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# The role of the Legislature in budget allocation and oversight in times of Covid-19

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## Examples from Latin America

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in collaboration with  
International Budget Partnership





# Summary



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Governments in Latin America, as elsewhere, have assigned huge amounts of resources to tackling the health, economic and social impacts of the pandemic. While swift responses to mitigate the crisis are imperative, the **transparency and oversight** of these measures and Governments' **accountability** must not be neglected.

***What role are Parliaments playing in allocating or reallocating resources, in the creation and handling of specific funds, and in exercising control over government actions in this context? Is this role different compared with before the pandemic?***

A review of the practices and responses of Parliaments in **seven Latin American countries** - **Argentina, Brazil, Chile, Colombia, El Salvador, Mexico and Peru** - between the months of April and May this year, sheds important light on these questions.

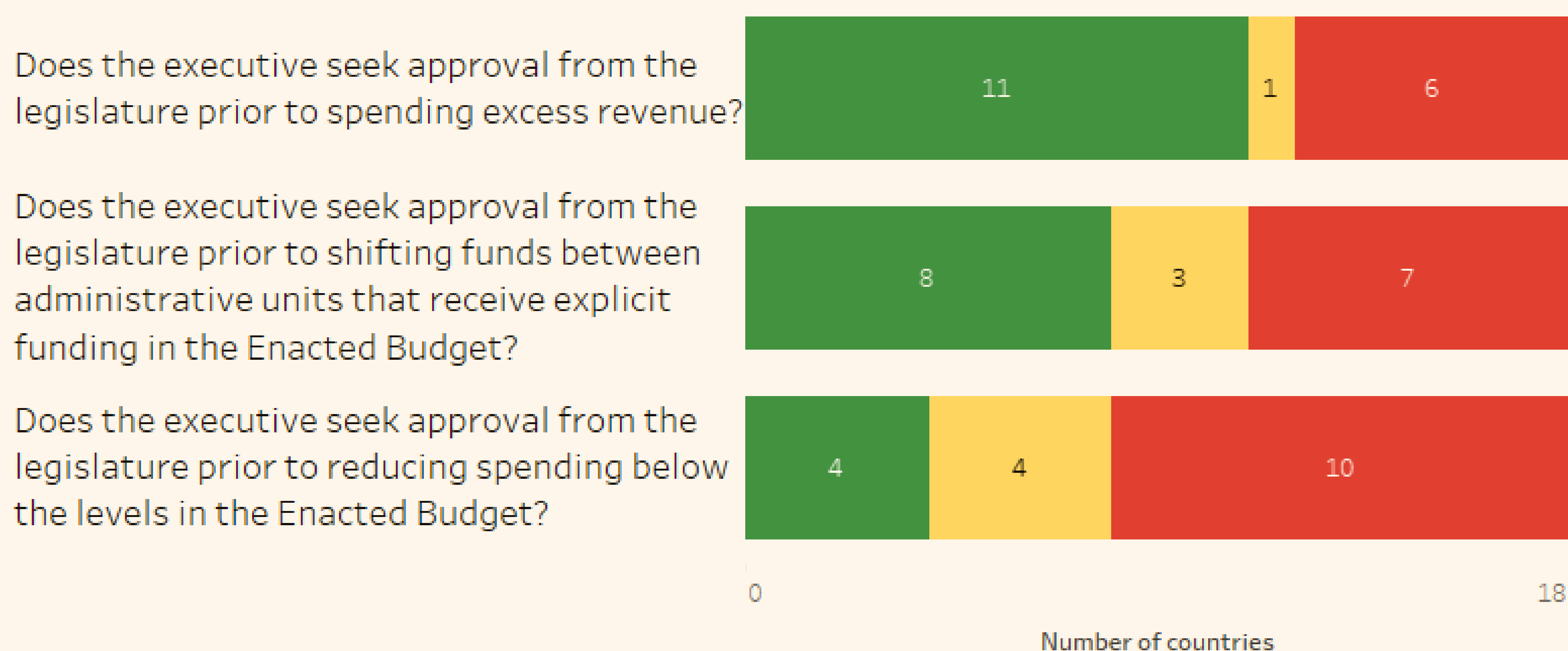
One clear trend is that decision-making power has shifted significantly to the Executive branch. Coronavirus has proved [hugely disruptive](#) to parliamentary working and forced adaptations to new unaccustomed working modalities. Despite some Legislatures managing these changes well, on the whole their capacity to debate and oversee lawmaking has been weakened. In fact, during the early period of the pandemic legislative working focused more on holding briefings than on actual decision-making.

In these times, it is vital that Parliaments exert robust control to ensure transparency and accountability in government actions. Yet while Legislatures have adopted new mechanisms to control the use of public resources, this oversight function is proving too weak and nor is it visible before the public. At least partly, the cause of this can be traced to institutional constraints pre-dating the pandemic (see **Chart 1**).

## Chart 1: 2019 Open Budget Survey (OBS)

The [2019 Open Budget Survey](#) shows that, on average, the **18 surveyed legislatures in Latin America and the Caribbean play an important role in the formulation, execution and oversight of budget**. In over 10 of the surveyed countries, the Executive should obtain approval from the legislature to transfer funds among administrative units and to utilize excess revenues when more are collected than projected. However, the Executive does not need to seek approval from the legislature to cut spending if revenues are lower than expected in 10 of the surveyed countries.

