



BRAZIL REPORT

Follow-up on the Lima Agreement

Citizen Corruption Observatory

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Credits

Working Group

Maria Dominguez

Researcher (TIBR)

Nicole Verillo

Anticorruption Support and Incident Manager
(TIBR)

Civil Society Organization Representative

Marco Urupá

ANDI – Comunicação e Direitos

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List of Acronyms

CCO = Citizen Corruption Observatory

LACND = Latin American and Caribbean Network for Democracy

CFA = Citizen Forum of the Americas

CSPSA = Civil Society Participation in the Summit of the Americas

CSO = Civil Society Organizations

OAS = Organization of American States

NGO = Non-governmental Organization

AIA = Access to Information Act



Introduction

The main purpose of the project entitled *Citizen Corruption Observatory (CCO) – Follow-up on the Lima Agreement* is to reinforce the Citizen Forum of the Americas (CFA) by co-creating, together with the Latin American and Caribbean Network for Democracy (REDLAD, by its Spanish initials), an observatory that provides technical support for the implementation of the Project entitled “Civil Society Participation in the Summit of the Americas (PASCA, by its Spanish initials)”. Within the framework of the activities developed by the CCO, the progress of the Lima Agreement was monitored using a methodology that took into account both policy and practical developments, and which was based on participatory discussion of different civil society organizations in each of the 19 countries participating in this process.

In this context, the CCO is made up of a coalition of civil society organizations and social actors of the continent, created to follow up on compliance with the agreements adopted by the governments of the hemisphere at the Eighth Summit of the Americas held in 2018 in Lima, Peru. The Lima Agreement, “Governance Against Corruption,” a document resulting from the Summit, provided an opportunity to endorse and ratify previous international commitments on anti-corruption issues.

In this sense, the purpose of this national report is to present a summary of the results and conclusions of the monitoring of progress, setbacks, and/or fulfillment of the 2018 Summit commitments concerning Brazil, built on the Lima Agreement monitoring methodology document¹ and review of the information carried out by two Brazilian civil society organizations. All the information collected as part of the follow-up can be consulted on the CCO website².

The follow-up on the Lima Agreement methodology allows civil society to assess the progress and/or compliance with the 19 commitments prioritized³ by the CCO for follow-up on each of the countries participating in this observatory. The follow-up is based on the review of developments at both the policy⁴ and practical levels made by national governments over the last two years in respect of the commitments made in the fight against corruption.

At the policy level, current regulations were reviewed, based on 75 guiding questions regarding constitutional, legislative, and jurisprudential developments. The analysis of practice consists of concrete measures taken by the government in response to the commitments made. For this purpose, 64 questions were constructed, which were answered through requests for information access, interviews, consultations, media reports, research on the subject, among

¹ The methodology can be viewed at <https://occ-america.com/metodologia/>

² Available at <https://occ-america.com/>

³ The 19 commitments were prioritized taking into consideration the possibility of compared analysis between all of the countries participating in the CCO.

⁴ The CCO built a first balance over the policy indicators at regional level; the document is available at <https://occ-america.com/2021/07/29/primer-informe-del-observatorio-ciudadano-de-corrupcion-revela-avances-e-desafios-regulatorios-para-a-luta-contra-corrupcao-na-regiao/>





others. This information is the basis for evaluating each commitment in terms of effectiveness, efficiency and sustainability⁵.

Partner Organizations

This project was carried out in a participatory manner, including other Brazilian civil society organizations in all of its activities, from the moment of its conception, up to its completion. In the case of Brazil, Transparency International - Brazil acted as the National Coordination point of the project, and counted on the support of other organizations for its development. As such, the project was discussed in meetings of the Citizen Forum of the Americas (CFA) in Brazil, and ANDI – Comunicação e Direitos acted as the main partner organization in the development of this project. ANDI – Comunicação e Direitos is the focal point of the CFA in the country, and, in collaboration with Transparency International - Brazil, both organizations worked together in the stages of evaluating compliance with the Lima Agreement in Brazil, discussing and validating the results obtained, in addition to writing this final report.

Throughout the months of execution of the project, there was a great challenge in co-opting and engaging other civil society organizations to participate more actively in this project, in addition to ANDI – Comunicação e Direitos. There was the language barrier, since most of the material made available by the project was in Spanish, but also a reduction in the mobilization capacity of civil society organizations was noted due to the moment experienced in Brazil, of reduced civic space, many setbacks in the political and institutional sphere, as we will see below, in addition to intense political polarization of civil society.

1. Transparência Internacional – Brazil (National Coordination)



Transparency International is a global movement that is present in over 100 countries with one and the same purpose: to build a world in which governments, businesses and the daily lives of people are free from corruption. Transparency International - Brazil⁶ operates in the country to support and mobilize local groups in the fight against corruption, produce knowledge, raise awareness, and promote best practices of transparency and integrity to companies and governments, among other activities. The Brazilian chapter of Transparency International operates mainly with the production of transparency and integrity applied to the public and private sectors, in addition to integrity in the socio-environmental field. TI's global presence allows us to mobilize initiatives and legislation against corruption and to make governments and companies effectively submit to them. Our network also promotes collaboration and innovation, which enables us to develop and test new anticorruption solutions.

⁵ In the next sections of this report, methodological aspects of this follow-up shall be presented with more details.

⁶ <https://transparenciainternacional.org.br/>



In the CCO, Transparency International - Brazil acted as the organization responsible for the National Coordination of the project. That is, it was responsible for the alignment with the international management of the project and with the contact and mobilization with Brazilian civil society organizations. TI Brazil coordinated the technical work of research, management, analysis of the advances and setbacks of the country in recent years, as well as the mobilization of other civil society organizations and the writing of this final report.

2. ANDI – Comunicação e Direitos (Civil Society Organization and focal point of the Citizen Forum of the Americas in Brazil).



Formally created in 1993, but working on a voluntary basis since 1990, ANDI is a non-profit, non-partisan civil society organization that articulates innovative actions in media for development. Its strategies are

based on the promotion and strengthening of a professional and ethical dialogue between newsrooms, schools of communication and other fields of knowledge, public authorities, as well as entities related to the sustainable development and human rights agenda at both national and global levels.

ANDI was set up in Brazil, which shortly before had passed its new Constitution (1988), restoring freedoms and consecrating democracy. Thanks to strong popular pressure, the new Constitution proclaimed, in article 227, that the rights of children and teenagers should be treated as an "absolute priority" by families, civil society and the State. Two years later, Brazil ratified the UN Convention on the Rights of the Child and approved its Child and Adolescent Statute (ECA, by its Portuguese initials).

The entity is engaged in mediating two interrelated realities: on the one hand, children and teenagers from the less privileged social classes who are victims of all sorts of social disruption; and, on the other hand, a press that is inattentive to this same reality, and with difficulties in building for itself a culture of investigative journalism in which boys and girls could be brought to the public agenda as subjects of rights.

Soon, ANDI would become one of the main mediators between the mainstream press and the social groups that defend the rights of these age segments. In 2011, after evaluating the growing contributions in other thematic areas, ANDI brought a new meaning to its existence. As ANDI - Comunicação e Direitos, the organization has expanded its mission, presenting itself based on three vectors: Childhood and Youth, Inclusion and Sustainability, and Communication Policies.

