



IDENTITY SYSTEMS AND SOCIAL PROTECTION IN VENEZUELA AND BOLIVIA:

GENDER IMPACTS AND OTHER INEQUALITIES



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Presentation

For years Derechos Digitales and several civil society and academic organizations have warned about the impacts of the increased use of surveillance technologies for the exercise of human rights in Latin America. We have observed and reported how most of our countries have inverted in acquiring equipment like facial recognition cameras, surveillance drones, spyware¹ and how these have been abusively used to intimidate, silence and criminalize activists and independent media. Under different arguments – like the protection of public security – these technologies were incorporated even before measures were adopted to prevent their misuse and abuse by government with authoritarian tendencies.

While international authorities increase their demands on a moratorium against the use of such technologies until strict human rights standards are implemented,² we have identified in the region another trend towards the implementation of digital systems – including surveillance technologies – to control people’s access to fundamental rights by the State. One example is social protection, which refers to the policies developed to diminish poverty, vulnerability and social exclusion.

There is a large debate around the concept of social protection itself and how such policies should be framed, as well as different implementations and perspectives in Latin America, as the following case studies evidence.³ The region – where the distribution of wealth between rich and poor is one of the most uneven in the world – has become an international example in the implementation of these programs in the past decades. However, the increased introduction of explicit and implicit conditionalities for access in the past years represents a risk to their guarantee as a universal human right. Moreover, the introduction of digital technologies such as biometrical systems, web or mobile applications or unified registries may result in the intensification of inequalities instead of its eradication.⁴

1 See: <https://www.derechosdigitales.org/tematica/vigilancia/>.

2 See, for instance: <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/SR2019ReporttoHRC.aspx>.

3 The UN Special Rapporteur on Extreme Poverty and Human Rights has explore the issue in his 2014 annual report. See: <https://undocs.org/en/A/69/297>.

4 Venturini, Jamila. “Surveillance and social control: how technology reinforces structural inequality in Latin America”, 2019. See: <https://privacyinternational.org/news-analysis/3263/surveillance-and-social-control-how-technology-reinforces-structural-inequality>.

The UN Special Rapporteur on Extreme Poverty and Human Rights has identified some uses of digital technologies for the implementation of welfare systems around the world. According to him, they include identity verification, eligibility assessment, calculation and payment of benefits, fraud prevention and detection, risk scoring and need classification and communication with beneficiaries.⁵

Several of such uses are already present in Latin America and some examples are presented in detail in the following case studies. In Venezuela, surveillance technologies are being used to identity verification. While the country faces a sustained humanitarian crises, biometric systems have been implemented to control access to products categorized as first need resulting in consistent reports of discrimination, particularly towards migrants and transgender people, as Marianne Díaz explores in her text. Besides its discriminatory impacts, such initiatives imply legitimizing a differential surveillance towards people who find themselves in severe vulnerability conditions, depending on State assistance.

Similar measures have been adopted in other countries and include the use of facial recognition to control access to special benefits in transportation systems and its implementation in educational institutions in Brazil. Similar proposals have been presented in Chile after the Covid-19 pandemic and in El Salvador⁶ and Peru⁷ facial recognition systems have been used for fraud control in national exams that were applied remotely, implying the collection of biometric data from children and adolescents.

The case of Bolivia, which is also further explored in this publication, shows how digitization – usually presented as a tool for increasing State efficiency – is not only insufficient to solve structural problems regarding access to basic services, but also how it can facilitate new forms of discrimination. Although it is an exploratory study on the role of technologies on the emergency cash transfer programs launched during the Covid-19 pandemic, it evidences several layers of complexities that such use implies. The analysis is focused in 2020, but brings

5 See: <https://undocs.org/en/A/74/493>.

6 Hernández, Laura. “El interés superior (en los datos?) de niños y niñas”, 2020. See: <https://www.derechosdigitales.org/14998/el-interes-superior-en-los-datos-de-los-ninos-y-ninas/>

7 See: <https://reconocimientofacial.info/peru-uso-de-reconocimiento-facial-en-examen-de-admision-a-universidad-publica-genera-cuestionamientos/>.

some points of concern that should be considered as new programs are implemented – including with a more intensive technological use for the payment of benefits.⁸

Another example of the use of mobile applications to mediate the request and access to social benefits during the Covid-19 pandemic comes from Brazil. The decision implied several access barriers for the groups who were under the most severe vulnerability conditions and didn't have a personal smartphone, connectivity or even a valid national document.⁹ At the same time, local organizations have presented concerns on the transparency and security measures offered by the application.¹⁰

These examples evidence again that digital technologies are not going to solve structural inequality problems regarding how certain populations have been historically marginalized from access to State services and fundamental rights. They only show the complexity of the issue and put into question the argument that digitization would facilitate the inclusion of people who were until now invisible.

Digital transactions also add new layers – and potentially new agents – in the processing of data with further risks in terms of security and abusive uses. The same is true for proposals around database integration and interoperability, unique identity systems, automation and prediction systems which are also abundant in the region in the form of pilot projects or proposals, usually with support of international finance institutions. They are also present in the cases studies that integrate this publication and are presented in order to foster a debate on their effectiveness and the concrete challenges implied in an implementation that could be satisfactory from a human rights perspective.

The main goal of this publication is to alert on the impacts of surveillance technologies and digitization initiatives to the exercise of social and economic rights and the increase of inequality. A real exercise of digital sovereignty in Latin America has to start from a critical analysis of the purposes and limits for the use of technologies at the public level and on the

8 See, for instance: <https://www.paginasiete.bo/economia/2020/12/12/habilitan-la-app-para-cobrar-bono-contr-a-el-hambre-277822.html>

9 See, for instance: <https://g1.globo.com/jornal-nacional/noticia/2020/04/08/milhares-de-brasileiros-tentam-regularizar-cpf-para-receber-auxilio-emergencial.ghtml> and <https://www1.folha.uol.com.br/mercado/2020/05/cerca-de-70-milhoes-no-brasil-tem-acesso-precario-a-internet-na-pandemia.shtml>.

10 InternetLab. "COVID-19: Apps do governo e seus riscos para a privacidade". See: <https://www.internetlab.org.br/pt/privacidade-e-vigilancia/covid-19-apps-do-governo-e-seus-riscos/>.

conditions under which such initiatives should be implemented. The case studies presented in sequence only show the challenges that persist for that the integration of digital technologies can serve the people in most need. It is crucial that any of these uses are sustained by strong data protection frameworks and guarantees, as well as adequate transparency measures and opportunities for multistakeholder participation, particularly of the groups that may be negatively affected by erroneous implementations or abusive uses of data.

Social protection systems in Venezuela: Surveillance, gender and human rights.

Marianne Díaz Hernández

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Summary

This brief report seeks to document the way in which the systems of vigilance and control implemented in Venezuela since 2012¹ and deepened since 2014 with the implementation of the biometric system of food security, have affected women and the LGBTIQ+ population specifically, and transgender people particularly, not only as regards of rights to identity and data privacy, but also in relation to the rights to access to food and health, the right to integrity and dignity, and the right to freedom of movement.

Background

In Venezuela, while the LGBTIQ+ flag and gender equality have been used as political tools for more than two decades, these expressions have become empty slogans. On one side, regulations as the Act on Equality of Opportunity for women² or the Organic Law on the Right of Women to a Life Free from Violence³ these were intended to be progressive laws aiming to eradicate what has always been a serious problem of discrimination and violence against women in Venezuela, although it didn't considered the gender and sexual orientation discrimination, that has been endemic in the country. On the other hand, for the LGBTIQ+

1 Consejo Nacional Electoral. (N.d.). Election technology in Venezuela. http://www.cne.gob.ve/web/sistema_electoral/tecnologia_electoral_descripcion.php

2 Venezuela: Act on Equality of Opportunity for women, Congress of the Republic of Venezuela (1993). http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=es&p_isn=37516&p_country=VEN&p_count=303&p_classification=05.01&p_classcount=1

3 Venezuela: Organic Law on the Right of Women to a Life Free from Violence, National Assembly of the Republic (2007) (testimony of United Nations High Commissioner for Refugees). <https://www.refworld.org/es/publisher,NATLEGBOD,LEGISLATION,,57f794ab2c,0.html>

population, the mentions of their rights have always been fleeting, local and precarious: some brief words on the Organic Law of Popular Power, the Organic Labor Law, the Law for the Regularization and Control of Housing Rent and other similar legislative bodies, that prohibit “discrimination based on sexual orientation” or “based on gender identity or expression”, as it may apply. The language, in any case, is inconsistent, and the application of the regulations is even more inconsistent. The municipal authorities are the ones who have advocated the most to dictate agreements and ordinances condemning hate crimes and punishing discriminatory sanctions committed by private establishments, but only after arduous work of the civil society, and in certain territorial sections,⁴ leaving for the most part a wide sector of the population unprotected.

As a contradiction to the official statements that declare the chavista government as progressive and diverse, the government officials and party representatives often use derogatory or demeaning, sexist and homophobic language in their public speeches and declarations,⁵ often with the purpose of discrediting, and humiliating their opponents. As indicated by Ferrer:

In the political speeches or interventions of the chavistas leaders exists the characteristic of the repeated use of adjectives countered by the LGBTI movement such as pussy, fag or fairy. The regime advocates for discursive violence to downplay their opponents, and among all the strategies employed there is the tone of sexual insult. In 2012, Nicolás Maduro acting as the country’s chancellor, and during one of his speeches labelled the opponents as “posh, fags and fascists”.

Thus, while homosexuality itself, and in general terms is not illegal in Venezuela, at the same time it is still one of the few countries in Latin America that doesn’t recognize same-sex marriages or any type of same-sex civil union. The Organic Code of Military Justice still contains a provision that penalizes up to three years of imprisonment for any serviceman or servicewoman that “commits unnatural sex acts”.⁶

4 Simons Domínguez, J. M. (2017). LGBTI Questionnaire 2017. Current situation in Venezuela Asociación Civil Venezuela Igualitaria.

