

## **Nuevos recursos y estrategias en el vínculo de la representación parlamentaria en América Latina**

*New resources and strategies in the link of parliamentary representation in  
Latin America*

*Novos recursos e estratégias no vínculo da representação parlamentar na  
América Latina*

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### **Resumen**

El documento tiene por objetivo analizar cómo los recursos tecnológicos aplicados a la gestión legislativa inciden en la relación ciudadanos-representantes en la región latinoamericana. El estudio se elaboró con base en un análisis comparativo de las experiencias en los congresos latinoamericanos basado en tres criterios: 1) la rendición de cuentas vertical; 2) el acceso ciudadano a la información; y 3) el nivel de incidencia de participación ciudadana en las decisiones legislativas. El primero se observa a partir de identificar los mecanismos institucionales para la mejora del equilibrio de poderes, así como la incidencia de los legisladores en el cargo a través de la reelección. El segundo elemento se analiza por medio de los diferentes informes regionales sobre transparencia legislativa y sistemas de información. Finalmente, la participación ciudadana, se verifica mediante la utilización de mecanismos de participación en la región.

En el estudio fue posible identificar que el proceso de modernización legislativa a la que se sometieron la mayoría de los Congresos en América Latina, favoreció su gestión, el acceso a la información, la transparencia, y la participación ciudadana en las decisiones legislativas. Sin embargo, la introducción de los recursos tecnológicos, no fue suficiente

para modificar las prácticas políticas, la representación ciudadana y la escasa rendición de cuentas que caracteriza a la región, lo que ha mantenido a los congresos latinoamericanos en una complicada crisis de credibilidad y confianza ciudadana.

**Palabras clave:** congresos, congresos latinoamericanos, ciudadanía, rendición de cuentas, representación.

### **Abstract**

The purpose of the document is to analyze how the technological resources applied to legislative management affect the relationship between citizens and representatives in the Latin American region. The study was developed based on a comparative analysis of experiences in Latin American congresses based on three criteria: 1) vertical accountability; 2) citizen access to information; and 3) the level of incidence of citizen participation in legislative decisions. The first is observed by identifying the institutional mechanisms for improving the balance of powers, as well as the incidence of legislators in office through re-election. The second element is analyzed through the different regional reports on legislative transparency and information systems. Finally, citizen participation is verified through the use of participation mechanisms in the region.

In the study it was possible to identify that the process of legislative modernization to which most of the Congresses in Latin America submitted themselves, favored their management, access to information, transparency, and citizen participation in legislative decisions. However, the introduction of technological resources was not enough to modify the political practices, the citizen representation and the scarce accountability that characterizes the region, which has kept the Latin American congresses in a complicated crisis of credibility and trust. Citizen.

**Key words:** congresses, Latin American congresses, citizenship, accountability, representation.

## Resumo

O objetivo do documento é analisar como os recursos tecnológicos aplicados à gestão legislativa afetam a relação entre cidadãos e representantes na região latino-americana. O estudo foi desenvolvido com base em uma análise comparativa de experiências em congressos latino-americanos com base em três critérios: 1) accountability vertical; 2) acesso do cidadão à informação; e 3) o nível de incidência da participação do cidadão nas decisões legislativas. A primeira é observada identificando os mecanismos institucionais para melhorar o equilíbrio de poderes, bem como a incidência dos legisladores em exercício por meio da reeleição. O segundo elemento é analisado através dos diferentes relatórios regionais sobre transparência legislativa e sistemas de informação. Finalmente, a participação cidadã é verificada através do uso de mecanismos de participação na região.

No estudo foi possível identificar que o processo de modernização legislativa ao qual se submeteram a maioria dos congressos da América Latina favoreceu sua gestão, acesso à informação, transparência e participação cidadã nas decisões legislativas. No entanto, a introdução de recursos tecnológicos não foi suficiente para modificar as práticas políticas, a representação cidadã e a escassa accountability que caracteriza a região, que manteve os congressos latino-americanos em uma complicada crise de credibilidade e confiança. Cidadão.

**Palavras-chave:** congressos, congressos latino-americanos, cidadania, prestação de contas, representação.

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## Introduction

In 2012, the world parliamentary report reported the emergence of multiple parliamentary monitoring organizations as a demand for receptivity to Congresses. In the report, 191 organizations were identified that monitor activities of 80 national assemblies that are mostly located in Latin America (42) and Central Europe (28). Some offer research and analysis services to support the work of legislative oversight and scrutiny; others publish the trajectory of the legislators; other groups evaluate and rate the performance of legislators (United Nations Development Program [UNDP] and Inter-Parliamentary Union, 2012).

This phenomenon arises from the use of new technologies that facilitate parliamentary communication. In addition to the technological impact, it should be added that the transformation towards democracy of various countries in Latin America has increased the expectations of citizens regarding their democratic institutions, particularly those of a representative nature. The democratic arrival in the Latin American region offered the opportunity to these institutions to adapt and adapt to democratic demands through processes of institutional and technological modernization.

In the case of the Congresses, these promised particular interest, since, by retaking their oversight and representative function, they would contribute to the citizen's perspectives of enjoying a quality democracy that would bring national representation closer to an unbelieving citizenry of authoritarian, inefficient and corrupt governments. . The process of institutional transformation has varied from country to country, but in general, it can be said - coinciding in part with Elice (2010) and Ampuero (2005) - that the "modernization" of the Congresses has been limited to the incorporation of new techniques and technologies that, in some way, have facilitated legislative activities.

The changes, although it is true, have favored legislative management, access to information, transparency, and, in a certain way, citizen participation in legislative decisions. However, technological expectations do not fully guarantee profound changes in political practices, in representation and even less in accountability. What are the causes of these limits? Is it possible that the new technological resources, far from bringing

legislators closer to their constituencies, show the flaws of the representation and place the Congresses in a complicated crisis of credibility and trust, in which, particularly, the Latin American assemblies have distinguished by its discredit and lack of legitimacy?

The result of this rejection is disturbing if it is observed in the light of the data recorded by the Latinobarometer in its 2015 report on democratic perception. The region is highlighted by the poor evaluation of democratic institutions, particularly parties and congresses. Regarding the latter, the data provided by the index presented over twenty years (1995-2015) highlight that the countries that best evaluate their legislatures are Uruguay and Ecuador, where less than half of the interviewees said they had a lot and some confidence in their congresses (46%). On the other hand, the worst qualified were the congresses of Peru, Colombia, Chile and Guatemala, with figures ranging between 76 and 85% who think they have little or no confidence in their legislatures. In the middle countries, such as Mexico, Venezuela and Bolivia, just over 60% have a negative perception of their parliament.<sup>1</sup>

Alcántara, Montero y López (2005) they explain this fact in terms of the problems of democratic consolidation: weak structures that have functioned as ratifying tools in the hands of authoritarian regimes and their low technical and political capacity vis-à-vis the Executive; the absence or inadequate use of institutional mechanisms of interaction with civil society have prevented it from bringing representation to citizenship. At the same time, it has been difficult to uproot practices such as the management of Congresses under patrimonial criteria without any technical attachment. All this has generated among the population perceptions of distrust and low esteem in relation to other public institutions.<sup>2</sup>

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<sup>1</sup> En el mismo sentido, se puede relacionar la desconfianza de los ciudadanos latinoamericanos con sus parlamentos y su percepción sobre la representación. En el informe, se menciona que a la pregunta sobre si se sienten representados por sus congresos, la respuesta fue que 70 % de los latinoamericanos en promedio no se sienten representados por sus congresos. Esto coincide con la evaluación de los congresos. Uruguay es el país que mejor representado se siente con 45 %; en el otro extremo se encuentran Perú con apenas 8 % de aceptación; Brasil 13 % y México 17 % (Corporación latinobarómetro, 2015, 55, 62).