As the focal point of the Citizen Forum of the Americas in Brazil, ANDI - Comunicação e Direitos has been working to mobilize various entities around the agenda of reinforcement of civil society in the OAS. An example of this is the creation of the national scenario of the CFA in Brazil. CFA is an international articulation that finds in the CCO a point of support and assistance to help not only to map the milestones of the Lima Agreement, but also to elaborate inputs that help in the incidence on the OAS spaces.



Alongside the CCO, ANDI mobilized, presented, and discussed the stages of the project with other civil society organizations, in particular those included in the CFA network in the country. ANDI also participated in the follow-up on the Lima Agreement, evaluating the commitments made and ignored by Brazil in the last two years, in addition to the advocacy and political incidence actions resulting from this project. ANDI also followed the entire process of drafting the work performed by the CCO in Brazil, maintaining a permanent dialogue with the Brazilian chapter of Transparency International. This involved the analysis of documents, answers to questionnaires, consultations, as well as the review of reports.

Context of Brazil

Setbacks in the Fight Against Corruption

The last few decades have seen the reinforcement of legal and institutional progress in the country, even with regard to the fight against corruption. The context of the country was more favorable and some positive measures to reinforce the prevention and control of corruption were taken. Among them, we can highlight the following: the passage of laws, the reinforcement of control bodies, the participation of Brazil in international partnerships for open government, such as the *Open Government Partnership* (France, 2019).

However, in recent years, since the country elected an authoritarian and populist project, Brazil has entered a process of institutional and democratic corrosion, including anti-corruption institutions. In this scenario, while the President of the Republic and close members of his family are being investigated for corruption and other crimes, there is a huge interference and co-optation of the very institutions responsible for fighting corruption in the country, such as the control and investigation bodies. An effort is being made by the President of the Republic to contain the independence of the anti-corruption and control bodies, which are largely occupied by allies who also seek impunity.

In 2020, Transparency International - Brazil published a study entitled *Brazil: Setbacks in the Legal and Institutional Anti-Corruption Frameworks – 2020 Update* listing some of these major setbacks. These include political interference in appointments and dismissals from key positions in control bodies and institutions such as the Attorney General's Office, the Federal Police, and the Judiciary; an alignment of the Attorney General Augusto Aras with President Jair Bolsonaro in controversial decisions; and accusations of corruption involving the President of the Republic himself, his children, family members and allies.

In 2021, the scenario of threat to democracy and institutional setbacks, even regarding the fight against corruption, repeats itself, exemplified by the reappointment of the Attorney General of the Republic Augusto Aras - responsible for shielding the President of the Republic from numerous lawsuits for his repeated threats to democracy - to another two-year term. We also highlight the recent investigations of corruption in the negotiations and purchases of Covid-19 vaccines by the federal government, in the midst of a pandemic that has killed more than half a million people in Brazil.



The setbacks in the fight against corruption in Brazil have had international repercussion with a previously unprecedented decision by the Organization for Economic Cooperation and Development (OECD) to establish a permanent anti-corruption follow-up group in Brazil.

Brazil currently has one of its worst results obtained in the Transparency International's Corruption Perception Index (CPI) - Brazil, with 38 points on a scale that goes from 0 to 100, where the closer the result is to 100, the lower the perception of corruption, and occupying the 94th position in a ranking that includes 180 countries. This is a result that places Brazil below the average: global ranking (43 points), Latin American countries (41 points), OECD countries (64 points), and G20 countries (54 points).

Threats to Civil Society Organizations and the Press

The context of the country is also marked by a reduction of civic space (Szabó, 2020), which is made evident by the diminution of institutional spaces for political participation and constant attacks on the actions of non-governmental organizations, the press, as well as teachers, researchers, and intellectuals. Already in the first months of the Bolsonaro government, some of the main means of social participation in the Federal Government were extinguished: the participatory councils. Social councils that deal with issues such as the rights of LGBT people, indigenous people, and street populations were also extinguished.

The attacks are also expressed, for example, in public speeches by the President of the Republic, who has compared the actions of civil society organizations to a "cancer that he cannot kill", in reference to the NGOs that operate in the Amazon. In recent years, Brazil has also seen a record number of attacks on the press. A report released by the National Federation of Journalists (Fenaj) showed that in 2020, 428 attacks on journalists and press outlets were recorded, with the President of the Republic being the main actor in the attacks, responsible for 175 of the cases (41% of the total). According to the NGO Repórter sem Fronteiras, Brazil currently ranks 107th in the Press Freedom Ranking, having dropped two positions compared to 2019. A study by the NGO also shows that the attacks directed at journalists go beyond the figure of the President and extend to his children, with female journalists being the ones who suffered the most personal attacks.

Finally, the attacks and threats are directed at Brazilian universities, especially public universities, and at teachers, researchers, and intellectuals. Brazil currently has the lowest investment in science in the last 12 years, that is, the Brazilian federal government invested less in science and technology in 2020 than it did in 2009. In this same scenario, threats to intellectuals such as the University of São Paulo Law Professor Conrado Hübner Mendes are witnessed. The current Attorney General of the Republic, Augusto Aras, for example, filed a criminal complaint before the court against the professor because of a column critical of the Attorney General, published in the Folha de São Paulo newspaper.

Electoral Processes

The current President of the Republic was elected in 2018 for a four-year term, from 2019 to 2022. This election marked a change in the political spectrum of government, as the country



came out of a cycle of more than ten years of a center-left government, with administration of the Workers' Party (from 2002, the first year of the Lula government to the year 2016, marked by the impeachment suffered by former president Dilma Rousseff), going through a transitional government by then vice-president Michel Temer, to being governed by the far-right from 2019.

Since 2018, during the presidential elections, the rise of the "new right" or "ultra-right" was seen in the country, reinforced in previous years by the feeling of rejection of the Workers' Party and the defense of conservative moral values (Ortellado, Moretto, Gallego, 2017). This position was represented by then-candidate Jair Bolsonaro, who has positioned himself in a way contrary to the defense of human rights since the election campaign. At the time, there were systemic attacks on racial, gender, and LGBTQIA+ minorities, in addition to attacks on the opposite position of the political spectrum, the left opposition party and the Workers' Party.

Also in 2018, the year of the presidential election that elected the ultra-rightist president, there was an escalation of political violence, and the country witnessed the murder of the former Socialism and Liberty Party (PSOL) councilwoman and black feminism activist Marielle Franco. The political renewal and anti-corruption agendas were some of the main electoral banners used by the then candidate Jair Bolsonaro, although without concrete proposals. As soon as he took office, however, we saw not only the deflation of the anti-corruption agenda, but the adoption of a posture contrary to the fight against corruption. The 2018 election was marked, finally, by lies and intentional dissemination of fake news, especially those that benefited the current president and attacked the opposition (Dourado, 2020).

Since being elected, the President of the Republic has been responsible for inciting distrust of electoral processes, such as in the electronic ballot box and in an alleged electoral manipulation, and for spreading disinformation about the country's electoral process. One of his defended agendas - the printed ballot - was voted, overturned, and dismissed by the House of Representatives, however, the current President continues to raise suspicions, even if unfounded, regarding the presidential elections of 2022.