5 Ferrer, J. (2019). Homophobia as a policy of the Venezuelan State In Medium. <https://medium.com/@EIDiariodeCCS/la-homofobia-como-pol%C3%ADtica-del-estado-venezolano-d2384dccefb>

6 In Venezuela being gay is a military offence. (21 May, 2016) Fundación Reflejos de Venezuela. <https://www.fundacionreflejosdevenezuela.com/hagamos-un-hecho/exclusiva-estado-homofobico-venezuela-gay-delito-militar/>

Social Public Policies on Food and Health care

The food safety system in Venezuela is an emblematic case of technosolutionism and corruption. The massive purchase of fingerprint verification machines, that was the solution found to the food shortage in Venezuela, was also the opportunity to grant a giant bidding to the Ex-Clé company; the same company that has been in charge of the Venezuelan elections since Smartmatic stepped out after declaring that the elections of the National Constituent Assembly of 2017 had been rigged. Nowadays, the Argentinian company Ex-Cle handles the implementation of biometric technology associated with municipal systems of tax collection, food system, and the banking systems of the state agencies. Even though a big percentage of the machines that represent the bulk of the biometric system investment, for 2018 the machines were ruined and gathering dust in any corner.⁷

Beyond the absolute absence of evaluation or previous studies regarding the feasibility of implementing biometric identification as an answer to any of the problems intended to face, the fact is that his implementation was presented as the answer to the shortage problem.⁸ Not only the factors related to the maintenance of the devices were disregarded, that, as we mentioned, would lead to their quick obsolescence and its replacement for other measures. But also, the need for stable power supplies, and internet connection for these devices to be used reliably was not considered, which resulted in the implementation not being consistent even at the early stage of the public policy. Thus, through the acquisition of technological systems they were seeking to solve a problem that was fundamentally a social and economic problem: the disinvestment in agriculture and the appropriations policy have been the causes of a food crisis in which 9.3 million of Venezuelan are in a state of acute food insecurity, a situation where “a person’s inability to consume food endangers their lives or their livelihood”;⁹ and as these lines are written affects a third of the country’s population. Therefore, the implementation of the food control system not only did not solve the problem, but in several aspects deepened the problem.

7 Hernández, A. (N.d.). Fingerprint verification machines: social control at the touch of a finger. Instituto Prensa y Sociedad de Venezuela. <https://ipysvenezuela.org/el-voto-es-secreto-tus-datos-no/105-2/>

8 Meza, A. (10 March, 2015). “Fingerprint verification machines” for sale in venezuelan supermarkets . El País. https://elpais.com/internacional/2015/03/10/actualidad/1425944901_041677.html

9 Souquett Gil, M. (2020). Venezuela had the fourth worst food crisis in the world in 2019. <https://efectocuyo.com/salud/venezuela-tuvo-la-cuarta-peor-crisis-alimentaria-del-mundo-en-2019/>

The impossibility of the system working reliably turned quickly into the worsening of one of the source failures: the discretion of those who implement the last section of the system. In the case of the fingerprints verification machines, the cashiers in the supermarkets and in the pharmacies are in charge of deciding if the identity of a person matches with the system, if the fingerprints verification machines were either working or not. Since then, some cases occurred in which transgender people were not able to purchase food through the systems intended to such purpose, having to resort to the black market to that end¹⁰ as of 2016, when the system of Local Committees of Supply and Production (CLAP, in its Spanish acronym) came into effect, according to it, the proper neighbors, through the community councils, would have the power to manage sales and delivery of the basic products house to house. In consequence, transgender people as well as LGBT parenting are in a precarious situation, because their non-recognition by the state leaves it up to the own citizens in charge of the community councils, to decide whether or not to register them as a family and allow them to access the food system.

As we have pointed out in previous investigations,¹¹ the usage of mechanisms of biometric recognition for the access to basic resources, such as food and medications, not only affects our essential rights of food and healthcare, or our right to privacy and to be free from surveillance, but it also jeopardizes directly our right to integrity, autonomy and dignity. Among the people we interviewed for this report, each and every one of them expressed that having to use a fingerprint verification machine in order to access the purchase of products or basic goods was deeply humiliating and affected their dignity. When talking about LGBTI+ people, and more seriously about the case of trans people in Venezuela, where the legislation to protect them is practically nonexistent, does not allow the recognition of their identity and also, they are in a social context in which they are constantly discriminated, it is considered that this technology resignifies the value of their bodies and turns them into invalid bodies, thereby remaining on the margins of the system and society. This reality, beyond being the primary obstacle to access to any type of good or service or to the materialization of a right, becomes the latest humiliation to a person who is not even granted the status of person towards the state, because even their basic right to identity is at stake. In the words of the deputy Tamara Adrián, the first transgender deputy in Venezuela,

10 Fundación Reflejos de Venezuela. (2 August, 2016) Being transgender and buying at the supermarket. Fundación Reflejos de Venezuela. <https://www.fundacionreflejosdevenezuela.com/hagamos-un-hecho/transgenero-comprar-supermercado/>

11 Díaz, M. (2018). The body as data. Derechos Digitales. https://www.derechosdigitales.org/wp-content/uploads/cuerpo_DATO.pdf

The legal situation of the LGBTIQ+ population in Venezuela is one of total abandonment; unlike what has happened in most of the region, where today there are equal rights. (...) Meanwhile, Venezuela did not move forward, and only it did not move forward, but it moved backward. (...) Venezuela is practically the only country where there is no protection of any kind in the public space, and especially at school and educational level, which facilitates or produces dropouts, violence and discrimination that often leads to consider suicide.¹²

After the so- called biometric food system, the homeland card was created and with it the homeland platform. The homeland card is an identity tool that contains a QR code, which seeks to replace the identity card as the primary mechanism for identification before the State, and any public system.¹³ This document is associated with a digital wallet that is in turn linked in the context of a state electronic payment system. In this system, which can be accessed through any browser, those who have the homeland card can receive bonuses by the State for several arbitrary reasons, from those related to electoral processes to protection bonuses for the pandemic for COVID-19. As Colina points out,¹⁴ the mechanism was born as a control tool deeply linked to the political identity, a root from which it cannot be detached:

Since its beginnings, this digital card has been a fundamental tool of social control, and co-optation of the governing party, the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela-PSUV) and of the State-government: that in this type of political system are merged. This was already evident on the first day of registration, if we analyze who the ones were called to obtain the identity cards, the spaces used for the process, and the individuals in charge of managing it. On December 20, 2017 the all included the individuals affiliated with the PSUV or seconded to the organizations and movements of the I Congress of the Homeland, the spokespeople of the community councils and the communities, the beneficiaries of the missions and the pensioners. The process was advanced through mobile and fixed units located in the Bolivar squares of the country, in the new urban developments

12 Hernández, A. P. (24 June, 2020). Interview with Tamara Adrián, is the first transgender deputy in Venezuela. Global Voices. <https://es.globalvoices.org/2020/06/24/entrevista-con-tamara-adrian-primera-diputada-transgenero-de-venezuela/>

13 Ragas, J. (2017). A Starving Revolution: ID Cards and Food Rationing in Bolivarian Venezuela. *Surveillance & Society*, 15(3/4), 590-595. <https://doi.org/10.24908/ss.v15i3/4.6655>

14 Colina, C. (27 September, 2018) The card behind my data. El Nacional. https://www.elnacional.com/opinion/columnista/carnet-tras-mis-datos_253366/

and in certain establishments of the missions. To this end, 12.000 young people of the PSUV mobilized. The chosen spaces are clearly marked by ideology and official propaganda.

In the context of the social system, is a deeply stratified scheme that is composed by missions, committees, community councils, and that it is constituted from its birth- as pointed by Colina- as a policy of exclusion: from the very moment when one obtains the homeland card, the process is deeply political and arbitrary.¹⁵ Even if it was implemented to purchase medications and food at regulated prices, it has been used to rationing gasoline,¹⁶ to force participation in electoral processes despite that voting is nor mandatory in Venezuela,¹⁷ to restrict the access to pension and, also to delivery bonuses as a reward or incentive with regard to electoral processes.¹⁸

On the other hand, the shortcomings in terms of information security on the database of the system of this card, that has been hacked more than once, the first being in 2017,¹⁹ when the system was recently deployed. It is important to point out that this database contains, at least in theory, a massive amount of information about the user, for when at the time of registration the user is asked not only his name and identification, he user's email, phone number, but also the participation in missions, in events, projects or missions of the United Socialist Party of Venezuela, o even if the person owns a pet or has ever broken a bone.²⁰ Also,

15 Salmerón, V. (20 May, 2017). How does the government use scarcity as a political tool? Prodavinci. <https://historico.prodavinci.com/blogs/como-el-gobierno-utiliza-la-escasez-como-herramienta-politica-por-victor-salmeron/>

16 EFE (Ed.). (2018). Maduro announced “the rational use” of gasoline through the homeland card. El Nacional. https://www.elnacional.com/venezuela/politica/maduro-anuncio-uso-racional-gasolina-mediante-carnet-patria_245929/

17 Sarmiento, M. (26 July, 2020). “To give us the Clap they made us justify in writing why we did not vote for the Constituent”. Crónica Uno. <https://cronica.uno/darnos-clap-nos-hicieron-justificar-constituyente-vecinos/>

18 Romero Martínez, V. (15 May, 2018) Maduro ratified bonuses for the homeland cards holders that vote in 20M. El Universal. <https://www.eluniversal.com/politica/9336/maduro-volvio-ofrecer-bonos-para-poseedores-carnet-patria-voten>

19 Berwick, A. (14 November, 2018). How ZTE is helping Venezuela to implement a chinese-style social control. Reuters. <https://www.reuters.com/investigates/special-report/venezuela-zte-es/>

20 Díaz Hernández, M. (3 March, 2017) The “Homelandcard” and the Venezuelan government’s insatiable thirst for data. Acceso Libre. <https://acceso-libre.org/2017/03/03/el-carnet-de-la-patria-y-la-insaciable-sed-de-datos-del-gobierno-venezolano/>

the homeland card system constantly demands new information every time people enter the Homeland System.²¹

A second, deeper concern regarding the system of the homeland card consists in the role played by the Chinese telecommunications company ZTE. According to research done by the Reuters agency,²² the fundamental mission of the system is not only tracking the delivery of subsidized items, and the use of other government programs, but eventually monitoring the population and being able to track, reward and punish the citizens according to their behaviors. Is for this reason, according to Berwick, that the database stores specific details such as people's medical records, their presence in social networks, their participation in electoral processes and their membership in political parties. It is clear that this would be the reason why the system is used to grant incentives, leading to the adoption of the card by more people. In this moment, people need the card for medications, pensions, food boxes, gasoline, but also to obtain bonuses that in many cases, in the context of a country where the monthly minimum wage is just a few dollars, can alleviate the extreme poverty in which the target population lives. Likewise, the card has begun to be required so that pensioners can collect the pensions from the National Institute of Social Security in the banking institutions. Furthermore, the public officials face specific and stronger pressure to obtain the homeland card, as stated by state workers to various media outlets, indicating that even government offices demand photographs of the workers when voting, and that they must vote using the homeland card and not the identity card.