<sup>2</sup> Por ejemplo, en el mismo índice de percepción, el gobierno, o la figura presidencial tienen niveles de aprobación ligeramente superiores a los registrados por los congresos (Corporación latinobarómetro, 2015, 38-39).

Notwithstanding the structural weaknesses inherent in Latin American congresses, it can not be denied that today the legislative institutions in the region seek to strengthen themselves to the extent that the crisis offers opportunities to balance powers, integrate political representation, citizen participation, expand the channels of social interaction and promote accountability, transparency and the evaluation of congresses.

In this sense, the analysis was addressed in three dimensions: 1) vertical accountability; 2) legislative information systems; and 3) citizen access to information and its impact on legislative decisions. The first element was observed under the double role of the Legislative Branch in terms of accountability, as agent and subject of surrender, that is, as an agent it is in charge of monitoring and controlling its executive counterpart. At the same time, Congress is subject to accountability insofar as it is subject to election, re-election and citizen control (when this is allowed) on its legislators, through re-election as an element that encourages the link and the legislator's commitment to its electorate and the citizen's capacity to evaluate the performance of its representative.

The information systems, as a second premise, are fundamental for the fulfillment of the first, while the quality of the legislative information reduces the asymmetry between the Executive and the Legislative and between the Legislative and citizens. The third element addressed the ability of citizens to influence those open parliaments whose criteria include access to quality information, as well as integration structures for citizen participation.

### **Accountability in the Legislative Branch**

Accountability implies a logic of performance control based on the previous evaluation. This performance is invested with elements in which transparency, access to information, the responsibility of the person exercising the public function and sanction in case of incorrect actions in the decision are guaranteed..<sup>3</sup>

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<sup>3</sup> Shedler (1999) y Ackerman (2004) coinciden en tres elementos básicos del *accountability*: a) *answerability*, b) *receptiveness* y c) *enforcement*, es decir, transparencia, receptividad y sanción. La transparencia es el derecho de exigir que se informe sobre las decisiones del gobierno, además de explicar o justificar las razones de la decisión. La receptividad es la capacidad de incluir en los procesos de decisión, las opiniones o deliberaciones ciudadanas. Finalmente, sancionar es la posibilidad que tienen los ciudadanos de castigar la

In the Legislative Branch, the rendering of accounts is somewhat diffuse insofar as it can be identified from different areas. Analytically, O'Donnell (1998) includes two types of accountability: the horizontal and the vertical. The first consists of the existence of state agencies with legal authority, responsible for monitoring and sanctioning the performance and proper use of resources by public officials and State institutions. Horizontal accountability is an instrument that contributes to subjecting the State as a whole to the extent that "nobody owns the authority, this is provided by citizens through competitive elections" (O'Donnell, 2007, 37) . In this way, the mechanisms that operate this type of accountability are translated into systems of checks and balances typical of presidential systems, as summarized in Table 1.

**Tabla 1.** Rendición de cuentas y Poder Legislativo

Horizontal (agente)	<ul style="list-style-type: none"> <li>- Balance (sistemas de control y distribución de poder).</li> <li>- Asignada (sistemas de fiscalización interno).</li> </ul>
Vertical (sujeto)	<ul style="list-style-type: none"> <li>- Electoral (con sistemas de reelección e información del representante, ejerce control electoral).</li> <li>- Social (sistemas de participación ciudadana vinculatoria y acceso a la información de las decisiones legislativas, ejerce control legislativo).</li> </ul>

Fuente: Elaboración propia, adaptado de Casar, Marván y Puente (2010), O'Donnell (1998) y Cunill (abril de 2007)

For O'Donnell (1998), the horizontal rendering of accounts in presidential systems is divided in turn into two subtypes: of balance and assigned. The balance sheet avoids the concentration of power in any of the three branches (Executive, Legislative and Judicial); each institution reacts when another power invades its jurisdiction (institutional control). The second subtype identifies those institutions that monitor and sanction the actions of other state, national or municipal organizations with the purpose of avoiding and preventing

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actuación correcta e incorrecta de los gobiernos electos, que puede ir desde no ser reelecto en la siguiente elección hasta la revocación del mandato.

the illegal management of resources (control of public officials). In other words, horizontal accountability functions as an instrument of control, counterbalance and distribution of power between the Executive and the Legislative, as well as the control of decisions of the governing bodies themselves through internal control systems (auditorías, *ombusman*, etc.), (Casar, Marvan y Puente, 2010).<sup>4</sup>

However, such instruments depend on the type of construction of the institutional balance between powers. The Latin American region has experienced the gradual decline of authoritarian regimes by democratic ones. In this transit, it has tried to modernize and consolidate the new democratic states, however, what is observed is a weakness in their institutional designs, derived from the transformations of their own regimes. These weaknesses were tried to strengthen in Latin America with constitutional reforms. According to Gabriel Negretto (2009, pp.38-54), two trends mark the dynamics of constitutional changes from 1978 to 2011. The first is constituted by countries that generated a new constitution: Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, Dominican Republic and Venezuela. This trend has been accompanied by various processes that have given way to the substitution of authoritarian regimes for democratic regimes. When the outgoing authoritarian regime had replaced the previous democratic constitution, the country lacked previous democratic experience or, well, the last democratic constitution had fallen into disrepute. The second trend is that of countries that opted for profound constitutional reforms that modified their political, electoral, judicial, and accountability systems, such as Costa Rica, Mexico, Panama, and Uruguay.

Negretto (2009), Payne, Zovatto, Carrillo and Allmand (2003), as well as Shugart (2000) observed the tendency of these transformations in terms of balance of powers and horizontal accountability in the constitutional design during the regime change processes. . In their analysis, three phenomena can be identified: 1) the introduction of parliamentary features in presidential systems such as censorship and dismissal of cabinet ministers by

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<sup>4</sup> En un estudio muy documentado, los autores Casar *et al.* (2010) evalúan la rendición de cuentas horizontal en el caso mexicano, identifican las normas y reglas que integran el conjunto del sistema de pesos y contrapesos en el sistema político mexicano.



Congress, the powers of the president to dissolve Congress and the creation of the position of chief of cabinet, partially responsible before the legislative power (Argentina, Guatemala, Peru and Uruguay); 2) the restriction of the presidential power to issue decrees and strengthen the capacities of the Legislative Branch through the modernization of its information systems and specialized personnel, as well as the strengthening of legislative committees and auditing entities (Chile, Colombia, Costa Rica) (Payne et al., 2003); and 3) granting extraordinary powers to executives such as veto power, decree without restriction (Argentina, Brazil and Colombia), reserved policy (Uruguay), extraordinary budgetary initiative where the participation of Congress in the modification of the same (Brazil, Chile, Colombia and Peru), the referendum that does not require the consent of Congress to convene it (Ecuador and, at some point, Guatemala), which presupposes popular consent before that of its political counterparts (Shugart, 2000).

In this way, presidential regimes can be classified, by their constitutional powers, into hegemonic (Brazil, Ecuador, Honduras, Mexico, Dominican Republic and Venezuela), with parliamentary nuances (Bolivia, Chile, Colombia, Costa Rica, El Salvador, Nicaragua, Panama and Paraguay) and "parliamentary" presidentialisms (Argentina, Guatemala, Perú y Uruguay) (Reniu y Albala, 2011).

