operations of the entity. Because oversight and independent assurance cannot compensate for weak management or control, these functions generally have the greatest influence on entity-wide risk management. It is at this level that risks arise and have to be managed by the "risk owners."
- **Oversight (Second Line):** Functions responsible for overseeing and monitoring line management and front desk activities. These groups may include (but are not limited to) functions responsible for financial control/oversight, privacy, security, risk management, quality assurance, integrity management and compliance. Oversight functions also inform decision makers with objective perspectives and expertise, and provide continuous monitoring to strengthen risk management.
- **Internal Audit (Third Line):** A professional, independent and objective appraisal function that uses a disciplined, evidence-based approach to assess and improve the effectiveness of risk management, control and governance processes. Internal Audit may provide consulting, assurance, or a combination of both to inform key decisions and support good and accountable public governance.

Source: (Institute of Internal Auditors, 2013[82]; OECD, 2017[11]).

In addition, supreme audit institutions (SAI), regulators, and other external bodies reside outside the organisation's structure, but they can have an important role in the organisation's overall governance and control structure – they are sometimes referred to as the fourth line of defence (Institute of Internal Auditors, 2013[82]). External oversight and audit reinforces a public integrity system by overseeing and holding the government to account for its use of public resources, facilitating organisational learning and by ensuring the impartial enforcement of laws and regulations. Figure 3.11 shows for a sample of OECD and LAC countries, that countries with stronger SAIs indeed also exhibit lower levels of perceived corruption. Beyond oversight, external control can provide valuable insights and foresight to inform public policies (OECD, 2016[83]).

Figure 3.11. Countries with stronger Supreme Audit Institutions tend to experience lower levels of perceived corruption (OECD and LAC countries)



Note: Perceived level of corruption is measured by the Corruption Perception Index from Transparency International that has been inversed to facilitate interpretation of results as level of corruption (the higher the score, the higher the level of perceived corruption). The SAI Index (0 to 100) has been constructed based on the simple average of question no. 98-102 and 118-124 of the Open Budget Survey 2017; higher scores reflect stronger SAI.
Source: Transparency International 2017, International Budget Partnership, Open Budget Survey 2017.

In this sense, INTOSAI's publication, "Guidance for Reporting on the Effectiveness of Internal Controls: SAI Experiences In Implementing and Evaluating Internal Controls," issued by the Internal Control Standards Sub-Committee, note that the role of internal auditors is critical for an organisation's internal control structure, but SAIs also play a key role. Specifically, SAIs are critical for: 1) establishing internal control standards; 2) creating a solid internal control framework; 3) working with internal auditors; and 4) evaluating internal controls as an integral part of both financial and performance audit.

Moreover, accountability institutions, such as internal and external control institutions can develop joint actions, match priorities, work together in special operations, exchange information, develop intelligence systems, and sign cooperation agreements. Such interactions can contribute significantly to the fulfillment of the principle of keeping governments accountable (Aranha, 2018[84]). This reflects the importance of a holistic, whole-of-government approach that engages the system of oversight actors, recognising the unique contributions of each stakeholder for ensuring accountability.

Beyond traditional oversight, external control, SAIs and internal audit bodies can contribute to a more strategic and forward-looking states, not only by promoting integrity and ensuring compliance with rules and standards. For instance, audit entities can provide verification of the efficiency, economy and effectiveness of public resource management and their audit findings, can serve as a valuable evidence base for government accountability and as an input to decision-making processes (OECD, 2014[85]). Audit bodies can also conduct performance audits of the internal control system and integrity systems more generally to ensure policies and practices are meeting stated goals.

Additionally, in resource-constrained environments, such as the case of LAC countries, where governments may face challenges when assessing policy priorities and making strategic trade-offs, external control can provide valuable insights and foresight to inform

the policy cycle, particularly policy formulation (Box 3.5). These entails going beyond traditional oversight roles to inducing change in government by informing decision makers as to what works and what does not in public governance (OECD, 2016[83])..

Box 3.5. Supreme Audit Institutions' activities in supporting the policy cycle

In addition to the traditional SAI activities, such as auditing of public accounts and overseeing financial allocation, SAIs may contribute to the formulation, implementation and evaluation of policies (i.e. the policy cycle). These activities take the form of assessment carried out by the SAIs on key functions of the policy cycle.

These assessments may include performance, compliance of financial audits, or a combination of those, differing, however, from specific policy evaluations undertaken by governments. Additionally, SAIs can provide insight and foresight by means of, for example, research initiatives and written or verbal guidance.

The outputs of such assessments can be used by the Centre of Governments (CoG) institutions and other relevant entities, to inform the different policy stages:

- Policy formulation: setting the public sector up for success by 1) defining roles and responsibilities; 2) considering resources and budgets; and 3) developing rules and guidance.
- Policy implementation: an ensuring co-ordination and communication, efficient execution of the budget and application of regulations and controls to deliver on objectives.
- Policy evaluation and oversight: checking the pulse of government and using it objectively to promote high standards, good governance and effective, inclusive policies.

Source: OECD (2016) Supreme Audit Institution and Good Governance: Oversight, Insight and Foresight, OECD Publishers, Paris.

3.4.1. Key challenges

Given a similar tradition of public administration, many Latin American countries experience comparable challenges related to risk management and internal control. For example, the OECD Integrity Reviews of Peru, Mexico (including at the subnational level), Colombia and Argentina reveal a set of common, inter-related, challenges (OECD, 2017[9]; OECD, 2017[11]; OECD, 2017[12]).

- The main challenge consists in overcoming the gap between the normative framework of internal control, which in Latin America is generally advanced and complying with international standards, and its practical implementation in the daily management of the public entities.
- Often, there is a disconnect between institutional planning, implementation, monitoring and evaluation, along the PDCA cycle (Plan-Do-Check-Act) on the one hand, and internal control, internal audit and risk management on the other hand.
- A legalistic administrative tradition entails a practice of internal control, risk management and internal audit focusing more on ensuring compliance with existing rules and procedures and on detecting wrongdoing, and less in providing assurance over the achievement of the objectives of the organisation (results).

- This compliance-based orientation of internal control and risk management leads public officials to confuse it with external control and to neglect their own role and responsibility as the first line of defence. This includes enabling managers in the executive branch to take responsibility over the internal control and risk management activities (e.g. risk mapping and assessment), as well as improving the use of risk data to inform controls, policy choices and decisions.
- The linkages between internal control and internal audit activities with fraud and corruption control frameworks and investigations as well as disciplinary procedures are often not very well defined which leads to confusion, duplications, inefficiencies among public managers, staff and the practitioners working in these areas about the added value and concrete roles of each of these functions.
- Integrity risks could be better integrated into existing risk assessment processes. Mexico, Colombia and Peru have developed some useful guidelines, but managers may need more ad hoc guidance in considering fraud and corruption risks.
- The design of the internal audit function in some countries can cause confusion regarding the three lines of defense, and encourage the lack of appropriation of the public managers regarding risk management. When internal audit units conduct risk assessments instead of the managers, they are de facto relieving those actually responsible for the management and supervision of these risks. The internal audit function should issue an opinion about the quality of risk assessments and provide recommendations for continuous improvement.

Regarding SAIs, their role of verifying government expenditure and providing oversight for accountability and transparency is generally well-established in the region. Moreover, several SAIs in the LAC region (e.g. Brazil, Chile and Peru) have jurisdictional competencies that affords them unique powers, relative to other SAIs, to ensure the proper use of government funds and prevent misconduct or mismanagement.

Challenges, however, remain in the following areas:

- **Going beyond oversight to include insight and foresight.** SAI's functions beyond the traditional role of oversight are not fully apparent or understood across governance actors (OECD, 2016[83]). Many SAIs, including those with jurisdictional status and functions, are auditing across the policy cycle to ensure robust internal control systems and better management of public expenditures.
- **Horizontal Co-Ordination**. Lack of co-ordination / need for enhancing co-ordination between actors within an integrity system, including internal and external audit entities, anti-corruption bodies and regulators. For example, as highlighted in the OECD Integrity Review of Mexico, strong multi-level governance, including effective co-ordination and collaboration among relevant actors at the same level of government (e.g. the supreme audit institution and internal audit entities at the national level) is needed for achieving the goals of accountability, integrity and transparency.
- **Vertical Co-Ordination**. The lack of co-ordination between the different levels of the government can be a challenge to the SAI's oversight, in federalists countries (i.e. Brazil, Mexico, Argentina and Venezuela), or centralist countries, such as Peru. The OECD Multi-dimensional Review of Peru highlighted one of these challenges by pointing out that the system of fiscal transfers from the central government to the regional and local levels has not yet developed the necessary control processes (OECD, 2015[86]). The current responsibility and accountability attributed to the level of municipalities, as well as the unclear relation between the

provinces and the regions, do not favour the creation of an effective multi-level control environment that would guarantee and safeguard the proper use of taxpayer money. This issue has also influence Brazil's SAI (*Tribunal de Contas da União)*, which has included in its strategic plan 2015-2021 the need for better co-ordination in the oversight of decentralised policies.

- **Capacity and resource constraints**. SAIs themselves have identified as key factors that limit their involvement in the policy cycle the lack of resources, the lack of skills amongst staff and the lack of skills of the executive (or the auditee) (OECD, 2016[83]). For example, as pointed out in the OECD Integrity Review of Mexico, the professionalisation of public auditing in Mexico remains an ongoing challenge, and one of the principal barriers to strengthening audit functions and effectively implementing Mexico's SAI initiatives. Moreover, high levels of turnover of public auditors further hinder professionalization, ultimately making it difficult to establish a core cadre of professional auditors that are recruited and promoted based on merit, with job security and opportunities for continual development and learning.
- **Audit recommendations and follow-up.** The communication of audit findings and stakeholders' engagement can be other challenges, as identified in the Chile's Supreme Audit Institution: Enhancing Strategic Agility and Public Trust. Chile's SAI (*Contraloría General de la República de Chile*) stakeholders within the executive and legislature, as well as representatives of civil society and the media, find it difficult to articulate what main issues the control body has raised about specific public entities, government sectors and/or management functions (OECD, 2014[85]). Moreover, the impact of external audit reports is seriously limited if the executive branch does not follow-up on the recommendations. Table 3.1 shows that with the exception of Brazil, LAC countries do not require the executive branch to publicly report on the steps it has taken to address audit findings.

Table 3.1. In Latin America, only in Brazil the executive reports on steps taken to address findings from SAI audit reports

Does the executive make available to the public a report on what steps it has taken to address audit recommendations or findings that indicate a need for remedial action?

	Yes, the executive reports publicly on what steps it has taken to address audit findings.	Yes, the executive reports publicly on most audit findings.	Yes, the executive reports publicly on some audit findings.	No, the executive does not report on steps it has taken to address audit findings.
OECD	GBR , NOR, SWE	CAN, NZL, SVN, USA	AUS, PRT	FRA, DEU, ITA, ESP, CZE, HUN, JPN, POL, SVK, KOR, TUR
LAC	BRA	-	-	ARG, BOL, CHL, COL, CRI, DOM, ECU, SLV, GTM, HND, MEX, NIC, PRY, PER, VEN

Source: International Budget Partnership, Open Budget Survey 2017.

3.4.2. Opportunities for strategic actions

Internal control and audit and risk management could be strengthened by taking the following actions:

- Strengthen risk management policies and the use of risk assessments among "risk owners" (i.e. first line of defence), and ensure results are used for making strategic decisions and ensuring the effectiveness and efficiency of control activities.
- Both within and among accountability institutions, conduct trainings and awareness-raising activities that facilitate co-ordination, engage all levels of the institutions, and improve understanding about the various roles of stakeholders within the internal control system, in line with international standards.
- Drive a culture of integrity and risk management through policies, trainings and tone-at-the-top that sends a positive message linking anti-corruption and pro-integrity measures to the success of strategic objectives and the effectiveness of governance. Scaling up of training activities can also help to further professionalise public auditing.
- Strengthen planning and public management frameworks to facilitate accountability for results and thus setting incentives for public managers to appreciate the value-added of internal control and risk management (Box 3.6).
- Facilitate internal and external reporting to competent authorities without fear of reprisal through effective whistleblower protection frameworks, ensuring follow-up, and promoting a culture of openness.

Box 3.6. Integrating public management, integrity and internal control: The Integrated Planning and Management Model in Colombia

The Integrated Planning and Management Model (Modelo Integrado de Planeación y Gestión, or MIPG) is a reference framework for directing, planning, executing, monitoring, evaluating and controlling the management of Colombian public entities, in order to generate results that meet development plans and solve the needs and problems of citizens, with integrity and quality of service.

The MIPG consists of seven dimensions through which one or more Institutional Management And Performance Policies are developed:

- Human talent (heart of the model);
- Strategic Direction and Planning (planning);
- Management with Values for Results (do);
- Evaluation of Results (verify and act);
- Information and Communication (transversal dimension);
- Knowledge and Innovation Management (transversal dimension);
- Internal Control (verify, act and ensure).

Integrity policy as a force for change

Although integrity is an element in all dimensions of the MIPG, the development of Integrity Policies was included as a fundamental part of Strategic Human Talent Management (Dimension 1). Integrity Policies seek to establish and promote values in the Colombian public service that encourage and strengthen practices and behaviours that are integral and exemplary. To achieve this challenge, the adoption of the recently developed general code is one of the ways in which Integrity Policy can be developed.

For the adoption, public entities should consider at least the following aspects:

- Leadership of the management team and the coordination of human management areas;
- Carry out permanent participatory exercises for the dissemination and ownership of the values and principles proposed in the Integrity Code;
- Establish a system for monitoring and evaluating the implementation of the Code to ensure compliance by the public servants when exercising their functions;
- Familiarise public officials with the Code in a way that builds on their personal experiences to encourage reflections about their work and role as public servants that eventually lead to changes in their behaviour;
- Adopt and internalise the Code of Integrity, and in accordance with the particularities and autonomy of each public entity, add principles of action ("what I do" and "what I don't do") to the five values established in the Code and include up to two additional values, if the entity deems it necessary.

Source: Función Pública (2017), Modelo Integrado de Planeación y Gestión.

In turn, internal and external audit can be leveraged for integrity and good governance through the following actions:

- Ensure external and internal audit entities function independently of the executive and legislature, including independence in the management of resources, setting

their work programme, conducting audits and follow-up. Legal, policy and implementation gaps can threaten the independence, capacity and coherence of auditing at all levels of government. Sound human resource management policies in audit institutions could also help to ensure independence and effective implementation of SAI initiatives.

- Audit entities could enhance outreach, communication strategies to improve the relevance and impact of their work among key stakeholders, including auditees, the legislature and citizens. They could also work on developing new products (e.g. audits of systemic integrity issues, such as the Ethics Audits in Costa Rica, or audits of government-wide risk assessments), as well as providing quality assurance to demonstrate to stakeholders the relevance, importance and quality of work. This means going beyond oversight, and focusing on audits that offer insight and foresight to government decision-makers to improve policies.
- External and internal audit bodies could further develop policies and practise for following-up on recommendations and the results of audit reports, including specific actions taken by governments to strengthen integrity systems.
- Audit entities could identify opportunities for cross-country cooperation, including joint audits (e.g. audits of government entities responsible for customs and border crossings), to ensure a holistic, co-ordinated approach for addressing high-risk areas for illicit activities.
- For better co-ordination across levels, SAIs could align strategic objectives and address areas of need, particularly in municipalities. State legislatures and the SAIs could increase budgetary resources and address capacity gaps to help other levels' audit institutions fulfil their mandates and mitigate the risk of disparities across regions and levels of government.

3.5. Enhancing trust in the system through effective enforcement mechanisms

Enforcing laws and regulations is a necessary element to prevent impunity within society, to ensure the credibility and legitimacy of the institutions, to ensure justice and access to services to citizens, and to level the playing field among economic actors.

Without responses to integrity breaches and the application of criminal and disciplinary sanctions in a fair, objective and timely manner, countries cannot ensure accountability and build the necessary credibility to deter people from engaging in unlawful conducts. Especially in situations of widespread systemic corruption, for instance within specific public entities in high-risk sectors (such as customs, prisons, social insurance, police, among others), ensuring effective enforcement is key to break the vicious cycle of corruption and consolidate trust in the government leaders and institutions.

3.5.1. Key challenges

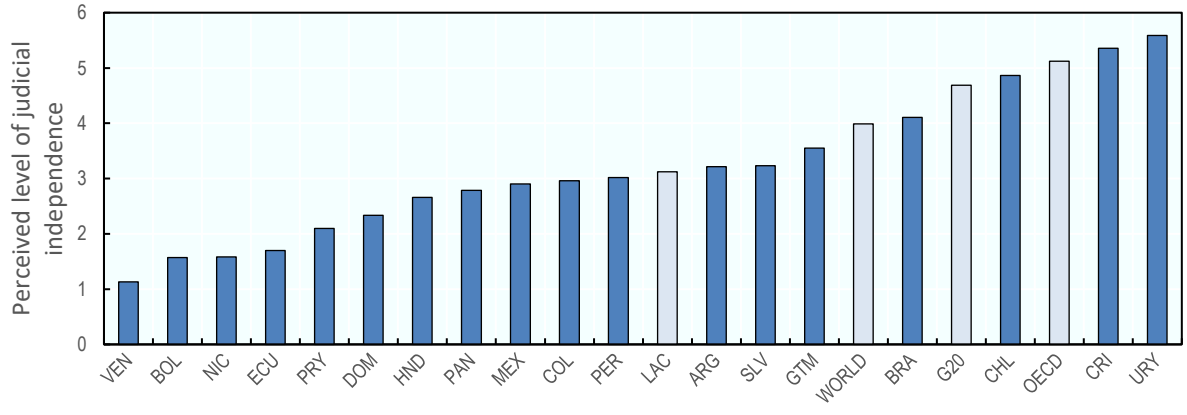
Criminal enforcement

In order to set the stage for enhanced trust in governmental systems, criminal law enforcement frameworks are key as they determines whether anti-corruption laws and regulations are credible and can thus have a deterrent effect. A credible criminal law framework should comprise the following components: a strong and independent law enforcement apparatuses; robust corporate liability frameworks to enable the strongest and most influential driving forces of corruption to be held accountable; extensive and consistent international cooperation among relevant anti-corruption and regulatory

authorities; and tailor-made business integrity practices and norms (as a partial defence or mitigating factor in sentencing, see section 3.9). Challenges in all components remain.

First, prosecution services in Latin American countries, as a whole, do not always function in an independent and autonomous nature. Anti-corruption investigations and prosecutions across the region should not be influenced by political factors, considerations relating to the national economic interest, the potential effect they may have on relations with other countries, or on the identity of the natural or legal persons involved. While there have been some positive developments in this area (e.g., the independence and autonomy of the *Lava Jato* investigation in Brazil, the implementation of new transparency measures within the Superintendencia de Sociedades in Colombia, etc.), events in other jurisdictions have eroded citizens' trust in the ability of prosecutors to seriously investigate and prosecute corruption. In addition to strong, independent law enforcement authorities, an impartial, independent judiciary is essential. Perceptions of judicial independence in the region are low, however (Figure 3.12) and may indicate that members of the judiciary are themselves part of the problem.

Figure 3.12. Judicial Independence is perceived as low in LAC



Note: Data for Bolivia from 2016-2017.
Source: World Economic Forum, Global Competitiveness Reports 2016-2017 and 2017-2018.