As for women, although historically they have faced legal differences, as the recently implemented difference in the age for marriage, and despite the legislative changes as the approval and promulgation of the Organic Law on the Right of Women to a Life Free from Violence, in practice violence against women is not only endemic, but also femicides have increased recently, although the absence of official statistics makes it impossible to fully know the extent of the problem.²³ The levels of poverty similarly represent a marked difference

21 Update of information for social protection programs. (28 February, 2020). Blog of the Homeland System <https://blog.patria.org.ve/actualizacion-de-informacion-para-los-programas-de-proteccion-social/>

22 Berwick, 2018. Op. Cit.

23 Gómez, S. (17 June, 2020) Femicides in Venezuela: the other silent pandemic. El Diario. <https://eldiario.com/2020/06/17/femicidios-en-venezuela-la-otra-pandemia-silenciosa/>

between men and women, because Venezuela is a matricentral country,²⁴ where the feminization of poverty is aggravated by the situation of women that have been confronted with social assistance programs that constitute control mechanisms. On the other hand, it is important to emphasize that the distribution system of the CLAP food boxes, the communities that organize this distribution and, on which the whole system is based, operate primarily on the basis of women's unpaid work, who, finding themselves in the situation of having to find food for their families, devote several hours a week to the control system that uses them as unpaid labor.

Right to Identity

In addition to the above, in Venezuela there is a general crisis of the identity system which has made it extremely difficult to obtain and renew identification documents and passports, which has also contributed to people turning to the homeland card as the only possible identification mechanism. On the other hand, because of the gigantic crisis that particularly affects women and LGBTI+ people, and as a consequence of the lack of identity mechanisms to be able to migrate legally, the situation of human trafficking has been aggravated, particularly sex trafficking, of women and trans people that are in a precarious situation, to which the Venezuelan government does not respond.²⁵

The first factor to consider regarding the rights of Trans people in Venezuela is the absolute absence of the right to protection of their identity. Trans people in Venezuela, have absolutely no possibility of gender reassignment in their identity documents, as shown by the case of the Congresswoman Tamara Adrián, who since 2004 has been waiting for a response from the courts of justice, and despite her international political visibility, has not received the legal recognition of her gender identity.

The impossibility of having identity documents that correspond to a person's gender identity, affects in many cases the possibilities of these people to access goods and services, and

24 García, M. J. I. (2019). The right to food and the feminization of poverty in Venezuela. In *Anales Venezolanos de Nutrición* (Vol. 32(1), pp. 33-43). <http://docs.bvsalud.org/biblioref/2020/04/1087429/art-5.pdf>

25 Beleño, A. A. B., & Santana, V. F. C. (2019). Subjects in transit and border sexualities. Rights of Venezuelan LGBT migrants in the Colombian Caribbean. *Social Work*, 21(2), 168-195. <https://revistas.unal.edu.co/index.php/tsocial/article/view/75258/72947>

fundamental rights. There have been cases of police abuse where people are detained in police checkpoints and forced to show their bodies and even strip to show whether or not they “correspond” to their legal identity; also we came across people that cannot purchase foods, because in the supermarket checkouts demand an identity document, either the ID card or the homeland card, that does not match to the physical appearance of the person in front of them, which prevents them from being validated by the system.²⁶ This aggression from the State is constant and systematic from the organs of power, and is added to the above-mentioned persistence of a homophobic, transphobic and sexist discourse that is replicated over and over again in official speeches.

The discretion of the system contributes to deepen and perpetuate the injustices on which the food distribution system is based. The managers of CLAP in each sector are people from the community that depending on the region of the country, their social status, their educational level and their individual tolerance or intolerance, can make decisions beyond what is contemplated in the law.

On the other hand, since in Venezuela same-sex couples are not legally recognized, they do not have the possibility to access documents that allow them to identify themselves as a family, that is, that grant them the possibility of accrediting the bond that unites them in order to receive the same treatment as legally recognized family. Although in historic ruling on December 15, 2016; the Constitutional Chamber of the Supreme Court of Justice recognized homoparental affiliation in the following terms,

“...the protection of the State for the family is not restricted to the mother or father, nor is it limited by their marital status, but it extends to those who are heads of the family, by virtue of the fact that family is the center of gravity of a series of provisions of greater importance, that range from the recognized right of the child and adolescent to be raised and educated within that family”

The truth is that this decision only applied to the specific case of the couple that carried the petition through an action for constitutional protection, while the rest of the same-sex couples in Venezuela, with or without children, continue to lack access to legal recognition. Therefore, in most of the community councils they are not recognized as a couple and therefore as a

26 Buada Blondell, G. (16 May, 2018) Venezuela in decline: Transgender rights remain violated. Amnesty International -Venezuela. <https://www.amnistia.org/ve/blog/2018/05/6176/venezuela-en-retroceso-derechos-de-personas-trans-siguen-siendo-vulnerados>

family, and consequently they cannot be registered to have access to the food bags that are delivered periodically. On the other hand, and emphasizing again the arbitrary nature of the execution of this public policy, in some community councils it has happened that dependents decide to register same-sex couples individually as two families, and consequently these people can access the benefit twice and separately.

Generally, in terms of public policies regarding same-sex couples and Trans people, these are not recognized in any aspect of the normative framework, nor in political programs or social missions, and consequently, they remain on the margins of society, perpetuating a discrimination already existing by the lack of social progress in the terms of acceptance of these people. In case of transgender people, it is more severe, since they require access to certain types of specific hormone medications and in a context of scarcity and hyperinflation, they are left out of the health system because they cannot access any type of government assistance. In this case and, in consequently, given the depletion of inventories of medicines and basic supplies, these patients find it increasingly difficult to maintain their treatment, this being one of the reasons why transgender people have been more affected by the migration crisis,²⁷ because they are in such a desperate situation that they have to travel to Colombia to find their medications, a situation that sometimes leads to migration even under illegal conditions, dictated by the precariousness they face in the country.

As Puyosa points out,²⁸ the controls implemented on the right to identity affect not only this right, but also the dignity and human integrity of an already precarious individual:

The reader can substitute “birth certificate” with passport, criminal record or apostille of the title. It is the same. Every time that an official anywhere in the world asks a Venezuelan for a document that he does not have, that he cannot have because the Venezuelan State does not provide it, he reminds him/her that he does not have the right inherent to a nationality. It reminds her/him that his identity has been broken.

27 Beleño & Santana, 2019. Op. Cit.

28 Puyosa, I. (2019). Biopolitics under Chavismo. Suffering bodies, denationalised bodies. Bodies, spoils, territories: life threatened. https://www.researchgate.net/profile/Iria_Puyosa2/publication/337471948_Biopolitica_bajo_el_chavismo_Cuerpos_sufrientes_cuerpos_desnacionalizados/links/5dd967ae458515dc2f48c6cc/Biopolitica-bajo-el-chavismo-Cuerpos-sufrientes-cuerpos-desnacionalizados.pdf

This statement, which applies to all Venezuelan, regardless of gender, sexual orientation or immigration status, is especially evident in the case of vulnerable people, and this is the case of women and LGBTIQ+ in Venezuela. Vulnerable, impoverished, discriminated and exploited, their validity as full individuals and subjects of rights is determined by the random concessions of a system that responds to the fickle desires of political power.

Social welfare, digitization and the potential for discrimination during the Covid-19 pandemic in Bolivia

Jamila Venturini

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Introduction

As other Latin American countries, Bolivia has implemented several measures to respond to the advance of the Covid-19 pandemic since the identification of the first cases in the country in March 2020. At the technological level, they included the implementation of sophisticated surveillance technologies in airports, the launch of web-based and mobile applications for self-evaluation of symptoms and monitoring of cases and the integration of databases for the delivery of emergency cash transfer initiatives.

Concerns about potential for abuse in the use of data was significant due to the polarized environment lived in the country since the 2019 elections and cases of persecution against opposition members by the interim government (León; Arandia & Quiroz, 2020)¹. Political tensions involved historically marginalized indigenous communities supporting the former presidente Evo Morales and his party, the Movimiento al Socialismo (MAS), and opposition members largely identified with the white Occident and its values. A history of data breaches and the absence of a comprehensive data protection normative to rule data collection and processing during and beyond the pandemic made the situation even more complex as few safeguards are in place.²

At the same time, the advance of digitization initiatives in the context of social protection programs raises an alert in terms of the different types of discrimination it may imply for

1 León, Cristian; Arandia, Iván; Quiroz, Eliana. "Reporte sobre la situación de los derechos digitales en Bolivia durante COVID-19", 2020. See: https://internetbolivia.org/file/2020/11/fd_tecnopandemia.pdf.

2 León, Cristian. "Situación de la Privacidad en Bolivia", 2020. See: https://internetbolivia.org/file/2020/05/fd_privacidad_bo_v1.pdf.

historically marginalized and vulnerable groups. Beginning at the connectivity and digital literacy levels, the fact that structural sexism still plays a key role in the possibilities of Internet use by women (Dubrek García Fernández, 2018)³ and that rural and indigenous communities are largely disconnected impacts on how these groups can access relevant information on welfare programs (including dates of payments) or even question errors in their registries that prevent them from receiving benefits they are entitled to. Considering the context of the Covid-19 pandemic, this implies having to move around cities to access basic social and economic needs, putting theirs and their families' health at risk.