### Legislative oversight of the budget in Latin America



**a.** The international standards of good practice on budget transparency are fully met or exceeded

**c.** Exist minimal efforts to attain the relevant standards of good practice on budget transparency

**d.** The standards are not met at all

Of the countries evaluated, none had a "b. indicating the basic elements of the standard have been met or largely met" score in the OBS 2019

To see the interactive version of the 2019 Open Budget Survey, [click here](#).



## Increase in Government discretion over spending decisions

The review of the parliaments reveals that **in Brazil, Chile and El Salvador, the Legislative branches have been more active than in Argentina, Colombia, Mexico and Peru**, where most of the budgetary decisions have been made through Executive or Presidential decrees. In [Colombia](#), the declaration of the Economic, Social and Ecological Emergency has vested the President with powers to issue decrees with the force of law, including the creation of new taxes or modifications to existing ones. In [Peru](#), for a period of 45 days, Congress has delegated to the Executive the authority to legislate in fiscal and tax matters, investment promotion and protection of the productive, extractive and service sectors.

Research shows that the **degree of control imposed by the legislatures** in these countries varies. Whereas in **Argentina** and **Peru**, Congress has little option but to approve the decrees, in **Colombia** they immediately become subject to review by the Constitutional Court, while Congress can reform or repeal them with two-thirds backing of each chamber during a one year period (though it has yet to do so). In **Mexico**, budget reallocations are reviewed retroactively by Congress, in such a way that the Executive [must report](#) them in quarterly reports which the Committees can respond to.

The relatively more active role of the Legislative branches of Brazil, Chile and El Salvador is reflected in the enactment in those countries of various laws with budgetary scope or impact, for example:

- **Brazil:** Congress elaborated and approved emergency subsidies, established the National Program to Support Micro and Small Businesses and the Federal Program to Confront COVID-19.
- **Chile:** Congress modified the Guarantee Fund for Small and Medium Entrepreneurs and approved the granting of an Emergency Family Income, created to mitigate the economic effects of the emergency.
- **El Salvador:** the Legislative Assembly modified the Budget Law to increase resources for the Fund for Disaster Prevention and Mitigation and Public Works, brought changes to the Fund for the Economic and Social Development of Municipalities, and authorized the Executive to seek a loan from International Bank for Reconstruction and Development (IBRD).

With the exception of Argentina and El Salvador, each of the countries studied had created **independent special committees within Congresses to monitor and follow-up on government led emergency measures**. These committees analyze, evaluate, investigate and meet to discuss their findings and agree on recommendations - though these are not not binding.

On the other hand, in some countries the **creation of new monitoring and control mechanisms** has also been verified. On occasion, these have been introduced as part of laws adopted in the context of the emergency such as to create funds for specific purposes or approve special regimes, or as part of requirements to render account before supervisory bodies.

***Some of the initiatives to strengthen the control of created funds to tackle the pandemic, such as the obligation in Chile for the Executive branch to be held to account by Congress, are promising and can help foster sustainable control mechanisms over time.***

In **Chile**, for example, the Executive Branch is held accountable by the Chamber of Deputies for the use of the Guarantee Fund for Small and Medium Entrepreneurs and the implementation of the Emergency Family Income.

In **Brazil**, the extraordinary fiscal, financial and contracting regime that by law will govern during the state of emergency can be suspended by Congress in the event of irregularity or non-compliance with the limits imposed. In addition, the **Peruvian Congress** established under law measures for the simultaneous control by the Comptroller General of the Republic responsible for supervising the entities that receive public resources.

In **El Salvador**, the National Assembly created under law a committee with government, private and civil society representatives for the purpose of monitoring the use of the Emergency Fund, Recovery and Economic Reconstruction, although currently inactive following the resignations of some of its members.



## Conclusions: Haste should not come at the expense of transparency, control, and accountability

The pandemic has confirmed that, while it is imperative to have rapid responses to address the crisis and its impacts, it is equally crucial to maintain strong democratic processes that guarantee transparency and accountability. **The Legislative branches play a key role in guaranteeing emergency measures take place within a framework of respect for the separation of powers between branches of government and guarantee the right of citizens to monitor government actions.**

The pandemic so far has seen a worrying trend of insufficient parliamentary budget supervision and control in the Latin American region. The Executive has had broad powers to deal with Covid-19 and while some Parliaments have responded with the use or creation of new controls, they have done so unevenly and on the whole far less than is needed.

Although in some countries this situation varies little from that before the crisis, the pandemic presents an opportunity for the role of the Legislature to be strengthened. In particular, the **Legislative branches should bolster their supervisory functions** including by:

- actively participating in the formulation of laws and policies in response to the emergency;
- Independently monitoring, directly or through special control mechanisms, the implementation of the measures and in coordination with other control bodies such as higher control entities and civil society;
- strengthening or implementing new mechanisms for interaction and dialogue with civil society.

Our efforts at present to consolidate Legislatures, to empower them to act as powerful watchdogs of Governments, will not just create short term benefits but enhance these institutions for the future.



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