With the exception of a few examples, efforts by some Latin American jurisdictions to establish technically independent prosecution services often fall short. In such instances, newly created or reformed attorneys general offices are not granted sufficient autonomy (despite legislators' best intentions), either because prosecutorial decision-making is too intertwined with or dependent on the executive or because the chief law enforcement officer (e.g., Attorney General, etc.) may be a political appointment who could be removed from office without cause.[3] As a result, there is a need to establish additional guarantees of independence to distance prosecutorial entities from other branches of government and enable prosecutors to exercise discretion to investigate and prosecute cases in accordance with the law.

[3] *See* OECD Working Group on Bribery – Phase 3bis Report on Implementing the OECD Anti-Bribery Convention in Argentina (March 2017), pp. 35-36; *see also* Due Process of Law Foundation & WOLA Report (April 2018), *A Fiscalía that Works in Mexico: The Path to Ending Pacts of Impunity and Corruption in the Country*, p. 5 (https://www.wola.org/wp-content/uploads/2018/04/Report-Fiscalia-ENG.pdf)

When a prosecution service fails to properly investigate corruption allegations or drops high-profile corruption cases, this has an inevitable impact on public trust. For example, Mexico has seen three of its Attorneys General resign in the past four years, two of whom have either closed high-profile cases or declined to open investigations altogether.[4] This lack of trust leads to an unfortunate cycle that exacerbates impunity for corrupt acts and may lead to an increased reluctance among whistleblowers, witnesses, and informants of acts of corruption to divulge the valuable evidence they hold (fear of retaliation, lack of confidentiality, feeling of wasting time, etc.). As a result, prosecutors bring cases with insufficient evidence or decide not to bring cases at all, furthering this detrimental cycle.[5]

Second, significant challenges in the region remain with respect to holding companies responsible for corruption. In recent years, a select number of Latin American countries have recognized the importance of holding companies accountable for acts of corruption by either introducing or modernising mechanisms for corporate liability in their legal frameworks. However, for the countries that have adopted corporate liability frameworks, the notion of holding a company legally responsible for any wrongful conduct is still a novel one. For example, some law enforcement authorities are grappling with how and which acts carried out by individuals can trigger the legal responsibility of companies. They also encounter difficulties with consistently and coherently assessing and taking into account corporate compliance or "integrity" programmes which are subject to strict legal frameworks for partial defence or sentence mitigation in other jurisdictions such as the United States and the United Kingdom and are at risk of being applied and interpreted in a non-uniform manner, creating further confusion and legal uncertainty. Additionally, countries such as Chile and Peru allow companies to seek certification of their anti-corruption compliance programmes but there is still uncertainty surrounding the legal effect such certifications have and whether they allow a company to escape liability and there is little if no guidance available on these issues.[6]

However, in a large number of jurisdictions there is still a lack of technical expertise and experience among relevant enforcement entities when it comes to corporate and financial investigations and prosecutions. The low levels of resources and available training on complex subjects related to corporate investigations such as forensic accounting, cybercrime, and illicit financial flows have created obstacles to adequate enforcement and capability across nearly all jurisdictions in the region. Lastly, there are a number of jurisdictions that have yet to enact corporate liability frameworks at all. This creates legal inconsistencies and loopholes between LAC countries and negatively impacts the number of corporations that are held liable throughout the entire region given the multijurisdictional nature of anti-corruption enforcement. If left unaddressed, these factors could hamper

[4] *See* WOLA (18 October 2017), "Resignation of Mexico's Attorney General: An Important Yet Insufficient Step to Ensure an Independent and Effective Institution" (https://www.wola.org/2017/10/resignation-attorney-generals-office-mexico-important-yet-insufficient-step-ensure-independent-effective-institution/).

[5] *See* New York Times (2 December 2017), "Mexico's Government is Blocking its Own Anti-Corruption drive, Commissioners Say" (https://www.nytimes.com/2017/12/02/world/americas/mexico-corruption-commission.html); *See also* New York Times, (11 June 2018), "Mexico Could Press Bribery Charges. It Just Hasn't" (https://www.nytimes.com/2018/06/11/world/americas/mexico-odebrecht-investigation.html).

[6] OECD Working Group on Bribery – Phase 3bis Report on Implementing the OECD Anti-Bribery Convention in Chile (March 2014), pp. 18-20; *see* FCPAmericas Blog (02 April 2018), "Peru Introduces Corporate Liability for Corruption Offences with Compliance Program Defence (http://fcpamericas.com/english/anti-corruption-compliance/peru-introduces-corporate-liability-corruption-offenses-compliance-program-defense/); *see also* Article 19, *Ley que Regula la Responsabilidad Administrativa de las Personas Jurídicas por el Delito de Cohecho Activo Transnacional*, entered into force on 1 January 2018 (http://www.leyes.congreso.gob.pe/Documentos/Leyes/30424.pdf).

efforts to end impunity for corrupt corporate actors and management. It is therefore imperative that those jurisdictions without corporate liability regimes take the necessary steps to introduce such frameworks.

Third, legal cooperation on a regional scale has become increasingly important during recent years. Recent far-reaching corruption scandals have shed light on the lack of effective cross-border coordination and enforcement, which enables corrupt actors to escape liability for longer periods of time and wreak further havoc on public trust in the State. In the Odebrecht case, for example, some investigative and prosecutorial entities in jurisdictions outside of Brazil were unaware of how entangled their own public officials and private sectors were with Odebrecht's business operations.[7] This is largely due to the lack of regular and effective international cooperation (e.g., coordination of complex investigations in real-time, consistent exchange of evidence, and regular channels of communication) that would allow authorities to overcome the substantive and procedural obstacles that allow them to keep up with corrupt actors. There is an immense need for mechanisms that allow authorities to build important professional contacts and facilitate informal and formal cooperation. Indeed, Latin America and Caribbean anti-corruption law enforcement authorities themselves have recently prioritised the need for increased cooperation; namely the Lima Declaration (April 2016), followed by the Brasilia Declaration (February 2017) the Puebla Declaration (August 2017), and the Lima Commitment (April 2018).

Disciplinary enforcement

Disciplinary enforcement also plays an essential – and often underestimated – role within public integrity systems because it ensures compliance of the integrity rules and values by public officials, and it helps identify risk areas where efforts are most needed. Furthermore, the enforcement of the disciplinary framework helps signal to citizens that government is serious about upholding the public's best interests and is worthy of their confidence and trust. Indeed, disciplinary procedures have the function to address offences affecting public trust and damaging the state's reputation that - if not properly sanctioned - create a sense of impunity undermining the legitimacy of the state and the principle of the rule of law. In Latin America, countries face challenges in setting up effective disciplinary systems and ensuring accountability of public officials to the integrity framework, fuelling a general sense of impunity both in the public sector and in society as a whole.

Building on the work carried out in OECD countries in the region, a number of challenges have been identified (OECD, 2017[9]; OECD, 2017[11]; OECD, 2017[12]; OECD, 2018[10]).

- **Gaps and overlaps in the scope of application of the disciplinary system**. In some cases, like in Argentina, the general disciplinary framework does not apply to all public officials who are not part of the stability regime such as contractors and advisors. In others, like Peru, the disciplinary system is based on two separate regimes (disciplinary and functional), creating several risks to the effectiveness, procedural fairness and consistency of the overall enforcement mechanism because of some potential overlap between the sanctionable offences of the two systems (a single offence committed by a civil servant may be addressed theoretically under

[7] New York Times (13 February 2017), "Corruption Scandals with Brazilian Roots Cascade across Latin America" (www.nytimes.com/2017/02/13/world/americas/peru-colombia-venezuela-brazil-odebrecht-scandal.html); Agencia EFE (17 February 2017),"Prosecutors from 11 Countries Agree to Cooperate on Odebrecht Case" (www.efe.com/efe/english/portada/prosecutors-from-11-countries-agree-to-cooperate-on-odebrecht-case/50000260-3182151).

both regimes) and because different sanctioning decisions (by different regimes) may be reached and imposed for similar offences. Another issue emerging from the OECD reviews is the lack of coherence between the integrity framework and the disciplinary systems, leading to uncertainty on public officials on what would be the consequences for breaching integrity-related duties.

- **Poor coordination and exchange of information among offices and institutions participating in disciplinary procedures**. Disciplinary proceedings entail an articulated process involving several actors and institutions, and this creates the risk that breaches remain unpunished if cases are not effectively taken care of by institutions taking part in it. The OECD experience reveals that in Latin America coordination is a key deficiency in disciplinary procedures and that a number of elements favour the lack of an effective case-management mechanism. These include the high level of discretionarily in handling cases, the lack of clarity on the scope of action of each areas/institution as well as on the quality and content of the files sustaining a case, whose formats are not always homologated. On top of that, coordination remains a challenge also among disciplinary offices in ministries, which is key to address common concerns and exchange best practices.
- **Insufficient collection and use of data on the disciplinary system.** The availability and use of data concerning the disciplinary regime seems to be limited in Latin America, where information is generally not public or published in an aggregate manner. This has consequences on the integrity system as whole since the collection of relevant data on the disciplinary system can have multiple purposes. Firstly, they can feed indicators within the monitoring and evaluation activity of integrity policies (see section 3.10.2) or in assessing the performance of the disciplinary system as a whole. Secondly, they can support policy-makers and enforcement authorities in identifying high-risk areas where further efforts are needed. Lastly, they can be part of a communication strategy which gives evidence of the State's enforcement activity and contributes to build trust in institutions' capability to hold public officials accountable for integrity-related breaches.
- **Poor professionalism and capacity building.** Professionalism and capacity building are needed to sustain an effective disciplinary system, whose success also depends on having adequate capacities in place as well as on staff whose professional profiles reflect the mandate and tasks required to carry out meaningful investigations. In relation to disciplinary regimes, this may translate into administrative law experts, investigators, accountants, subject-matter experts (for particularly complex cases), financial experts, IT specialists, managers/co-ordinators and support staff. In Latin America there are several issues that threaten the effectiveness and objectivity of staff working on disciplinary matters, including the lack of training, understaffing, high turnover and uncompetitive wages. Although having the right number and mix of staff is a challenge, particularly in times of budget constraints, capacity costs should be weighed against the costs of non-compliance such as the decline in accountability and trust, direct economic losses, etc.

3.5.2. Opportunities for strategic actions

Criminal enforcement

Despite positive achievements in the area of anti-corruption enforcement across Latin America in recent years, there is still significant room for reform. The level of public trust

in government not only depends on highlights or major successes of anti-corruption enforcement, but on whether and how such advances are translated into long-term, meaningful and consistent results (i.e., prompt investigation of allegations, equal application of prosecutorial principles and rules across all matters, increased respect for the autonomy and discretion of law enforcement, etc.).

The OECD has worked to identify the best possible practices and experiences in ensuring that anti-corruption efforts are carried out by independent and technically autonomous law enforcement authorities that have the necessary investigative tools and expertise to follow these very complex cases. It has sought to achieve this most notably through the Working Group on Bribery's active monitoring work involving the 44 Parties to the OECD Anti-Bribery Convention. The Working Group has also produced best practice documents and typologies on relevant areas to anti-corruption enforcement (OECD and The World Bank, 2012[87]; OECD, 2012[88]; OECD, 2017[89]). Of special interest is the forthcoming study on resolutions, which is a criminal justice tool increasingly being used to expedite foreign bribery enforcement actions. In particular, Latin American and Caribbean countries should strongly consider:

Reviewing and implementing prosecutorial and judicial codes of conduct;

- Reviewing existing laws governing appointment, tenure, dismissal and discipline of prosecutors and judges;
- Reviewing existing laws governing obligations to report or powers to instruct prosecutors conducting individual cases.
- Consider reviewing models for pre-trial settlement or resolution of bribery cases, noting the need for these to have a strict, clear and public legal framework which allows for the application of effective, proportionate and dissuasive sanctions and respects the necessary rules of consistency, predictability, transparency and judicial review that are essential in this type of procedure.

Corporate liability frameworks should be consistently revisited and reinforced in order to ensure maximum effect and raise the level of trust in law enforcement. Such robust anti-corruption enforcement against companies necessarily depends on the following factors, among others:

- Making it possible to hold companies legally responsible for acts of corruption even in the absence of proceedings against or a conviction of the individual whose acts triggered the company's liability (see Annex 1, Part B of the 2009 Recommendation);
- Ensuring a sufficiently broad jurisdictional base for imposing liability against companies;
- Allowing for effective, proportionate or dissuasive sanctions (criminal, administrative, etc.) to be imposed on companies engaging in corruption, including monetary sanctions and confiscation of illicit proceeds or property the value of which corresponds to that of such proceeds;
- Providing for liability for acts committed through intermediaries on a company's behalf, including related legal persons (e.g., parent and subsidiary companies and entities within the same corporate group) and unrelated companies or individuals (e.g., shell companies, third-party agents, consultants, trusts, joint ventures or contractors), as 75 % of concluded foreign bribery cases that it reviewed in its analysis involved intermediaries (OECD, 2014[90]); and

- Adequate guidance to prosecutorial and regulatory authorities on how to assess the effectiveness of corporate compliance or integrity programmes (such tools should also be revised regularly in order to reflect developments in law and practical application).

The 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions establishes basic legal principles that governments should follow when carrying out **international cooperation** for purposes of fighting transnational corruption. Some of these principles include:

- Consulting and cooperating with authorities in other countries through such means as the sharing of information spontaneously or upon request, provision of evidence, extradition, and the identification, freezing, seizure, confiscation and recovery of the proceeds of bribery;
- Making full use of existing mutual international legal assistance (MLA); and
- Considering ways for facilitating MLA between countries in cases of such bribery, including regarding evidentiary thresholds for some Member countries.
- Additionally, countries should also carry out bilateral consultations with their foreign counterparts on a regular basis to: (i) address specific obstacles; (ii) discuss pending requests and how to move them forward; (iii) discuss recent developments; and (iv) build relationships and trust.
- The OECD Typology on Mutual Legal Assistance in Foreign Bribery Cases also contains useful guidance on how jurisdictions should take advantage of informal contact in order to facilitate effective cooperation by avoiding pitfalls that can be avoided (e.g., identifying what type of assistance would be available and how to best formulate an MLA request that can be executed by the requested country in a seamless manner) (OECD, 2012[88]).

Disciplinary enforcement

As a key element to restore trust in government and demonstrating citizens and public officials that sanctions are not merely "window dressing", governments must also take action to further improve the effectiveness of their disciplinary systems through more comprehensive frameworks as well greater coordination and understanding among all stakeholders.

- **Creating a comprehensive and coherent disciplinary framework.** Countries in Latin America should ensure a consistent disciplinary response to all categories of public officials and create more streamlined and unified regimes in line with the practice of OECD member and partner countries such as Brazil, Germany and the Netherlands（Table 3.2）.

Table 3.2. Comparative overview of administrative procedures in OECD member and partner countries

Country	Investigations and hearings	Sanctioning decisions	Enforcing sanctions	First-instance appeal	Second-instance appeal	Monitoring and providing guidance
Brazil	1) Simplified TCA procedure for minor cases (including admission of guilt); 2) formal inquiry (*sindicancias*) by line ministries for less serious offences. 3) Temporary PAD commission of three civil servants (administrative disciplinary process, PAD) for serious offences	1, 2) Line ministries for TCA and inquiries. 3) For serious offences, a PAD commission can propose the application of a sanction (including dismissal) to the line ministry and the National Disciplinary Board. These enforcing authorities cannot dissent from the PAD's proposition without proper justification	Line ministries and the National Disciplinary Board	1) Not possible to appeal the TCA procedure. 2,3) First-instance appeal submitted to the authority that applied the sanction, whether it is a line minister or the National Disciplinary Board. This first-instance appeal is called "request for reconsideration".	Appeals submitted to the superior authority to that of whose act is appealed. This second-instance appeal is called a "hierarchical appeal". It should be noted that the convicted civil servant can appeal to the judiciary at any time.	Line ministries and the National Disciplinary Board
Germany	Individual line ministries	Individual line ministries	Individual line ministries	Individual line ministries	For civil servants, the Administrative Court; for those outside of the general employment framework, employment tribunals	Federal Ministry of the Interior
Netherlands	Individual line ministries	Individual line ministries	Individual line ministries	Internal Appeals Board in each line ministry	Administrative courts; District Court; Administrative High Court	Individual line ministries and the Ministry of Interior

Source: (OECD, 2017[9]).

- **Promoting cooperation and exchange of information**. Considering that disciplinary proceedings can involve a number of different institutions and may have links with other typologies of responsibilities such as criminal or fiscal ones, coordination mechanisms become vital to ensure swift exchange of information and ensure the smooth functioning of the system as a whole. Latin American countries should set up communication mechanisms between relevant institutions – which often takes place on informal basis – in order break the silos and ensure continuous exchange of challenges and experiences, learn from each other or to discuss formal or informal means to improve the system as a whole. In order to promote coordination, Latin American countries could create the conditions for swift communication and mutual learning through the establishment of working group which could be formalised in a multi-party agreement as done in Peru on criminal justice matters through the tripartite inter-agency co-operation framework

agreement. The meetings of these working group could represent the opportunity to discuss ways to improve the effectiveness of the disciplinary system.

- **Ensuring oversight on and coordination among disciplinary offices in ministries** is key to improve the effectiveness of case-management as well to address their challenges and exchange best practices. Latin American countries should display additional efforts to create the legal and operational conditions for the sharing information and coordination among entities involved in disciplinary procedures. In this context countries could consider the experience of Brazil's Office of the Comptroller General of the Union (CGU), whose National Disciplinary Board oversees the implementation of the centralised federal executive branch's disciplinary system (*Sistema de Correição do Poder Executivo Federal*, or SisCor) and coordinates the sectional units located within federal agencies (*corregedorias seccionais*) through various means, including through a Disciplinary Proceedings Management System (*Sistema de Gestão de Processos Disciplinares*, CGU-PAD) and Coordination Commission (*Comissão de Coordenação de Correição*).
- **Improving the understanding of the disciplinary regime**. Latin American countries should scale-up their data-collection activity by improving the quantity and quality of information (including the number of investigations, typology of breaches, length of proceedings, intervening institutions, etc..) and drawing trends according to criteria such as year, entity or sanctioned conduct. Data and statics should also be as transparent and accessible, and be communicated to citizens in an interactive and engaging way in order to stimulate accountability and foster trust among citizens. Countries in the region could consider the work of Colombia's Transparency and Anti-corruption Observatory (*Observatorio de Transparencia y Anticorrupción*), a body within the Transparency Secretariat (*Secretaría de Transparencia*) elaborating corruption-related sanctions indicators (*Indicadores de Sanciones*), as well as reporting activity of the CGU in Brazil, which collects and publishes data on disciplinary sanctions in *pdf* and *xls* format (Box 3.7).

Box 3.7. Collecting, publishing and elaborating data on disciplinary sanctions in Colombia and Brazil

In Colombia the Transparency and Anti-corruption Observatory publishes on its website statistics on corruption-related criminal, disciplinary and fiscal sanctions. With regards to disciplinary sanctions, data are taken from the Information System Register for Sanctions and Inability Causes (*Sistema de Información de Registro de Sanciones y Causas de Inhabilidad*, or SIRI) which keeps record of the decisions executed and notified to Inspector General (*Procuraduría General de la Nación*) by the competent authorities, in particular: disciplinary sanctions, criminal sanctions and inabilities. In turn, the Transparency and Anti-corruption Observatory provides a map and details of sanctions, analyses the data and provides graphs breaking the data according to several criteria such as entity, breach, department, sanction, typology of official.

