



**GUATEMALA REPORT**  
**Follow-Up on the Lima Agreement**  
**Citizen Corruption Observatory**



Country: Guatemala – Local Partner: Acción Ciudadana – Partner Organization: CONGCOOP



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## Photography

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### Acronyms in this document

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

CONGCOOP = Coordinación de ONGs y Cooperativas

ICEFI = Instituto Centroamericano de Estudios Fiscales

REDNACTP = Red Nacional de Comisiones y Colectivos Ciudadanos por la Transparencia y Probidad



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## Introduction

The main purpose of the project entitled “Citizen Corruption Observatory (CCO) - Follow-up on the Lima Agreement” is to strengthen the Citizen Forum of the Americas (CFA) by co-creating, together with the Latin American and Caribbean Network for Democracy (LACND) and the Citizen Forum of the Americas (CFA), an observatory that provides technical support for the implementation of the Project entitled: “Civil Society Participation in the Summit of the Americas (CSPSA). 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 the 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 VIII 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 regard, the national report is intended to present a summary of the results and conclusions on the follow-up of the progress and/or compliance in Guatemala with the commitments made at the 2018 Summit, based on the follow-up methodology document for the Lima Agreement<sup>1</sup> and on the information review carried out by eleven civil society organizations. All information collected under the follow-up framework can be accessed on the OCC website<sup>2</sup>.

The follow-up on the Lima Agreement methodology allows civil society to assess the progress and/or compliance with the 19 commitments prioritized<sup>3</sup> 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 policy and practical<sup>4</sup> 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 the review of concrete measures taken by the government in response to the commitments made. For this purpose, 64 questions were constructed, which were answered through

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<sup>1</sup> The methodology is available at: <https://occ-america.com/metodologia/>

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

<sup>3</sup> The 19 commitments were prioritized considering the possibility to perform compared analysis in all CCO participating countries.

<sup>4</sup> The CCO built a first balance sheet on regulatory indicators at the regional level. The document is available at: <https://occ-america.com/2021/07/29/primer-informe-del-observatorio-ciudadano-de-corrupcion-revela-avances-y-retos-normativos-para-la-lucha-anticorrupcion-en-la-region/>



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requests for information, interviews, reference to media reports, reports and research on the subject, among others. This information is the basis for evaluating each commitment in terms of effectiveness, efficiency and sustainability<sup>5</sup>.

## Participating Organizations

Acción Ciudadana – as national coordinator - it held socialization meetings with the related organizations, with the aim of fostering dialogue, consensus and coordination among the CSOs invited. A first meeting was held to explain the methodology to the CSOs and their subsequent access to the platform. Once the participating CSOs were established, a second meeting was coordinated to present and discuss the policy indicators.

Finally, a third meeting was organized to jointly discuss each commitment's final account, as well as to define advocacy actions that may be implemented on the basis of the results.



**Acción Ciudadana** is a civil society organization that was formed to foster conscious and committed citizenship to promote transparency in public management. Acción Ciudadana's vision is to build a society based on transparency and citizen participation, supporting democracy. With more than 20 years of work, Acción Ciudadana is the leading organization in the fight against corruption in Guatemala, and was the national coordinator of the Citizen Corruption Observatory in this country, specializing in the follow-up of anti-corruption actions at the national level and playing the role of spokesperson, point of contact and coordinator of the information gathering process.



**Coordinación de ONGs y Cooperativas – CONGCOOP-** is an association that contributes to the strengthening of social-political actions, from research and participatory actions in conflicts and social problems to the strengthening of capacities of social movements, indigenous people's and community organizations. CONGCOOP contributes to strengthening alternative opinions, making available to the Guatemalan society information, means of dissemination and theme debate through publications and spaces for discussion and proposals, to encourage a critical-founded position against social, political and economic development proposals and policies.

The Coordinación de ONGs y Cooperativas served as focal point of the Forum of the Americas and LACND, playing a key role in the Citizen Corruption Observatory.



**Instituto Centroamericano de Estudios Fiscales – ICEFI-** is a think tank independent from governments, political parties or any other civil society organization, which prepares research and technical analyses on fiscal matters

<sup>5</sup> The methodological aspects of this follow-up will be presented in greater detail below.



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in Central America. It also provides information, advice and training on these issues, especially to legislative branches, local authorities, and social and political organizations.

ICEFI participated in the Citizen Corruption Observatory as a civil society organization expert in developing proposals and influencing dialogue, public policies and citizenship building.



**Asociación LAMBDA:** Association that fights for equality, dignity and participation of sexually diverse people, based on the exercise of Human Rights and the Constitutional guarantees in Guatemala. Private, non-profit, non-religious, non-partisan, social, cultural, educational, humanitarian, social assistance and comprehensive development association for members of the LGBTI community.

LAMBDA played a key role in the Citizen Corruption Observatory, participating as a civil society organization that promotes the defense, orientation, education, training and inclusion of sexually diverse people. In addition, it promotes - through projects and programs - the eradication of phobias, social discrimination and human rights violations in all its manifestations affecting the LGBTI community in Guatemala and the region.