**Tabla 2.** Cambio constitucional y equilibrio en sistemas presidenciales

Tipo de equilibrio	Tipo de cooperación	Efectos en el equilibrio	Países
Hegemónico o facultades extraordinarias del presidente	Unipartidario (mayoría parlamentaria contraria al partido del presidente, o predominio de uno de los partidos)	Incrementa el bloqueo presidencial	Brasil, Ecuador, Honduras, México, República Dominicana, Venezuela
Con matices parlamentarios, restringen los poderes presidenciales	Gobierno minoritario (ningún partido ostenta la mayoría)	Negociación de acuerdos puntuales y provisionales. Condiciona la cooperación a las temáticas puntuales	Bolivia, Chile, Colombia, Costa Rica, El Salvador, Nicaragua, Panamá y Paraguay
Parlamentarizado introduce la figura de primer ministro, la censura o la disolución del Congreso	Gobierno de coalición (fuerzas políticas similares en tamaño)	Negociación de acuerdos estables. Incentivan la cooperación con el presidente	Argentina, Guatemala, Perú y Uruguay

Fuente: Elaboración propia con base en Reniu Vilamala (2008), Reniu y Albala (2011), Payne *et al.* (2003), Shugart (2000), y Negretto (2009)

That is, according to table two, the constitutional reforms in the region contributed, in some cases, to balancing the powers of the Executives with respect to their legislative counterparts and to strengthen the powers of the congresses to exercise their oversight functions. At the same time, the Executives obtain extraordinary powers that avoid exchanges with the Legislative Power. As a result of these transformations, it is possible to identify two effects on the balance: while the hegemonic systems favor the presidential figure with extraordinary powers and tend to generate poles of unpredictability with respect to the support that the president receives from the parties in Congress, those who have parliamentary features, by restricting presidential powers -with the introduction of the figure of prime minister or censorship-, favor negotiation, punctual for the first case and stable for the second.

## **Vertical accountability**

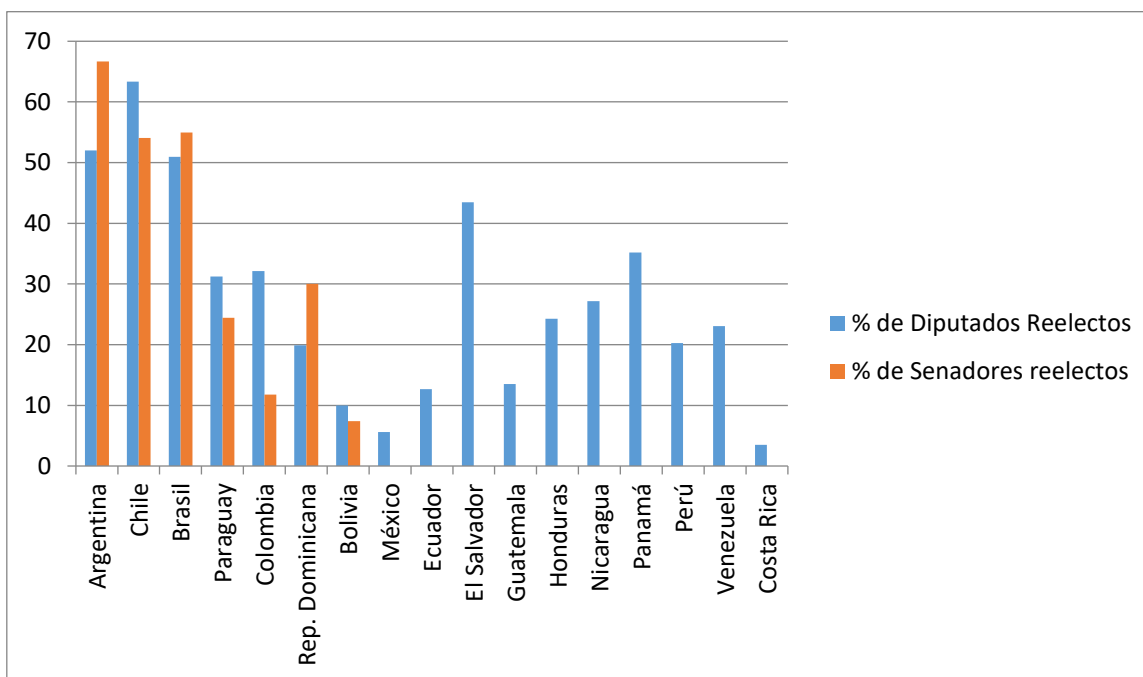
O'Donnell (1998; 2007) subdivides vertical accountability in electoral and social. The first subtype is understood as the mechanism that citizens use to sanction or punish the rulers through voting. However, this type of accountability is more effective if the re-election of legislators is allowed and, if, in addition, the citizen has enough information from his legislator to evaluate his performance, background and even capacities. Both reelection and access to information are two instruments that voters must be guaranteed to exercise electoral control over their representatives.

## **The re-election as citizen control**

To speak of legislative re-election implies referring to the origins of parliamentary representation and, therefore, to the main purpose of this, which is to serve the electors. This right, invested by the mantle of the popular vote, involves two aspects: the sense of responsibility towards the citizens (accountability) and the accumulated experience as part of the institutional strength of the Legislative Power in the face of the complexity and specialization of the public decisions and parliamentary tasks.

Regarding the accumulated experience, there are few Latin American countries that maintain constant levels of permanence in the position. As can be seen in graph one, according to the Observatory of Legislative Power in Latin America -as one of the first to account for legislative activity-, Chile, Argentina and Brazil, in a period from 1995 to 2008, maintained an average over 50% of legislators who have been reelected in the lower house, while countries such as Mexico, Costa Rica (with non-consecutive reelection), Bolivia, Ecuador and Guatemala have the lowest averages that range between 3 and 13% of members reelectos or recidivists (for those countries without consecutive re-election) in the same position. Re-election in the Senate, in two-chamber systems for the region, is similar with some upward adjustments.

**Gráfica 1.** *Reelección legislativa en América Latina*



Fuente: Elaboración propia con base en Legislatina. Observatorio del Poder Legislativo en América Latina en línea, <http://americo.usal.es/oir/legislatina/reelección.htm>

The lack of experience accumulated through re-election in Latin American countries has limited the professionalization and legislative specialization. Hence, Carey (2006) affirms that restricting the legislative re-election eliminates the possibility of making a career within the Congress and allows the future professional of the legislators to be in the hands of the political parties - to the extent that they control the political careers of its members - and not the electorate; their decisions depend on the electoral calculation before being interested and informed about government policies.

It can be said that the academic community has debated and agreed that the professionalization of the legislative function is the product of the accumulated experience of legislators. However, is legislative re-election and experience enough to guarantee accountability? The answer to this question represents two aspects: those who accept that consecutive reelection "cultivates the capacity of legislators", enriches their experience and, therefore, favors professionalization while promoting responsibility and accountability (Campos, 2003, Valadés, 2003, Dworak, 2003, Carey, 2006); and those who consider that

re-election does not guarantee the recidivism of legislators in the same position, so that the accumulation of experience is scarce and lacking in commitments vis-à-vis those represented (Jones, 2002). Besides that the representative activity by its very nature lacks information, because the legislators depend on the information generated by the specialists of the bureaucracy, the result of the aggregation of interests produces -in the best case- consensus before effectiveness and coherence. Therefore, the immediate effect results in dysfunctional policies, temporary and unable to respond to social demands (Mezey, 1995).

Although the second conception, that of citizen detachment, is the one that has prevailed in the Latin American vision of the Congresses, it should be considered that the horizontal rendering of accounts as the vertical, applied to the legislatures, are new resources of the representation that allow for compromises between those who make legislative decisions and the citizens. In other words, re-election as an instrument of citizen control is only possible if it is consolidated as a system of feedback and communication, as well as responsibilities and commitments to its constituents. Hence, it is considered that four are the elements that foster commitment and institutional response.

**Tabla 3.** Responsabilidades y compromisos con la reelección

- |   |
|---|
| <ul style="list-style-type: none"><li>- Apertura informativa sobre la fiscalización en el manejo de los recursos.</li><li>- Publicidad de las actividades legislativas.</li><li>- Garantía de la participación ciudadana en las decisiones legislativas.</li><li>- Respuesta a las peticiones y demandas a través del acceso a la agenda legislativa.</li></ul> |
|---|

Fuente: Elaboración propia

The link between representation and commitment adds to the representative democracy new elements that, far from replacing traditional representation, complement it by granting it a function of opinion and petition or, where appropriate, the ability to listen to citizens as the consideration of opinions, preferences, levels of citizen satisfaction -all this through public consultations, deliberation of initiatives, public hearings, contact offices, advisory councils or referendums-, in addition to electronic instruments as channels of citizen approach.