In Brazil, the CGU's website contains a section where data on serious disciplinary sanctions (punições expulsivas) to public officials from the Federal Executive Power are reported and updated on a monthly basis. Information is displayed according to different criteria (e.g. year, month, entity, state and underlying conduct) and is elaborated into tables and graphs showing trends and comparisons.

Source: Transparency and Anti-corruption Observatory's website, www.anticorrupcion.gov.co/Paginas/Indicadores-de-Sanciones.aspx and www.anticorrupcion.gov.co/Paginas/nota-sanciones-disciplinarias.asp; SIRI's website, www.procuraduria.gov.co/portal/Siri.page; CGU's website on disciplinary sanctions' reporting, www.cgu.gov.br/assuntos/atividade-disciplinar/relatorios-de-punicoes-expulsivas.

- **Data on disciplinary proceedings** should not only be collected and made publicly available for accountability purposes, but they could also be used to openly assess the effectiveness of the disciplinary system as a whole through the definition of key performance indicators (KPIs) which could help identify challenges and areas where further efforts and improvement are needed (OECD, 2017[91]). For this purpose, Latin American countries could consider some commonly-used performance indicators on effectiveness, efficiency, quality and fairness from the field of justice and to make sure to give wide publicity to this exercise as well as to the corresponding results in order to demonstrate commitment to accountability and integrity values. The results of the assessment could also be carried out within the country's broader integrity coordination mechanism in order to address challenges and shortcomings of the disciplinary system as well as of the integrity system as a whole.
- **Professionalism and capacity building**. In order to strengthen the capacity and to support of public officials in building and sustaining disciplinary cases, Latin American institutions in charge of coordinating disciplinary offices within public entities could scale up efforts in two directions: on the one hand it could ensure continuous training of disciplinary staff to improve the effectiveness and consistency of the disciplinary regime. On the other hand, they could provide tools and channels guiding and supporting disciplinary offices in carrying out cases along relevant practices from both OECD and non-OECD member countries (including Brazil and Peru), where support is provided through guides, manuals, or a dedicated email addresses (Box 3.8).

Box 3.8. Providing guidance on disciplinary matters

The **United Kingdom's Civil Service Management Code** recommends compliance with the Advisory, Conciliation and Arbitration Service (ACAS)'s Code of Practice on Disciplinary and Grievance Procedures and notifies departments and agencies that it is given significant weight in employment tribunal cases and will be taken into account when considering relevant cases. The ACAS, an independent body, issued the code in March 2015, which encourages:

- clear, written disciplinary procedures developed in consultation with stakeholders
- prompt, timely action
- consistency in proceedings and decisions across cases
- evidence-based decisions
- respect for rights of the accused: right to information, legal counsel, hearing and appeal.

The code also contains guidance on how to interact with employees under investigation (i.e. providing information, evidence, allowing a companion to the hearing, role of the companion at hearings), which institutions to contact during the process to ensure due diligence and that the employees' rights are respected, how to apply sanctions fairly (i.e. consistently, progressively and proportionately), how to handle special cases (i.e. cases of misconduct by trade union members), and what proceedings to follow in relation to potential criminal offences.

Australia's Public Service Commission (APSC) has also published a very comprehensive Guide to Handling Misconduct, which provides clarifications of the main concepts and definitions found in the civil service code of conduct and other applicable policies/legislation as well as detailed instructions to managers on proceedings (see workflow below). The guide also contains various checklist tools to facilitate proceedings for managers such as: Checklist for Initial Consideration of Suspected Misconduct; Checklist for Employee Suspension; Checklist for Making a Decision about a Breach of the Code of Conduct; Checklist for Sanction Decision Making.

The **Comptroller General of the Union (CGU) in Brazil** provides different kinds of tools to provide guidance to respective disciplinary offices: firstly, similarly to the previous examples, it has elaborated – and published in its website - guides, manual and material on a wide range of relevant issues related to the disciplinary proceedings, including:

- administrative disciplinary law manuals
- manual on the role and function of the disciplinary units
- specialization modules on *ad-hoc* issues
- practical manuals, slides and legislation on the administrative procedures
- manuals from other entities

Secondly, the CGU's website provides more than 200 questions and answers related to most recurrent doubts serving as a quick reference for consultation by disciplinary units, civil servants and citizens in general, as well as to guide and standardize the procedures related to disciplinary system.

Lastly, the CGU, through the National Disciplinary Board (*Corregedoria-Geral da União*, or CRG), also provides an email address to clarify questions related to the disciplinary

system and to solve any doubt related to the building of disciplinary cases, with the aim to support disciplinary units in conducting proceedings a fair and rigorous way.

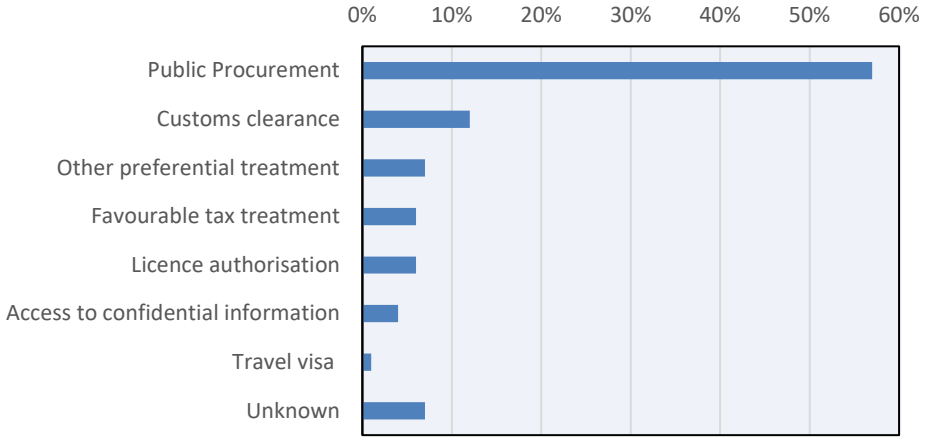
Peru's Ministry of Justice (Minjus) has also published a practical guide on the disciplinary regime and proceedings (*Guía práctica sobre el régimen disciplinario y el procedimiento administrativo sancionador*) which addresses basic concepts and principles on the disciplinary regime, the procedural rules applicable to the administrative disciplinary procedure as well as some cases to better illustrate the issues. The purpose of the guide is to provide a didactic and useful tool for public servants and officials to know the different aspects and steps related to the administrative disciplinary procedure, but also the guarantees that protect them and that should be respected by the various public entities involved.

Source: (ACAS, 2015[92]); (APSC, 2015[93]); (CGU,(n.d.)[94]); (Minjus, 2015[95]).

3.6. Preventing corruption in public procurement

Public procurement is the government activity most at risk to waste, mismanagement and corruption, and is by far the most common purpose of bribes in foreign bribery cases (Figure 3.13). As a major nexus between the public and private sectors, public procurement involves a large sum of money and a complex and close interaction between actors from the two sectors, with different interests. The total volume of public procurement, which is the government activity of purchasing goods, services and works, accounted for 12 % of GDP and 29 % of general government expenditure in OECD countries amounting to EUR 4.2 trillion in 2013 (OECD, 2016[96]). In some countries, this volume may account for up to 20 % of the GDP and 45 % of government expenditure. In Latin America, public procurement represents 13 % of GDP and 50 % of general government expenditure (IMF,(n.d.)[97]) (OECD, 2014[98]).

Figure 3.13. Purposes of Bribes



Source: OECD (2014), OECD Foreign Bribery Report

The high stakes of the economic interests involved and the complexity of the processes involved make corruption and integrity breaches common potential risks during the different phases (Table 3.3). As mentioned in section 2.2, especially large, one-off

infrastructure projects and public-private partnerships are prone to capture and corruption due to their high degree of complexity (Locatelli et al., 2017[99]; Bitran, Nieto-Parra and Robledo, 2013[100]).

Table 3.3. Corruption risks associated with the different phases of the procurement cycle

	Phase	Corruption risks
Risks of the pre-tendering phase	Needs assessment	Lack of adequate needs assessment Influence of external actors on officials decisions Informal agreement on contract
	Planning and budgeting	Poor procurement planning Procurement not aligned with overall investment decision-making process Failure to budget realistically or deficiency in the budget
	Development of specifications/ requirements	Technical specifications are tailored for a specific company Selection criteria are not objectively defined and not established in advance Requests for unnecessary samples of goods and services that can influence Purchase of information on the project specifications.
Risks of the tendering phase	Choice of procurement procedure	Lack of proper justification for the use of non-competitive procedures Abuse of non-competitive procedures on the basis of legal exceptions: contract splitting, abuse of extreme urgency, non-supported modifications
	Request for proposal/bid	Absence of public notice for the invitation to bid Evaluation and award criteria are not announced Procurement information isn't disclosed and isn't made public
	Bid submission	Lack of competition or cases of collusive bidding (cover bidding, bid suppression, bid rotation, market allocation)
	Bid evaluation	Conflict of interest and corruption in the evaluation process through: • familiarity with bidders over time • personal interests such as gifts or future/additional employment • no effective implementation of the "four eyes principle"
	Contract award	Vendors fail to disclose accurate cost or pricing data in their price proposals, resulting in an increased contract price (i.e. invoice mark-ups, channel stuffing) Conflict of interest and corruption in the approval process (i.e. no effective separation of financial, contractual and project authorities) Lack of access to records on the procedure
Risks of the post-award phase	Contract management/ performance	Abuses of the supplier in performing the contract, in particular in relation to its quality, price and timing: • substantial change in contract conditions to allow more time and/or higher prices for the bidder • product substitution, sub-standard work, or service not meeting contract specifications • theft of new assets before delivery to end-user or before being recorded • deficient supervision from public officials and/or collusion between contractors and supervising officials • subcontractors and partners chosen in a non-transparent way or not kept accountable
	Order and payment	Deficient separation of financial duties and/or lack of supervision of public officials, leading to: • false accounting and cost misallocation or cost migration between contracts • late payments of invoices • False or duplicate invoicing for goods and services not supplied, and for interim payment in advance entitlement

Source: (OECD, 2016[101]).

In addition, bid rigging is an illegal anti-competitive practice in all OECD member countries and in a number of OECD countries it is also a criminal offence. When companies collude and form a cartel, the cost of goods and services can increase by 20 % or more. The most immediate victims of cartel conduct are the customers. When the customers are government agencies, as is the case in public procurement, cartels harm taxpayers directly, diminish public confidence, and undermine the benefits of a competitive marketplace. The impact is particularly serious when collusion affects the provision of essential goods for the lives and well-being of citizens. Governments should be aware of the most common

strategies of bid rigging and market characteristics that facilitate collusion (OECD, 2016[24]; OECD, 2009[102]).

Public institutions at all levels of government and state-owned enterprises procure goods, services and works from the private sector. Integrity, transparency and accountability in public procurement are dealt with greater detail in the next three sections: specific challenges at the subnational level (section 3.7); state-owned enterprises (section 3.8); and emphasis on the shared responsibility of the private sector in promoting integrity in procurement and other areas (section 3.9). This section briefly characterises the challenges and opportunities for strategic action common to public procurement for central and subnational governments and state owned enterprises.

3.6.1. Key challenges

In Latin America, corruption in public procurement and infrastructure projects often has its root causes in the political sphere (see section 3.1). Private companies finance the campaigns from candidates who then, once in office, return favours by rewarding their supporters with public contracts, e.g. through direct contracting, which in some countries in fact might be perfectly legal, or by eluding or manipulating procurement procedures. Actions taken to promote integrity and transparency in political finance, campaigns and election processes as recommended above directly contribute to mitigating corruption risks in public procurement and infrastructure projects.

On a more technical level, public procurement systems in the region have made significant progress towards enabling better accountability and mitigating corruption risks. In particular, countries in Latin America have advanced in the implementation of e-procurement mechanisms that, amongst others, provide opportunities for mitigating corruption risks. Examples include Argentina Compra, Compranet in Mexico, Mercado Público developed by ChileCompra in Chile, SECOP II managed by Colombia Compra Eficiente, or the Transparency Portal of the Federal Public Administration in Brazil, which beyond public procurement, provides real time access to information on budget execution. The platform run by ChileCompra has an online forum with questions and answers for each tender in advance of deadlines for submitting bids. The forum is particularly practical for providers who are geographically distant from the capital city, where ChileCompra's offices are located, and need remote access to questions and answers. The forum ensures transparency and supports equitable treatment and fair competition.

However, some challenges exists:

- The possibilities to side-step e-procurement systems or competitive bids, especially at subnational levels of government facilitate corrupt practices. While e-procurement in the region is the norm in many public administrations at national level, subnational levels sometimes are not yet included or can avoid using the system. In addition, the conditions allowing for direct contracting or exemptions to tender are sometimes too broad, allowing especially local politicians to give back favours to private interests that supported their election.
- Although information related to the tendering phase of the procurement cycle is widely disclosed in the region, much less data is available on pre-tendering activities and on contract execution. Considering the exposure of those stages to risks of corruption, this absence of information hinders efforts carried out by countries to build a more resilient environment.
- While information on contracts is increasingly available thanks to e-procurement systems, this information is often not systematically used to detect red flags and

malpractices such as bid-rigging and corruption, or to promote social accountability through engaging stakeholders.

- Information on contracts available on e-procurement systems involves public disclosure of documents in formats that do not allow for the analysis and reutilisation of data (such as scanned PDFs). This discourages the use of e-procurement systems as a reliable source of information on public procurement processes as the allocation of considerable efforts and resources in analysing this data is required.
- Flaws in the way procurement processes are designed risk facilitating anticompetitive practices by bidders. Such flaws are often the consequence of provisions in domestic procurement legislation.
- Lack of awareness of the risk of collusion in contracting authorities makes detection of bid rigging very hard.
- Because of the high corruption risks, many countries have established rigid and strong controls in public procurement processes, aimed at reducing the discretionary power of public procurement officials and increasing oversight. However, exacerbated by a focus on compliance (section 3.4), such controls are making procurement processes also slow and administratively burdensome, signal distrust of public procurement officials and give them the perception that they are seen as inherently corrupt. This can negatively influence officials' motivation and engagement in their workplace and may even provide for rationalisation strategies, that in the end can even favour corrupt behaviour (OECD, 2018[2]; Falk and Kosfeld, 2006[103]).

3.6.2. Opportunities for strategic actions

Considering the challenges indicated above, LAC countries could consider the following general recommendations to enhance integrity in public procurement:

- Have a comprehensive view of procurement processes and its risks. Preventing corruption in public procurement requires a comprehensive strategy that assesses and addresses integrity risks along the entire public procurement cycle from the needs assessment throughout the tendering until the contract management and payment (see Table 3.3). As such, countries should set high standards and good practices in risk management and internal control section as a priority in procurement process and in the delivery of infrastructure projects (see section 3.4). In addition, tools, such as the High Level Reporting Mechanism in Colombia and Argentina, could be established in order to facilitate the reporting of bribery solicitation or similar concerns.
- Adapt risk management strategies to the nature and characteristics of procurement processes, ensuring that those strategies encompass all stakeholders involved in individual procedures. Risk management strategies and mitigation measures should be tailored to the size and complexity of the procurement procedures.
- Ensure that public procurement officials are professional, recruited on a merit-based and trained in public ethics and conflict-of-interest management with examples close from their day-to-day reality.
- Review existing procurement procedures to ensure a balance between the costs and benefits of control and aim at reducing the hidden costs of control on motivation and behaviour of procurement officials.

- Fight bid-rigging in public procurement processes by establishing protocols to prevent bid-rigging and detect collusion and by raising awareness by disseminating materials on fraud and collusion awareness indicators to procurement officials.
- Review domestic procurement legislation to ensure that public procurement tenders are designed in the most effective way to facilitate competitive outcomes.
- Establish a permanent relationship between competition authorities and procurement agencies such that, should preventive mechanisms fail to protect public funds from third-party collusion, those agencies have the confidence that competition authorities will help investigate and prosecute any potential anti-competitive conduct (Box 3.9).

Box 3.9. Fighting Bid Rigging in Social Security in Mexico

The Mexican Institute of Social Security (IMSS) is the third largest public buyer of goods and services in Mexico, after the state-owned oil and electricity companies. IMSS is also the single largest purchaser of pharmaceutical products and other medical supplies, on which it spends around USD 2.5 billion each year. Since 2006, IMSS started efforts to buy more effectively by consolidating its purchases of generic medicines within a single purchasing division (as opposed to having each individual local delegation buy separately, as occurred previously). In the period from 2006 to 2009 these changes resulted in cumulative cost savings of around USD 3.6 billion to the benefit of IMSS' beneficiaries (and ultimately of taxpayers). For the period from 2013 to 2017, these changes resulted in additional cumulative cost savings of around USD 1.1 billion.

In addition, IMSS has cooperated with the Mexican competition authority (COFECE) in fighting collusive practices in its procurement, which has helped the COFECE to successfully prosecute dishonest bidders and impose significant fines in 2010. In January 2011 IMSS decided to step up its fight against bid rigging signing a Memorandum of Understanding with the OECD and COFECE and becoming the first public agency in Mexico (and in the world) to formally commit to adopt and implement the OECD Competition Committee's Guidelines for Fighting Bid Rigging in Public Procurement.

A (forthcoming) OECD Review on IMSS' procurement regulations and practices provides a qualitative analysis of the implementation by IMSS of the OECD recommendations in the 2011 Bid Rigging Report, as well quantitative estimates of the impact of the implemented recommendations on IMSS procurement outcomes. The amount of savings generated by IMSS when applying best practices is significant. For example, it can be estimated that purchasing jointly with other public bodies has resulted in annual savings of between 5 % and 9 % for the period 2013-2017, corresponding to total savings, for IMSS alone, of around MXN 10.5 thousand millions. Selected market features were also reviewed, to determine changes since the Bid Rigging Report, like the degree of concentration and range of suppliers among others. This report will be launched on October 24 in Mexico City.

Sources:
OECD (2011), Fighting Bid Rigging in Public Procurement in Mexico, A Secretariat report on IMSS' procurement regulations and practices, OECD, Paris.
OECD (2018, forthcoming), Review on IMSS' procurement regulations and practices, OECD, Paris.

- **Take advantage of technology to enhance transparency and detect malpractice in the entire public procurement cycle** (Box 3.10). Countries could thus enhance e-public procurement platforms by making them modular, flexible, scalable, secure and user-friendly to facilitate the use of the information by both official and social control.

Box 3.10. Take advantage of technology to enhance transparency and detect malpractice in public procurement in Peru and Brazil

Peru's information system on public works INFOBRAS

In recent years, Peru has started involving external stakeholders in the scrutiny of the use of public resources. In 2012, the Office of the Comptroller General (Contraloría General de la República, or CGR) developed an information system on public works (Sistema de Información de Obras Públicas, INFOBRAS) that provides access to information related to public works at national level, encouraging civil society to participate in the controlling the use of public resources. In 2016, INFOBRAS already contained more than 48 000 public works at national level. The system is interconnected with other relevant information systems, including the Integrated Financial Management System of Peru (Sistema Integrado de Administración Financiera, SIAF), the Electronic System for Government Procurement and Contracting (Sistema Electrónico de Contrataciones del Estado, SEACE), the National Public Investment System (Sistema Nacional de Inversión Pública, SNIP) and the National Identification and Civil Status Registry (Sistema Nacional de Identificación y Estado Civil, RENIEC). INFOBRAS includes a geographic search that allows the tracking of georeferenced public works according to different filters, such as the stage, the contractor and the invested amount, among others. The system has been awarded twice in Peru, by the private sector as well as by the NGO Ciudadanos al Día. INFOBRAS has also been qualified as international good practice for transparency and citizen participation in the framework of the United Nations Convention Against Corruption (UNCAC) and replicated in other countries, in particular in Chile. Citizens and/or journalists have detected many cases of corruption through INFOBRAS.