Difficulties in the Access to Information

In recent years, we have also witnessed systematic attacks on the right of access to information and public transparency in Brazil. Still in his first days in office, in January 2019, the president issued a decree (Decree 9690/2020) that modified the rules of the Access to Information Act (AIA) allowing the expansion of the number of public agents with the power to classify government documents as secret and ultra-secret, i.e., with a maximum degree of secrecy. The Decree was repealed by the National Congress.

More recently, at the beginning of the Covid-19 pandemic crisis in Brazil, another attack on AIA was rehearsed by the president: Provisional Measure 928/2020 provided for the suspension of deadlines for replies to requests for access to information by bodies and entities of the federal public administration for the duration of the pandemic, because of the



teleworking regime of civil servants. This time, the measure was overturned by the Federal Supreme Court.

Still during the Covid-19 pandemic, the Brazilian federal government was late in publishing daily data about the disease, and the Coronavirus Panel, responsible for publishing data about dead and infected people, was offline on June 5, 2020. When it was resumed, the aggregated data of the main information about the pandemic in the country were eliminated, configuring a "data blackout" of the pandemic.

The current Brazilian federal government also acts in the opposite direction of openness and even trust in government data on public policies. This is the case of the National Institute for Space Research (INPE, by its Portuguese initials), which had its work discredited and its director general dismissed after releasing data that point to a record in deforestation in the Amazon; of the Brazilian Institute of Geography and Statistics (IBGE, by its Portuguese initials), criticized and currently without a budget to conduct the Census, the largest public policy research in the country; and of Foundation Fiocruz, which had a research on drug use censored and discredited by federal government authorities.

Finally, another recent act demonstrates that the current federal government is acting in the opposite direction of promoting transparency about its actions. In July 2021, the government imposed a secrecy of up to 100 years for the information on the badges of access to the Planalto Palace issued in the name of his sons and also public agents, Councilman Carlos Bolsonaro and Congressman Eduardo Bolsonaro.

Covid-19 Pandemic in Brazil

A study by the Lowy Institute on the fight against the pandemic by countries around the world highlighted that Brazil has been the worst leader in facing Covid-19. The Covid-19 pandemic in Brazil, besides the omission and lack of management for the containment of the virus by the federal government, is witnessing a crisis of misinformation and fake news, cases of corruption, and increasing inequality and hunger, in which minorities and vulnerable groups have been the most affected.

As for the federal government's management of the pandemic, a Human Rights Watch report that assesses the human rights situation in more than 100 countries points out that President Bolsonaro acted to sabotage measures against Covid-19 and took advantage of the pandemic to weaken environmental protection measures and encourage police violence. Currently, the conduct of the federal government in the pandemic is being investigated in a Parliamentary Commission of Inquiry (CPI, by its Portuguese initials) in the country, which investigates the recommendation and investment in treatments and medicines without proven effectiveness against Covid-19 and cases of corruption in the purchase of vaccines.

As for the disinformation crisis, called by some authors as "infodemic", we saw that this period was also marked by a series of disinformation campaigns with the rejection of scientific content, the presence of conspiracy theories and minimization of the severity of the disease



(Machado et al, 2020), even reinforced by political authorities and the President of the Republic himself.

Finally, this has also been an emergency context in which several cases of corruption have arisen, especially regarding emergency purchases and acquisitions to combat the pandemic. At the subnational level, in the state of Amazonas, the state government bought inadequate respirators in a wine store; in Santa Catarina, respirators were purchased that were never delivered in a purchase of 33 million reais; and, in Rio de Janeiro, fraud in the purchase of respirators led to the arrest of the former undersecretary of health, in addition to investigations into irregularities in the contracting of the coronavirus pandemic in Rio de Janeiro led to the removal of the former governor of the state, Wilson Witzel. At the federal level, irregularities are investigated in the procurement of the Covaxin and Coronavac vaccines by the country, both involving the Ministry of Health.

Results of Brazil

As a result of the 8th Summit of the Americas in 2018, a process in which the Citizen Forum of the Americas actively participated, the countries of the region signed the Lima Agreement, entitled "Democratic Governance against Corruption," in which 57 commitments were established for member states to implement concrete actions that reinforce citizen trust in institutions and reduce the negative impact of corruption on the effective promotion of human rights and the sustainable development of the populations of the American hemisphere.

In general, the Brazilian civil society organizations that participated in this project understood that the issue of corruption in Brazil is complex. This is because, besides being systemic, the fight against corruption has also been used in recent years as a political element to persecute opponents. In addition, it is also diagnosed that the theme requires a level of understanding and technical knowledge that few organizations have. In this sense, it is necessary to involve more entities with expertise in the subject.

In general, the participating civil society organizations also highlighted the setbacks in a number of aspects of the Lima Agreement, signed by the Brazilian government during the current administration of President Jair Bolsonaro. The reduction of spaces for social participation and of access to public information are examples of this.

To carry out the follow-up, four criteria were taken into consideration to select the representative commitments to analyze if the anticorruption actions in the countries of the region are sustainable actions over time and with the possibility of institutionalization, that incorporate new approaches to anticorruption actions and that include the perspective of the population in vulnerable conditions. As a result, 19 commitments were selected, classified into 5 specific themes:



1. Reinforcement of Democratic Governance.
2. Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression.
3. Financing of Political Organizations and Election Campaigns.
4. Prevention of Corruption in Public Works and Public Procurement and Contracting.
5. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.

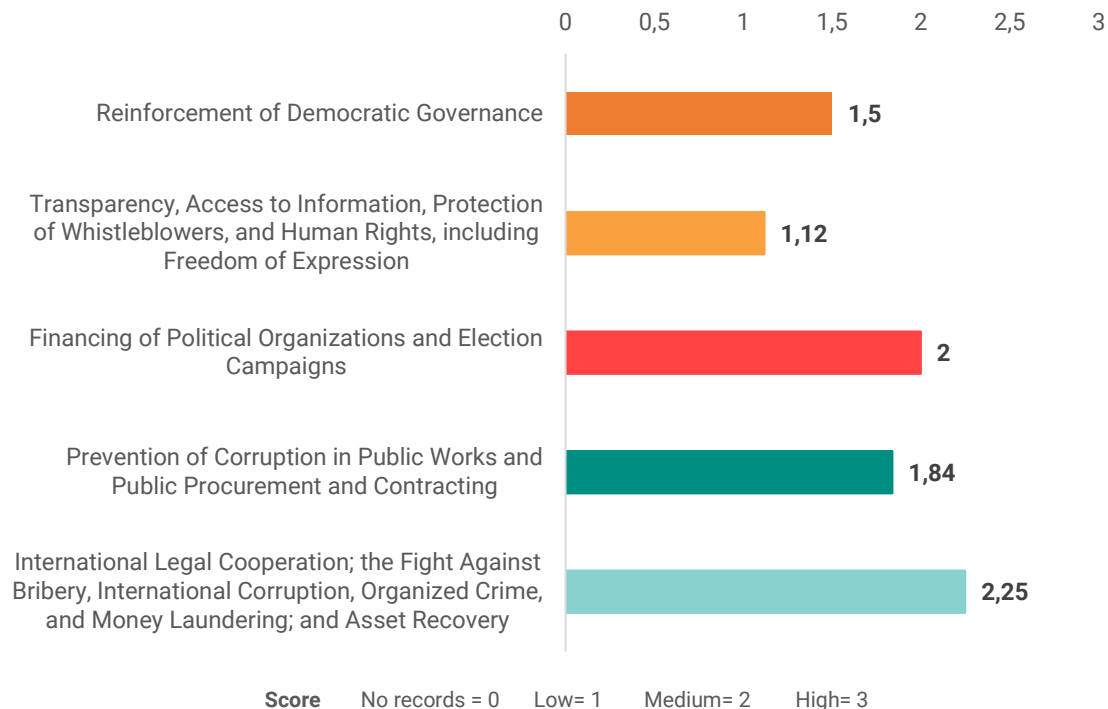
These commitments were analyzed through a study and by identifying policy and practical developments and/or setbacks which were rated on a scale of 0 to 3, taking into account the follow-up criteria below:

- **Effectiveness:** Establishes to what extent the actions developed by the government as a result of the Lima Agreement contribute to the fight against corruption in the country.
- **Relevance:** Establishes to what extent the actions developed by the government are timely, convenient and adequate according to the economic, institutional and/or social context of the country.
- **Sustainability:** Determines to what extent the actions carried out to fulfill the commitment will have continuity over time.

Graph 1 below shows the general results obtained by Brazil in the five themes commitments were classified:



Graph 17. General Results by Thematic Axis of the Lima Agreement



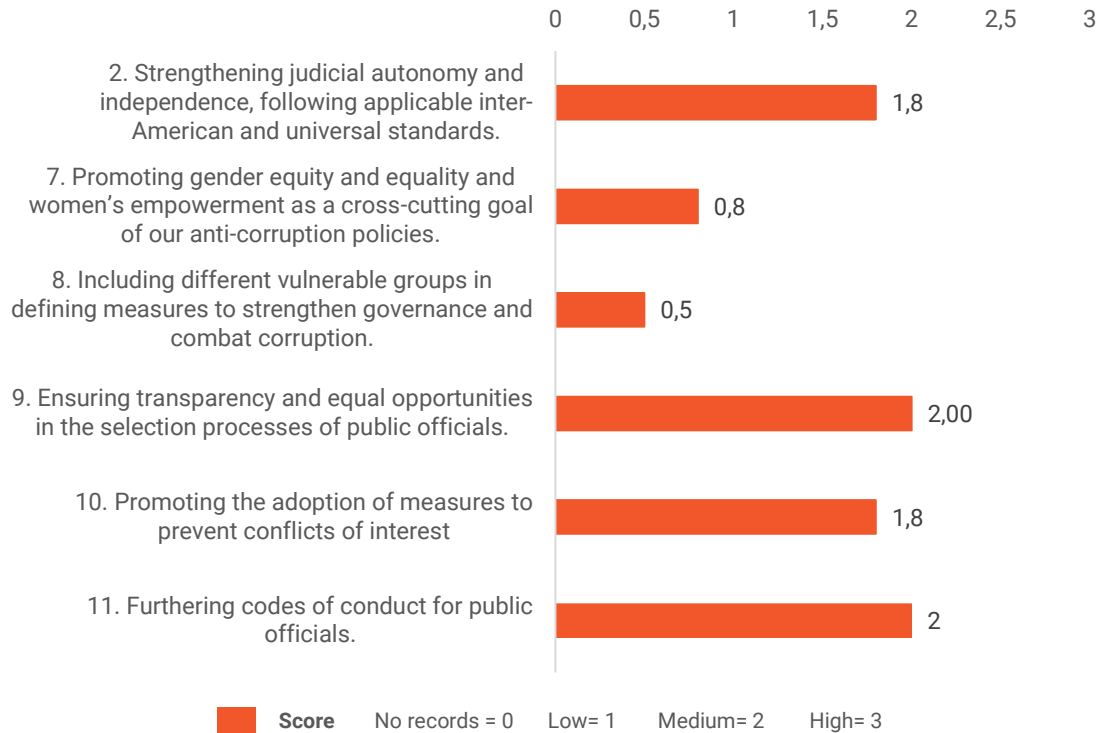
Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

- The worst evaluated thematic axis was "Transparency, access to information and protection of whistleblowers" (score of 1.1), while the category with the best score was "International legal cooperation" (score of 2.2). In between, we have the axes "Reinforcement of democratic governance" (1.5), "Prevention of corruption in public works" (1.8), and "Financing of political organizations" (2).
- In general, we see that Brazil's results in fulfilling the commitments listed in the Lima Declaration are below the desirable level, and that the fight against corruption, the promotion of public transparency, the guarantee of fundamental rights and democratic principles, as well as the improvement of public management have not undergone significant progress in recent years, because they have not been listed as priorities on the agenda of the current administration of the Brazilian federal government. Undoubtedly, as we saw in the introduction to this report, the setbacks in the institutional and legal apparatus of the country in the fight against corruption also reflected on these notes.

⁷ The colors implemented in the graphs of this document do not correspond to a numerical scale, but only to the attribution of colors to each of the thematic axes of the CCO.

Reinforcement of Democratic Governance

Graph 2. Follow-up Criteria for Commitments related to Reinforcement of Democratic Governance



Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

- Theme 1 did not present any relevant progress in Brazil in the last two years. With regard to "Strengthening judicial autonomy and independence," we see that, formally, the autonomy of the Judiciary has been continued, because there has been no legal alteration in the last two years. In practice, however, the discourse and actions of the political leadership have affected the functioning of the judiciary in a less obvious way. This is because the Judiciary has stopped making decisions taking into account the interests of political leaderships, including those of the Executive Branch of the Central Government, and corruption cases - including those involving members of the President of the Republic's family - that have not been tried, for example. There was also incitement and participation of the President of the Republic, allies and his sons in anti-democratic demonstrations calling for the closure of the Federal Supreme Court. On the issue of fighting against corruption, there was a pairing of the control and investigation bodies, such as the choice of the Attorney General, who was chosen by the President of the Republic even though he was outside the triple list. During his administration, the Attorney General's Office acted to shield the President from accusations, proceedings, and complaints of corruption. There was also no progress