## **Social accountability**

Coinciding with the skepticism of Adam Przeworski (1998), who has pointed out that "elections do not oblige politicians to implement the policies intended by voters" (page 9). Given the limited or insufficient information available to voters to evaluate their elected legislators and the threat of not being reelected, they are not sufficient incentives to induce representatives to act in the public interest. It is true that other instruments additional to the vote are also required in order for the citizen to have the capacity to effectively monitor and sanction the representative's conduct.

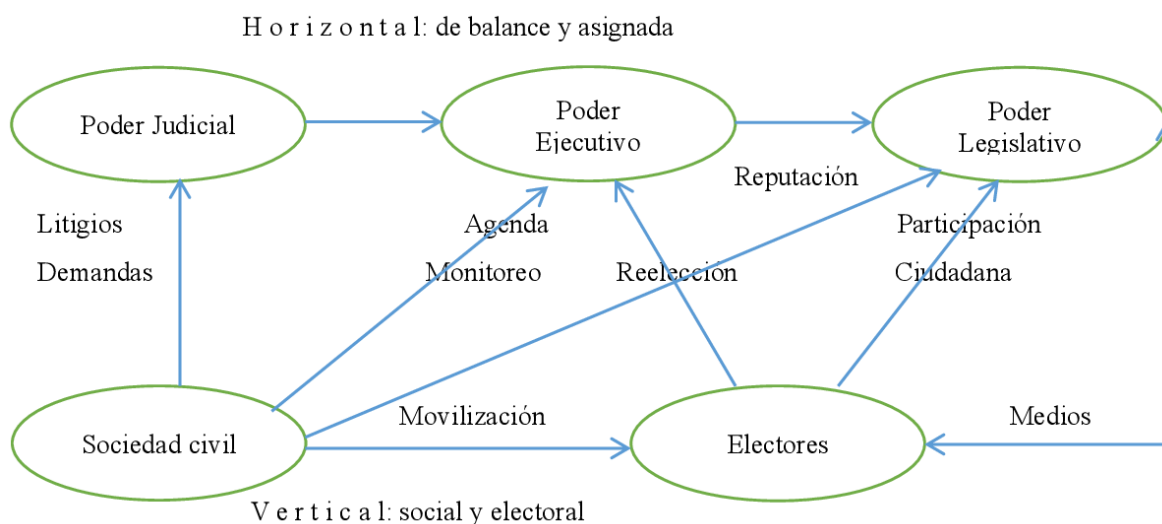
For Smulovitz (September 2001), the social option is a new resource that strengthens vertical accountability:

Social accountability is a mechanism of vertical control, not electoral, of the political authorities based on the actions of a broad spectrum of associations and citizen movements, as well as media actions. The actions of these actors are intended to monitor the behavior of public officials, expose and denounce illegal acts of them, and activate the operation of horizontal control agencies. Social accountability can be channeled through institutional and non-institutional channels (Smulovitz, septiembre de 2001, p. 3).

In the same sense, Nuria Cunill (April 2007) affirms that, through social control, it is possible to influence collectively and effectively in the rendering of accounts, given that the actors of organized civil society, NGOs or the media they make this power effective through access to information, freedom of expression, public deliberation, denunciation and rights of participation and petition. That is, social accountability relies on the one hand on the instruments of citizen participation (access to information, public consultations, public deliberation, citizen initiative, citizen comptrollerships, revocation of the mandate) and, on the other hand, on the intensity of the claims, as well as the impact of their actions in order to influence public opinion (power of movement, communicative power, lobbying and / or pressure).

Social accountability seeks to control politically and legally the behavior of public officials. Despite the absence of sanctions, it is possible that, with these actions, material consequences are generated that manifest themselves institutionally, either politically or legally. With this, it is not only possible to strengthen the citizenship, but to make the legislator responsible through social control to monitor, react and even influence legislative decisions.<sup>5</sup>

**Figura 1.** Rendición de cuentas horizontal, vertical y social



Fuente: Elaboración Propia

It is possible to affirm that the reformulation of representation within the citizen support mechanisms is the key to their influence in the governmental and legislative agenda, the educational complement and the information channel of the represented for the exercise of responsibility and political commitment . In other words, representation linked to accountability allows citizens to exercise influence over public decisions, management,

<sup>5</sup> La ausencia de consecuencias materiales del *accountability* social no implica la ausencia de sanciones. Estas se traducen en control social en la medida en la que llegan a tener consecuencias de reputación, impacto en la opinión pública; activación de mecanismos como las comisiones de investigación de justicia en los Congresos; exponen y denuncian actos ilegales señalando las fallas de la rendición de cuentas horizontal; ejercen control sobre los temas y amplían el alcance de la agenda; activan procedimientos judiciales; accionan organizaciones de supervisión y monitoreo como el establecimiento de organizaciones paralelas de vigilancia social (Peruzzotti y Smulovitz, 2002).

public opinion, control and oversee government policy, establish-especially in opposition parties-objectives that justify the consensus to achieve governance and form an opinion on government management (Sánchez de Dios, 1995).

### **Citizen action and incidence on legislative decisions**

Representation, in relation to vertical accountability in its electoral and social aspects, has a double meaning. On the one hand, it coexists with normative frameworks that facilitate active intervention and legal control of citizens individually or collectively in public affairs; On the other hand, the involvement of citizens in decisions involves an effort of organization and argumentation (Nino, 2003; Alexy, 2006) of the collective action that interacts between the representatives and the organized society.

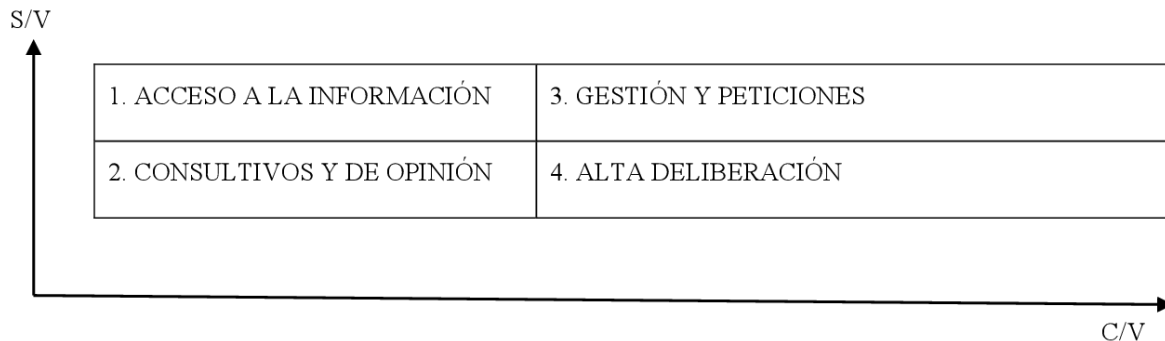
Normative frameworks are composed of instruments legally established in codes or laws that refer to spaces in which citizens can participate collectively or individually in the various social, economic, cultural, political, environmental, as well as various public activities local and regional.

The normative frameworks for citizen participation constitute different levels of access and linkage with decisions. The levels of participation are broadened or reduced depending on the link or access to the legislative decision process, as shown in table four. Some mechanisms have a consultative function to the extent that citizens can express opinions regarding preferences or levels of satisfaction with programs or policies offered by the government through public consultations, referendums or more or less influential plebiscites, while opinions are binding on government decisions.

Others have an informative function such as access to information. These instruments are mechanisms that participate in institutional policies insofar as they identify problems and influence the legislative agenda. Another group is made up of the mechanisms that fulfill shared management and information functions, in which citizens have the possibility of directly managing a good or service or, they are considered to share information through direct access to legislative committees, debates with specialists, organization of academic events and promotion of reforms, among the main.