Using data mining to detect misconduct and corruption in public procurement in Brazil

In 2008, the Office of the Comptroller General of the Federal Government of Brazil launched the Public Spending Observatory (Observatório da Despesa Pública) as the basis for continuous detection and sanctioning of misconduct and corruption. Through the Public Spending Observatory, procurement expenditure data are crossed with other government databases as a means of identifying atypical situations that, while not a priori evidence of irregularities, warrant further examination. This exercise generated "orange" or "red" flags that can be followed up and investigated by officials within the Office of the Comptroller General of the Federal Government. In many cases, follow-up activities were conducted together with special advisors on internal control and internal audit units within public organisations.

Along the same lines, the Competition Authority of Brazil (CADE) has developed a state-of-the-art system (Projeto Cérebro) for the detection of large-scale collusion in procurement auctions within the more than 60 000 public tenders that Brazil holds every year. It consists of (i) a data warehouse that allows access to public and private databases (via cooperation agreements), (ii) data-mining methodologies that detect patterns and similarities in competitors' behaviour, and (iii) a solid set of statistical tests.

Sources: (OECD, 2012[104]) (OECD, 2017[105]).
CADE (2018), Screening and Data Mining tools to detect cartels, OECD Workshop on Cartel screening in the digital era, January 2018.

3.7. Developing capacities at the subnational level to promote articulated integrity policies

Local governments (states, provinces, municipalities, etc.) can be drivers for innovation, economic development and productivity, but can also play a key role in promoting social capital. Integrity at the subnational level can contribute to the maximisation of a subnational area's full potential in business activity, revenue collection, and foreign and domestic private and public investments. Similarly, the subnational level may set an example for (re-)building trust and fighting threats, such as organised crime.

The increased frequency and closeness of interactions between subnational government authorities with citizens and firms as compared to the national level can create both opportunities, especially by facilitating local accountability, and risks for integrity. Strengthening integrity at the subnational level is a direct channel to fight erosion of public trust in institutions. While addressing and measuring corruption at the local level is often overlooked, it is beneficial to develop a tailored approach to effectively strengthen trust and instil a culture of integrity.

3.7.1. Key challenges

While on average more centralised than OECD countries, countries in Latin America have started decentralisation reforms in the past two decades or are currently debating the possibilities for decentralisation. A lack of integrity at the subnational level can be raised as a major risk for decentralisation reforms. By mainstreaming integrity throughout decentralisation policies institutional capacities can be strengthened, ultimately ensuring the effective implementation of the policies.

While integrity is a concern at all levels of government opportunities for certain types of corruption can be more pronounced at subnational levels. Subnational governments' responsibilities for the delivery of a large share of public services (e.g. education, health, security/justice, waste management, utilities, granting licences and permits) increases the frequency and directness of interactions between government authorities and citizens and firms, which creates opportunities to test the integrity of subnational governments (OECD, 2017[106]). For example, in Mexico 9 of the 10 procedures which are perceived as most corrupt either concern competences spread across different levels of government or municipalities (Table 3.4). State and local governments may also have higher levels of at-risk expenditure such as social spending or public procurement contracts, which require additional measures of control. For example, in 2015 63 % of public procurement spending occurred at subnational level in the OECD (OECD, 2017[72]).

This underscores the importance of taking into account the local weaknesses as well as the strengths and particularities of the lower levels when designing a coherent public integrity system.

Table 3.4. Administrative procedures perceived as most corruption and corresponding level of administrative competence in Mexico

Administrative procedure	Corruption perception (%)	Level of government responsibility
Administrative offence (*Faltas administrativas*)	37	Multi-level
Traffic violation (*Infracción por incidente de tránsito*)	35	Multi-level
Parking violations (*Infracciones al estacionarse*)	28	Municipal
Land use permits (*Permiso de uso de suelo*)	19	Municipal
Request for cleaning service (*Solicitud de servicio de limpia*)	18	Municipal
Proof of car polluting substances (*Verificación vehicular de contaminantes*)	16	State
Request for water pipeline (*Solicitud de una pipa de agua*)	12	Multi-level
Procedures in the Office of the Attorney (*Trámites ante el ministerio público*)	11	Multi-level
Permit for street-selling (*Permisos para vender en vía pública*)	8	Municipal
Border procedures (*Trámites de aduana*)	5	Federal

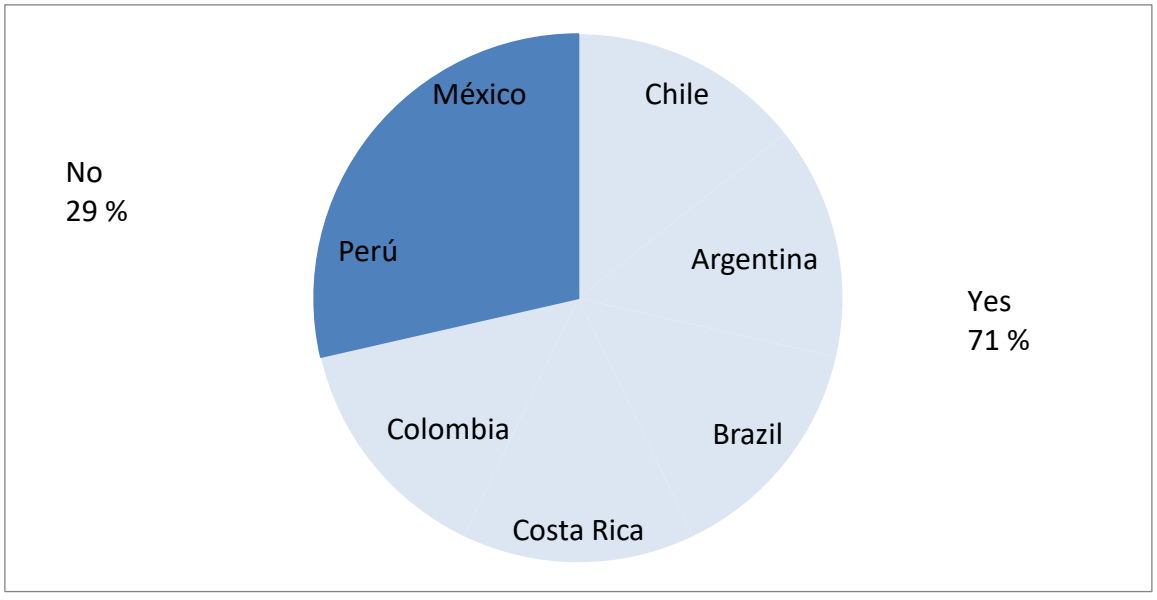
Source: IMCO with data from ENCIG 2014. Adapted from http://imco.org.mx/indices/documentos/2015_IHE_Presentacion.pdf.

Specific challenges that may lead to opportunities for corruption at the subnational level are:

- Limited technical and financial capacities and resources
- Higher discretion of local politicians due to often limited opposition, limited independence and effectiveness of local auditors, limited disclosure requirements for annual budget, public tenders and similar
- Low capacities to issue and/or enforce regulations of good quality with direct impact on business activity and life of citizens
- Local judiciary systems are often not independent and lack resources and capacity to effectively combat corruption
- Close ties between local business elites and local political elites leading to clientelistic practices
- Weak presence of the State in remote rural areas
- Weakness of local election processes, practices of vote-buying and patronage undermining the integrity of the electoral process
- Weaknesses in organised local civil society (low capacities, capture of civil society groups etc.) holding local governments to account for their actions
- Unclear assignment of responsibilities across levels of governments limiting coordination and accountability
- Mismatch between responsibilities and financial resources of subnational governments. The limited fiscal autonomy might undermine subnational accountability
- Governance arrangements to co-ordinate priorities and align objectives are often weak. This affects directly the efficiency of public investments and spending.
- Poor data collection and performance monitoring of public service delivery and investments affect the needs assessment and the monitoring and evaluation of measures.

In addition, there is a challenge in ensuring that integrity policies at the national level are reaching effectively the subnational levels. In Latin America, a decentralised approach prevails with the majority of subnational governments being autonomous and able to design and implement their own integrity policies (Figure 3.14). Compared to one-size-fits all approach, a more tailored integrity strategy can be developed on the subnational level taking into account specific integrity risks, capacities and characteristics, which often vary across regions. However, weak or lack of vertical co-ordination mechanisms between the national and subnational level can lead to vacuums and threatening the effectiveness of the central integrity system as a whole. Therefore, as stressed by the OECD Recommendation on Public Integrity (OECD, 2017[91]), it is essential to establish mechanisms for co-operation mechanisms supporting implementation "through formal or informal means to support coherence and avoid overlap and gaps, and to share and build on lessons learned from good practices."

Figure 3.14. Subnational levels are autonomous and can decide over their integrity policies



Source: 2016 OECD Survey on Public Sector Integrity.

While countries have tried to set up coordination mechanisms between the national and subnational level (Table 3.5), these coordination mechanisms often remain centralised themselves and are not effective. In Latin America, countries perceive that co-ordination amongst integrity actors is highly dependent on individuals, suffers from frequent turnover of staff and the administrative burden coming along with co-ordination, e.g. the need for seeking internal approval before being able to commit to inter-organisational goals (OECD, 2017[72]). In addition, there is a lack of incentives for co-ordination between the different levels of government. Achievements are often not made visible or difficult to communicate and as such authorities mainly perceive the drawbacks of co-ordination. In addition, in Latin America, the horizontal co-ordination between different actors at the national level for integrity, specifically those responsible for prevention, investigation and sanction of corruption, is often limited (OECD, 2017[12]); (OECD, 2017[9]); (OECD, 2017[11]). As such there is no leadership for the subnational level to co-ordinate. A strong top-down approach consisting of the central level setting policies to be implemented without assessing the specifics needs of the subnational level or asking for feedback from the subnational level,

can further disincentive subnational actors and make them reluctant to co-ordinate. Lastly, co-ordination mechanisms can also be affected by limited technical capacity and resources at the central level. For example in Colombia, the Transparency Secretariat's programme supporting the Regional Moralisation Commission was highly dependent on international development cooperation, which could indicate a lack of priority for integrity at the subnational level.

These challenges underscore the need to instil a bottom up approach for subnational implementation, so there is also demand for co-ordination from the subnational level and as such is not perceived as imposed by the central level. A bottom-up approach could also take regional inequalities of development, which are particularly pronounced in Latin America, into account (OECD, 2016[107]).

Table 3.5. Co-ordination mechanisms for integrity policies between the central and subnational level

	Regular meetings in specific integrity committee or commission	Guidance by a Central Government Body (or unit)	Inter-institutional design of integrity policies	Legal agreements /memorandums of understanding between levels of government
Chile		X		
Mexico	X	X		X
Argentina		X		X
Brazil	X	X		X
Colombia		X		
Costa Rica		X		
Peru	X			

Source: 2016 OECD Survey on Public Sector Integrity.

3.7.2. Opportunities and strategic priorities

While the Lima Commitments do not explicitly cover the subnational level, appropriate governance arrangements are needed to limit integrity challenges happening at that level. Decentralisation of responsibilities might allow enhanced accountability, transparency and citizens' engagement. However, this strongly depends on the way responsibilities are assigned across levels of government. Governance mechanisms are needed to manage joint responsibilities and properly manage the need for flexibility and accountability.

In Mexico, states are obliged to mirror the National Anti-Corruption System in the respective Local Anti-Corruption Systems to coordinate with local authorities responsible for prevention, detection and sanctioning of administrative responsibilities and corruption. Similarly, in Colombia, the creation of Regional Moralisation Commissions (RMC), bringing together the key actors for control and sanctioning of corruption in the regions has the potential to improve horizontal co-ordination. Key amongst the tasks of the RMC is the elaboration of an annual plan for anti-corruption in the region. By developing a plan for the region, specific issues and challenges can be addressed. This could be further strengthened by including the local government and dedicating further efforts to preventing corruption. In Peru, a similar model of Regional Anti-Corruption Commission (Comisiones Regionales Anticorrupción, CRA) has been established (Box 3.11) (OECD, 2017[9]).

Considering the challenges indicated above, LAC countries could consider the following recommendations:

- Establishing vertical co-ordination mechanisms including feedback channels to include subnational governments in the design of integrity policies and to address implementation challenges in a specific (tailor-made) but integrated way. This could also include the exchange of good practices to ensure that innovative solutions emerging at lower level governments are adopted more widely.
- Setting frameworks to encourage subnational entities to identify their own priorities and attend their own needs in relation to public integrity and as such develop ownership (bottom –up).
- Depending on the size of the subnational authority, appointing an individual (full-time or part-time) with the responsibility to implement integrity policies and strengthen a culture of integrity by providing guidance and raising awareness of integrity standards.
- Ensuring consistency of integrity standards between the subnational and central level. Subnational entities could be required to adopt their own specific codes of conduct based on the central guidance.
- Conducting a diagnostics of the corruption risks in local government, which would serve as a base for designing legislation, policies and procedures and a periodic corruption risk assessment in each subnational authority in relation to the authority's functions and operations. These assessments could be taken into account in the development of subnational integrity strategies. For example, Mexico's National Statistics Office (Instituto Nacional de Estadística, Geografía e Informática, or INEGI) conducts a biennial survey on citizens' experiences with public sector corruption in a standardised sample of government-provided services at the federal and state level. It then calculates a "corruption incidence" ratio by dividing the total number of citizens who interacted with public authorities in the request or receipt of a service by the number of acts of corruption reported in interactions with public authorities (see section 3.9).
- Adequately resource internal audit teams to ensure a sufficient degree of independence. Internal audit can be vulnerable to manipulation, in particular if they are under-resourced, not supported by the leadership or have their freedom to investigate curtailed.

Box 3.11. Regional Anticorruption Commission in Piura (Peru)

Regional anticorruption commissions (CRAs) were established in Peru through Law no. 29976, which also created the High-level Anti-corruption Commission (*Comisión Alto-nivel de Anti-corrupción*, or the CAN), the national body promoting horizontal co-ordination and guaranteeing the coherence of the anti-corruption policy framework in Peru.

Amongst the tasks of the CRAs is the elaboration of a regional anti-corruption plan. Such a plan has thus the potential to reflect the specific issues and challenges of the region. However, until now, only six regions have developed such a plan (San Martín, Pasco, Amazonas, Cusco, Piura and Huancavelica), and it is unclear how far these plans are effectively implemented.

Piura, one of the regions of the country, set up its regional anticorruption commission (Piura's Commission) though Regional Ordinance no. 263 of 2013, which brings together representatives from the executive and the judicial powers, as well as from municipalities, the private sector, and professional associations. Piura's Commission is supported by an Executive Committee which is responsible of implementing the policies identified by the Commission. Coordination between the Commission and the Executive Committee is carried out by the Commission's Technical Secretariat. Finally, the governance of the system is completed by the anticorruption units within each public entity, which – among other tasks – are in charge of implementing the policies approved by the Commission; providing support in ensuring compliance with the Code of Ethics for the public service; coordinating the elaboration and approval of the Anticorruption Plans of the entity; preparing a report of anticorruption activities, and presenting it during public hearings.

Source: (OECD, 2017[9]) and Powerpoint presentation prepared by Piura's Regional Anticorruption Commission, http://anticorrupcion.regionpiura.gob.pe/detalle.php?idpag=3&pagina=uni_lucha&verper=0&tit=2.

3.8. Promoting good corporate governance and a culture of integrity in State Owned Enterprises

State-owned enterprises (SOEs) are a main conduit through which states exercise their role as economic actors. SOEs play an increasingly important role in the global economy, particularly in sectors such as energy and transport with large-scale public procurement and access to national resources. They hold a strategic importance for the state. The benefits of SOE ownership are economic, political and social, and so too are the costs of any mismanagement or abuse. Certain high-profile scandals involving SOEs and occasional evidence of susceptibility to corruption have raised concerns for competitive neutrality, trade and investment.

3.8.1. Key challenges

The *OECD Foreign Bribery Report* issued in 2014 pointed to the susceptibility of SOE officials to foreign bribery – found to be offered, promised or given 27% of all concluded foreign bribery cases, amounting to 80% of total bribe (OECD, 2014[90]). Another study, conducted by the International Monetary Fund, found that 30% of its mission chief respondents viewed corruption to be widespread in the real sector - 71% percent of whom attributed it to malpractices in the SOE sector (International Monetary Fund, 2017[108]).

Against this backdrop, the OECD conducted a 2017 survey of over 200 economically significant SOEs around the world ('the OECD Survey'). Responses were received from 361 board members, executive managers and heads of control, audit, risk or similar, covering 212 companies across 34 OECD and non-OECD countries. The survey showed that 42% of SOE representatives reported that corrupt or other irregular practices materialised in their company in the last three years. The OECD survey included participation of 52 companies from eight Latin America countries (Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Paraguay and Peru). The responses yield some insights with respect to integrity in the region.

SOEs in Latin America, relative to those in the average OECD country, tend to be weakly incorporated (for instance, as "parastatals" rather than joint stock companies) and operated closer to general government. As a result, there may be unclear lines of responsibility within the ownership structure, more direct state intervention or a greater degree of financial control of SOEs, exercised most commonly by Supreme Audit Institutions (or similar control bodies). The OECD survey found that SOEs in Latin America consider their proximity to government as more of a challenge to their integrity than do SOEs in OECD countries.

Furthermore, a slightly higher proportion of SOE respondents in Latin American SOEs report having witnessed corruption or other irregular practices in their companies in the last three years, than in OECD country SOEs (Table 3.6).

Table 3.6. Witnesses to corruption or other irregular practices

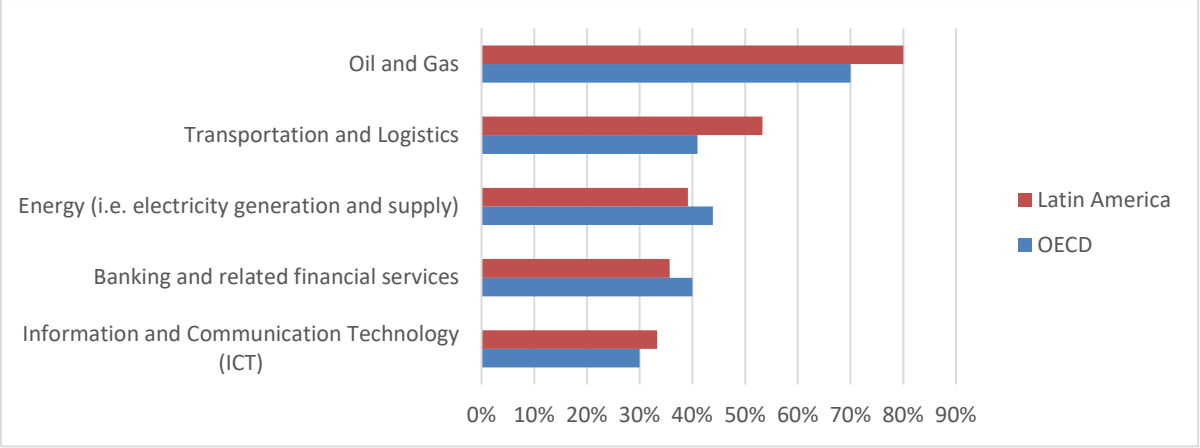
Percentage of total responses to the question: In your assessment, did any of the [24 listed] risks materialise into activities/actions in the last 3 years in (or involving) your company?