In the absence of a comprehensive data protection normative in place, data collection and processing, including exchange among public and private entities, may result in a differential treatment against beneficiaries of social welfare programs who are further exposed to different types of security breaches. Indiscriminate access of sensitive data from minors, pregnant women and disabled people by financial institutions, for instance, can facilitate discriminatory practices affecting people's right to develop their personalities freely. The potential use of such data for profiling, target advertisement, credit, insurance or employment analytics poses serious risks for the affected population, including of settling them into a permanent condition of marginalization.

This case study was developed by Derechos Digitales⁴ with support from Privacy International⁵ and aims to (i) document the processes related to data collection, processing at the governmental level and possible exchange with financial systems and other private entities in the context of the Bolivian emergency responses to the Covid-19; and (ii) raise concerns regarding surveillance and discrimination, particularly against historically marginalized groups in their access to social and economic rights in the context of the emergency. It includes general information on welfare programs implemented before the pandemic, but it is focused in the period between March, when the first Covid-19 cases were identified, and October 2020, when a new president was elected, putting an end to the interim government.

3 Dubrek García Fernández, Carmiña. "Mujeres y ciencia y tecnologías", 2018. In: Agetic. "Estado de las tecnologías de información y comunicación en el Estado Plurinacional de Bolivia". See: <https://www.agic.gob.bo/pdf/estadotic/AGETIC-Estado-TIC.pdf>. See also: <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Montevideo/pdf/PolicyPapers-ConfMinistros-BrechaDigital-ES.pdf>.

4 See <https://www.derechosdigitales.org>.

5 See <https://www.privacyinternational.org/>.

Information was collected with constant and direct collaboration with Internet Bolivia Foundation, a Bolivian digital rights organization working on personal data protection, democracy and digital participation, digital economy, equity and digital divide and digital security.⁶ Besides a literature review and a normative analysis, methodology included semi-structured interviews with former State employees, academics and members of the Internet Bolivia Foundation.

The report is divided in three parts: the first one introduces the Bolivian context in terms of connectivity, electronic government and digitization, normative framework regarding privacy, data protection and access to information and a brief summary of the main social welfare initiatives in place before the Covid-19 pandemic. The second gives an overview of the emergency response given to the pandemic focusing on the emergency cash transfer programs implemented and the challenges they implied in terms of reaching vulnerable and marginalized groups of the population. Finally, the third part presents some concerns regarding surveillance and discrimination considering international human rights standards.

While it wasn't possible at this stage to document concrete discrimination cases raising from digitization initiatives against specific groups, it identify several points of concern that should be taken into account by Bolivian policymakers in the development of digital strategies for welfare programs during the pandemic and beyond. Further studies should be developed to continue and deepen the analysis with participation and in collaboration with social movements and organizations working with vulnerable groups.

Context

Access to the internet

Data on access and use of the internet in Bolivia is still scarce and based in different concepts, indicators and collection methods (Ortuño Yáñez, 2016).⁷ According to the Bolivian Agency for Electronic Government and Information and Communications Technologies (Agetic),

6 See internetbolivia.org/

7 Ortuño Yáñez, Armando. "El acceso y el uso de Internet en Bolivia: antiguas y nuevas desigualdades", 2016. In: Quiroz Gutiérrez, Eliana (coord.). "Bolivia Digital: 15 miradas acerca de Internet y sociedad en Bolivia". See: <https://www.cis.gob.bo/publicacion/bolivia-digital-15-miradas-acerca-internet-sociedad-bolivia/>.

67,5% of the population consisted of internet users (people over 14 years old who had accessed the internet in the 30 days previous to the survey) in 2017.⁸ Data from national regulator of telecommunications and transportation services (ATT) from 2020 indicate that Bolivia has 10.407.690 internet connexions, of which 91,9% correspond to mobile connexions.⁹ Indeed, mobile devices are available to 93% of the population, while computers are only accessible to 42% and concentrated mostly among the highest socioeconomic extracts of the population from urban areas (Agetic, 2018).¹⁰

Important generational, geographic, socioeconomic and gender digital gaps are observed regarding Bolivians' access to internet and ICTs and, according to experts, they reflect pre-existing inequalities (Ortuño Yáñez, 2016). Ortuño Yáñez (2016) points out that people from rural areas, with low incomes and self identified as indigenous are the ones with the lower intensity of internet use in the country.

Only 17% of the rural population consisted of internet users in 2017, 3% of which had access to fixed line broadband (Agetic, 2017). Structural infrastructural challenges and geographic inequalities makes broadband scarce or unavailable in several regions. For instance, while urban capitals like La Paz, Cochabamba and Santa Cruz concentrated 76,2% of fixed line or wireless broadband connexions, regions like Beni and Pando had only 1,1%.¹¹ Quality of connexions is another factor of digital gaps in the country, where mobile access speeds used by the great majority of the population are still considered low for the region (Ortuño Yáñez, 2016).

When it comes to gender gaps, internet users were 51% man and 49% woman. Only 9% of woman house workers had access to the internet (Agetic, 2018). While 64% of man uses a computer five days a week – which could indicate that their work is related to its use –, only 36% of women are in the same situation. Of 55% of the population that doesn't use a computer on any day of the week, 53% are women and 47% men. Only in the highest and

8 Agencia de Gobierno Electrónico y Tecnología de Información y Comunicación (Agetic), 2017. See: https://agetic.gob.bo/pdf/dia_internet_encuesta.pdf.

9 Autoridad de Regulación y Fiscalización de Telecomunicaciones y Transportes (ATT), 2020. See: <https://www.att.gob.bo/content/situaci%C3%B3n-del-internet-en-bolivia>.

10 Agencia de Gobierno Electrónico y Tecnología de Información y Comunicación (Agetic), 2017. See: https://agetic.gob.bo/pdf/dia_internet_encuesta.pdf.

11 Agencia de Gobierno Electrónico y Tecnología de Información y Comunicación (Agetic), 2018. See: <https://www.agetic.gob.bo/pdf/estadotic/AGETIC-Estado-TIC.pdf>.

lowest socioeconomic extracts of the Bolivian population, the percentage of female internet users that don't have access to computers is similar to the percentage of men: in the first case it represents 9% and in the last 86% (Agetic, 2018). In the other extracts (medium high, medium and medium low), women have less access to computers than men. Digital illiteracy concentrates on (i) women, (ii) people with lowest incomes and (iii) people who are older than 45 years (Agetic, 2018).

The use of online banking services is still limited for all internet users in the country, as well as the use of e-commerce services (Agetic, 2017), which was used only by 10% of internet users (Agetic, 2018). Among the reasons identified by internet users for not buying products online was not having a credit or debit card, pointed out by 22% of them.

Limitations on access to the internet affect Bolivians' use of digitized services. However, this has not prevented the government from investing in electronic government and digitization initiatives at the public sector in the past decade.

Electronic government and digital citizenship

Several initiatives to overcome digital gaps were implemented in the past decade in Bolivia, including the launch of a satellite to serve rural populations and the inclusion of telecommunications as a right protected by the Constitution. At the same time, a close relationship between the government and social movements, particularly the free software community (Gómez Téllez, 2016),¹² facilitated the development of a technological sovereignty perspective in ICT policies and an attempt to foster innovative open solutions in the public sector.

Some initiatives in this direction are a “sovereign cloud” developed to serve public institutions,¹³ a plan for the implementation of free software and open standards at the public level and the creation of the Agency for Electronic Government and Information and

12 Gómez Téllez, Noelia. “Historia de Internet en Bolivia”, 2016. In: Quiroz Gutiérrez, Eliana (coord.). “Bolivia Digital: 15 miradas acerca de Internet y sociedad en Bolivia”. See: <https://www.cis.gob.bo/publicacion/bolivia-digital-15-miradas-acerca-internet-sociedad-bolivia/>.

13 The sovereign cloud to store and process governmental information was launched in 2019. Its proposal dates back to 2015, after a major attack affected state websites in context of the Bolivian dispute with Chile for getting access to the Pacific Ocean. Keane, Jonathan. “Bolivia proposes ‘sovereign cloud’ to secure data”, 2015. See: <https://www.idgconnect.com/article/3578109/bolivia-proposes-sovereign-cloud-to-secure-data.html>.

Communications Technologies (Agetic). Created in 2015 by the Supreme Decree n. 2.514,¹⁴ Agetic is responsible for (i) developing and coordinating plans and strategies on electronic government and ICT for public entities and assisting them in their implementation, (ii) developing and proposing technical guidance on the implementation of technological infrastructures by public entities, (iii) evaluating the quality and efficiency of electronic government initiatives, (iv) coordinating responses to security incidents in the public sector, (v) offering services on ICT for the implementation of electronic government initiatives, among others.¹⁵ It should also coordinate with public institutions the implementation of interoperability services and define which data and information that should be available for electronic government initiatives. Later, Agetic was also made responsible for the implementation of Digital Citizenship credentials and for the definition of technical standards for the registration of such credentials.

The Digital Citizenship Law was approved in 2018 to facilitate “the exercise of rights and duties through the use of information and communication technologies (ICT) in the interaction among people and public or private entities that provide public services for the State”.¹⁶ It obliges public and private institutions offering public services to share data produced for digital citizenship in an interoperable manner.

The law sanctions misuse of data and information by citizens (including impersonation, change and selling of credentials) and by public servants or employees. In the last case, it determines that personal data generated by the digital citizenship and interoperability platforms should only be used for the ends determined in applicable norms. This is the only data protection measure predicted by this law.

Agetic can register credentials and habilitate other institutions to do so or to use digital citizenship mechanisms. Even though such entities are deemed responsible for any damage a person may have from the use of digital citizenship as well as for misuse of the system and loss of information, the habilitation process doesn't seem to include the need for interested institutions to comply with any digital security standard.¹⁷ Terms and Conditions for the use of

14 See: https://www.cgii.gob.bo/sites/default/files/2017-04/decreto_2514.pdf.

15 For a list of all Agetic's responsibilities see: https://www.cgii.gob.bo/sites/default/files/2017-04/decreto_2514.pdf.