**Tabla 4.** Marcos Normativos y Niveles de Participación



1. ACCESO A LA INFORMACIÓN	3. GESTIÓN Y PETICIONES
2. CONSULTIVOS Y DE OPINIÓN	4. ALTA DELIBERACIÓN

S/V= Sin vinculación  
C/V= Con vinculación

Fuente: Elaboración propia

Finally, citizens can directly influence some decisions through mechanisms of high deliberation regarding the decision process. These institutions contribute to the decision-making process, not only by issuing opinions, but by guiding the government's actions through the decision-making power granted by instruments such as the popular initiative, social comptrollerships, revocation of the mandate or legal recognition of the lobbying.<sup>6</sup>

In general terms, Latin American countries have institutional instances of citizen access. However, the effectiveness of the instruments varies from country to country and depends on the level of openness, linkage and responsibility to which legislators are subject.

In 2012, the international parliamentary community adopted the Declaration on Parliamentary Transparency, debated in Washington DC - at an event organized by the National Democratic Institute Sunlight Foundation and the Latin American Network for

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<sup>6</sup> Respecto a este último elemento, si bien es cierto que el cabildeo ejercido por intereses específicos tiene la posibilidad de manipular las decisiones legislativas a favor de ciertos intereses, no solo puede ser ejercido por intereses específicos; es necesario fomentar la participación de grupos profesionales y académicos especializados en temas que coadyuven con el flujo de información de la que pueden carecer los legisladores. Dichos grupos pueden ser copartícipes de decisiones legislativas o, por lo menos, sus posturas son consideradas en la agenda gubernamental, en el proceso legislativo, en el diseño de la política o en la evaluación de la misma.

Legislative Transparency - subsequently signed in Rome in September of the same year . Among the agreements signed by the signatory countries, include: transparent parliamentary information, facilitate access to information to citizens, allow electronic access and analysis of online parliamentary information and open formats, among the main points. The objective of the commitment is to monitor legislative bodies to increase their effectiveness, open them to transparency and hold them accountable to their constituencies (Declaration on Parliamentary Transparency, 2012).

As part of the commitments adopted, the Latin American region undertakes actions through various initiatives promoted by the Inter-American Parliamentary Network Pro Transparency, Access to Public Information and Probity -constituted in 2012 in Santiago, Chile-, as well as the Alliance for Open Parliament signed in Mexico in September 2014. Both agreements compromise the participation of some countries in the region such as Chile, Argentina, Mexico, Colombia, Ecuador, Guatemala, Peru, Venezuela, Uruguay, Paraguay, El Salvador and Costa Rica.

The intention of the alliances has consisted on the one hand in the institutional strengthening of the congresses in Latin America, whose objective is to support legislative management, incorporate new technologies and implement better information systems. On the other hand, the measures seek to combat corruption, adopting rules of transparency and the right to information, as well as bodies that guarantee accountability and citizen dialogue.

Both objectives have been discussed and implemented in such a way that the meetings of the associations in favor of transparency have been annual from 2012 to 2016 in order to standardize the monitoring methodologies applied to the signatory countries of the region. However, how effective have the monitoring instruments been and what has been the response of the legislators to this company?

Despite the commitment made by the parliamentary community of the region, not all countries have fulfilled the objectives of the declaration. To begin with, the monitoring of congresses in the region has not been similar in all countries; This depends on the

technical, technological, infrastructure and legal resources available to each of the Latin American parliaments.

In the reports on the legislative transparency index, elaborated as a result of the agreements signed by thirteen Latin American nations, transparency is measured according to four dimensions: rules of access to information, work of the congress or assembly, budget and administrative management and mechanisms of participation, citizen attention (Latin American Network for Legislative Transparency [RLTL], 2016, pp. 57-62).<sup>7</sup>

The norm dimension observes the existence of laws or regulations around the transparency and participation of the work of the Congress, evaluates the presence of effective practices of transparency in the legislative work as the existence of the same rule; it reviews the regulations in function, their clarity, completeness, faculties, attributions, independence, compliance and sanction. It also values the measures on lobbying practices and the influence through the regulation of the praxis, the obligatory nature of the sworn presentation of patrimony, the publication of the matters dealt with in the plenary session and its dissemination, as well as the activities of the congressmen. and the advertising of the expense.

The work of the Congress identifies the existence of effective practices of transparency in legislative work such as publicity and dissemination of debates, nominal votes, legislative reports, attendance records for plenary sessions and commissions, the legislative agenda of parliamentary groups and the publicity of the hiring of external advisors, as well as the registration of trips and gifts to the legislators.

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<sup>7</sup> El objetivo de la evaluación de los Congresos es recomendar una serie de estándares mínimos de transparencia, buenas prácticas y la mejora de la imagen de la labor parlamentaria. La metodología del monitoreo ha tenido dos versiones, la primera en 2011 y la evaluación por promedio simple de cinco países (Argentina, Chile, Colombia, México y Perú); con la misma metodología en 2014, se agregaron al seguimiento Bolivia, Ecuador, Guatemala, Venezuela y Uruguay, pero este último solo fue evaluado en una de las cuatro dimensiones propuestas. En la segunda versión, de 2016, en la que se adhirieron los congresos de Costa Rica, República Dominicana, Panamá, y Paraguay, se rediseñó la metodología anterior para darle mayor precisión a las unidades de medida. En esta versión se implementó el método *fuzzy set approach* utilizado para la medición de la pobreza relativa, pero los analistas adaptaron la medición a la transparencia en la que se privilegia los rubros de mayor exclusión o menos transparencia de cada país, este movimiento aumenta la importancia del atributo de un indicador cuando al aplicar el índice se priorizan aquellos elementos en los que existe menos transparencia. Es decir, aquellos países que se alejan de la media tienen mayor importancia, por lo que determinados indicadores sobresalen en función del porcentaje obtenido en el déficit. (*Metodología de cálculo del índice RLTL 2016*).

In the area of budgeting and administrative management, transparency is explored in the use of resources allocated to parliamentary work. Within this dimension, there are variables that consider the fulfillment of the advertising of the budget and the expense, the existence of internal and external audits, the ease of access to the information of the salaries and benefits of the legislators and other administrative personnel, the public hiring of personnel and meritorious entry and promotion competitions.

Citizen participation warns of the existence of national and subnational citizen attention offices, public personal information of legislators, as well as the existence of public television channels and open discussion forums, as well as the examination of the web pages of the congresses and communication channels between legislators and citizens.

Each element measures the existence, relevance, publicity of the standard and information on the activities of the Congress, in addition to compliance with existing rules, proactive policies that favor transparency and accountability. Likewise, monitoring includes the management, administration and development of public policies that tend towards the opening and access to information.