	LAC	OECD
I don't know	6%	15%
No	48%	42%
Yes	**46%**	**43%**

Note: For comparison, all Latin American countries were included in the Latin America sample despite Chile and Mexico (and soon Colombia) also having a status as OECD Member countries. The LAC sample and OECD sample are based on 88 and 221 individual respondents, respectively.
Source: OECD 2017 Survey of anti-corruption and integrity in SOEs.

Similar to the rest of the sample, corruption and other irregular practices in Latin America were reported most often by respondents in oil and gas, transportation and energy sectors, likely due to the high cash flows, large and complex public procurements and supply chains, and in some cases, lack of competition (Figure 3.15). Employees and mid-level managers were reported to be most often involved.

Figure 3.15. Respondents that witnessed risks of corruption and other irregular practices materialise, by sector



Note: Based on 219 individual respondents representing the sectors in which there were more than 5 respondents in each group.
Source: OECD 2017 Survey of anti-corruption and integrity in SOEs.

There is not a substantial difference between Latin American and OECD SOEs in terms of how often corruption or other irregular practices reportedly materialised in their companies. However, both groups rank differently the risks they consider more likely to materialise in their company in the present or future, and the impact such risks would have on their company. The most pervasive corruption risks facing the Latin American SOE respondents are "non-declaration of conflict of interest", "receiving bribes" and "influence peddling" – whereas OECD countries rank "violations of data protection and privacy" and "stealing or theft of goods […]" as more likely to occur in their companies (Table 3.7). The findings indicate that LAC respondents worry relatively more about explicitly corrupt acts than their counterparts in OECD countries, who consider irregular practices or rule-breaking to be of higher risk. Such irregular practices, harmful in their own right, may also be linked to or open avenues for corrupt behaviour.

Table 3.7. Top 10 corruption risks for SOEs: perceptions of likelihood and impact

Based on an indexed weighting of the likelihood and impact of corruption risks as high, medium or low.

Index ranking for likelihood of occurrence		Index ranking for impact of occurrence	
LAC	**OECD**	**LAC**	**OECD**
1. Non-declaration of conflict of interest	1. Violations of data protection and privacy	1. Receiving) bribes	1. Falsification and/or misrepresentation of company documents, or false accounting
2. (Receiving) bribes	2. Stealing or theft of goods from your company	2. Fraud	2. (Receiving) bribes
3. Influence peddling	3. Violations of regulations (health and safety, environmental)	3. Falsification and/or misrepresentation of company documents, or false accounting	3. Offering bribes
4. Favouritism (nepotism, cronyism and patronage)	4. Non-declaration of conflict of interest	4. Illegal information brokering	4. Money laundering
5. Interference in decision-making	5. Procurement/contract violations (delivering sub-par goods/services, violating contract terms with suppliers)	5. Money laundering	5. Fraud

Note: Based on a constructed index of respondents' ranking of select risks to their company as "low", "medium" or "high", on a scale of 1-3, where 1 = low, 2 = medium and 3 = high. Likelihood is the possibility/probability that a risk event may occur, in, or involving, your company. Impact is the affect that the risk event would have on achievement of your company's desired results or objectives. For instance, high impact would have a severe impact on achieving desired results, such that one or more of its critical outcome objectives will not be achieved. Low impact would have little or no impact on achieving outcome objectives.
Source: OECD 2017 Survey of Anti-Corruption and Integrity in SOEs; Georgetown University (2017), Impact, Likelihood and Velocity, accessible at:
https://riskmanagement.georgetown.edu/RiskAssessmentMeasures

The universe of laws and regulations related to anti-corruption and integrity is extensive, and has been expanding in recent years in Latin America. In addition to commercial law, most countries have established additional provisions applying to SOEs, whether in SOE-specific policies, codes or guidelines or within thematically-relevant public laws. The introduction of the enhanced asset declaration requirements as in Argentina and Mexico, new laws on the right to information as in Argentina and Paraguay, and national anti-corruption strategies as in Mexico should, if successfully implemented, have a positive impact on integrity of SOEs and their corporate governance frameworks.

There has been a trend in the region towards the establishment of centralised ownership entities or institutions with strengthened responsibilities for co-ordinating ownership, governance and disclosure of SOEs. This has occurred in Argentina, Brazil, Colombia, Chile, Paraguay and Peru. The OECD considers this as a step towards exercising ownership on a whole of government basis, which in turn can be helpful for mitigating risk of undue influence. Furthermore, some of these countries have sought to provide clarity in state expectations for SOEs by aggregating relevant provisions in one place, for instance in the ownership policy or SOE codes of conduct.

However, to ensure the success of reforms that promote integrity in SOEs, focus must also be given to their implementation in practice. Indeed, SOE respondents to the OECD Survey

expressed that laws related to anti-corruption and integrity are clear on paper, but are lacking full implementation in practice. In particular, they reported "a lack of awareness or understanding of the need for, or the relevance of, integrity", a "lack of culture of integrity in the public and political sector", as well as "opportunistic behaviour of individuals" as main obstacles to improving integrity in their company.

3.8.2. Opportunities for strategic actions

Despite positive improvements in legal and regulatory frameworks in the region, further progress will require continued and real commitment from governments, such as that made by G20 countries in their recent adoption of G20 High-Level Principles (HLPs) on Preventing Corruption and Ensuring Integrity in State-Owned Enterprises. Consistent with the HLPs and forthcoming OECD Anti-Corruption and Integrity Guidelines for SOEs, governments are encouraged to take legal and practical measures to strengthen ownership, governance and accountability frameworks to ensure integrity and prevent corruption in SOEs. The Latin American Network on Corporate Governance of SOEs (Annex 2) will continue to support such efforts.

- **Ownership and governance**: Ownership arrangements should be conducive to integrity, which in most cases requires clarity in the legal and regulatory framework applicable to SOEs. To this end, Latin American countries could:
  - ensure that ownership arrangements are conducive to integrity for instance by clearly separating the ownership from other government functions;
  - ensure that the state's expectations as an enterprise owner are clearly defined, as some governments in the region have worked towards, such as in Argentina, Chile, Colombia, Paraguay and Peru;
  - Safeguard the autonomy of SOEs and their decision-making bodies by ensuring that SOEs are overseen by effective and competent boards of directors, as well as executive management, who are appointed based on due diligence of their integrity and professional qualifications, and empowered to oversee the companies' management and operations.
  - Act as active and informed owners of SOEs, including by ensuring that relevant agencies (including but not limited to the ownership entity) monitor SOEs' anti-corruption efforts as part of risk analyses and monitoring. This could also include hosting roundtables, task forces, seminars, training programs and workshops, taking inspiration from practices in neighbouring countries such as those in Box 3.12.
- **Accountability and review mechanisms for SOEs:** Detection of corruption, investigation and enforcement relies on entrusted institutions with the necessary independence. Supreme Audit Institutions (SAI) or similar state control bodies continue to play a prominent role in ensuring the probity of SOE accounts and in assessing overall SOE performance. There may be an opportunity for Latin American countries to:
  - Ensure that SOEs' financial statements are subject to regular audits in accordance with high-quality auditing standards;
  - Consider supplementing the state audit function with professional auditors (e.g. private sector auditing firms).

Box 3.12. Examples of Governments' efforts in promoting integrity in SOEs in LAC

State ownership entities in Latin America have recently increased efforts to promote good practices and raise awareness on integrity issues and related provisions in regulatory frameworks, for instance by hosting roundtables, task forces, seminars, training programmes and workshops for SOE board members and managers. There are opportunities to replicate such practices at different levels of government, across sectors and across borders.

Argentina: Roundtables on Integrity

In May 2016 an SOE Integrity Network was created by representatives of Chief of the Ministerial Cabinet (Jefatura de Gabinete de Ministros, JGM), the Office of the Comptroller General (Sindicatura General de la Nación, SIGEN), the Anticorruption Office (OA) and SOE officials with responsibilities in the areas of auditing, ethics and compliance. The main objectives are to: i) Raise awareness on the relevance of transparency and integrity in SOEs; ii) Promote the design and implementation of integrity and compliance programmes; iii) Generate a community where practitioners can exchange views and best practices; iv) Conduct training with a "train the trainers" perspective, with the purpose of replicating training activities within SOEs.

Brazil: Seminars

Since the adoption of the Law on the Responsibility of Federal State Companies (Law No. 13.303/2016), the Secretariat for the Control of State-owned Enterprises (SEST) has been conducting seminars aimed at raising awareness, especially to public servants working in SOEs, on the importance of the law. This seminar named "Good Governance and Strategic Realignment Practices" offers opportunities to discuss the relevant responsibilities of SOEs, fiscal councils, audit committees and boards of directors, and to highlight the importance of control as a tool for efficiency in public companies.

Chile: Seminars and training programmes.

The ownership entity Sistema de Empresas (SEP) organizes seminars and trainings for board members and executives of SOEs on a regular basis, covering an array of the topics tackled in the SEP Guidelines or related corporate governance issues. The efforts are coordinated with the assistance of professional training bodies, such as universities or other public institutions working on corporate governance of SOEs such as the Comptroller General (Contraloría General de la República), or the Financial Analysis unit (UAF). Examples of 2017 activities include the Diploma in Corporate Governance for Board members, a workshop on compliance and training for internal audit units.

Colombia: Training

The Ministry of Finance has drafted a guide for directors in order to promote good practices, explain roles and responsibilities, and provide guidance in relation to integrity risks and disclosure of information, amongst other aspects. An important training programme including anti-corruption and integrity sessions was also held in October 2017 for board members of SOEs and the Ministry of Finance.

Source: Country responses to a 2017 OECD survey.

3.9. Promoting a shared responsibility with the private sector in creating a culture of integrity

Integrity in the private sector must be a critical component of a country's wider integrity and anti-corruption system. Clean companies are more efficient and more competitive, which in turn ensures healthier markets and greater investor confidence. Moreover, integrity in the private sector can place an effective check on both private- and public-sector corruption.

However, while the advantages of integrity in the private sector are clear, mainstreaming integrity in companies largely remains a challenge. Unethical practices such as tax evasion, collusion, bribery, illegal political contributions, procurement fraud and the influence of public policies away from the public good, continue to reduce competiveness and create negative economic externalities. Moreover, such practices undermine the legitimacy of government and trust in markets.

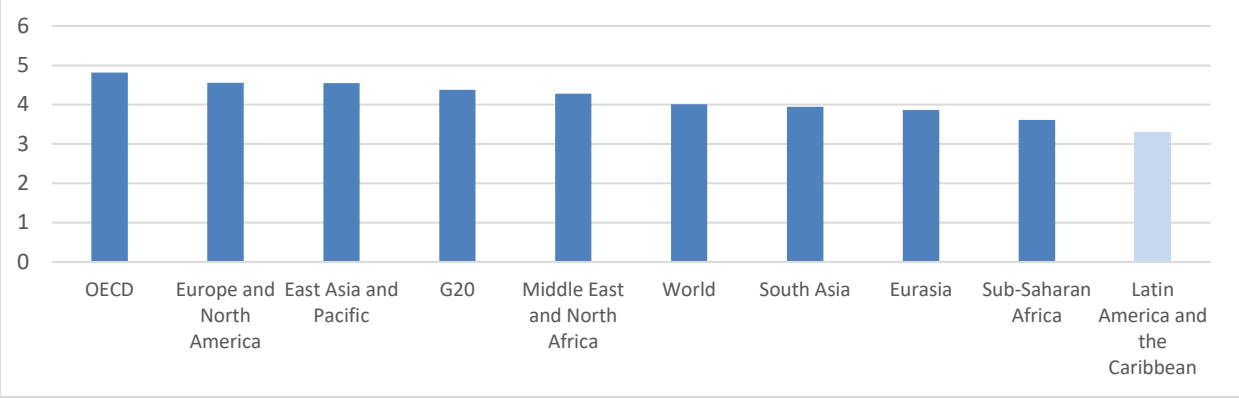
In response to these challenges, both governments and companies are recognising the key role of the private sector in the public integrity system. Driven by public pressure and the evolving regulatory environment, companies are advancing corporate integrity reforms and reshaping the global integrity landscape (UNODC, 2013[109]). More often, integrity is seen as a smart investment, rather than a cost (OECD, 2015[110]). Similarly, the public sector is advancing efforts to support integrity practices in companies, applying a range of tools from incentive regimes to mandating business integrity programmes.

As these efforts progress, the key question is how governments can effectively provide incentives to advance effective integrity measures in the private sector, e.g. how to "nudge" companies to enhance their own internal integrity management.

3.9.1. Key challenges

The World Economic Forum's Executive Opinion Survey captures the opinions of business leaders around the world. Amongst others, the survey asks for the ethical behaviour of companies. The result yields that companies are perceived, on average, to be less ethical in Latin America than in any other region of the world (Figure 3.16).

Figure 3.16. On average, companies are perceived as less ethical in Latin America compared to other regions



Source: World Economic Forum, Global Competitiveness Report 2017-2018.

Sanctions and incentive regimes can help send a clear message that governments are serious about enforcing integrity and anti-corruption laws. Through effective, proportionate and dissuasive sanctions (see section 3.5) as well as rewards for good company practice, governments can motivate the private sector to comply with integrity and anti-corruption standards. Across OECD member and partner countries, different types of sanctions and incentives are used to encourage private sector integrity, with sanctions including monetary fines, confiscation of proceeds, contract remedies, suspension and temporary or permanent debarment, and denial of government benefits. Incentives, on the other hand, can include penalty mitigation, preferential access to government benefits (procurement, tax or export credits, etc.) or business opportunities (see Table 3.8). In particular, the existence of business integrity programmes as a partial defence or mitigating factor in sentencing and corporate liability frameworks can provide strong incentives to private sector integrity.

Table 3.8. Common types of sanctions and incentives

Sanctions	Incentives
Monetary fines	Penalty mitigation
Incarceration	Procurement incentives
Confiscation of proceeds	Preferential access to government benefits
Contract remedies	Whistleblower awards
Suspension and debarment	Compliance as a complete or partial defence for corporate liability
Denial of government benefits	Certification by governments
Liability for damages	Preferred access to business opportunities (e.g. white-listing' companies with demonstrated good practice in business integrity)
Reputational damage	Favourable commercial conditions
Restriction of business opportunities	Positive publicity
Occupational ban for business representatives	

Source: UNCAC (2013), (OECD, 2015[111]), (Schöberlein, Biermann and Wegner, 2012[112]).

Government, private sector and civil society alike see sanctions and incentive regimes as effective tools. For example, in a study on the role of incentives and sanctions in motivating businesses to counter corruption, 74 per cent of respondents considered incentives and sanctions to be equally important (interestingly, of the respondents, the public sector respondents found incentives most effective more often (16 per cent) than the average (9.4 per cent) (Schöberlein, Biermann and Wegner, 2012[112]). Additionally, 71 per cent of respondents considered incentives and sanctions to have a strong impact in motivating businesses to counter corruption, and 85 per cent considered governmental institutions as very important in setting incentives and sanctions for business. Furthermore, when asked to rank selected incentives and sanctions, the following sanctions were ranked by respondents as most effective: imprisonment of business representatives, restriction of business opportunities (e.g. debarment), and restriction of operations (e.g. revocation of business licences). Likewise, the following incentives were ranked as most effective: preferred access to business opportunities (e.g. preferred supplier status), favourable commercial conditions (e.g. lower interest rates, tax breaks) and positive publicity (e.g. awards).

However, while large, publicly listed companies and multinational enterprises with operations across Latin America have made efforts to enhance business integrity measures (e.g., establishing effective corporate governance structures including for internal and external audit and board oversight of compliance and ethics programmes, carrying out sector-specific risk assessments, and establishing confidential and protected channels to report misconduct), such practices are not the norm among the large majority of businesses in the region. Smaller entities such as small-and-medium-sized enterprises (SMEs), and especially family-owned businesses (FOBs), have largely been overlooked by recent legislative reforms in Latin America. Because of this, they have been left with little guidance, know-how, or experience in implementing business integrity at a level that also takes into consideration their existing capacity and resources. Given their limited market-share and bargaining power, SMEs and FOBs are particularly vulnerable when corrupt public officials and private business partners encourage or pressure them to engage in wrongdoing. Given the limited resources that such entities have to invest in their own integrity programmes or carry out burdensome anti-corruption due diligence procedures, it is unlikely that the fight against corruption will succeed if the realities and circumstances they face do not receive sufficient attention. Because SMEs and FOBs generally make up 91 percent of companies across Latin America (with some countries having rates of up to 99 percent), this is an area that the region cannot afford to ignore when looking forward.[8]

3.9.2. Opportunities for strategic actions

Government actors and private sector representatives must work together to understand the ever evolving landscapes in which they operate. As a result, they increasingly have to employ innovative strategies and measures to counter risks and ensure that a culture of transparency and accountability prevails within their structures. In order to do so, they need expert guidance, tools, and capacity-building assistance. They also have to explore ways to collaborate effectively with enforcement entities, properly understand their legal obligations, and adequately satisfy all necessary requirements in order to continue conducting business.

[8] World Bank Enterprise Surveys – Mapping Enterprises in Latin America and the Caribbean (http://www.enterprisesurveys.org/~/media/FPDKM/EnterpriseSurveys/Documents/Topic-Analysis/Mapping-Enterprises-LAC-Note2.pdf). For example, recent studies done in Brazil and Mexico found that 99 percent and 99.8 percent (respectively) of companies in the two countries fall under either the SME category. Regarding Mexico, see Financing SMEs and Entrepreneurs: An OECD Scoreboard on Mexico (https://read.oecd-ilibrary.org/industry-and-services/financing-smes-and-entrepreneurs-2016/mexico_fin_sme_ent-2016-28-en#page1); Regarding Brazil, see also SEBRAE – Brazil (http://www.sebrae.com.br/sites/PortalSebrae/canais_adicionais/sebrae_english).

Box 3.13 provides some examples of programmes in the region designed to incentivise business integrity and sanction integrity failures through corporate compliance. In addition, governments could undertake the following actions:

- Work with the private sector, and especially SMEs, to identify concrete and feasible incentives that would help facilitate integrity in companies, without creating market distortions.
- Ensure effective legal and regulatory frameworks for corporate governance – and codes of recommended good practices – including for board and/or audit committee oversight of internal controls and corporate compliance programmes, and for treatment of conflicts of interest.
- Consider supporting integrity practices in companies by embedding the existence of a business integrity programme into the evaluation of offers submitted for government contracts. Again, such provisions should differentiate to take into account the size of the companies.
- Provide guidance to the private sector on how to translate public integrity policies, such as political financing, lobbying and post-public employment regulations, into company policy and practice.

Box 3.13. Three examples of Incentives and Sanctions Programmes in Latin America

Chile: Certification.

In Chile, the Law No 20/393 (enacted in 2009), allows the investigation, prosecution and/or conviction of legal entities in cases of money laundering, terrorism financing and bribery of public officials. The law provides criminal liability of legal entities with the purpose of encouraging entities to develop mechanisms for the prevention and detection of crime. In particular, the law sets forth a corporate compliance model and requires companies to certify their compliance methods.

In this regard, if the legal entity has a compliance programme prior the commission of the crime, the entity may mitigate criminal liability (Art.6, par.3). According to Article 4, the model should include:

- a model of crime prevention;
- appointment of prevention officer;
- definition of the means and faculties of the prevention officer;
- establishment of a crime prevention system; and
- supervision and certification of the crime prevention system-

While the law has represented a positive step forward in encouraging integrity in the private sector, there is minimal guidance for certifying such models. Companies have thus adopted models of differing qualities. Some appear to be elaborate, whereas others barely go beyond the statutory minimum requirements. For instance, all models provide for channels to report infractions as required by Law 20 393, but few go further to protect whistleblowers. Some do not contain specific integrity measures, like policies on gifts and donations (OECD, 2014).