16 See: <https://digital.gob.bo/2019/05/ley-de-ciudadania-digital-1080/>.

17 See Agetic Administrative Resolution on Digital Citizenship from October 27th, 2020: <https://www.gob.bo/ciudadania/documentos>.

digital citizenship credentials inform that Agetic is not responsible for any damage generated by security vulnerabilities in systems or communications. They don't detail security measures adopted to prevent breaches or vulnerabilities, but inform that Agetic may provide competent authorities with information regarding the acts developed with the digital citizenship to allow their validation.¹⁸

During the Covid-19 pandemic Agetic has reviewed its technical standards to allow remote registration of credentials. In this case, identity validation can be done through video calls or other methods established by registration authorities. A valid identity number, cell phone and email account are necessary to register. Digital citizenship is not mandatory. People may stop their use at any time, but there is no information regarding what is done with data collected while the credentials were active.

Local experts point out that digital citizenship, as well as other ICT policies, have been poorly implemented due to infrastructural and cultural challenges that include public authorities' and servants' unwillingness to share databases under their responsibility and a sense that public information belongs to institutions (Gómez Téllez, 2016).¹⁹ Interoperable systems would constitute 3 to 5%, despite existing obligations in this regard, and several documents are digitized in image or PDF formats making it difficult for information to be extracted and analyzed (Carlos Olivera, 2020, personal communication). Services that can be accessed digitally are still limited²⁰ and there is scarce information on registration by the population.

At the same time, interoperability and shared access obligations together with low security and data protection standards raises serious concerns regarding misuse of citizens' data by both public and private entities, particularly in a moment of political crisis. The absence of transparency mechanisms that allow accountability and of a centralized competent authority with capacities to supervise the operation of digital citizenship processes further complicates the scenario. There are no guarantees that data exchanges in the context of digital citizenship and beyond attends the principles of necessity and proportionality.

18 See: <https://www.gob.bo/ciudadania/terminos-condiciones>.

19 Agencia de Gobierno Electrónico y Tecnología de Información y Comunicación (Agetic), 2018. See: <https://www.agic.gob.bo/pdf/estadotic/AGETIC-Estado-TIC.pdf>.

20 See: <https://www.gob.bo/ciudadania/servicios>.

Carlos Olivera (2020, personal communication), former director of Agetic, shares a concerning example of how this works in reality. He identified that it was possible for the Agency to perform direct searches in identity registration databases controlled by the General Identification Service (Segip) to which it develops electronic government and digital citizenship systems. As this was unnecessary for the proper operation of the systems, this was reviewed in the terms of a new agreement between both institutions.

Collection of biometric data

National identification in Bolivia includes registration of biometric data of fingerprints and facial recognition for citizens with 12 years-old or more. All identification data is stored in a database under the responsibility of identity service (Segip) and includes the following information: facial and finger biometric data, data from the birth certificate (name and last name, data of birth, etc.), marital data from marriage certificate (if applied), professional information, affiliation data (for children and adolescents under 18 years-old), data from military service certificate (if applied) and information declared by applicants (occupation, cultural identity, current address, telephone number, name of a family member).

Segips' regulation on the unique register of personal identification establishes that both identity information contained in databases and documents that certify such information are confidential with the exception of specific requests authorized by judicial or tax authorities.²¹ According to the law that created the Segip, confidentiality is one of its principles, together with security, understood as the guarantee of inviolability of identity by adequate and trustful mechanisms. It also establishes that public servants are forbidden to modify, eliminate or share identity data.

Biometric data is also collected by the Civic Registration Service (Sereci), which is in charge of registration of birth, marriage and death. The entity is dependent on the Plurinational Electoral Organ and compiles biometric data of all citizens over 18 years-old for electoral purposes.

According to a study by the IDB, both Segip and Sereci offer public and private entities services of authentication and validation of information through direct agreements that determine the

21 See: <https://www.segip.gob.bo/wp-content/uploads/2016/07/REGLAMENTO-DEL-REGISTRO-UNICO-DE-IDENTIFICACION-PERSONAL-LO-%C3%9ALTIMO-ENERO-2018.pdf>

types of data that will be made available and, at least for the Segip's system, criteria for the use of information. In the case of Sereci, private institutions are charged with a fee for the service.²²

Former Agetic director Carlos Olivera (2020, personal communication) explains that Segip and Sereci's systems for processing of biometric data are incompatible and both entities have their own rules for the processing of such data.

Access to information, privacy and data protection

Bolivia ratifies, among other human rights treaties, the Inter-American Convention on Human Rights which includes the protection of the rights to freedom of expression and access to information and to privacy. The Bolivian Constitution,²³ approved in 2009, guarantees the rights to communication and information as part of the right to freedom of expression.

Formally, the country has an access to information normative with obligations for public institutions,²⁴ but according to the Regional Alliance for Freedom of Expression and Information it is not fully implemented.²⁵ At the same time, while the Digital Citizenship Law states that it facilitates the exercise of public participation, social control and access to information, the absence of clear and unified procedures for presenting access to information requests prevents this to become a reality both for connected digital citizens and the population as a whole. In terms of participation, although digital consultation processes were implemented in the past years, it is not clear how citizen input is taken into account in policy making, as Noelia Gómez Téllez (2016) points out in her analysis of electronic government initiatives.

22 Calderón, Stefania. "Registros Civiles y Oficinas de Identificación: análisis y fichas de país", 2019. See: https://publications.iadb.org/publications/spanish/document/Registros_civiles_y_oficinas_de_identificaci%C3%B3n_an%C3%A1lisis_y_fichas_de_pa%C3%ADs_es.pdf

23 See: https://www.oas.org/dil/esp/constitucion_bolivia.pdf.

24 See: http://www.planificacion.gob.bo/uploads/normativa/decreto_supremo_28168.pdf.

25 Regional Alliance for Freedom of Expression and Information. "Acceso a la información en contexto de emergencia sanitaria", 2020. See: http://www.alianzaregional.net/wp-content/uploads/2020/05/Estudio-regional_-AIP-en-contexto-de-emergencia-sanitaria-final.pdf.

On the other hand, the Constitution also guarantees the rights to privacy, intimacy, honor, image and dignity (Toro, 2016).²⁶ In fact, data protection measures have derived from the constitutional right to privacy and jurisprudence of informational self-determination and are dispersed in fragmented norms (León Coronado, 2020).²⁷ Together with the absence of a data protection authority with capacities to supervise digitization, interoperability and data transfer processes, this complicates their implementation both at the public and private levels making it even harder for data subjects to understand and exercise their rights.

Some data protection rights are assured by the Constitutional provision of habeas data, also known as privacy protection action (Toro, 2016), a type of legal action common in Latin American countries that enables individuals to access personal information retained in public databases and to rectify them. According to León Coronado (2020), this is more a reactive than a protective mechanism, once it can only be activated when a person believes it is being illegally prevented from accessing, opposing, eliminate or rectifying data about them or when there is a threat or violation of the rights to privacy, image, honor and reputation.

Besides the already mentioned measures from Segip's normative, other data protection provisions can be found in the electoral legislation and the telecommunications law.

Social welfare programs

As part of its National Development Plan,²⁸ Bolivia has created in 2007 a national Policy for Social Protection and Integral Community Development with the goals to (i) eradicate poverty, vulnerability and risks to people, families and communities, (ii) contribute to strengthening the rights and capacities of the population and (iii) strengthen a community model based on the values of direct social control and transparency and on local communities' own organizational practices, cultural and territorial identities (Udape, 2015).²⁹ Since then, several programs were implemented with different models. Of particular interest for the Covid-19

26 Toro, Sergio. "La revolución tecnológica de Internet y la necesidad de generar derecho", 2016. In: Quiroz Gutiérrez, Eliana (coord.). "Bolivia Digital: 15 miradas acerca de Internet y sociedad en Bolivia". See: <https://www.cis.gob.bo/publicacion/bolivia-digital-15-miradas-acerca-internet-sociedad-bolivia/>.

27 León Coronado, Cristian. "Situación de la Privacidad en Bolivia", 2020. See: https://internetbolivia.org/file/2020/05/fd_privacidad_bo_v1.pdf.

28 See: http://www.planificacion.gob.bo/uploads/marco-legal/29272_ds.pdf.

29 Unidad de Análisis de Políticas Sociales y Económicas (UDAPE), 2015. See: http://www.sipi.siteal.iipe.unesco.org/sites/default/files/sipi_intervencion/bono_juana_azurduy.pdf.

context are: the conditional cash transfer program Bono Juana Azurduy, for pregnant woman and child with less than 2 years-old; and universal non-contributory pensions for people with more than 60 years-old (Renta Dignidad) and for seriously disabled people (Renta Solidaria).

Universal pensions

Impacts of universal pensions in poverty reduction of a population with high informality rates is significant. According to a study developed in 2016 by the International Labor Organization (ILO), Renta Dignidad “led to a reduction in the poverty rate by 14 percentage points at the household level” and has also “secured the incomes and consumption of beneficiaries, reduced child labor, and increased school enrollment. In households receiving the benefit, child labor has been halved and school enrollment has reached close to 100 per cent”.³⁰ The program is financed with revenues generated from taxes on oil and gas production and dividends from state-owned companies.

In order to be implemented, Renta Dignidad³¹ had to promote a mass registration campaign for people who didn't have an identity number. Biometric data from fingerprints is also collected in this process and according to the ILO study (Durán-Valverde & Barbero, 2016) “the centralized database of beneficiaries can be accessed from any place in the country, allowing beneficiaries to collect their pensions anywhere”. Payments are made by financial institutions and National Armed Forces payment points installed especially in remote areas, which means they also have access to databases of beneficiaries.

Renta Solidaria was created in 2017 by Law n. 977 to offer a monthly pension to people affected by serious and very serious disabilities. It implies registration under the Ministry of Health and Sports (Supreme Decree n. 4.288)³² and their inclusion in a database accessible at the municipal level for validation.