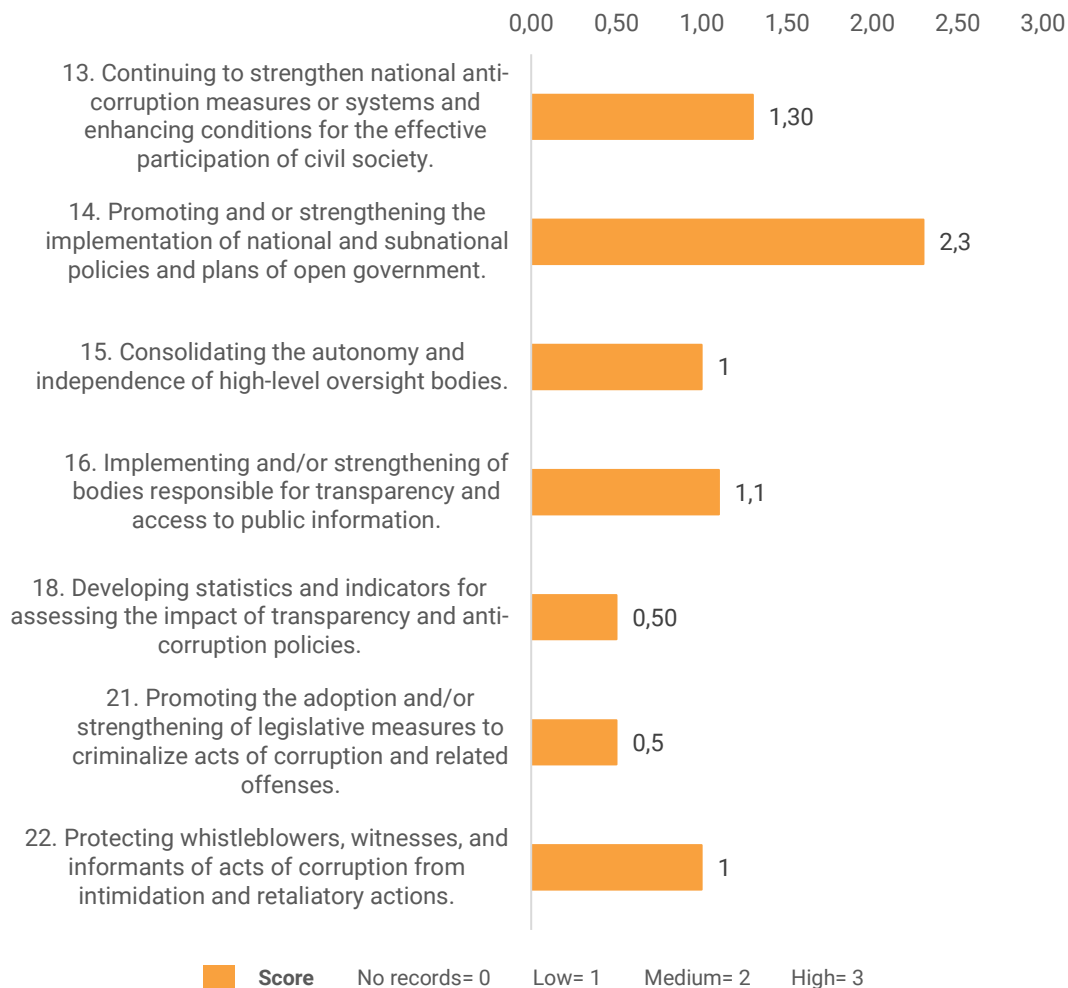
in relation to the implementation of transparency and integrity measures in the judicial system.

- Under this scenario, the commitment that had the worst final score was 8, which states *"Include the various groups in situations of vulnerability in the definition of measures to reinforce governance and fight against corruption."* In fact, at present in Brazil, there is no initiative that promotes the inclusion and participation of groups in vulnerable situation in anti-corruption policies, not even the official recognition that these groups are the most affected by corruption. Likewise, no initiative has been identified that takes into consideration the promotion of gender equality in anti-corruption policies. On the contrary, the space for women's participation in the Bolsonaro government is currently one of the smallest in the world.
- On the other hand, commitments 9 and 11 scored the highest in this section. These commitments deal with transparency in the selection processes of public servants and the promotion of codes of conduct, respectively. In fact, the country ensures that call for selection is published in the Official Gazettes of the Central Government and on government portals, and that a Code of Ethics is applied to all public servants in the Executive Branch.



Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression

Graph 3. Follow-up Criteria for the Commitments related to Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression



Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

- In this axis, which obtained the worst overall average among the five themes monitored in this project, we evaluated some of the main frameworks for transparency, access to information, participation, protection of whistleblowers and the performance of oversight bodies in Brazil. We saw that, so far, there is no specific legislation that guarantees the protection of whistleblowers in Brazil in a complete way, but only in a vague way. This is why for the commitment that says *"Protecting whistleblowers, witnesses, and informants of acts of corruption"* only one point was obtained as a result. There are conceptual problems found in the Brazilian legislation, which does

not provide full protection to whistleblowers, and the focus is on the reward for reporting corruption, not on the protection of the whistleblower himself.

- Regarding the guarantee of access to information, despite the fact that an Access to Information Act, has existed in the country since 2012, there have been attempts to restrict the AIA, including during the Covid-19 pandemic, and this attempt was barred by the Federal Supreme Court. During the Covid-19 pandemic, transparency from the Federal Government was also not desirable regarding cases, deaths, and vaccines. Thus, to account for the daily data of the pandemic, an unprecedented consortium of journalists was created to collect data from state Health Departments, with the goal of disseminating information about Covid-19 as compensation for the low transparency adopted by the Federal Government.
- The commitments that received the lowest scores in this axis were 18 and 21, which deal with the existence of statistics and indicators for monitoring the impact of transparency and anticorruption policies, and the characterization of acts of corruption, respectively. In these cases, the low scores indicate that, in the first place, there are no consolidated statistics in the country that allow the monitoring of anti-corruption policies. We identified only statistical reports of the Office of the Comptroller General of the Central Government that allow the monitoring of replies to requests for access to information (passive transparency)⁸. Regarding Commitment 21, we saw that there were no progress and there were setbacks. The regulation of lobbying, for example, was neither approved nor advanced in discussion, there is no characterization for private corruption, and the law on conflict of interests is still very fragile. Currently, there is little legislative discussion about these themes.
- On the other hand, the commitment with the best result was 14, which deals with open government policies and action plans. In Brazil, there are the Open Government Action Plans with the Open Government Partnership that define biannual commitments regarding themes related to the open government agenda, including the fight against corruption. Brazil was even one of the co-founding countries of the organization in 2011. Furthermore, the country has a Digital Government Strategy⁹. The digital government agenda has advanced the most, but we have seen that its policies and objectives are more related to reducing bureaucracy and providing public services than to the fight against corruption.

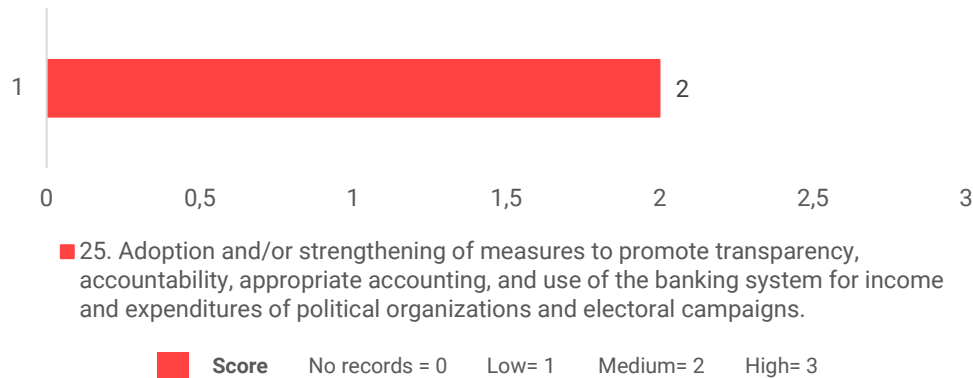
⁸ Available at <https://www.gov.br/acessoainformacao/pt-br/assuntos/relatorios-dados/relatorios-estatisticos>