Brazil: Mitigated sentencing and mandatory compliance programme.

In Brazil, the federal Decree of 8420/15 sets out guidelines for the enforcement of the Anti-Bribery Law, also known as the Clean Company Act (Law No 12/846). The decree sets forth further clarifications on the implementation of the Act and provides incentives for companies to ensure that their integrity programmes satisfy the requirements of the law (Debevoise, 2015).

The decree contains a provision recognising a corporation's integrity programme as a mitigating factor in the case of an administrative sanction derived from corruption. Under the decree, the adoption and implementation of an integrity programme reduces the fine a company has to pay (Art.18, par.5).

Additionally, the effectiveness of the integrity programme is assessed based on parameters such as the commitment of the company's upper management to the programme; the standards of conduct and codes of ethics; the independence and authority of the internal body responsible for applying and overseeing the programme; and the disciplinary measures applicable in the event of violations of the programme (Art.42).

The federal structure of Brazil allows states to adopt their own laws on integrity in the private sector, in compliance with the federal law. For example, the State of Rio de Janeiro adopted law No. 7753/17 with the goal of bringing more transparency to contracts;

improving the quality of contractual relations; and protecting the public administration from irregularities. (Art. 2)

Unlike the federal Clean Company Act, the state law mandates companies to have an integrity programme to enter into contracts, partnerships, concessions, or public-private partnerships with the public administration of the state of Rio de Janeiro. The mandatory integrity programme is required for contractual arrangements higher than R$ 1,500,000 for construction and engineering services and R$ 650,000.00 for purchases and services (Art. 1) (Schmidt, Valois, Miranda, Ferreira & Agel - Advogados Associados, n.d.).

From the day the company enters into a contract with the Public Administration, companies have 180 days to implement their integrity programme (Art.1), and the Contracting Authority is tasked with supervising its implementation and assessing company's compliance (Art.11). Companies that already have an integrity programme in place are obliged to present a proof of its existence at the time of the contract's execution. In the case of non-compliance with the requirements set in the law, the company is not awarded the contract, and must demonstrate that the programme is implemented to be eligible for future contracts (Schmidt, Valois, Miranda, Ferreira & Agel - Advogados Associados, n.d.).

Mexico: Business Integrity Programme and white listing.

Mexico's Ministry of Public Administration (Secretaría de la Función Pública, SFP) recently presented the Model Business Integrity Programme (MPIE). The programme contains a set of recommendations and tools for businesses to adopt integrity standards and includes the following elements:

- An organisational manual of procedures that is clear and complete
- A published and socialised code of conduct
- Adequate and effective control, monitoring and auditing systems
- Appropriate complaint systems
- Adequate training and training systems and processes
- Human resources policies to avoid the incorporation of people who may create a risk to the integrity of the corporation
- Mechanisms that assure at all times the transparency and publicity of their interests

While the MPIE is not mandatory, it aims to help the private sector comply with articles 21 and 25 of the General Law on Administrative Responsibilities (LGRA). The SFP envisions that companies which have the Model Business Integrity Programme and later convicted of wrongdoing could receive a lesser sentence, so there is a legal incentive to put one in place.

In order to encourage compliance beyond legal incentives, the SFP has also devised incentives such as a "white list" that will include the names of companies that have the MPIE in place, a diploma course on integrity for the private sector that universities will put in place and certificates of "compliance" that will be handed to companies who participate. The SFP also envisions involving civil society in the award of integrity certificates (rather than the SFP), so that it builds collective action and is not just something companies have to do because it is imposed by government.

Sources:
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Schmidt, Valois, Miranda, Ferreira & Agel - Advogados Associados. (n.d.). Compliance program requirement for companies that enter into contracts with Rio de Janeiro state Government - Schmidt, Valois, Miranda, Ferreira & Agel - Advogados Associados. [online] Available at: https://www.svmfa.com.br/en/marketing/exigencia-de-programa-de-integridade-para-empresas-que-contratam-com-o-estado-do-rio-de-janeiro/ [Accessed 22 Aug. 2018].
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3.10. A comprehensive and coherent institutional framework boosts integrity policies

With an increased number of actors participating in a system, the risk for duplication and overlap augments, as well as the need for an effective co-ordination. Co-ordination is an arduous task requiring that "elements and actors (…) remain plural and different, while it aims for results that are harmonious and effective" (OECD, 2004[113]). Formal and/or informal mechanisms for co-operation and co-ordination between the actors help in avoiding fragmentation, overlap and gaps and ultimately in ensuring the coherence and the impact of policies as presented in the previous sections.

As such, clear institutional responsibilities for designing, leading and implementing the elements of the integrity system are key to ensure an effective implementation of policies and normative requirements. The responsibilities should of course come along with the mandate, resources and capacities to fulfil them effectively.

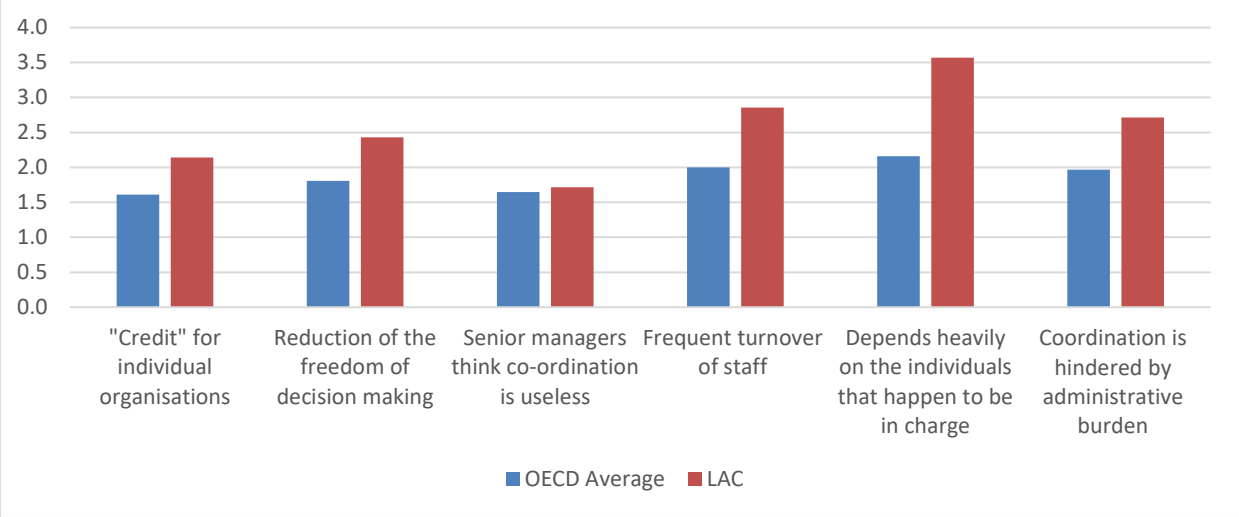
3.10.1. Key challenges

The OECD Integrity Reviews in Argentina, Brazil, Colombia, Mexico, and Peru, as well as the accession processes of Colombia and Costa Rica show the challenges countries face in establishing a coherent and comprehensive public integrity system.

First, co-ordination weaknesses at the centre of government make difficult the mainstreaming and effective implementation of policies throughout all public entities. Figure 3.17 shows that compared to OECD countries, more LAC countries identify that the quality of co-ordination depends on the individuals that happen to be in place. This reflects solutions to co-ordination that are less institutionalised, and thus less sustainable. In addition, co-ordination is hindered by administrative burden, that is, the need to seek approval from heads of the actors involved before being able to agree to inter-organisational goals. Finally, an issue already mentioned in section 3.2, the frequent turn-over of staff threatens co-ordination as it undermines continuity, the building of trust and institutional memory.

Figure 3.17. LAC countries perceive that the quality of co-ordination depends heavily on the individuals that happen to be in place

In your experience, what are the main challenges related to an effective coordination at the central level? (1=not a challenge, 2=somewhat of a challenge, 3=a moderate challenge, 4=severe challenge).



Note: The LAC countries included in the OECD Integrity Survey are: Argentina, Brazil, Chile, Colombia, Mexico and Peru.
Source: (OECD, 2017[72]).

As an answer to the co-ordination challenge, some countries, such as Colombia and Peru, have established formal commissions where key integrity actors meet regularly (OECD, 2017[11]; OECD, 2017[9]). Argentina, for example, has currently opted for a more informal arrangement where actors are meeting in roundtables (OECD, 2018[10]). While informal arrangements have the advantage of allowing for more flexibility, they are also more prone to disappear with changes in governments and depend to a higher degree on the individual motivations of the actors involved – precisely the main challenges identified throughout the region. In turn, arrangements that are more formal run the risk of becoming overly bureaucratic. Whatever the arrangement chosen, a dialogue is relevant for integrity policies and all key actors of the integrity system have to be part of that dialogue.

Second, there is sometimes a lack of continuity in public integrity policies, where short-term considerations often dominate a long-term vision. Building resilient systems through structural reforms and promoting cultural change, however, requires continuity. As mentioned above, a frequent turn-over of staff with changes of government contributes to this risk in the region. Also, the use of presidential decrees, a common way to introduce reforms without having to pass through a complex legislative process, allow to introduce measures fast, but they also can be derogated quickly when governments change. Laws provide for more sustainable changes. For example, in Peru, the High-level Commission against Corruption (Comisión de Alto-Nivel Anticorrupción, or CAN) managed to survive recent changes and crisis because it is created by a national Law. In Mexico, the National Anti-corruption System was established based on a constitutional reform; in Colombia, the core anti-corruption regulations are a "statutory" law that requires special majorities in Congress for approval and changes.

Third, implementing integrity policies into the organisational realities throughout the public administration is a challenge. To achieve this, dedicated “integrity actors” are

particularly important to complement the essential role of mangers in stimulating integrity and shaping ethical behaviour (OECD, 2009[114]). Indeed, international experience suggests the value of having a dedicated and specialised individual or unit that is responsible and accountable for the internal implementation and promotion of integrity laws and policies. However, such integrity contact points are often lacking in LAC countries or are ineffective due to lack of resources, unclear mandates, rotation of staff, impeding that the units can build a knowledge base, or due to too much workload if integrity is not the only task assigned to the staff.

Fourth, moving from an ad hoc and reactive "culture of cases" to a more proactive "culture of integrity" focusing on prevention requires vision, insight and foresight, and as such both strategic and operational planning (OECD, 2017[115]). A strategy that commits the government to concrete, ambitious but feasible outcomes can be a message to the citizens emphasising that this is a serious endeavour. In turn, too broad, vague or unrealistic goals may reflect a lack of political will. A planning process reduces the risk of merely copy-and-pasting solutions from other countries and can provide incentives for innovative thinking (Johnsøn, 2012[116]). A strategic approach is also fundamental for developing benchmarks and indicators and gathering credible and relevant data on the level of implementation, performance and overall effectiveness of the public integrity system (see chapter 2). Finally, a strategic plan can also be valuable co-ordination instrument, as it should require to clearly assigning responsibilities to the identified goals and objectives.

Finally, the relevance of generating and sustaining support of anti-corruption reform has been long recognised but, in practice, falls often short (Hussmann et al, 2009). Specifically, a communication strategy could focus on two aspects:

- communicating success stories to generate trust and support in the population and the public sector, showing that change is possible
- transmitting the notion that fighting corruption is more than detection and sanction by showing that corruption may be prevented through good public management, e.g. planning, human and financial resource management, and internal control.

3.10.2. Opportunities for strategic action

The institutional arrangement of the public integrity systems in LAC countries could be strengthened by either establishing or reinforcing the following core areas:

- Establish a regular coordination mechanism where the key actors from the country's integrity system can meet, exchange information and practices, and jointly coordinate integrity policies in the whole of government. Ensure that this mechanism be assisted by a technical unit that has administrative and financial autonomy and the capacities and resources required.
- Promote continuity in integrity policies by clarifying transition protocols when there are changes in government.
- Ensure the existence of an integrity management system in each entity, comprising a unit or an individual in each public entity dedicated to the prevention of corruption, the promotion of an organisational culture of integrity, and promoting an organisational corruption risk analysis and action plans. Ideally, these units should not be involved in detecting, investigating or sanctioning malpractice.
- Consider the participative development of a national integrity and anti-corruption strategy that commits the governments to concrete, ambitious but feasible

outcomes. Ideally, this strategy would be interlinked with national and sectorial development plans.

- Consider implementing a central integrity monitoring system, which produces regular reports on the advances of the implementation of national integrity policies, and that help to manage and communicate progress towards integrity goals. The monitoring system could complement data from staff and citizen surveys (see below) with administrative data and other quantitative or qualitative sources of information (Box 3.14).
- Evaluate integrity policies and consider rigorous impact evaluations to test innovative measures to ensure learning and a continuous improvement of implemented measures.

Box 3.14. Integrity Monitoring in Korea

The Korean Anti-Corruption and Civil Right Commission (ACRC) uses two complementary assessment frameworks to monitor and assess the quality of implementation of anti-corruption efforts as well as their results: the Integrity Assessments (IA) and the Anti-corruption Initiative Assessments (AIA).

Integrity Assessment (IA)

South Korea annually assesses integrity in all government agencies through standardized surveys. Staff of 617 organisations is asked about their experience with and perception of corruption. Furthermore, citizens who have been in contact with the respective organisations are surveyed as well as stakeholders and experts who have an interest in the respective organisation's work. The answers are, together with other information, scored into a composite indicator – the Comprehensive Integrity Index.

Anti-Corruption Initiative Assessment (AIA)

The Anti-Corruption Initiative Assessment is a comparative assessment of integrity policies across government agencies in Korea. Agencies selected for assessment submit a performance report on their implementation of integrity policies. On-site visits verify the information, which is then scored by an external assessment team. This allows the Korean Anti-Corruption and Civil Right Commission (ACRC) to observe the willingness and efforts made for integrity across the public sector.

Benchmarking and competition

Underperformance in the IA or the AIA does not lead to sanctions. However, the results are public and the direct comparison of different government entities based on integrity indicators creates a competition between government agencies. The results also enter the Government Performance Evaluation. In addition, there are institutional and individual high-performance rewards, such as an overseas study programme for the officials in charge of outstanding integrity performances. The continuous improvement of the performance results indicates that these incentives might be effective.

Sources: Presentation by Sung-sim Min, Director, Anti-Corruption Survey & Evaluation Division, ACRC, at the meeting of the Working Party of Senior Public Integrity Officials (SPIO) at the OECD Headquarters in Paris in November 2016.

All the measures recommended above can be supported by improving the evidence-base available for making informed decisions through the use of staff and citizen surveys (Box 3.15).

- Regularly conduct a centrally administered public employee survey in the whole of the public administration. In addition to questions on integrity, the survey could include various aspects relevant for public sector human resource management. The results of the survey could serve for an internal benchmarking and risk analysis across different public entities, and could be conducted either by the National Statistical Offices or by National Institutes of Public Administration or similar public entities.
- The National Statistical Offices in LAC countries could add questions or modules to existing household surveys or consider implementing regularly a separate citizen survey. These surveys should include, as a minimum, questions on experience, awareness and perception of corruption, and could consider exploring questions related to values and attitudes, and dilemmas and justifications. These surveys are especially interesting to better understand corruption happening at the direct interface between public officials and citizens, and would contribute to the identification of areas

Box 3.15. The use of staff and citizen surveys to improve the evidence-base for integrity policies

Staff surveys

Centrally administered public sector staff surveys touching upon various aspects of public employment have the advantage that answers can be correlated and compared across public entities and provide valuable information for monitoring and evaluating the implementation of integrity policies.

- In the United Kingdom, the Civil Service People Survey yearly interviews almost 300 000 respondents from 98 organisations. The results provide a benchmark across different public entities. Among the various aspects covered by the survey are employee engagement, trust in leadership and fair treatment. A significant change in any of these dimensions could indicate an integrity risk. The repetition of the same questions in regular intervals enables comparisons over time. Positive responses to the question "Are you confident that if you raise a concern under the Civil Service Code in [your organisation] it would be investigated properly?", for example, have been increasing from 58% in 2009 to 70% in 2017.
- In Colombia, the National Statistical Office (Departamento Administrativo Nacional de Estadística, or DANE) carries out an annual Survey on National Institutional Environment and Performance (Encuesta sobre Ambiente y Desempeño Institucional Nacional, EDI). Based on the answers to the questions, the EDI calculates two indicators:
  - Institutional environment indicator, measuring the perception of the officials with respect to the credibility of rules and policies and the resources available in the entity.
  - Institutional performance indicator, measuring the perception of the officials with respect to the capacity of the entity to undertake processes related to results-based management, accountability, promotion of labor welfare and the prevention of irregular practices.

Citizen surveys

In Mexico, the National Institute of Statistics and Geography (INEGI) carries out the National Survey on Government Quality and Impact (ENCIG). It measures the quality of government procedures and services from the perspective of citizens, estimates satisfaction with public services, trust in institutions and experiences of corruption within the public sector. The survey is performed biannually since 2011, it is executed through questionnaires completed by population samples of cities with 100 thousand or more inhabitants. The target population consists of people over 18 years of age. The survey has the following indicators that measure aspects related to corruption:

- Corruption prevalence rate
- Perception about the frequency of corruption
- Corruption incidence rate
- Corruption by type of procedure, payment or request for public service
- Prevalence of corruption by procedure, payment or request
- Corruption costs

Source: (UK Cabinet Office, 2017[117]); (INEGI,(n.d.)[118]).

4. Conclusion: Towards an agenda for good governance and integrity in the region

Good public governance and a strong culture of integrity are indispensable to support countries in Latin America and the Caribbean in their efforts to shift to a more inclusive and sustainable growth path and to provide better public services to their citizens. This publication gathers the main challenges faced by the region concerning integrity and governance, such as the wide gap between de jure quality of regulations and de facto implementation, the risk of policy capture, weaknesses in the civil service and the lack of autonomy of prosecution services, both at the local and national levels.

The most recent corruption cases and the growing citizen discontent are an opportunity for policy-makers to set strategic priorities to implement structural and sustainable reforms aimed at promoting a culture of integrity. This report identifies such priorities and provides strategic guidance to policy makers on how to deliver on their commitments to their citizens, as exemplified in the Lima Commitment.

In this regard, specific actions are suggested under each priority to animate policy-making efforts at the local, national and regional levels. When put together, they constitute a comprehensive agenda or action plan that could define a way forward for the region, paving the road as its countries transition from political will and public commitments to concrete integrity-enhancing actions for the wellbeing of all.

The **"Action Plan Integrity for Good Governance"** outlined below (Annex 1) aims at creating a positive dynamic among the OECD, the LAC region and the international community to advance a coordinated effort to enhance trust in public institutions across the region, increase accountability to its citizens, and consolidate anti-corruption efforts and a culture of integrity throughout the public and private spheres.

Regional co-operation and the exchange of best practices is necessary to boost LAC's potential in the fight against corruption. The OECD stands ready to support this process, promoting peer learning and making its expertise on the subject available to the region. A vast array of concrete **OECD tools** exists (see Annex 2), including regional policy networks, policy reviews and assessments, regional publications, and legal instruments. They aim at assisting countries' efforts by strengthening their legislative, regulatory and institutional frameworks to improve public sector integrity, fight foreign bribery, improve international co-operation and engage with the private sector. Coordinated action is needed in all these fronts to establish a comprehensive and coherent institutional framework that eradicates corruption and instils a robust culture of integrity in Latin America and the Caribbean.