**Asociación Alas de Mariposas** is a women's association that works for the physical and political empowerment of Guatemalan women, through counseling, care services and training for the exercise of their rights under the framework of compliance with national and international instruments on women's human rights.

Corruption disproportionately affects vulnerable populations and impairs women more severely, which is why Alas de Mariposas participated in the Citizen Corruption Observatory, providing a unique perspective from a woman's point of view.



**Instituto Centroamericano de Estudios para la Democracia Social (DEMOS):** is a think tank and training center that influences public policies by working with young people, women and indigenous peoples, from the human rights perspective and promotion, by training and strengthening the organizational and operational capacities of the organizations with which it works.

DEMOS played a key role in the Citizen Corruption Observatory, participating as a civil society organization that promotes the development of alternative proposals to the country's development model and seeks to democratically influence decision making processes at the local, regional and national levels.



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REDNAC-TP  
Red Nacional de Comisiones y Colectivos Ciudadanos por la Transparencia y Probidad

**Red Nacional de Comisiones y Colectivos Ciudadanos por la Transparencia y Probidad (REDNACTP):**

Organization established as a national front that fights for transparency and probity at the national level, seeking to contribute to the fight against impunity in Guatemala.

Its main objective is to strengthening the active citizen organization and participation in the fight against corruption through processes of social auditing and public management control, for the proper use of public resources, to ensure people's comprehensive development .



**Comisión Ciudadana por la Transparencia y Probidad de Chiquimula** is a concept of citizen participation made up of members of civil society organizations that are representative in the department of Chiquimula.

Their main objective is to promote citizen participation through social auditing and accountability in the use of public goods and resources to improve access to and quality of services, affecting the living conditions of the population in the department of Chiquimula. In addition, the civil society in the department of Chiquimula has an organic and effective link with the representative bodies in local public institutions, in order to directly discuss, disseminate and transfer the local needs and concerns in terms of accountability and transparency to strengthen the citizen participation processes.



**Comisión Ciudadana por la Transparencia y Probidad de Santiago Atitlán**, Civil society organization created due to the need for overseeing the technical and financial management of Santiago Atitlán's public administration, as well as strengthening citizen participation, disseminating public information of social interest and accompanying different sectors in conflict resolution.

The Comisión Ciudadana por la Transparencia y Probidad de Santiago Atitlán was formed in a community meeting in response to the need to clarify the doubts generated around public spending and decisions made by government authorities in Santiago Atitlán.



**Comisión Ciudadana por la Transparencia y Probidad de Sacatepéquez:** Citizen network for social auditing in Sacatepéquez, which promotes the exercise of citizen rights and duties, both for men and women, in order to improve people's quality of life.

The Comisión Ciudadana por la Transparencia y Probidad de Sacatepéquez generates proposals to improve the performance of public institutions and entities to improve the welfare of Sacatepéquez's residents.







**Comisión Ciudadana por la Transparencia y Probidad de Chimaltenango:** Inter-municipal and inter-sectorial coordination and articulation space that promotes transparency and probity by managing public information, carrying out institutional social auditing processes, promoting the proper use of public goods and services; influencing comprehensive development of the Department of Chimaltenango.

The Commission is made up of people with a long history of citizen participation and public recognition, which gives credibility to the group. It is a diverse Commission made up of young people, artists, communicators, professionals, community leaders, and people recognized in their municipalities and communities.



**Comisión Ciudadana por la Transparencia y Probidad de Alta Verapaz :** It is a space for citizen participation that promotes transparency and probity in the Department of Alta Verapaz and which analyzes, discusses, disseminates, provides support and proposes solutions to social problems.

## Context of Guatemala

Corruption is perhaps the most important issue in the country. Guatemala is one of the countries with the highest perception of corruption in the continent, since according to Transparency International's 2020 Corruption Perception Index, Guatemala has a score of 25 points out of 100 and ranks 149th out of 180 countries evaluated, placing it next to countries such as Honduras, Nicaragua, Haiti and Venezuela. In fact, there is consensus about the idea that corrupt practices are everyday occurrences<sup>6</sup>, so much so that the Vice President of the Republic has stated that corruption in Guatemala has become more sophisticated.<sup>7</sup>

The complexity lies in the deepening of this situation, which results in administrative and governance practices that seem to have no end. The democratic formula to find a balance does not exist because institutions from the three government agencies operate in favor of impunity. Such is the setback experienced over the past two years that it is almost impossible to identify any institution that remains without signs of co-optation of political-economic networks which prioritize their own interests.