⁹ Available at <https://www.gov.br/governodigital/pt-br/EGD2020>



Financing of Political Organizations and Election Campaigns

Graph 4. Follow-up Criteria for the Commitments related to Financing of Political Organizations and Election Campaigns



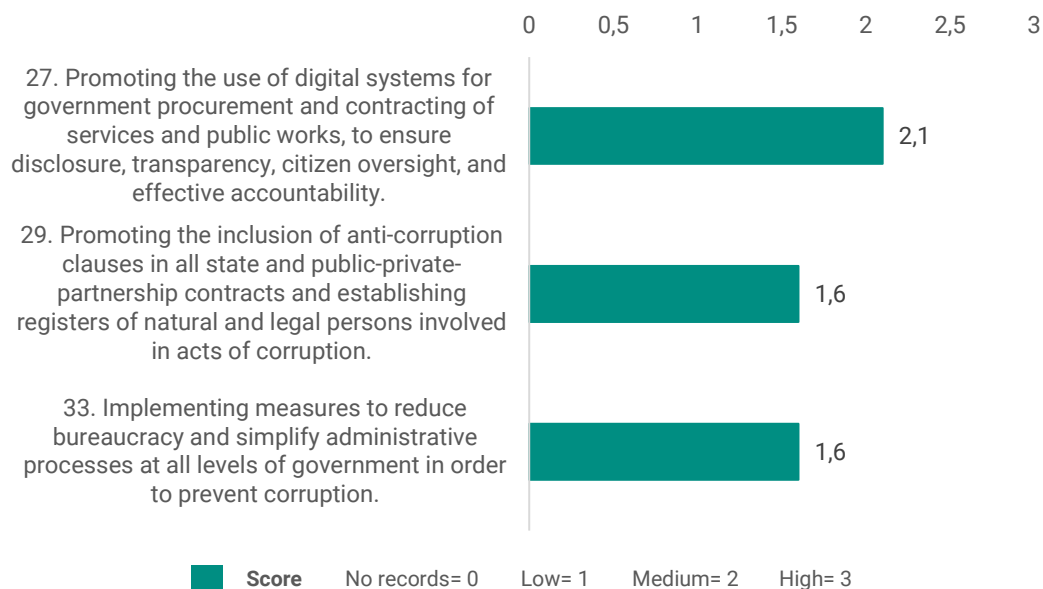
Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

- The third theme of this follow-up, the financing of political parties and campaigns, which is Commitment 25, received a final score of 2.0. In this case, it was possible to identify that electoral campaign accountability reports are available on the Superior Electoral Court portals, in formats accessible for consultation and downloading. Moreover, this follow-up marked the decision that prevented candidates from raising funds from companies for their political campaigns, which is from 2015, therefore, prior to the last two years. Although public electoral financing is usually marked by the effect of a possible neutralization of corporate interests, challenges still persist in the current model - such as private donations by individuals, which do not always receive due transparency - and the current forms of campaign financing still prove vulnerable to different types of fraud and diversion (France, Mohallem, 2020).
- Since then, there have been no major changes in electoral legislation, especially in the last two years. On the other hand, in Brazil, there is currently a great suspicion about the integrity of the Brazilian electoral system in the speech of the current President of the Republic¹⁰. The federal government has issued attacks related to ballot box fraud, as well as calls for a return to the paper ballot system by the federal government, which may create a climate of more distrust and less legitimacy to the current electronic voting system and reflect in the presidential and state elections of 2022.

¹⁰ See the Report titled "Desinformação online e eleições no Brasil: A circulação de links sobre desconfiança no sistema eleitoral brasileiro no Facebook e no YouTube (2014-2020)", which is available at: <https://democraciadigital.dapp.fgv.br/estudos/desinformacaoeleitoral-2/>

Prevention of Corruption in Public Works, and Public Procurement and Contracting

Graph 5. Follow-up Criteria for the Commitments related to Prevention of Corruption in Public Works and Public Procurement and Contracting



Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

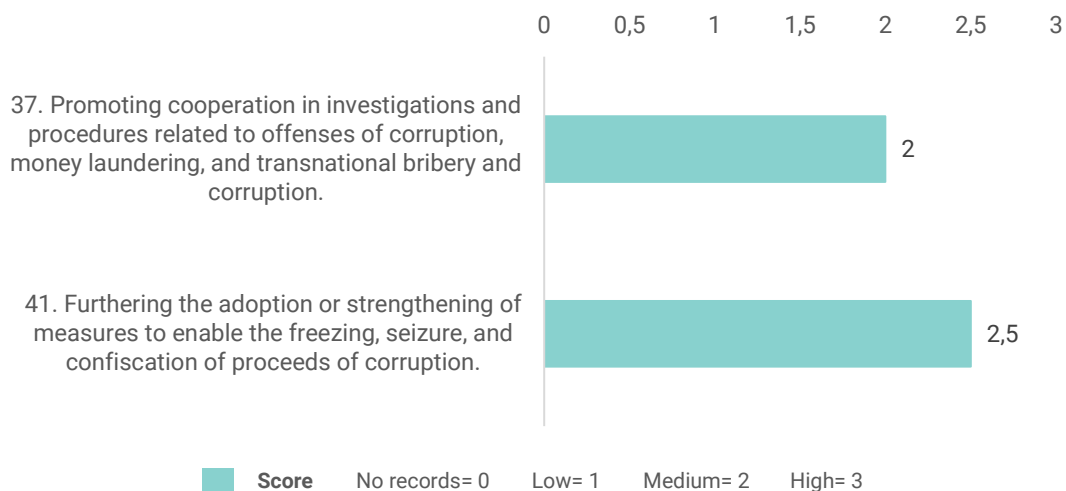
- The results for Theme 4 did not score very low, ranging from 1.6 to 2.1. The commitments in this theme deal with public procurement, contracts and reducing state bureaucracy through digital means. These commitments and their indicators, in large part, were answered based on the recently approved Law on Public Procurement and Administrative Contracts (Law 14,133/2021) and the Brazilian Digital Government Strategy.
- Both Commitments 29 and 33 resulted in a score of 1.6, the lowest in this theme. Commitment 29, which deals with the existence of anti-corruption clauses in government contracts, is largely supported by the Anti-Corruption Law (Law 12846/2013), which makes it mandatory to include anti-corruption clauses in all state contracts, such as the requirement for companies to have compliance programs. Commitment 33, in turn, was evaluated based on the Brazilian Digital Government Strategy, which, despite not having a clear connection with the fight against corruption, intends to digitize public services and reduce bureaucracy in the state through Digital Transformation, which can also have positive impacts on risk mitigation and corruption prevention.
- The best rated commitment in this axis was 27. According to the New Bidding Law, all purchases and procurement must be registered in the National Portal for Public



Procurement. On the other hand, we highlight that important advances in the law were eliminated by presidential veto, such as the forecast for the existence of a national base of electronic invoices.