30 Durán-Valverde, Fabio; Barbero, Tomas. “Universal Social Protection: Universal Pensions in Bolivia”, 2016. See: <https://www.social-protection.org/gimi/gess/RessourcePDF.action?id=53949>

31 See: https://www.sissub.com.bo/images/docs/gestion2007/leyes/BO-L-3791_opt.pdf.

32 See: <https://boliviasegura.gob.bo/archivos/4288.doc.pdf>.

Conditional cash transfer programs

The main conditional cash transfer programs in Bolivia are Bono Juancito Pinto and Bono Juana Azurduy. Bono Juancito Pinto was established in 2006 through Supreme Decree 28.899 and aims at fostering access to education.³³ To be eligible to receive the annual benefit, children and adolescents enrolled in public schools have to certify their assistance with teachers. It is one of the more recent conditional cash transfer programs implemented in Latin America related to education (Aguilar Pacajes, 2014).³⁴

The program is under the administration of the Ministry of Education and it is financed by revenues generated from taxes on oil and gas production and dividends from state-owned companies. According to evaluations,³⁵ it has positively impacted on educational indexes especially when it comes to girls' promotion at the primary level.

Bono Juana Azurduy was first implemented in 2009 through the Supreme Decree n. 66.³⁶ Funds for the program include national sources as well as international loans from the World Bank and the Inter-American Development Bank (IDB) (Udape, 2015).

It is administered by the Ministry of Health and Sports³⁷ and offers payments for pregnant women after each of their prenatal controls, when they give birth in an official health institution and after their child health controls every two months until they are 2 years-old. It seeks to assure access to health and diminish the country levels of mother and child mortality and child malnutrition. Conditionality is related to attending medical controls and following a vaccine calendar, as well as participating in educational activities promoted by health centers (Udape, 2015). All women and children that don't have health insurances can receive the

33 See: <https://www.lexivox.org/norms/BO-DS-N2899.html>.

34 Aguilar Pacajes, Hernán. "Evaluación de impacto del 'Bono Juancito Pinto' en Bolivia", 2014. See: https://www.bcb.gob.bo/webdocs/publicacionesbcb/2_Bono_Juancito_Pinto.pdf.

35 Aguilar Pacajes, Hernán. "Evaluación de impacto del 'Bono Juancito Pinto' en Bolivia", 2014. See: https://www.bcb.gob.bo/webdocs/publicacionesbcb/2_Bono_Juancito_Pinto.pdf.

36 See: <https://www.lexivox.org/norms/BO-DS-N66.html>.

37 In Bolivia there isn't a centralized entity responsible for administrating all social welfare programs, each one is under the responsibility of a specific ministry. World Bank, 2019. See: <http://documents1.worldbank.org/curated/en/392121561966024862/pdf/Social-Registries-Assessment-Tool-Platform-of-Integrated-Registry-for-Social-Programs-of-the-Plurinational-State-of-Bolivia-PREGIPS.pdf>.

benefit regardless of their socio-economic conditions. Women under the age of 18 years-old have to indicate an adult to receive payments.

Registration and controls are done by health professionals at the municipal level. They are responsible for inserting beneficiaries' data in a system that validates their entitlement to receive the benefit. Payment is made available after departmental and national authorities check the accomplishment with established requisites and share a list with financial institutions. These will be the ones who will check beneficiaries' identities, register the payment and deliver their corresponding amount together with a certificate.

Because the process of validation involves personnel at different levels, payments can take until three months to be made. Because requests for the benefit after each medical control have to be done at the same first attention health institution where registration was made, any change of address may result in complications for receiving the benefit.³⁸ Only women with access to a recently released mobile application are notified of the availability of their benefit in financial institutions.³⁹ Otherwise they will most probably have to occasionally check for it personally, which might become a problem for some who live in remote areas or who have changed addresses.

Until 2012, the program was unknown for at least 13,1% of women. Only 34% of the countries' pregnant women were registered to receive the program until 2015 (Udape, 2015). The main barriers identified for access in rural areas included the lack of information and issues with the required documentation for registration. In urban areas the lack of information was also a barrier identified by women, as well as the excessive time required for the procedures. A gap between subscription to the program and effective access to the cash transfers was also identified in Udape's evaluation, probably due to the non compliance with conditionalities.

Other challenges of the program have to do with data management at the different levels: municipal, departments and national. Since registration is made manually by health professionals and, according to local informants, the system wasn't interoperable with

38 The operational manual of the program explains that women who change addresses should notify their health institution before leaving and that only if the change of address is definitive the health attention center will be updated in their registries. See: <https://www.bja.gob.bo/images/gmapfp/documentsPDF/REGLAMENTO%20OPERATIVO%20DEL%20DELE%20BONO%20JUANA%20AZURDUY.pdf>.

39 See: <https://www.bja.gob.bo/index.php/prensa/105-descarga-gratis-esta-aplicacion-en-tu-celular-y-consulta-el-estado-de-tus-pagos>

the national identity database, input errors – such as misspellings – could imply delays in payments. Mistakes are only detected at the final part of the process, in financial institutions, when beneficiaries present their national identity documents to claim for the benefit and aren't found in the list.

Payments may be suspended because of errors in information and will only be reactivated once data is updated. However, no specific procedure is described for the update or correction of personal data. Beneficiaries are responsible for going to the health institution where they were first registered to verify and correct their information, which may result in special difficulties for women living in remote areas or who had changed their addresses.⁴⁰

Another point of attention is that information is shared with public and private financial institutions.⁴¹ An intermediary company is responsible for delivering a list of beneficiaries to institutions and register payments that were already processed. Although this might be considered necessary for the effectiveness of the program, in the absence of clear guidelines for data processing it can result in abuses, once the sole participation in the program reveals sensitive information about beneficiaries, such as their pregnancy condition or the fact that they possibly have an under 2 years-old child.

According to an operational manual of the Bono Juana Azurduy, municipal authorities and health professionals in charge of the program are responsible for the correct use of information and its protection.⁴² The manual doesn't contain details on how information should be treated or the security standards implemented for the transfer of information among institutions involved in the program. It says information is transferred through the internet to national authorities and payment lists are sent in “magnetic form with corresponding security” to a company that provides technological services to activate payments in financial institutions.

40 See: <https://www.bja.gob.bo/images/gmapfp/documentsPDF/REGLAMENTO%20OPERATIVO%20DEL%20BONO%20JUANA%20AZURDUY.pdf>.

41 A list of authorized financial institutions to perform payments is available at: <https://www.bja.gob.bo/index.php/el-bono/entidades-financieras-para-el-pago-del-bono-juana-azurduy-a-nivel-nacional>.

42 See: <https://www.bja.gob.bo/images/gmapfp/documentsPDF/REGLAMENTO%20OPERATIVO%20DEL%20BONO%20JUANA%20AZURDUY.pdf>

In 2011, Bolivia received a loan from the IDB to create a unified platform with information on social welfare beneficiaries that included both a registry of current recipients of existing programs (Beneficiary Registry) and of potential beneficiaries (Social Registry) that would be massively registered (World Bank, 2019).⁴³ The Platform of Integrated Registry for Social Programs of the Plurinational State of Bolivia (Pregips) was formally created by the Law n. 777 (2016) as part of a Comprehensive State Planning System. Its' objectives are the following: (i) registry of social and economic programs and of its beneficiaries; (ii) identification of future beneficiaries and (iii) an informed planning and coordination instrument of poverty reduction policies and programs.

All administrators of social programs were obliged by law to share information with the Platform and to implement a unique Socioeconomic Characterization Card (FCS) with data collected from beneficiaries. According to the Supreme Decree n. 2786,⁴⁴ FCSs would be used to build an index of sociodemographic characterization that would then guide State's prioritization of potential beneficiaries for social welfare programs.

According to the World Bank (2019), Pregips is understood by the Bolivian government as a potential analysis tool for the programs, but not as a system to centralize the processes of registration, verification of eligibility, admission and registration of beneficiaries. Either way, by 2019 it hadn't had much progress:

Regarding the Social Registry, PREGIPS has organized an en masse registration in 2015 where complete data of 250 thousand households were recorded (less than 10% of the total number of households in the country -3,346,800). [...] Regarding the Beneficiary Registry, until November 2018, PREGIPS received data on 88,000 beneficiaries of four social programs (Employment Generation Plan, State Housing Agency, Disability Bono and Early Childhood Development). (World Bank, 2019)

43 World Bank Group, 2019. "Social Registries Assessment Tool : Platform of Integrated Registry for Social Programs of the Plurinational State of Bolivia (PREGIPS)", 2019. See: <http://documents1.worldbank.org/curated/en/404561561971962868/pdf/Herramienta-de-Evaluaci%C3%B3n-de-Registros-Sociales-Plataforma-de-Registro-Integrado-de-Programas-Sociales-del-Estado-Plurinacional-de-Bolivia-PREGIPS.pdf>

44 See Supreme Decree n. 2786: <https://www.lexivox.org/norms/BO-DS-N2783.html>.

Difficulties identified by State employees working with social welfare programs for sharing information with Pregips illustrate general challenges faced by the Bolivian public sector with digitization initiatives, despite the normative obligations established in the past decade. They include the absence of specialized personnel, systems that are not computerized and problems for generating the necessary data formats (World Bank, 2019). The World Bank assessment could also identify a resistance in the of the Socioeconomic Characterization Card (FCS):

They affirm that they do not have trained personnel to fill it because it is extensive, with very specific questions and different from those that the programs need to know about their beneficiaries. Another problem is that the FCS and the program registration forms do not have the same data collection unit. While PREGIPS registers the household, all programs register information about beneficiaries specifically. (World Bank, 2019)

Emergency response to the Covid-19 pandemic

The response to the advance of the Covid-19 pandemic in 2020 was mostly in charge of an interim government led by Jeanine Áñez, a member of the opposition who became president after a strong political crisis made Evo Morales renounce and leave the country in November 2019. As the 2019 presidential elections had been cancelled due to allegations of fraud, the interim government was responsible for leading a new electoral process which finally took place in October.

Áñez' intention to run as a candidate herself increased political polarization in the country and is a contextual factor to be taken into account when analyzing the measures adopted to respond to the advance of Covid-19, particularly in terms of social protection. On the one hand there was an interest to gain popularity among voters, on the other there was strong evidence of persecution against MAS supporters by governmental authorities that could be facilitated by undue access to information by intelligence or law enforcement authorities (León; Arandia & Quiroz, 2020).