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Annex I
Integrity for Good Governance in Latin America and the Caribbean: An Action Plan

1. Mitigating the risk of policy capture

Political Finance [Lima Commitment (LC) items 25, 26]

1. Make the publication of political campaign reports compulsory, establishing spending campaign limits and explicitly forbidding vote buying.
2. Require the use of bank accounts for all private contributions and prohibit cash contributions to counteract informality and avoid regulation breaches.
3. Evaluate the functions and resources of electoral management bodies to ensure their *de facto* independence and effectiveness. Invest in the professional capacity of their staff in order to develop their enforcement capacities.
4. Ensure the timely publication of the reports from political parties and candidates in easily accessible and usable formats to enable citizen control.
5. Promote democratic candidate selection procedures within political parties, for instance through closed or open primaries.

Lobbying

6. Evaluate the definition of lobbyists and lobbying (and legislate accordingly) to ensure that the framework is robust and comprehensive and that misinterpretations are avoided.
7. Make information public about lobbying activities, including who the lobbyists are, on whose behalf they act, to whom they lobby, the issues involved and the intended result.
8. Strengthen the enforcement of lobbying regulations and existing codes of conduct for lobbyists. Apply sanctions both to public officials and lobbyists on misconduct.
9. Conduct a periodic assessment on costs and benefits for governments and lobbyists. This could be established in the legal framework. Data collection is key to ensure that the lobbying framework meets its intended objective.
10. Raise awareness about lobbying regulations in the public sector, the private sector and in society as a whole in order to tackle the negative perception of lobbying activities and promote transparency in lobbying activities.

Stakeholder engagement in regulatory processes

11. Make consultation with stakeholders a systematic and integral part of the entire development of regulations. Ensure legal requirements are in place and cover the whole administration.
12. Introduce oversight functions to review whether or not stakeholders' views have been effectively taken into account in the development of regulations.
13. Provide for sufficient time to take stakeholders' comments into account before a final decision is taken on draft regulatory proposals. Provide feedback to stakeholders on how their comments were used, for instance through online summaries.
14. Improve stakeholder engagement methodology by tying it closely to the Regulatory Impact Assessment (RIA) process. Improve access to information, adapted to stakeholder needs and capacities to improve the understanding of the issue at hand and obtain informed comments.
15. Use a single centralised government website listing all ongoing consultations to help reach out to the widest possible audience and ensure easy access to consultations.
16. Leverage innovative social accountability mechanisms, such as social audits or participative budgeting to reduce the risks of undue influence.

2. Improving efficiency, effectiveness and openness of the public administration

Administrative Simplification [LC item 33]

17. Reduce the administrative burden for citizens and the private sector by systematically identifying and targeting the most burdensome areas (e.g. through surveys).
18. Use quantitative burden reduction targets to boost the effectiveness of simplification programmes, foster accountability and increase credibility.

Open and Digital Government [LC item 14]

19. Promote, where possible, the development of information technology systems, adoption of policies, and best practices to ensure that all government data, is made open by default, with a view to proactively publish public sector information with no need for citizen action, promoting in particular the access, sharing, and re-use of open government data.
20. Design National Open Government Strategies encompassing initiatives across all branches of the central and subnational administrations with explicit reference to their integrity agenda.
21. Strengthen the role of the Centre-of-Government to align anti-corruption policies, transparency policies and digital government strategies with the National Open Government Strategy.
22. Reinforce the legal frameworks on access to public sector information and strengthen compliance across the public sector.
23. Foster and leverage budget transparency by actively engaging citizens and by limiting the use of budget earmarks.

3. Laying the foundations for an ethical and responsive merit-based civil service

Public Integrity Framework for Ethics in the Civil Service [LC item 11]

24. Strengthen fundamental public service values such as merit, probity, political neutrality and legality in recruitment and career management.
25. Establish transparent and logical organisational structures, which clearly identify positions and describe the role and work to be performed by each position.
26. Make the full organisational chart open to public scrutiny to avoid patronage and nepotism.
27. Reinforce the role of performance assessments, ensuring their transparency, efficiency and reliability, and linking individual performance to broader organisational goals.
28. Include integrity as one performance indicator, in particular for senior public servants. Give special recognition to those public officials that consistently engage in meritorious behaviour or contribute to building a culture of integrity.
29. Ensure that the public integrity management framework is based on corruption risks and applies to all public officials and employees independent of their contractual status.

Prevention and resolution of conflict-of-interest [LC item 10]

30. Provide guidance, ensure continuous training and awareness-raising on public ethics and procedures for conflict-of-interest situations and ethical dilemmas.
31. Distinguish clearly between asset declarations and ad-hoc procedures to resolve conflict-of-interest situations, communicating clearly that having a conflict-of-interest cannot always be avoided but that the critical issue is the public official's response to resolve the conflict.

4. Reinforcing internal and external control and audit

Risk management

32. Expand the use of risk assessments among "risk owners" (i.e. first line of defence). Ensure results are used for making strategic decisions and improving the effectiveness and efficiency of control activities.
33. Conduct trainings and awareness-raising activities both within and among accountability institutions to facilitate co-ordination. Engage all institutional levels and improve understanding about the various stakeholders' roles within the internal control system, in line with international standards.
34. Promote a culture of integrity and risk management through policies, trainings and tone-at-the-top that sends a positive message linking anti-corruption and pro-integrity measures to the success of strategic objectives and the effectiveness of governance.
35. Strengthen planning and public management frameworks to facilitate accountability for results and thus setting incentives for public managers to appreciate the value-added of internal control and risk management.
36. Facilitate internal and external reporting to competent authorities – without fear of reprisal – through effective whistleblower protection frameworks, ensuring follow-up and promoting a culture of openness.

Autonomous and independent oversight bodies [LC item 15]

37. Ensure (including through legislation) that external and internal audit entities function independently of the executive and legislature, have independence in the management of resources, set up of their work programme, and conduct and follow-up of audits.
38. Mandate audit entities to expand their scope of action beyond oversight, focusing on audits that offer insight and foresight to government decision-makers to improve policies. This implies making audit entities work on the development of new products (e.g. audits of systemic integrity issues or government-wide risk assessments), as well on the provision of quality assurance.
39. Scale up training activities to professionalise public auditing.
40. Enhance audit entities' outreach and communication strategies to improve the relevance and impact of their work among key stakeholders, including auditees, the legislature and citizens.
41. Develop policies and practises enabling external and internal audit bodies to follow-up on recommendations and results of audit reports, including specific actions taken by governments to strengthen integrity systems.
42. Identify opportunities for cross-country cooperation between audit entities, including joint audits (e.g. audits of government entities responsible for customs and border crossings), to ensure a holistic, co-ordinated approach for addressing high-risk areas for illicit activities.
43. Align Supreme Audit Institutions (SAI)'s strategic objectives across levels of government, for better coordination.
44. Increase subnational legislatures' and the SAIs' budgetary resources. Address capacity gaps to help audit institutions fulfil their mandates and mitigate the risk of disparities across regions and levels of government.

5. Enhancing trust in the system through effective enforcement mechanisms

Independent and autonomous law enforcement [LC items 1, 2, 24]

45. Review and implement prosecutorial and judicial codes of conduct.
46. Review existing laws governing appointment, tenure, dismissal and discipline of prosecutors and judges, to ensure that the investigation and prosecution of corruption offences is not subject to improper influence.
47. Consider reviewing models for pre-trial settlement or resolution of corruption cases, noting the need for these to have a strict, clear and public legal framework which allows for the application of effective, proportionate and dissuasive sanctions and respects the necessary rules of consistency, predictability, transparency and judicial review that are essential in this type of procedure.
48. Review existing laws governing obligations to report or powers to instruct prosecutors conducting individual cases.
49. Provide adequate resources to permit effective investigation and prosecution of bribery cases.

Criminalisation of Corruption [LC item 21]

50. Criminalise acts of corruption and related offences, including bribery of foreign public officials, in line with international treaties, notably under the United Nations Convention against Corruption (UNCAC), the Inter-American Convention against Corruption

(IACAC) and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention).

Reinforcement of corporate liability frameworks [LC item 35]

51. Legislate to hold companies legally responsible for acts of corruption, even in the absence of proceedings against or a conviction of the individual whose acts triggered the company's liability.
52. Ensure a sufficiently broad jurisdictional base for imposing liability against companies.
53. Allow for effective, proportionate or dissuasive sanctions (criminal, administrative, etc.) to be imposed on companies engaging in corruption, including monetary sanctions and confiscation of illicit proceeds or property.
54. Include provisions for liability for acts committed through intermediaries on a company's behalf, including both related legal persons and unrelated companies or individuals.
55. Offer adequate guidance to prosecutorial and regulatory authorities on how to assess the effectiveness of corporate compliance or integrity programmes. Revise regularly such tools in order to reflect developments in law and its practical application.

International cooperation in the fight of transnational corruption [LC item 36]

56. In particular, consult and cooperate with authorities in other countries through means such as the sharing of information spontaneously or upon request, provision of evidence, extradition, and the identification, freezing, seizure, confiscation and recovery of the proceeds of bribery.
57. Make full use of existing mutual international legal assistance (MLA) frameworks. Consider ways to facilitate MLA between countries in corruption cases , including regarding harmonisation of evidentiary thresholds.
58. Carry out bilateral or multilateral consultations with foreign counterparts on a regular basis to address specific obstacles; discuss pending requests and how to move them forward; discuss recent developments; and build relationships based on trust and co-operation.

Disciplinary enforcement

59. Create comprehensive and coherent disciplinary frameworks that apply consistent disciplinary responses to all categories of public officials. Create streamlined and unified regimes coherent with the public integrity framework.
60. Ensure swift exchange of information among institutions involved in disciplinary proceedings.
61. Set up coordination mechanisms between relevant institutions and entities to promote a smooth functioning of the system as a whole and enable continuous exchange of challenges and experiences.
62. Improve the effectiveness of the disciplinary system, ensuring oversight on and coordination among disciplinary entities.
63. Scale-up data-collection and improve the quantity and quality of information (including the number of investigations, typology of breaches, length of proceedings, intervening institutions, etc.) drawing trends by year, entity or sanctioned conduct.
64. Make disciplinary data and statistics transparent and accessible, and communicate to citizens in an interactive and engaging way in order to demonstrate commitment, improve the understanding of the disciplinary regime, stimulate accountability and foster citizens' trust.
65. Strengthen the professionalism and capacity of disciplinary staff through continuous training. Provide tools and channels guiding and supporting disciplinary offices in carrying out cases through guides, manuals, or a dedicated email addresses.

6. Preventing corruption in public procurement

Internal control, audit and collaboration between agencies [LC items 14, 27, 30]

66. Identify integrity risks along the entire public procurement cycle and strengthen internal control and audit.
67. Adapt risk management strategies to the nature and characteristics of procurement processes, ensuring that those strategies encompass all stakeholders involved in individual procedures. Risk management strategies and mitigation measures should be tailored to the size and complexity of the procurement procedures.
68. Ensure that public procurement officials are professional, recruited on a merit-based and trained in public ethics and conflict-of-interest management with examples close from their day-to-day reality.
69. Review existing procurement procedures to ensure a balance between the costs and benefits of control, aiming at reducing the hidden costs of control on motivation and behaviour of procurement officials.
70. Establish protocols to prevent bid-rigging and detect collusion in public procurement by disseminating materials on fraud- and collusion-awareness indicators to procurement officials.
71. Review domestic procurement legislation to ensure that public procurement tenders are designed in the most effective way to facilitate competitive outcomes.
72. Establish a permanent relationship between competition authorities and procurement agencies such that, should preventive mechanisms fail to protect public funds from third-party collusion, procurement agencies can trust competition authorities to help investigate and prosecute potential anti-competitive conducts.

Technology as a tool for integrity in procurement [LC items 14, 17,27, 30]

73. Enhance e-public procurement platforms making them modular, flexible, scalable, secure and user-friendly. Engage in policy dialogue in this field where LAC countries count with relevant innovations.
74. Take advantage of technology tools to exploit the large quantity of data generated by procurement registries to detect patterns of misconduct and corruption.

7. Developing capacities at the subnational level to promote articulated integrity policies

Integrated co-ordination mechanisms [LC items 14, 38]

75. Establish vertical co-ordination mechanisms – including feedback channels – to include subnational governments in the design of integrity policies and to address implementation challenges in a specific (tailor-made) but integrated way. Facilitate the exchange of good practices to ensure that innovative solutions emerging at lower level governments are adopted more widely.
76. Ensure consistency of integrity standards between the subnational and central level, for instance by requiring subnational entities to adopt their own specific codes of conduct based on central guidance.
77. Resource internal audit teams adequately to ensure a sufficient degree of independence.

The subnational level [LC item 14]

78. Set frameworks to encourage subnational entities to identify their own priorities and attend their own needs in relation to public integrity, developing ownership bottom–up.
79. Appoint an individual (full-time or part-time, depending on the size of the subnational authority) responsible for implementing integrity policies and strengthening the culture of integrity through guidance and awareness-raising of integrity standards.
80. Conduct corruption risks diagnostics in local governments to develop legislation, policies, procedures and a periodic corruption risk assessment in each subnational authority in relation to the authority's functions and operations.

8. Promoting good corporate governance and integrity in State Owned Enterprises

Ownership and governance

81. Consistent with the G20 HLPs and forthcoming OECD Anti-Corruption and Integrity Guidelines for SOEs, governments are encouraged to undertake legal and practical measures to strengthen ownership, governance and accountability frameworks to ensure integrity and prevent corruption of SOEs.
82. Establish ownership arrangements that are conducive to integrity, for instance by clearly separating the ownership from other government functions.
83. Ensure that the state's expectations as an enterprise owner are clearly defined
84. Safeguard the autonomy of SOEs and their decision-making bodies by ensuring that SOEs are overseen by effective and competent boards of directors, as well as executive management, who are appointed based on due diligence of their integrity and professional qualifications, and empowered to oversee the companies' management and operations.

85. Act as active and informed owners of SOEs, including by ensuring that relevant agencies (including but not limited to the ownership entity) monitor SOEs' anti-corruption efforts as part of risk analyses and monitoring. This could also include hosting roundtables, task forces, seminars, training programs and workshops.

Mechanisms for accountability and review

86. Ensure that SOEs' financial statements are subject to regular audits in accordance with high-quality auditing standards.
87. Consider supplementing the state audit function with professional auditors (e.g. private sector auditing firms).

9. Promoting a shared responsibility with the private sector in creating a culture of integrity

Private sector integrity promotion programmes and codes of conduct [LC items 11, 12]

88. Work with the private sector, including business associations and SMEs, to identify concrete and feasible incentives that would help facilitate integrity in companies, without creating market distortions.
89. Ensure effective legal and regulatory frameworks for corporate governance – and codes of recommended good practices – including for board and/or audit committee oversight of internal controls and corporate compliance programmes, and for treatment of conflicts of interest.
90. Embed the existence of a business integrity programme into the evaluation of offers submitted for government contracts, taking into account the size of the companies.
91. Incentivise effective compliance systems, to transform responsible business conduct into a competitive advantage.
92. Provide guidance to the private sector on how to translate public integrity policies, such as political financing, lobbying and post-public employment regulations, into company policy and practice.
93. Support collective action among private sector stakeholders to jointly tackle problems of corruption and report bribery solicitation or similar concerns in a non-threatening and confidential way.

10. A comprehensive and coherent institutional framework boosts integrity and anti-corruption policies

Institutional arrangements for integrity [LC items 3, 39, 40]

94. Develop in a participatory way a national integrity and anti-corruption strategy that commits the governments to concrete, ambitious, but feasible outcomes. This strategy would be interlinked with national and sectorial development plans.
95. Establish a regular coordination mechanism where the key actors from the country's integrity system can meet, exchange information and practices, and jointly coordinate integrity policies in the whole of government.
96. Create a technical unit that has administrative and financial autonomy and the capacities and resources required to assist the coordination mechanism.
97. Ensure the existence of an integrity management system in each entity, comprising a unit or an individual in each public entity dedicated to the prevention of corruption, the promotion of an organisational culture of integrity, and the execution of organisational corruption-risk analyses and action plans. Ideally, these units would not be involved in detecting, investigating or sanctioning malpractice.
98. Implement a central integrity monitoring system, which produces regular reports on the advancement of national integrity policies implementation, and which helps to manage and communicate progress made towards integrity goals. The monitoring system could complement data from staff and citizen surveys (see below) with administrative data and other quantitative or qualitative sources of information.
99. Clarify transition protocols between governments to promote continuity of integrity and anti-corruption policies.

Improving the evidence-base for integrity policies [LC item 49]

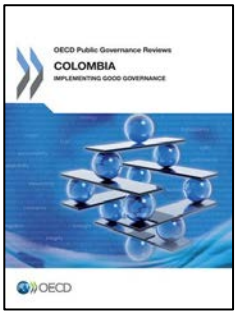
100. Conduct action-oriented gap assessments – also at local level – to enable the identification of legal obstacles to implementation, in order to draw, monitor and review change-management plans.
101. Conduct a centrally administered public-employee survey on integrity and related Human Resource Management issues in the whole of the public administration, whose results could serve for an internal benchmarking and risk analysis across different public entities. These could be conducted either by the National Statistical Offices, National Institutes of Public Administration or similar public entities.
102. Complement household surveys by National Statistical Offices or regularly implement a separate citizen survey with questions on integrity (e.g. on experience, awareness and perception of corruption, but also related to values, attitudes, dilemmas and justifications).
103. Evaluate integrity policies using rigorous impact evaluations to test the implementation of innovative measures, ensuring continuous learning and improvement.

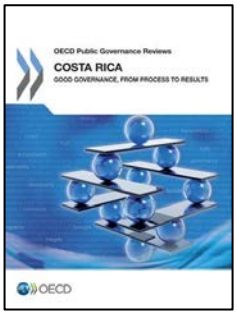
Annex II
OECD tools to strengthen integrity, public governance and the fight against corruption

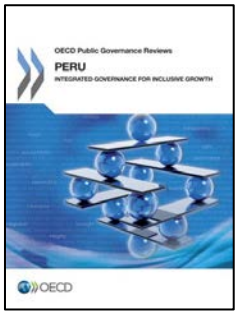
Public Governance

A. OECD Policy Reviews

OECD Public Governance Reviews assess the strengths and weaknesses of a country's public sector in addressing socio-economic challenges. The reviews focus on analysing and connecting themes that contribute to building a more resilient state, such as the capacity of the centre of government to steer and operationalise a national long-term strategy, the sustainability of the budgetary framework, performance-based human resources management, policy evaluation and multi-level governance. **Colombia** (2014), **Costa Rica** (2017), **Peru** (2016) and **Paraguay** (2018) have undertaken Public Governance Reviews.









Public Sector Integrity

A. OECD Policy Reviews

OECD Integrity Reviews systematically assess the functioning of integrity management policies within a government. Risk analysis is at the heart of these reviews to identify and address vulnerabilities to corruption as well as to assess the implementation deficit of integrity measures. **Argentina** (on going), **Brazil** (2012), **Peru** (2017), **Colombia** (2017), **Mexico** (2017) have undertaken Integrity Reviews. Reviews have been undertaken as well for subnational governments, including recently Coahuila, Mexico (2017). The OECD has also been working with the supreme audit institutions (SAI) of **Brazil** (2013), **Chile** (2014) and **Mexico** (2017) to identify new ways that SAIs can induce change and better governance through audits, evaluations and co-ordination with the Centre of Government. In addition to risk management and internal control issues, the OECD's work with audit bodies covers a range of governance issues, like performance-based budgeting and evidence-based policy making.