International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery

Graph 6. Follow-up Criteria for Commitments related to International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery



Source: Prepared on the basis of information provided by CSOs participating in the CCO Platform

- Overall, Theme 5 received the highest scores. Commitments 37 and 41, with average scores of 2.0 and 2.5, respectively, address the existence of inter-institutional and international cooperation measures to combat corruption.
- As for Commitment 37, we point out that there are Special Action Groups to Combat Organized Crime (Gaecos, by its Portuguese initials) in the Federal Public Prosecutor's Office (MPF, by its Portuguese initials) and in the state Public Prosecutor's Offices and that they do not carry out joint trial work. However, the current Attorney General's Office extinguished the Task Forces model to implement that of the Gaeco. We also highlight that the President of the Republic, in the last few years, adopted measures that weakened the independence of the institutions and, consequently, the cooperation among internal authorities. Among these measures, we highlight the transfer of the COAF to the Central Bank, the appointment of an Attorney General who was not on the triple list, and the political interference in the Internal Revenue Service and the Federal Police. This scenario not only hindered the discussion aimed at regulatory improvement, but also brought setbacks to the anti-corruption field.

- Finally, on Commitment 41, the progress that Brazil has made were those resulting from Law 13.964/2019 ("Anticrime Package"), which instituted the extended forfeiture of assets and new provisions about precautionary measures. It should be noted, in this context, that the agreement signed between Brazil and the Southern Common Market (Mercosur, by its Spanish initials) for the joint investigation of crimes may contribute, in the future, to this commitment.

Conclusions

Over the past few years, Brazil has suffered from a series of institutional setbacks, even with regard to the fight against corruption. In this period, which coincides with the years of implementation of the milestones proposed by the Lima Agreement, Brazil has presented a worrying diagnosis of setbacks that affect several sectors: in addition to the weakening and loss of autonomy of democratic institutions, we have seen the devastation of the environment, the lack of governance in the midst of the Covid-19 pandemic, the decrease of political participation spaces, and the loss of social and civil rights that had been reinforcing in recent decades. Moreover, notably since 2018, the year of ratification of the Lima Agreement, the country has witnessed an escalation in intense narrative disputes, polarization, and an increase in political violence.

In this context, the Citizen Corruption Observatory, by proposing monitoring of the Lima Agreement, was a relevant instrument for the evaluation and diagnosis of these setbacks, especially with regard to the fight against corruption. For this reason, this report reinforces the evaluation of the panorama of involution of the measures to combat corruption in Brazil, including those already presented by other organizations that have warned about the same scenario of concern. Among them are the OECD, which adopted an unprecedented measure of creating a group to monitor Brazil's setbacks in the fight against corruption, Transparency International - Brazil, which, since 2019, annually publishes review and denunciation reports on setbacks in the fight against corruption, as well as other Brazilian civil society organizations working on the issues of transparency, integrity, and defense of rights, which have been warning of the decrease in public transparency by the federal government, and the weakening of control bodies and mechanisms for combating corruption previously existing in the country.

We can therefore conclude that the Lima Agreement in Brazil, as a mechanism was more relevant for Brazilian civil society, due an increase in monitoring and oversight capabilities, than for the federal government, which failed to comply with the proposals in this document. As a conclusion, throughout this study we have seen that the dimensions of evaluation and the milestones that Brazil scored result rather from the work of institutions, guarantees, laws, and rights that existed prior to the last few years and that have been maintained, than to possible recent progress. On the other hand, the worst results are mostly related to the setbacks experienced by the country during these last two years.



Actions and Recommendations for Compliance with the Lima Agreement in Brazil.

Theme 1. Reinforcement of Democratic Governance	
Action	Recommendations
Guarantee the independence and autonomy of control and investigation bodies and of the Judiciary	Guarantee the independence and autonomy of bodies and institutions such as the Federal Police and the Internal Revenue Service, protecting them from political interference
	Respect the institutional and functional independence of members of the Federal Public Prosecutor's Office, including the independent action of the Attorney General's Office.
	Guarantee transparency and independence in the appointment processes of magistrates in the higher courts, taking into consideration possible cases of conflicts of interest and adopting quarantine rules for nomination and professional performance after retirement.
Include the gender perspective in the creation and monitoring of anti-corruption policies and actions	Include groups, civil society organizations, and activists working for gender equality in processes of discussion and creation of anti-corruption policies, even ensuring equal opportunities in participation spaces.
	Consider that men and women are disproportionately affected by corruption and prioritize efforts to reduce corruption in the provision of public services that serve more women than men.
	Fight the corruption that affects public services that serve more women than men, so that women and girls do not lose access to them as a result of corruption.
Include the perspective of vulnerable groups in the creation and monitoring of anti-corruption policies and actions	Recognize that groups in vulnerable situation are the most affected by corruption in the processes of drafting and monitoring of anti-corruption public policies.
Promote the adoption of measures that prevent conflicts of interest and that publicize asset declarations	Require, for all public agents, electronic declarations of equity, and the creation of a system capable of cross-referencing data and following the evolution of the equity of public agents, under the responsibility of the federal (Office of the Comptroller General of the Central Government - CGU and Audit Court of the Central Government - TCU) and state (state comptroller's offices and State Audit Courts - TCE).
	Regulate lobbying and ensure transparency of public authorities' agendas.

Theme 2. Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression	
Actions	Recommendations
Guarantee the autonomy of control bodies	Reinforce the procedures that ensure independence and autonomy in appointments and dismissals for control body positions, through measures such as fixed terms of office, triple lists, and quarantine rules.
Promote national plans and actions for open government and digital transformation aimed at fighting corruption	Include commitments aimed at promoting transparency, integrity and fighting corruption in Brazil's OGP Action Plans, in the Brazilian Digital Government Strategy, in the Brazilian Artificial Intelligence Strategy and other digital transformation policies.
	Publish strategic databases for fighting corruption, such as: authorities' agendas and lobby records, electronic invoices, company records, asset declarations, government transfers, contracting, land ownership, among others.
Create and promote transparency about statistics and results of anti-corruption policies and measures	Reinforce the capabilities and human, financial, and technical resources of the Office of the Comptroller General of the Central Government to analyze, process and provide transparency to data on the implementation of anti-corruption policies.
Guarantee the protection of whistleblowers of corruption cases	Create and implement a public policy for the protection of whistleblowers of corruption cases, involving protection against retaliation, anonymity, and confidentiality, among other protection mechanisms.
	Reinforce whistleblower channels for corruption cases in the Federal Government and sub-national governments, including digital channels that guarantee anonymity.
	Promote improvements to Law 13.608/2018, which regulates the receipt of corruption reports.

Theme 3. Financing of Political Organizations and Election Campaigns	
Action	Recommendations
Reinforce the system of accountability of campaigns and political parties	Promote transparency in party accounts and internal decision-making processes, in order to reinforce the parties' internal democracy.
	Adopt better accounting practices and extend the obligations of Law 9.613/1998 (Money Laundering Law) to the parties.
	Criminalize the electoral parallel accounting, in order to effectively fight a corrupt practice that distorts the electoral system and democracy.
	Limit excessive public funds, such as the Special Fund for Campaign Financing (known as "Fundão"), with the purpose of financing campaigns and covering ordinary party

Theme 3. Financing of Political Organizations and Election Campaigns	
	expenses. Guarantee that the intra-party distribution of resources is done democratically, according to criteria of diversity and gender parity.
	Be accountable in an updated, complete, and open-format way, in electoral and non-electoral years.
	Audit and identify spending on digital campaigns and mass electoral messages on messaging apps.
	Guarantee, by the Superior Electoral Court, the opening of up-to-date electoral data on electoral results, campaign financing and spending, party funds, political party registration, detailed information on candidates, among others.