The first two Covid-19 cases were registered on March 10th 2020 in Bolivia. By December the country had almost 150.000 registered cases and 9.029 deaths, according to the John Hopkins University.⁴⁵

45

See: <https://coronavirus.jhu.edu/region/bolivia>.

The official response started with the declaration of a state of emergency and a national quarantine on March 17th, establishing a series of measures to contain the spread of the virus.⁴⁶ It was soon followed by initiatives to offer small and medium size companies credit to support labor costs during the quarantine (Supreme Decree n. 4.216), to assure access to basic services such as water and electricity by vulnerable groups (Supreme Decrees n. 4.197 and 4.200),⁴⁷ a prohibition on the interruption of telecommunications services (Supreme Decree n. 4.206)⁴⁸ and the announcement of several emergency cash transfers to mitigate the socio-economic effects of the isolation measures.⁴⁹ Agreements with international financial institutions such as the World Bank, the International Monetary Fund (IMF) and the IDB were established to facilitate attention to vulnerable populations.

Use of technology

As in other countries, technology was part of the national strategy to prevent the spread of the coronavirus. A portal called Bolivia Segura was quickly launched to provide trustworthy information to the population, statistics on the evolution of cases and allow the performance of self-evaluation tests. Bolivia Segura's functionalities have changed several times and information available at the website varied month after month.

A Bolivia Segura mobile application was also launched in April 2020, incorporating the self-evaluation and other functionalities. An identity number is requested for registration and information is crossed with Segip's database for validation. The system also allows biometric authentication with fingerprints and the activation of geolocation so it can send alerts regarding how exposed to Covid-19 users might be according to their location in a particular moment. Sensitive data on symptoms are also collected. Information is stored in Agetic's servers under the responsibility of the Ministry of Communications⁵⁰ and may be accessed by third parties for "licit ends", according to the application's Terms of Service. No security measures are detailed to protect users' personal data inserted in the application from

46 See Supreme Decree n. 4.196: <https://boliviasegura.gob.bo/archivos/4196.doc.pdf>.

47 See: <https://boliviasegura.gob.bo/archivos/4197.doc.pdf> and <https://boliviasegura.gob.bo/archivos/4200.doc.pdf>.

48 See: <https://www.boliviasegura.gob.bo/archivos/4206.doc.pdf>.

49 A list with all measures adopted during the Covid-19 pandemic in different areas can be found at: <https://cepalstat-prod.cepal.org/forms/covid-countrysheet/index.html?country=BOL>.

50 In June 2020 the Ministry of Communications was turned into a Vice Ministry. Terms and conditions of the Bolivia Segura platform, however, were not updated.

breaches or misuse. Evidence was found that the application exchanges data with a system for epidemiological surveillance from the Ministry of Health.⁵¹

Multiple mobile apps were made available by departments or municipalities and even private companies offered their own independent solutions.⁵² Adhesion to these solutions was minimal, as in other Latin American countries. In the case of Bolivia Segura, less than 0,5% of the population had downloaded the application at Google Play Store by December 2020. This may respond to a lack of public campaigns for their use (especially in the case of Bolivia Segura) and to the structural challenges on access to the internet and ICT in general.

Announcements were made regarding the use of artificial intelligence provided by the Chinese company Huawei in some hospitals to automate the detection of Covid-19 in patients⁵³ and the installation of fever detection cameras in airports.⁵⁴ The type of information gathered and shared with third-parties in the implementation of such technologies raises a lot of concerns, particularly in a country which still lacks a unified data protection framework.

However, while the use of these high-tech solutions was apparently not massive, the country was facing bigger challenges. According to former Agetic director Carlos Olivera, the national health system is still not fully digitized and processes for sharing information on Covid-19 cases to orient a coordinated response were precarious. In his words, while authorities discussed the use of contact tracing solutions, for instance, information and pictures of printed medical records were being shared manually, by e-mail or through the commercial message application WhatsApp (Carlos Olivera, 2020, personal communication).

The situation is critical both from the policy-making and transparency perspective and the privacy and data protection one. In fact, indigenous organizations have complained about the absence of data about how the pandemic affected indigenous populations, particularly the ones living in urban contexts, once ethnic information on positive Covid-19 cases and deaths

51 See: https://youtu.be/st_5lweSLIE.

52 See: <https://www.opinion.com.bo/articulo/tecnologia/heroes-casa-nueva-plataforma-boliviana-autoevaluacion-covid-19/20200408150910761074.html>.

53 Página Siete, 2020, <https://www.paginasiete.bo/economia/2020/6/15/hospitales-aplican-ia-para-detectar-casos-de-covid-19-258384.html>.

54 Página Siete, 2020, <https://www.paginasiete.bo/economia/2020/6/25/sabsa-camaras-termicas-de-aeropuertos-si-funcionan-se-compro-las-mas-economicas-259500.html>.

is not available.⁵⁵ It is also known that timely information on the spread of the virus is crucial for the development of strategies of response.

On the other hand, several data breaches were registered as soon as the pandemic arrived at the Bolivian territory. In March, information on Covid-19 patients was shared through WhatsApp groups, including their national identification numbers, family members, places where they had been, among other personal and sensitive information. In April an official Twitter account from the Ministry of Justice published a list of patients which was later declared fake by local authorities. However, Bolivian activists were still able to identify official URLs from where such lists could be extracted, showing a high level of vulnerability (León; Arandia & Quiroz, 2020).

Emergency cash transfer programs

Bono Familia

Bono Familia was the first emergency cash transfer program established to support families during the pandemic. It was created on April 15th by the Supreme Decree n. 4.197 and extended to new publics by Supreme Decrees n. 4.205 and 4.215.⁵⁶ Bono Familia consisted of a unique amount of 500 Bolivianos (approximately 72 USD) to students from primary and secondary public and private schools and from the special and alternative (young and adults) public educational systems. To charge, parents or tutors had to present their children's identity number or birth certificate and, in the case of students enrolled on the second half of the primary or on the secondary school, a document issued by schools with a unique registration number.

A challenge for families to access this benefit was that some students didn't have their unique registration number generated when they first enrolled in a school or their data was incorrect or outdated in the corresponding database. Despite having all documents required, parents would only be aware of the problems when they were already in the bank and were notified

55 Centro de estudios jurídicos e investigación social (Cejis). Report to the UN Special Rapporteur on the Rights of Indigenous Populations, 2020. See: http://www.cejis.org/wp-content/uploads/2020/06/INFORME_NNUU_DERECHOS_PUEBLOS_INDIGENAS_250620.pdf.

56 See: <https://boliviasegura.gob.bo/archivos/4197.doc.pdf>, <https://boliviasegura.gob.bo/archivos/4205.doc.pdf> and <https://boliviasegura.gob.bo/archivos/4215.doc.pdf>.

of the situation.⁵⁷ For other families, difficulties had to do with that their children were not enrolled or were changing schools and couldn't finalize the process when the quarantine measures started.⁵⁸ By June, when the first round of payments was already finished, 15% of students hadn't received the transfers.⁵⁹

As in cash transfer programs implemented before the pandemic such as Bono Juana Azurduy, beneficiaries' information, including from minors, was shared with financial institutions with no further detail on how they should be secured, opening space for potential misuse. It is important to highlight that this exposes children and adolescents to risks associated with the selling of their data to digital advertising agencies, insurance companies and the creation of profiles that will follow them throughout their lives with great potential for discrimination. It constitutes an attack against their right to privacy, but also contradicts the principle of the best interests of the child,⁶⁰ established by the Convention on the Rights of the Child and recognized by the Bolivian Constitution and the Children and Adolescents Code,⁶¹ which states that “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.

Bono Canasta Familiar

Bono Canasta Familiar was implemented through Supreme Decree 4.200 and consisted of 400 Bolivianos (approximately 58 USD) delivered to beneficiaries of Bono Juana Azurduy, Renta Solidaria and Renta Dignidad (in this case, only for people who didn't receive other pensions from retirement). People with visual disabilities receiving an indigence pension were also entitled to the benefit.

57 Manzaneda, Laura. “Bono Familia: el 15% de los beneficiarios aún no pudo cobrar”, 2020. See: <https://www.lostiempos.com/actualidad/economia/20200618/bono-familia-15-beneficiarios-aun-no-pudo-cobrar>.

58 Opinión, 2020, <https://www.opinion.com.bo/articulo/pais/pagos-sufrieron-algunos-problemas-tecnicos-registros/20200506030532766108.html>.

59 Manzaneda, Laura. “Bono Familia: el 15% de los beneficiarios aún no pudo cobrar”, 2020. See: <https://www.lostiempos.com/actualidad/economia/20200618/bono-familia-15-beneficiarios-aun-no-pudo-cobrar>.

60 See: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

61 See: https://www.siteal.iiep.unesco.org/sites/default/files/sit_accion_files/siteal_bolivia_0248.pdf.

Considering that beneficiaries were already part of existing social welfare programs, no registration process was needed: people were identified by institutions in charge of each program (the Ministries of Health and Sports and of Labor and Social Provision, the Public Administrator of Long Term Social Security and the Bolivian Institute of Blindness).

Payments were executed by public and private finance institutions who received access to the databases with information from beneficiaries. The Ministries of Productive Development and Plural Economy and of Economy and Public Finance also received access to these databases, according to Supreme Decree 4.200. Although the decree expressly prohibits banks from charging any fee from the benefit, no information is offered regarding the conditions for accessing databases and how it should be treated once payments are processed.

No detailed information on which data is shared with third parties for the delivery of Bono Canasta Familiar was found, but databases may include sensitive health information, especially from beneficiaries of Bono Juana Azurduy and Renta Solidaria. According to local media outlets, financial institutions had access to information of underage people with disabilities.⁶² In an interview for this report, Carlos Olivera, former director at Agetic, expressed concern with the limits on the type of data financial entities had access and how proportionate such access is. He mentioned a personal experience in which he could identify that a bank operator had access to much more information on his records than necessary to process his requirement, including data on his family members and address.