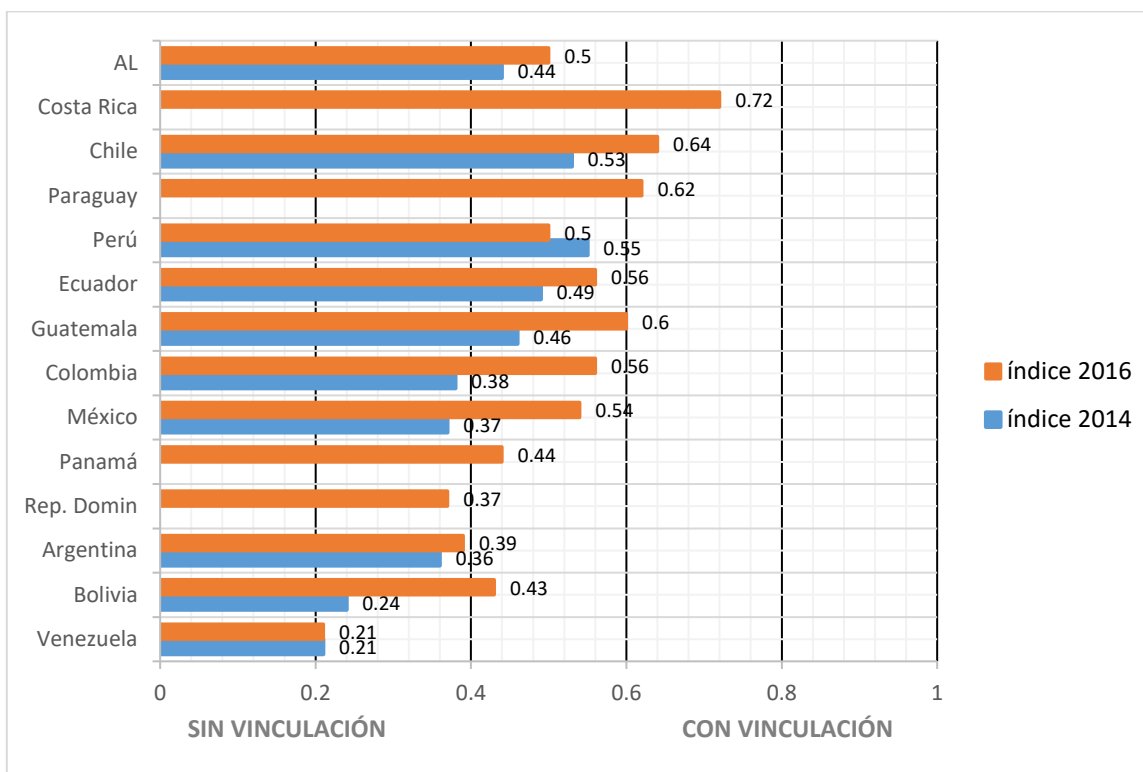
In general terms, and according to the data provided by the monitoring, the region is characterized by its low levels of transparency. On average, the area scored a .44 on the 2014 assessment of a total of 1, while for 2016, the score increased slightly to .51. Progress has been limited and tends to stagnate (see graph 2).

As shown in graph 2, the result of the index in the 2014 and 2016 assessments warns of an improvement in all the countries of the region, except for Venezuela, which remains in last place and without modification in the index. Peru also attracts attention with a slight decrease of half a point with respect to 2014. The opposite is Bolivia, with a notable advance in the index by doubling the score obtained in 2014; In the same sense, the case of Guatemala, Colombia and Mexico is observed.

With the integration of four countries to the evaluation agreement, it can be seen that Costa Rica stands out with a very high score above the average, placing the country as the Latin American nation with the most transparent congress, followed by Chile and Paraguay (country of recent income), which yield positive data for transparency.

While it is true that the index shows progress, these are not homogeneous or high; the improvements in most countries are rather limited and inconsistent. It can be said, based on the data, that the majority of the countries evaluated in the region tend to opacity, citizen untying, as well as to the absence of transparency in the work and the budgetary exercise of the Congresses.

**Gráfica 2.** Índice de transparencia legislativa (2014-2016)



Fuente: Elaboración propia con base en los informes de la RLTL, 2014 y 2016

The transparency deficit is the product, according to the report, of the absence, ambiguity or discretionality of the regulations in terms of various elements such as the existence of laws or regulations concerning transparency, citizen participation, accountability, control of lobbying, declarations assets, reports of the legislative budget exercise and regulations on the publicity of legislative work. This, in part, can be explained by the differences in regulatory, technological, management and citizen inclusion structures in each country evaluated.

For example, in Chile, legislators are accountable for the resources used; in addition to having a parliamentary audit, in charge of controlling public funds for the legislative function, it has a Resolutive Council of Parliamentary Assignments, composed of former officials, academics and specialists in budget management. Additionally, the assembly members must present their affidavit of heritage interests for public consultation. In contrast, Peru has a Parliamentary Ethics Commission, which prevents, investigates and punishes offenders. However, the commission is composed of the same parliamentarians.

On the other hand, in Bolivia, Mexico and Ecuador, the citizen offices of management and citizen attention stand out in the electoral districts of their representatives. Argentina and Colombia have Public Hearings where citizens and representatives of associations expose topics of interest (Transparencia, 2013). That is, while in Chile legislators are subject to budgetary responsibility, in Bolivia, Mexico and Ecuador, the relationship with citizens is management and in some way non-binding advisory. In Colombia and Argentina, hearings are an access to citizen debate, but without binding force or budgetary responsibility.

The importance of legislative monitoring and auditing bodies has been a priority in recent years, as Congresses have exponentially increased their budgets as part of institutional modernization processes that favor autonomy and representation. Of the first actions, budget monitoring has been one of the most striking, especially if the US Congress is taken as a reference as the assembly that holds the first place in world budget allocation, given that it is the congress with the highest number of personnel specialized in various matters of public policy. It is striking that Brazil is the second largest congress in the world or Mexico, which occupies the fifth place, or Argentina, the seventh world site (UNDP, Interparliamentary Union, 2012). At the regional level, these three Latin American congresses occupy the first three places in high budget allocations -as can be seen in table five-, a situation that does not correspond to the budget transparency indexes identified in figure 2, in which Mexico and Argentina they are deficient in the transparency of their resources.

**Tabla 5.** Asignaciones presupuestales e índice de transparencia

País	Asignación presupuestal (en millones de dólares)	Índice de transparencia presupuestal* (2014)	Índice de transparencia presupuestal* (2016)
Brasil	35,105.7	S/D	S/D
México	8,878.1	0.28	0.39
Argentina	5016.5	0.20	0.27
Colombia	2,468.8	0.48	0.55
Venezuela	2,276	0.6	0.7
Rep. Dominicana	1,952.7	S/D	0.21
Chile	1,633.2	0.61	0.61
Uruguay**	1,113.4	S/D	S/D
Costa Rica	498.1	0.79	0.79

\*El índice tiene un rango entre 0 y 1; los cercanos al cero son los menos transparentes y los cercanos al uno son los más transparentes. En 2016, se adhirió al acuerdo de transparencia cuatro países de la región (Costa Rica, República Dominicana, Panamá y Paraguay).

\*\* Uruguay ha participado desde 2014 en la evaluación, pero de manera irregular. Solo aportó datos para la dimensión Labor del Congreso o Asamblea; de las otras tres en la que se encuentra la dimensión presupuestal no fue posible recaudar datos para estos informes.

Fuente: Elaboración propia con base en datos de la Unión Interparlamentaria, 2012; Informe del índice Latinoamericano de Transparencia Legislativa, 2014 y 2016<sup>8</sup>

In the budget line, only Chile, Ecuador and Guatemala oblige their legislators to report on their expenses. In Chile and Colombia, the names of suppliers of goods not tendered are published. Chile, Ecuador and Peru provide financial reports on travel within and outside the country. These countries also publish detailed budgetary formats that include the expenditure of fractions, internal and external audits, publication of salaries and benefits, administrative structure, consultancies contracted by the congressmen and public contracts, among the main ones (RLTL, 2014) . By correlating the transparency index of resources to the congresses with the budgetary allocations of some countries of the region - as shown in Table 5-, it should be noted that, in those countries whose budgetary allocation amounts are high, the index of Budget transparency is low. Such is the case of Argentina, Mexico and Colombia, as the laggards in this matter. The opposite is Chile, with more limited resources and high levels of budget transparency, adding to the 2016 index. The

<sup>8</sup> Los países participantes en el índice de transparencia han variado. En 2014, solo nueve naciones firmaron la *Declaración sobre la Transparencia Parlamentaria*. Para 2016, se adhirió a la *Declaración* cuatro países de la región. Se espera la afiliación de otros Estados como Brasil, y algunos centroamericanos en los próximos años.

case of Costa Rica is worth noting, with the lowest budget of those recorded by international reports and reaching levels of budget transparency. very high (above .70%).