Theme 4. Prevention of Corruption in Public Works and Public Procurement and Contracting	
Action	Recommendations
Guarantee transparency and openness in public procurement processes	Include anti-corruption clauses as an integral part of public contracts as a preventive measure against possible acts of corruption.
	Develop a plan for the effective control over the execution of the resources allocated through emergency procurement for the purchase of goods and services for the Covid-19 pandemic, as well as the investigation of possible irregularities that have already occurred.
	Adopt open procurement standards in all stages of procurement, from planning up to execution.
	Guarantee the publication of data such as electronic invoices, purchases and bids in open formats.
Reinforce the implementation of systems and digital technologies to ensure transparency, publicity, and social control over public procurement	Guarantee the quality and constant updating of the data on transparency portals, including specific procurement and bidding portals. This should include the National Portal for Public Procurement, created by the New Bidding Law (Law 14.133/2021).
Expand anti-corruption policies to the private sector	Progress in the identification of corruption risks in public procurement by the private sector.
	Encourage companies to adopt integrity programs and create internal policies to encourage whistleblowing.
	Ensure publicity and transparency about the companies punished and sanctions applied.

Theme 5. International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery	
Action	Recommendations
Reinforce cooperation between authorities in investigations and proceedings related to corruption offenses	Improve rules and protocols for international cooperation, even in defining the responsibilities and competencies of the central authority.
	Guarantee that members of investigative bodies and the justice system are qualified so that they know how to operate the mechanisms and rules of international cooperation.
Improve compliance with international anti-corruption treaties and commitments	Cooperate with international organizations and adopt their recommendations to progress in the fight against corruption.
	Guarantee the participation of civil society and vulnerable groups in international treaty compliance review processes, such as the United Nations Convention against Corruption (UNCAC).
	Adopt the measures indicated by the OECD Working Group on Bribery, as well as by the permanent monitoring group on Brazil, to reverse setbacks in the fight against corruption.
Improve capacity for monitoring, investigating, and combating transnational offenses	Build and reinforce international networks for cooperation and information sharing in combating transnational crimes.
	Improve rules and practices for monitoring financial flows to identify and combat irregularities.
	Deepen the knowledge and action of the control bodies in the fight against corruption and money and resource laundering associated with environmental crimes.
	Ensure the independence of specialized bodies in money laundering and asset recovery, such as COAF and ENCCLA.

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Annex

Annex 1: Assessment of the Lima Agreement in Brazil

Table 1. Follow-up criteria for the Commitments related to Reinforcement of Democratic Governance

Commitment	Effectiveness	Relevance	Sustainability	Average
2. Strengthen judicial autonomy and independence following applicable inter-American and universal standards on this matter to promote respect for the Rule of Law and access to justice, as well as to promote and encourage policies of integrity and transparency in the judicial system.	1.50	2.00	2.00	1.83
7. Promote gender equity and equality and women's empowerment as a cross-cutting goal of our anti-corruption policies, through a task force on women's leadership and empowerment that will actively promote cooperation among inter-American institutions and synergies with other international agencies.	0.00	1.50	1.00	0.83
8. Include different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing their serious impact on these populations.	0.00	1.50	0.00	0.50
9. Guarantee transparency and equal opportunities in the selection processes of public servants, based on objective criteria, such as merit, equity, and aptitude.	2.00	2.00	2.00	2.00
10. Promote the adoption of measures to prevent conflicts of interest, as well as the submission of declarations of equity and financial information by public servants, as appropriate.	1.50	2.00	2.00	1.83
11. Further codes of conduct for public servants that contain high standards of ethics, probity, integrity, and transparency, using as a point of reference the "Guidelines for the Management of Policies for Probity in the Public Administrations of the Americas" and urging the private sector to develop similar codes of conduct.	2.00	2.00	2.00	2.00

Table 2. Follow-up criteria for commitments related to Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression.

Commitment	Effectiveness	Relevance	Sustainability	Average
13. Continue to strengthen national anti-corruption measures or systems and enhance conditions for the effective participation of civil society, social organizations, academia, private sector, citizens, and other social actors in follow-up of government management, including the establishment of prevention mechanisms, channels for reporting possible acts of corruption and facilitating the work of citizen observatories or other social control mechanisms, incentivizing the adoption of electronic participation mechanisms.	1.50	1.50	1.00	1.33
14. Promote and/or strengthen the implementation of national and as appropriate, subnational policies and plans related to open government, digital government, open data, fiscal transparency, open budgets, electronic procurement systems, public contracting and a public registry of state suppliers, considering for this the participation of civil society and other social agents.	2.00	2.50	2.80	2.33
15. Consolidate the autonomy and independence of high-level control bodies.	1.00	1.00	1.00	1.00
16. Implement and/or strengthen bodies responsible for transparency and access to public information, based on applicable international best practices.	2.20	1.00	2.20	1.17
18. Prepare statistics and indicators in our countries for assessing the impact of transparency and anti-corruption policies and for this encouraging the strengthening of state capacities in this field.	0.50	1.00	0.00	0.50
21. Promote the adoption and/or strengthening of legislative measures required to characterize criminally the acts of corruption and other co-related offenses in accordance with the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organized Crime, and the Inter-American Convention against Corruption (IACAC).	0.50	0.50	0.50	0.50
22. Protect whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.	1.50	1.00	0.50	1.00

Table 3. Follow-up Criteria for the Commitments related to Financing of Political Organizations and Election Campaigns.

Commitment	Effectiveness	Relevance	Sustainability	Average
25. Promote the adoption and/or strengthening of measures that promote transparency, accountability, appropriate accounting, and bank statements of income and expenditure of political organizations and parties, mainly those related to their electoral campaigns, thus guaranteeing the licit origin of the contributions and penalizing anyone involved in accepting illicit contributions.	2.00	2.50	1.50	2.00

Table 4. Follow-up Criteria for the Commitments related to Prevention of Corruption in Public Works and Public Procurement and Contracting

Commitment	Effectiveness	Relevance	Sustainability	Average
27. Promote the use of electronic systems for government procurement and contracting of services and public works, to ensure transparency, publicity, citizen audit, and effective accountability.	2.00	2.50	2.00	2.17
29. Promote the inclusion of anti-corruption clauses in all state and public-private-partnership contracts and establish records of natural and legal persons involved in acts of corruption and money laundering to ensure that they are not contracted.	1.50	1.50	2.00	1.67
33. Implement measures to reduce bureaucracy and simplify administrative processes at all levels of government in order to prevent corruption.	1.50	1.50	2.00	1.67

Table 5. Follow-up Criteria for the Commitments related to International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery

Commitment	Effectiveness	Relevance	Sustainability	Average
37. Promote the broadest possible cooperation among judicial, police, and prosecutorial authorities, financial intelligence units, and administrative authorities in investigations and procedures related to offenses of corruption, money laundering, and transnational bribery and corruption.	2.00	2.00	2.00	2.00
41. Further the adoption or strengthening of measures through competent institutions to enable the freezing, seizure, and confiscation of proceeds of corruption.	2.50	2.50	2.50	2.50