Families of disabled children and adolescents had special difficulties in accessing the benefit because no information on parents or legal tutors was included in the system and banks were denying the delivery of payments. Another problem was that a special procedure was necessary to register parents as legal tutors once beneficiaries reach 18 years-old and this was further complicated by restrictions imposed during the quarantine.⁶³

Bono Universal

Finally, a unique transfer of 500 Bolivianos was also offered for all Bolivians from 18 to 60 years-old with the exception of (i) beneficiaries of the cash transfers previously described (in

62 Correo del Sur, 2020, https://correodelsur.com/local/20200501_padres-de-ninos-con-discapacidad-no-pueden-cobrar-bono-por-problemas-en-el-sistema.html.

63 Correo del Sur, 2020, https://correodelsur.com/local/20200501_padres-de-ninos-con-discapacidad-no-pueden-cobrar-bono-por-problemas-en-el-sistema.html.

the case of Bono Familia, people who have children that benefited from it were also excluded), (ii) people employed at the public or private sectors and people who received other types of pensions. The benefit, called Bono Universal, was established by the Supreme Decree n. 4.215 and completed attention to all vulnerable groups, children and unemployed people with a one time emergency support. In this case registration was also unneeded and the Public Administration for Long Term Pensions was in charge of crossing data that would indicate if a person was eligible and of managing payments.

Some people who became unemployed in January or February 2020 had difficulties in charging for the benefit because their information was outdated in pensions systems used to identify beneficiaries. Independent workers who at any point voluntarily contributed to the pension system were also excluded from the Bono Universal. This was the situation of more than 200,000 people, many of which – according to local media – were unemployed and with restricted income during the pandemic.⁶⁴ They were oriented to seek their pensions administrators to update their information, but this was complicated because of the limitations on mobility imposed then by the quarantine.⁶⁵ Affected people reported that telephone channels made available for consultation weren't offering useful information or solutions to the problems identified.⁶⁶

A webpage was made available for people to check their eligibility to the benefit, but crashed only a few days after launch. Systems were also unavailable at financial institutions for some hours, which prevented them from executing payments as predicted. The government argued that the situation was caused by a hacker attack to the system, but added it didn't affect people's privacy or security.⁶⁷ Local activists believe the actual reason was that the system didn't support the amount of demands it would receive (Hugo Miranda, 2020, personal communication). The situation is in any case problematic and instabilities or breaches seem

64 Belmonte, Marco. "El Bono Universal no llega a los independientes con aportes a las AFP", 2020. See: <https://www.paginasiete.bo/economia/2020/5/8/el-bono-universal-no-llega-los-independientes-con-aportes-las-afp-254936.html>.

65 Arias, Sandra. "Inhabilitados para cobrar bono universal deben verificar si la AFP los dio de baja", 2020. See: <https://www.opinion.com.bo/articulo/cochabamba/inhabilitados-cobrar-bono-universal-deben-verificar-afp-dio-baja/20200509034909766705.html>.

66 Página Siete, 2020, <https://www.paginasiete.bo/sociedad/2020/5/16/bono-universal-exportantes-las-afp-en-el-limbo-al-no-encontrar-informacion-255688.html>.

67 Rosales Melgar, Alvaro. "Gobierno revela que sufrió ataque informático que dañó el servicio de información y consultas", 2020. See: https://eldeber.com.bo/economia/gobierno-revela-que-sufrio-ataque-informatico-que-dano-el-servicio-de-informacion-y-consultas_177990.

to continue affecting systems used for emergency cash transfer systems, indicating possible security flaws. In December the same authority reported an attempted attack to a mobile application used to check eligibility to a new emergency cash transfer.⁶⁸

By the end of July, close to the deadline for payments of Bono Universal, several people were still unable to receive it due to problems with their registration in the pension system. A letter issued by an independent group of affected citizens estimated that 20,000 people were in this situation and demanded immediate actions from the State.⁶⁹ Information was still confusing and lines were identified in several agencies of pension administrations despite the risks of contamination with Covid-19. In August, new lists of beneficiaries were issued after databases were finally updated.⁷⁰

Surveillance and discrimination concerns

Bolivia has a solid social protection system with several programs that form part of a national strategy to fight poverty that has reached important results in the past decades, particularly in the case of universal pensions (Durán-Valverde & Barbero, 2016). At the same time, the country has developed a normative framework to foster the digitization of public services from a technological sovereignty perspective built in dialogue with free software and other social movements. However, a closer analysis to the digitization processes at the State level, particularly with regards to the social protection systems, shows implementation of several policies is still limited and in some cases poses serious risks for the exercise of the rights to health, social protection, access to information, privacy and data protection with direct impacts to a series of other civil, political, economic, social and cultural rights.

68 Página Siete, 2020, <https://www.paginasiete.bo/economia/2020/12/3/bono-contra-el-hambre-gestora-denuncia-intento-de-ataque-cibernetico-la-aplicacion-para-cobro-276895.html>.

69 Filomeno, Manuel. “Excluidos del bono viven un calvario para habilitarse”, 2020. See: <https://www.paginasiete.bo/economia/2020/7/28/excluidos-del-bono-viven-un-calvario-para-habilitarse-262647.html>

70 Los Tiempos, 2020, <https://www.lostiempos.com/actualidad/pais/20200811/gestora-publica-actualiza-base-datos-cobro-del-bono-universal>.

There is no question that a strategic response to the spread of the Covid-19 pandemic demands trustworthy and updated information on cases in order to control transmissions.⁷¹ Nevertheless, data collection and processing as well as the implementation of any technology in the context of the coronavirus pandemic must be aligned with international human rights obligations assumed by the Bolivian State and, as such, guided by the principles of legality, necessity and proportionality.

As stated by the Inter-American Commission on Human Rights, States must “ensure that any restrictions or limitations imposed on human rights for the purpose of protecting health in the context of the COVID-19 pandemic comply with the requirements established by international human rights law”.⁷² In particular, such restrictions must comply with the principle of legality, be necessary in a democratic society, and thus be strictly proportionate to meet the legitimate aim of protecting health.

When it comes to the development of emergency social welfare strategies, precise information is also key in order to guide public policies and avoid letting certain parts of the population behind when delivering benefits, particularly indigenous peoples, women, and LGBT+ groups affected by structural marginalization conditions. In the Bolivian case, indigenous rights organizations have expressed consistent concerns on the attention to indigenous and rural communities living in remote areas with regards to the delivery of the emergency cash transfer programs approved by the government. They reported that the central government didn’t dialogue with indigenous leaders or take into account the needs and particularities of these populations.

A concrete challenge had to do with the fact that some indigenous people don’t have a national identity number that was necessary to receive payments.⁷³ By June 2020, indigenous leaders were still reporting⁷⁴ difficulties for some communities to access any benefit, despite several

71 World Health Organization, “COVID-19 Strategy Update”, 2020. See: https://www.who.int/docs/default-source/coronaviruse/covid-strategy-update-14april2020.pdf?sfvrsn=29da3ba0_19.

72 See: <http://oas.org/es/cidh/decisiones/pdf/Resolucion-1-20-es.pdf>.

73 Centro de estudios jurídicos e investigación social (Cejis). Report to the UN Special Rapporteur on the Rights of Indigenous Populations, 2020. See: http://www.cejis.org/wp-content/uploads/2020/06/INFORME_NNUU_DERECHOS_PUEBLOS_INDIGENAS_250620.pdf.

74 Centro de Estudios Jurídicos e Investigación Social (CEJIS), 2020, <https://www.cejis.org/en-beni-indigenas-reclaman-la-inexistencia-de-bancos-moviles-para-el-pago-de-los-bonos/>.

announcements that Armed Forces and mobile bank units would facilitate the execution of payments.⁷⁵ The absence of financial institutions in indigenous territories was only detected after the launch of the initiatives and a strategy to deal with that was designed months after payments started.⁷⁶ This situation forced some groups to travel in order to charge for their payments, exposing themselves and others to Covid-19 contamination in a moment in which cases were increasing.

Agreements with Armed Forces to deliver payments implied some form of access to information by military groups in a moment in which indigenous groups were being seen as opponents to the interim government. Although there are no further details on what type of data was shared and under which conditions, this is certainly a point of concern once it opens space for the surveillance and profiling of ordinary citizens by repression forces. Alternatives such as having civilians delivering benefits in remote areas, even if with support from the Armed Forces to reach them, should be considered and the absence of considerations in this direction can be considered a fail with necessity and proportionality standards established by international human rights.

Exchange of data on beneficiaries and indiscriminate access to public registration databases by private financial institutions and other intermediaries, as it was detected in this case study, are also harmful for the exercise of rights by vulnerable groups, particularly in the absence of a clear and unified data protection normative aligned with international standards in the matter. Evidence of banks having access to information of children and adolescents and to sensitive health data from pregnant women and disabled people are extremely concerning since it can facilitate discriminatory practices affecting people's right to develop their personalities freely.

Strong legal and technical safeguards should be in place to protect citizens from having their data used for purposes that are different than the ones to which they were initially collected, such as target advertisement, credit analysis, etc., and from being shared with third parties like insurance companies, for instance. Similar mechanisms should be in place to facilitate beneficiaries' access, rectification and exclusion of personal data collected in the context of

75 Ministerio de Defensa, 2020, <https://www.mindef.gob.bo/mindef/node/4065>.

76 Centro de estudios jurídicos e investigación social (Cejis). Report to the UN Special Rapporteur on the Rights of Indigenous Populations, 2020. See: http://www.cejis.org/wp-content/uploads/2020/06/INFORME_NNUU_DERECHOS_PUEBLOS_INDIGENAS_250620.pdf.

social welfare programs. Mistakes and errors in databases may result in discrimination and concrete challenges for people to have access to their benefits with direct consequences for their wellbeing, dignity and survival, as the case of Bono Juana Azurduy shows.

As Bolivia faces a political transition after the October elections and the new government still has to deal with creating strategies to respond to the Covid-19 pandemic, it is essential to highlight that human rights are indivisible and that public and private surveillance have direct impacts on the exercise of not only privacy but also other fundamental rights such as freedom of thought, expression, peaceful assembly, and association. There is no question that technology can help governments to address their obligations to realize economic, social, cultural rights and some of the critical challenges they face in doing so to ensure individuals and communities live with dignity. Still, safeguards and due process guarantees need to be taken into account from the outset to identify and mitigate risks and provide access to redress.