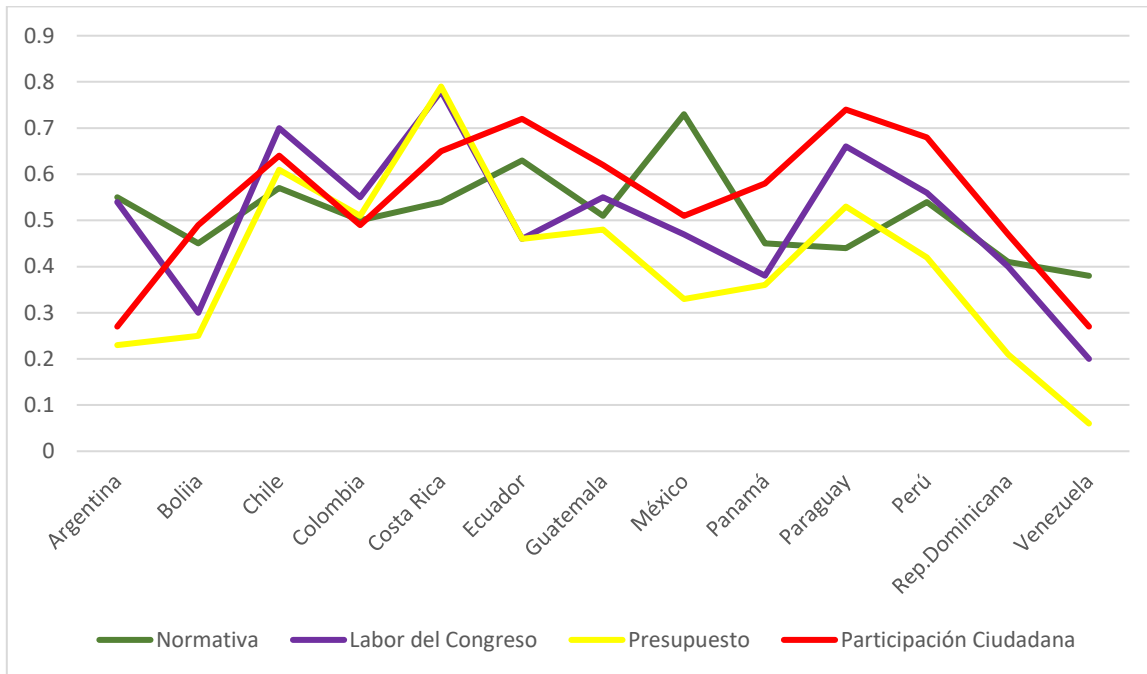
On the other hand, the evaluation does not only deal with transparency in the management of resources. The existence of regulations that regulate the basic aspects of transparency, the work of the Congress and the connection with the citizens is an indicator that makes up the legislative evaluation.

In the normative dimension that measures the existence of a regulatory structure, the countries that stand out are Mexico, Ecuador and Chile. Conversely, Venezuela, the Dominican Republic, Paraguay, Panama and Bolivia are the countries with the lowest evaluation to the extent that their regulatory structures lack or are ambiguous in terms of transparency, access to information or legal procedures that institutionalize parliamentary practice and accountability. In the most prominent countries, such as Mexico and Ecuador, progress was made in the regulation given the approval of new laws on transparency. However, this has not meant that the standard is put into practice. The evaluation of these two countries in the budgetary scope or work of the Congress are quite limited.

When, the work of the Congress that refers to the work in commissions, internal and external advice, the weight of the parliamentary groups, etc., is valued, Argentina, Peru and Guatemala stand out. Finally, citizen participation is the dimension with the best results. In this category, the legislative mechanisms of attention, petition and citizen response stand out, as well as the technological capacity that facilitates citizen access to legislative information. In this matter, Chile, Peru and Ecuador stand out, while the countries most reluctant to link citizens with parliamentary representation are Bolivia, Argentina and Mexico.



Gráfica 3. Índice de transparencia por indicador (promedio)



Fuente: Elaboración propia con base en datos del Índice Latinoamericano de Transparencia Legislativa, 2014 y 2016 (9 y 13 países, respectivamente)<sup>9</sup>

The process of modernization of the Congresses in Latin America continues inconclusive, given that - in spite of the adaptation and optimization of the legislative work to the implementation of technologies, specialized and permanent personnel, and the construction of computer networks - the asymmetries of information are evident and knowledge of the Legislature regarding the Executive in trying to improve horizontal accountability and its ability to control and monitor government. In addition, the construction of computer networks that give access to control and citizen participation, whose purpose is to expand the inclusion of those represented in legislative decisions, are limited, ambiguous and lacking in connection with the opinion of citizens.

<sup>9</sup> Como se observa en la gráfica 2, la diferencia entre el índice de 2014 y 2016 es tan limitada que se prefirió elaborar un promedio de ambos años. Para el caso de los indicadores, además, el promedio permite una gráfica más representativa en la que se incluya a aquellos países que no participaron en la evaluación de 2014.

## Information systems to support social accountability

In Latin America, all parliaments have libraries or documentation and information centers or both at the same time. Ernesto Cavero (2010) identifies four models of information management: a) Consultative model, which is when the information systems are assumed by the Parliament's library; b) Commission research model, which refers to parliamentary advisory and research services, with advisers for legislative commissions (specialized information, with open or restricted access); c) Model with specialized research areas, in which integrated interdisciplinary researchers are incorporated in a parliamentary area of research and analysis (specialized research with restricted access); d) Model with specialized research centers, with which the previous models can include research structures and specialized analysis (research centers, with open or restricted access).

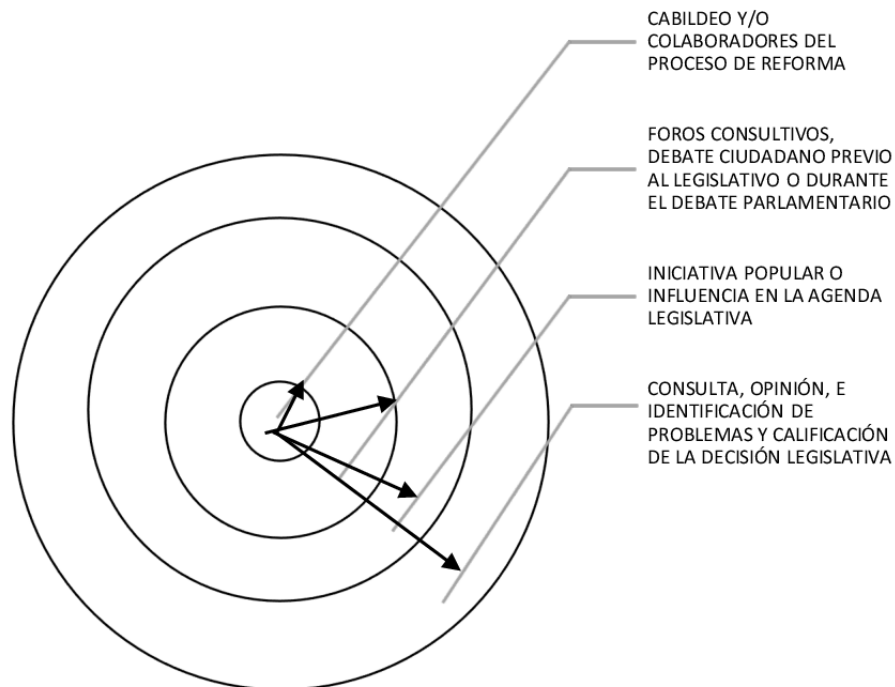
For his part, Felipe Meneses (2008) mentions that libraries vary according to the type of services offered and the users served. There are libraries that function as national non-specialized libraries, others are specialized. In some cases, the same library works for both cameras or, even, the author identified libraries that, at the same time, serve as information and documentation departments. For example, Argentina and Colombia, with two-chamber systems and high budgetary allocations, only have one library that works for the two chambers, even the Library of Congress in Colombia is a national library. In Ecuador, the library is a decentralized area of the National Congress and provides information to internal and external users. Costa Rica, Honduras and Nicaragua have more information and documentation services. In Peru, Paraguay, Chile and Mexico, the congresses are characterized by having specialized libraries for internal and external users, as well as open access documentation and information services. However, in the case of Mexico, it should be noted that the personnel dedicated to the research areas is scarce and not permanent (the average age is two to four years). For example, the Secretariat of Parliamentary Services (in charge of the centers) has 418 employees, of which nine are specialized researchers, while the administrative and operational areas together amount to more than three thousand six hundred employees (Integralia, 2012).