B. OECD Legal Instruments

OECD Recommendation on Public Integrity[9]*:* Traditional approaches based on the creation of more rules, stricter compliance and tougher enforcement have been of limited effectiveness. A strategic and sustainable response to corruption is public integrity. Integrity is one of the key pillars of political, economic and social structures and thus essential to the economic and social well-being and prosperity of individuals and societies as a whole.
The Recommendation provides policy makers with a vision for a public integrity strategy. It shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.
The Recommendation builds upon three pillars:

i. Build a Coherent and Comprehensive Public Integrity System
ii. Cultivate a Culture of Public Integrity
iii. Enable Effective Accountability

Chile and **Mexico** adhered to the Recommendation in 2017. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.





OECD Recommendation on OECD Guidelines for Managing Conflict of Interest in the Public Service: The primary aim of the Recommendation is to help Adherents, at central government level, consider existing Conflict of Interest policy and practice relating to public officials - including public servants/civil servants, employees, and holders of public office - who work in the national public administration. The Recommendation can also provide general guidance for other branches of government, subnational level government, and state-owned corporations.

[9] Adherence to this Recommendation is subject to a review by the Working Party of Senior Public Integrity Officials.

The Recommendation reflects the fact that public officials may be expected to observe in particular the following core principles in dealing with conflict of interest matters to promote integrity in the performance of official duties and responsibilities:

- Serving the public interest
- Supporting transparency and scrutiny
- Promoting individual responsibility and personal example
- Engendering an organisational culture which is intolerant of conflicts of interest

Chile (2003), **Mexico** (2003), and **Peru** (2016) adhered to the Recommendation. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.



OECD Recommendation on Principles for Transparency and Integrity in Lobbying: The Principles provide decision makers with directions and guidance to foster transparency and integrity in lobbying. Decision makers may use all available regulatory and policy options in order to select measures, guidelines or rules that meet public expectations for transparency and integrity. The Principles are primarily directed at decision makers in the executive and legislative branches. They are relevant to both national and subnational level.
The Principles focus on four main areas:

- Building an effective and fair framework for openness and access
- Enhancing transparency
- Fostering a culture of integrity
- Mechanisms for effective implementation, compliance and review

Chile (2010), **Mexico** (2010) and **Peru** (2017) adhered to the Recommendation. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.



C. Regional Policy Networks

The **OECD-IDB Public Integrity Network for Latin America and the Caribbean** brings together the actors involved in public integrity systems of the LAC region to exchange ideas, experiences and lessons learned, as well as to find solutions to common challenges in the implementation of public integrity policies. In particular, the objectives of the Network are to:

- Help shape the policy debate and enable the exchange of good practices and lessons learned from policy implementation at the national, regional and international level.
- Foster coordination and communication between the distinct integrity actors, both domestically and regionally.
- Support countries in developing coherent and comprehensive public integrity systems.

The first meeting held in Santiago, Chile in May 2017 included high-level participants from 10 LAC countries (Argentina, Brazil, Chile, Colombia, Costa Rica, Guatemala, Mexico, Paraguay, Peru, Uruguay) and 20 national authorities working on integrity policies in the region. The next meeting of the Network will take place in Lima, Peru, on 16-17 October 2018, back-to-back with the Ministerial Meeting.

Public Procurement

A. OECD Policy Reviews

OECD Public Procurement Reviews support governments in reforming their public procurement systems to ensure long-term sustainable and inclusive growth as well trust in government, including by providing international standards on public procurement; bringing together several communities of practice on procurement to shape directions for future reforms; and collecting useful and reliable evidence across OECD countries and beyond on the performance of public procurement operations, as well as the impact of procurement on broader public policy objectives.



To avoid **collusion and bid-rigging in Public Procurement**, the OECD has supported countries such as Mexico through policy reviews and support in the implementation of measures to detect and prevent such anti-competitive practices in various institutions of the public sector. Such Reviews are done taking as a reference the OECD Recommendation on Fighting Bid Rigging in Public Procurement (see below).



B. OECD Legal Instruments

OECD Recommendation on Public Procurement: The Recommendation is the overarching OECD guiding principle on public procurement that promotes the strategic and holistic use of public procurement. It is a reference for modernising procurement systems and can be applied across all levels of government and state owned enterprises. It addresses

the entire procurement cycle while integrating public procurement with other elements of strategic governance such as budgeting, financial management and additional forms of services delivery.

This 2015 Recommendation builds upon the foundational principles of the 2008 OECD Recommendation on Enhancing Integrity in Public Procurement, expanding them to reflect the critical role governance of public procurement must play in achieving efficiency and advancing public policy objectives. By helping governments to better meet their policy objectives, well-governed public procurement contributes directly to greater public trust, enhanced well-being and more prosperous and inclusive societies. **Chile** and **Mexico** adhered to the Recommendation in 2015. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.





The OECD Recommendation on Fighting Bid Rigging in Public Procurement, adopted in 2012, calls for governments to assess their public procurement laws and practices at all levels of government in order to promote more effective procurement and reduce the risk of bid rigging in public tenders. **Chile** and **Mexico** adhered to the Recommendation in 2015. The Recommendation is a step forward in the fight against collusion in public procurement that the OECD has been leading for a long time especially through the 2009 Guidelines for Fighting bid rigging in Public Procurement



and the work related to its dissemination worldwide. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.





Financing Democracy

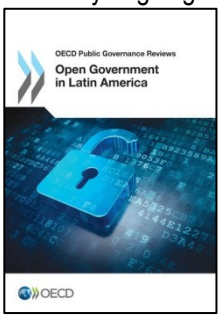
A. Comparative Analysis

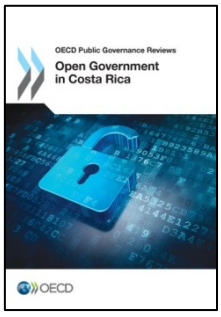
Financing Democracy: The debate on the role of money in politics has shed the light on the challenges of political finance regulations. What are the risks associated with the funding of political parties and election campaigns? Why are existing regulatory models still insufficient to tackle those risks? What are the links between money in politics and broader frameworks for integrity in the public sector? This report addresses these three questions and provides a Framework on Financing Democracy, designed to shape the global debate and provide policy options as well as a mapping of risks. It also features country case studies of Canada, Chile, Estonia, France, Korea, **Mexico**, United Kingdom, **Brazil** and India, providing in-depth analysis of their political finance mechanisms and challenges in different institutional settings.

Open Government

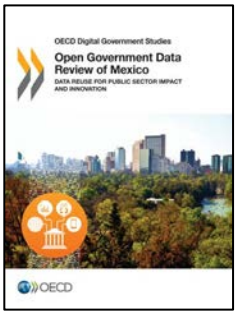
A. OECD Policy Reviews

OECD Open Government Reviews support countries in their efforts to build more open, participatory and accountable governments that can contribute to restoring citizens' trust and promote inclusive growth. They provide governments with in-depth analysis of their open government policies coupled with actionable recommendations to help to embed the principles and practices of open government in their policy making cycles and to evaluate their impact. A **regional** Open Government Review – the OECD Report on Open Government in Latin America – was carried out in 2014. It included special chapters of **Colombia**, **Costa Rica** and **Peru**. In addition, **Costa Rica** undertook a Review in 2017 and the Open Data Review of Mexico as well as the Public Governance Reviews of Peru and Paraguay include discussions of countries' open government agendas. An Open Government Review of **Argentina** is currently ongoing.



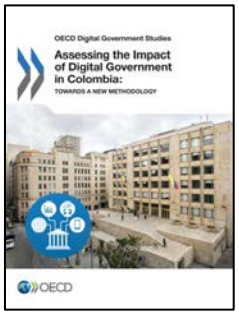


OECD Digital Government Reviews analyse the shift from e-government to digital government. The Reviews look at the governance framework for digital government, the use of digital platforms and open data to engage and collaborate with citizens, conditions for a data-driven public sector, and policy coherence. They provide concrete policy recommendations on how digital technologies and data can be harnessed for citizen-driven policy making and public service delivery. **Colombia** carried out a Digital Government Review in 2018.









B. OECD Legal Instruments

OECD Recommendation on Open Government: The OECD Council adopted the Recommendation on Open Government – the first internationally recognised legal instrument in the area of Open Government - in December 2017. The Recommendation defines a set of criteria that will help Adherents to design and implement successful open government agendas. The Recommendation promotes the principles of transparency, integrity, accountability and stakeholder participation in designing and delivering public policies and services, in an open and inclusive manner. It for instance encourages Adherents to:

- Take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders and to foster commitment from politicians, members of parliaments, senior public managers and public officials, to ensure successful implementation and prevent or overcome obstacles related to resistance to change;
- Ensure the existence and implementation of the necessary open government legal and regulatory framework, including through the provision of supporting documents such as guidelines and manuals, while establishing adequate oversight mechanisms to ensure compliance;
- Develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives by:
    - (i) Identifying institutional actors to be in charge of collecting and disseminating up-to-date and reliable information and data in an open format;
    - (ii) Developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders.

As OECD member countries, **Chile** and **Mexico** adhered to the Recommendation in 2018. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation. Argentina has signalled its intention to adhere.





OECD Recommendation on Digital Government Strategies: This Recommendation aims to support the development and implementation of digital government strategies that bring governments closer to citizens and businesses. It recognises that today's technology is not only a strategic driver for improving public sector efficiency, but can also support effectiveness of policies and create more open, transparent, innovative, participatory and trustworthy governments.
It recommends that Adherents develop and implement digital government strategies which, inter alia, ensure greater transparency, openness and inclusiveness of government processes and operations by:

- adopting open and inclusive processes, accessibility, transparency and accountability among the main goals of national digital government strategies;
- updating accountability and transparency regulations recognising different contexts and expectations brought about by digital technologies and technology-driven approaches;
- taking steps to address existing "digital divides" (i.e. the fact that societies can be divided into people who do and people who do not have access to - and the capability to use - digital technologies) and avoid the emergence of new forms of "digital exclusion" (i.e. not being able to take advantage of digital services and opportunities).

Chile (2014), **Colombia** (2014), **Costa Rica** (2014), **Panama** (2017), **Peru** (2017), and **Mexico** (2014) have adhered to the Recommendation.








C. OECD Regional Policy Networks

The Latin America and the Caribbean Network on Open and Innovative Government launched in the framework of the OGP Global Summit in Mexico in 2015, provides a platform where LAC countries engage in policy dialogue,

knowledge transfer, and exchange of good practices in the areas of open government, public sector innovation and digital government. The Network seeks to deliver the following:

- Connect reformers around the region from government (central and local), civil society, business associations, and other relevant multilateral institutions to exchange ideas, experiences, and knowledge on how to build better and stronger public institutions;
- Identify good practices of open and innovative governments and create a space conducive to their dissemination, through data collection and analyses, policy assessments, and peer review processes;
- Provide examples and recommendations to its members on how to sequence open government reforms within the regional and country-specific context and support their implementation to promote socio-economic development and regional integration.

Combat to Bribery of Foreign Public Officials in International Business Transactions

A. OECD Policy Reviews

Parties to the OECD Anti-Bribery Convention take part in a rigorous peer review process which includes four phases. In addition, the OECD carries out horizontal studies of cross-cutting issues (e.g. detection; international cooperation; pre-trial resolutions/settlements – forthcoming; and corporate liability). Under the aegis of the Working Group on Bribery, parties to the Convention meet biannually at the level of law enforcement officials involved in the investigation and prosecution of the bribery of foreign public officials.



B. OECD Legal Instruments

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions: The OECD Anti-Bribery Convention establishes legally binding standards to criminalise the bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the first and only international anti-corruption instrument focused on the 'supply side' of the bribery transaction.

The Convention itself establishes an open-ended, peer-driven monitoring mechanism to ensure the thorough implementation of the international obligations that countries have taken on under the Convention. This monitoring is carried out by the OECD Working Group on Bribery (WGB). The country monitoring reports contain recommendations formed from rigorous examinations of each country.

Accession to this Convention requires approval by the WGB. Its approval is based on the criteria of a country's ability and willingness to contribute substantially to the WGB through its active participation, and of the country's membership being of mutual interest to the country and the WGB. A country must also satisfy a number of criteria relating to its legal and institutional framework, including criminalisation of bribery of foreign public officials; corporate liability for the foreign bribery offence; and explicit non-tax deductibility of bribes, before it will be invited to accede to the Convention.

Argentina (1997), **Brazil** (1997), **Chile** (1997), **Colombia** (2011), **Costa Rica** (2016), **Peru** (2018), and **Mexico** (1997) are Parties to the Convention.



OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions: The OECD Council adopted the Recommendation for Further Combating Bribery of Foreign Public Officials (Anti-Bribery Recommendation) on 26 November 2009. The Anti-Bribery Recommendation complements the Convention and enhances the ability of the Parties to the Convention to prevent, detect and investigate allegations of foreign bribery.

The Recommendation strengthens the OECD framework for fighting foreign bribery by calling on the Parties to the Convention to, *inter alia*:

- Adopt best practices for making companies liable for foreign bribery so that they cannot be misused as vehicles for bribing foreign public officials and they cannot avoid detection, investigation and prosecution for such bribery by using agents and intermediaries, including foreign subsidiaries, to bribe for them;
- Improve cooperation between countries for the sharing of information and evidence in foreign bribery investigations and prosecutions and the seizure, confiscation and recovery of the proceeds of transnational bribery, through, for instance, improved or new agreements between the States Parties for these purposes;
- Provide effective channels for public officials to report suspected foreign bribery internally within the public service and externally to the law enforcement authorities, and for protecting whistleblowers from retaliation; and
- Working with the private sector to adopt more stringent internal controls, ethics and compliance programmes and measures to prevent and detect bribery.

Parties to the Anti-Bribery Convention have adhered to this Recommendation.



C. Regional Policy Networks

The **OECD-Latin America and Caribbean Anti-Corruption Initiative** was established in 2007, with the support of the Inter-American Development Bank and the Organization of American States, to promote the OECD Anti-Bribery Convention in the region and strengthen the Convention's implementation. The Initiative provides a platform for countries from the region to compare experiences, share best practices, and discuss challenges in the fight against corruption.

The Initiative's aims are achieved through periodic meetings, hosted by countries from the region, which bring together representatives from a wide range of ministries, government agencies, non-government organisations, and the private sector in Latin America and the Caribbean and beyond. The meetings mix broad awareness-raising events with technical workshops and seminars and involve experts from the OECD Secretariat and members of the WGB. The Initiative also seeks to develop a dialogue and collaboration with the business community on the prevention of corruption in international transactions and the adoption of internal prevention mechanisms in companies.

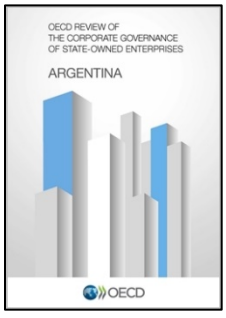
The **Latin America and Caribbean Anti-Corruption Law Enforcement Network** (LAC LEN) is an initiative of several countries from Latin America and the Caribbean region and the OECD Latin America and Caribbean Anti-Corruption Initiative. The objective of the LAC LEN is to bring together law enforcement practitioners in Latin America and the Caribbean in order to equip them with the tools and knowledge required to effectively investigate, prosecute and cooperate in transnational corruption cases. The Network is the first and only network to provide practical, case-based, peer-led training to working-level practitioners from across the LAC region in order to improve their ability to investigate and prosecute crimes of corruption. The first meeting of the Network will be in Buenos Aires, Argentina, in Q4 2018.

Corporate Governance and Integrity of State-Owned Enterprises

A. OECD Policy Reviews

OECD reviews of the corporate governance of state-owned enterprises evaluate the corporate governance and regulatory framework for state-owned enterprises (SOEs) in individual countries. In addition to providing a quantitative sectoral overview of national SOE sectors, the reviews examine the state ownership policy, the institutional arrangements for exercising the state ownership function, the regulatory framework for competition between SOEs and private enterprises, the equitable treatment of shareholders, policies for stakeholder relations and the effectiveness and independence of SOE boards of directors. Reviews of the corporate governance of SOEs are conducted using the OECD Guidelines on Corporate Governance of State-Owned Enterprises as a benchmark. **Colombia** and **Argentina** partook in corporate governance of SOEs reviews in 2015 and 2018.





B. OECD Legal Instruments

OECD Recommendation on Guidelines on Corporate Governance of State-Owned Enterprises were first developed in 2005 and were updated in 2015 to take into account developments since their adoption, and to reflect the experiences of the growing number of countries that have taken steps to implement them. The Guidelines give concrete advice to countries on how to manage more effectively their responsibilities as company owners, thus helping to make state-owned enterprises more competitive, efficient and transparent. The updated Guidelines were adopted in July 2015.

Chile and **Mexico** are adherents to this Recommendation. **Colombia** will have adhered to the Recommendation upon finalising the process to become a Member of the Organisation.







The OECD is currently working toward **new Guidelines on Anti-Corruption and Integrity for State-Owned Enterprises**. These Guidelines will supplement the OECD Guidelines on Corporate Governance of State-Owned Enterprises, by advising the state in fulfilling its role as an active and informed owner in the specific area of anti-corruption and integrity. Both sets of guidelines share the broader goals of SOEs operating with an efficiency,

transparency and accountability akin to best-practice private companies, and competing on a level playing field. The new Guidelines are being developed under the auspices of the Working Party on State Ownership and Privatisation Practices and with a view to their finalisation in 2019.

C. Regional Policy Networks

The **Latin American Network on Corporate Governance of State-Owned Enterprises** has as objective to enhance the governance of SOEs in the region through an ongoing exchange of experience and knowledge on SOE governance policies, practices and reforms using the OECD Guidelines on Corporate Governance of State-Owned Enterprises as the main conceptual framework for discussion.

The Latin American Network on Corporate Governance of SOEs raises awareness of all concerned constituencies on the importance and challenges related to the good corporate governance of SOEs; evaluates the current SOE corporate governance policy frameworks and practices, and benchmarks these against international best practice as described in the Guidelines. It influences policymaking by providing a forum in which policy makers, practitioners and experts can share knowledge and experience among peers and supports viable and effective reforms by discussing and analysing policy options, developing relevant recommendations and agreeing on priorities for reforms. The most recent meeting held in Colombia in December 2017 included a first consultation on proposed OECD Guidelines on Anti-Corruption and Integrity for SOEs. The next meeting of the Network in 2019 will return to this topic as well as other issues related to strengthening corporate governance of SOEs.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

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Integrity for Good Governance in Latin America and the Caribbean

FROM COMMITMENTS TO ACTION

Increasing productivity, enhancing social inclusion and strengthening institutions are top priorities for countries in Latin America and the Caribbean, and constitute therefore the three pillars of the OECD LAC Regional Programme. Good public governance and a strong culture of integrity are indispensable to achieve these three objectives. The most recent corruption cases and the growing discontent of citizens are an opportunity for policy makers to promote a culture of integrity and implement national integrity and anti-corruption strategies.

This report builds on the recent Lima Commitment, which was dedicated to "Democratic Governance against Corruption" and signed by 34 countries at the Summit of the Americas held in Lima in 2018. It provides strategic guidance to policy makers to bring political commitments into concrete actions that deliver results at the height of the expectations of their citizens.

Consult this publication on line at ***https://doi.org/10.1787/9789264201866-en***.

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