Notwithstanding the capacity of parliaments to generate their own information, this must also be evaluated in terms of the quality of the information offered, specialized knowledge, accuracy of the information and easy access to it. From this perspective, there is currently a debate on the need to consolidate the parliamentary information and research services, while at the same time questioning the degree of intervention of these systems in the legislative work, which implies responsibilities and even co-participation of the legislative process. Hence the question about what is the concrete utility of having the Legislative Information System for citizen participation.

The public discussion of public affairs includes the public debate in which the potentially affected participate, the citizens, whose weight is the argument and not necessarily the number of people who hold a certain position. It is precisely the argument with which rational people, able to sustain and accept other reasonable arguments complement the parliamentary decision, enrich it and are acceptable to parliamentary logic, that is, the difference of positions is no longer only partisan, but rather, as they expand and include citizens, they compromise the creation of laws to pacts and negotiations with groups of citizens participating in the decision (Nino, 2003).

Seen in this way, we can identify an inclusion radius that is extended or reduced while the arguments are more or less specialized, as well as the accessibility ranges within the normative framework previously mentioned. For example, in opinion and consultation, inclusion is and must be greater, especially if it is required. Requests for reform or modifications of laws, through popular initiative, depend on the requirements of the call, as shown by the requirement of minimum percentages of the total of registered voters. The consultative forums are even smaller in that those directly affected or interested are involved and can be invited to the discussion sessions of the committees or legislative committees that open their doors to this opinion. The debate or consultation of specialists is reduced or left in the hands of specialized promoters who can influence the congressmen and their parties with their voice, even if they do not have a vote. Finally, the recognition of lobbying gives direct access to groups of interest, promoters or specialists to legislative decisions, often managed by the promoters themselves (see figure 2).

**Figura 2.** Radio de inclusión legislativa en parlamentos abiertos



Fuente: Elaboración propia

Coinciding with Alejandra Betanzo de la Rosa (2008), transparent decision making tends to produce policies that avoid the predominance of a few interests over the rest. Therefore, inclusive institutional arrangements allow broad participation of stakeholders and open the possibility of putting on the table a more complete view of a given problem, of contrasting discordant ideas and of having information from plural sources. Therefore, the existence of mechanisms to make decision-making processes transparent makes it possible for all stakeholders to know not only how the decision was made, but also who participated and what was the rationale and technical information that guided it.

Daniel Zovatto (2014) identifies the three types of direct participation mechanisms most used in the Latin American region: consultants (referendum and plebiscites), legislative initiative and recall mandate.

In the consultative field, referendums and plebiscites have been an instrument widely used by citizens in Latin America to approve, revoke or ratify constitutional changes, secondary laws, public policies, international treaties and even as an approval

thermometer for presidential figures. From 1978 to 2012, Zovatto (2014) registered a total of 50 popular consultations, where 80% was promoted between the 1990s and the first decade of 2000. In other words, the greatest use of instruments came from democratic transitions. Uruguay is the country that has used the most consultation 28% of the time, compared to the rest of the Latin American countries. Of the countries that have made the least use of this type of instruments are Argentina (one occasion) and Brazil (two occasions), given the limits of the instruments, and Mexico (never used), which, until 2012, did not regulate such instruments in its constitution.

Another instrument is the legislative initiative as the right of citizens to propose bills and total or partial constitutional reforms. This right has had a limited use, given that, in its majority, it depends on the decision of the legislators so that a citizens' initiative is or is not considered in the legislative agenda. Only Uruguay, Colombia, Peru and Ecuador integrate mechanisms that go beyond the parliamentary evaluation and can be submitted directly to the popular consultation for a quick resolution.<sup>10</sup>

Finally, the revocation of the mandate is an instrument that has the effect of nullifying the mandate of the holder of popular election, as a result of a process of consulting it. Bolivia, Ecuador, Panama and Venezuela have this figure at the national level; in most countries this mechanism is lacking. Such is the case of Mexico, Bolivia, Brazil, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, the Dominican Republic and Uruguay. Some countries consider this figure at the subnational level as Peru, Argentina, Colombia and Ecuador.<sup>11</sup>

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<sup>10</sup> En México las propuestas de las leyes Anticorrupción en 2016 han sido a solicitud de los ciudadanos y discutidas en periodo extraordinario, a pesar de que el instrumento no considera la consulta como una modalidad de agilización de la iniciativa.

<sup>11</sup> Como se mencionó páginas arriba, solo Chile, Perú y México cuentan con reglamentos para el cabildeo. Sin embargo, la evaluación de los mismos destaca la ambigüedad de las normas en términos de su aportación e influencia en las decisiones legislativas. En México, el reglamento se aprueba en 2010 y, a partir de ese momento, se admiten abiertamente a grupos de cabildeo que se registran en un padrón abierto y accesible al público, además de que se acepta la integración de hasta 20 grupos de interés por cada comisión. En el padrón de 2010 se registraron 654 cabilderos, y en el de 2012 solicitaron su admisión 513, de los cuales en su mayoría representaban empresas privadas. A pesar de que el reglamento no les da ni voz ni voto en las comisiones, estas carecen de personal capacitado para las tareas espejo de cada comisión relacionada con los diversos ministerios, lo que supone una influencia evidente de parte de las empresas que cabildean entre los congresistas mexicanos.

In sum, the institutional resources of citizen participation are politically and legally used by Latin American citizens. These have been used in parallel or in conjunction with the resources of parliamentary representation. In general, it can be observed that those countries that best combine the instruments of direct and representative democracy are those that best value democratic institutions. The same happens in the handling of information: to the increase of direct communication between the voters and their representatives, the possibility of legislative incidence is greater.

## **Conclusions**

The elements analyzed in this document highlight the way in which the technical and institutional instruments are the mechanisms that contribute most to the rendering of accounts in all its aspects (both vertical and social). The popular expectations generated by accountability represent a new way of linking with the representatives more routine, close and influential. Periodic elections and re-election are insufficient for the current representation. The low levels of re-election in the region limit contact with citizens while reducing the possibility of exerting pressure on the responsibility of legislators in their parliamentary activities.

The document found that institutional mechanisms of balance of powers contribute to horizontal accountability, but the interaction with their counterparts depends on the hegemony of presidential systems. Transparency, access to information and the information systems themselves -as part of the new technical and institutional resources to which legislators are obliged to respond- demonstrate the lag in which, despite the processes of democratization, however, the faculties acquired against the legislative ones are maintained. The opacity, the lack of information and access to it have been, in most cases, the constant, not because of lack of budgetary resources, but because of the opacity and responsibility of managing them.

In addition to the institutional limitations of the Latin American Congresses, it was possible to observe the low attraction of these to the growing participation of civil society empowered by the legal participation mechanisms within their reach. Technological advances and media have set the tone for greater interaction, openness and explanation of

the public and private actions of the representatives subjected to the constant scrutiny of their voters. However, it seems that this new vein has been wasted to the extent that few countries use such mechanisms and, coincidentally, are those that, in principle, have a better citizen perception in terms of representation, as is the case of Uruguay. Contrarily, Argentina and Mexico, which, with greater budgetary resources, have less or practically no use of citizen participation instruments, are the worst evaluated by their represented congresses. That is to say, the activation of the Legislative in countries like Mexico or Argentina did not imply the improvement of the representation, reason why they are not considered agents of the national development. On the contrary, they are seen more as a burden that has not been able to include in parliamentary practice the value of new legislative support resources.

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