<sup>6</sup> The Latin American Strategic Center for Geopolitics - CELAG (by its Spanish initials) - provides a comprehensive political analysis of the situation in "Guatemala, increasingly in dispute", available at: <https://www.celag.org/guatemala-cada-vez-mas-en-disputa/>

<sup>7</sup> For more information, visit <https://www.soy502.com/articulo/corruccion-sofistico-gobierno-dice-castillo-100931>



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The withdrawal of the International Commission against Impunity in Guatemala (CICIG) in 2019 is a starting point for analyzing the current situation. CICIG kept clear and sustained monitoring of the government's actions and laid the groundwork for coordinating the public institutions in charge. Justice in the country seemed, at last, to be moving in favor of citizens' protection. However, the actions produced an effect that displeased a large number of system beneficiaries who, although shocked, managed to orchestrate a coordinated reaction.

In addition, they had sufficient financial resources to involve other actors willing to share some of the power. Each situation became an element for correcting measures in favor of corruption, causing serious setbacks in terms of democracy, transparency and the fight against corruption. It is impossible not to mention the case of the girls held in "safe homes" who were burned to death at the beginning of Jimmy Morales' government. But it was more unsuspected that the current president, a doctor by profession, so cunningly used governmental mechanisms to articulate profusely corrupt actors around the distribution of extra public resources arguing that they would be used to address the COVID-19 pandemic. Now everything is so confusing that Guatemalans do not know if they will ever have a real opportunity to get vaccinated.

The existing socioeconomic structure is a faithful ally. The high illiteracy rate of 18.5% makes it difficult to establish channels of communication<sup>8</sup>. Likewise, the rural population, still a majority, lives almost completely away from governmental activities. Is this sustainable in these times of increasing articulation? The answer seems obvious, no. The dependence of life sustainability on the work of nationals who, in subhuman conditions, join the U.S. workforce, makes a development model such as the current one unfeasible and unsustainable in the long run. Government leaders also know that the current situation allows them to sustain the model of wealth accumulation.

The few spaces for civil society activities have been gradually closing, the most important milestone, and pointed out by the organizations that participated in this exercise, is the approval and entry into force of Decree 4-2020 Reforms to the Law of Non-Governmental Organizations for Development, a regulation that creates summary procedures for discretionary closure of Non-Governmental Organizations by the Government, practically a civil death sentence without prior trial. The aforementioned regulation is similar to laws implemented by authoritarian states such as Venezuela and Nicaragua, whose purpose is to eliminate organizations that are critical of the government's deficient policies.

Conversely, the political and electoral system, in spite of progress in its regulations such as political financing controls, has not been able to overcome the dynamics of control and co-optation exercised by political and economic groups. The 2019 elections are a clear example

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<sup>8</sup> In Guatemala, according to the results of the last Census in 2018, the illiteracy rate is 18.5%, equivalent to 2.3 million inhabitants who cannot read or write. Available at: [https://www.censopoblacion.gt/archivos/Principales\\_resultados\\_Censo2018.pdf](https://www.censopoblacion.gt/archivos/Principales_resultados_Censo2018.pdf)



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of the way in which political parties systematically evade the few controls implemented by the Supreme Electoral Court, an institution that does not have the required independence and power to develop the controls established in the Electoral Law, which allowed the current government to come to power, even without having transparently reported its campaign financing.

In general terms, this is the context in which the government's actions are inserted. There are many “loose” resources that allow them to broaden their base without compromising their assets. This is precisely what has allowed the appropriation of public resources without any opposition to the despicable act of corruption. The question that must be asked in this situation is: Is there a possibility of reconstruction? The answer is that even weakened institutions with honorable actions have been able to sustain themselves with social support. Such is the case of the Human Rights Ombudsman's Office led by Jordan Rodas Andrade, which despite having suffered a systematic attack, even to the point of restricting its resources, has been able to maintain itself as an institution; finally, the most at-risk judges Erika Aifán, Yassmin Barrios, Pablo Xitumul and Miguel Ángel Gálvez, who despite attacks, surveillance, espionage and criminalization, continue to act with due ethics to fulfill their role in an independent manner.

In the following paragraphs, the social organizations that make up different platforms for promotion and protection of human and citizens' rights in the country, present the conclusions of their analysis of corruption in Guatemala. The associations have suffered persecution and have been able to sustain themselves, with difficulty, but convinced of their work.

The main results of this exercise are presented below. This analysis is complemented by information contained in Annex 1 “Assessment of the Lima Agreement in Guatemala” and Annex 2 “Actions and Recommendations for Compliance with the Lima Agreement in Guatemala.”

## Results for Guatemala

As a result of the VIII Summit of the Americas, a process in which the Citizen Forum of the Americas had an active participation, the countries of the region signed the Lima Agreement, entitled “Democratic Governance against Corruption,” which established 57 commitments, in order for member states to implement concrete actions to build citizen’s trust in institutions and reduce the negative impact of corruption on the effective enjoyment of human rights and sustainable development of the peoples in the American hemisphere.

For the follow-up, four criteria were taken into account to select commitments that were representative for analyzing anti-corruption actions in the countries of the region, sustainable over time and with the possibility of becoming institutionalized, embody new approaches in anti-corruption actions, and involve the perspective of vulnerable populations. As a result, 19 commitments were selected, and grouped into 5 specific topics:



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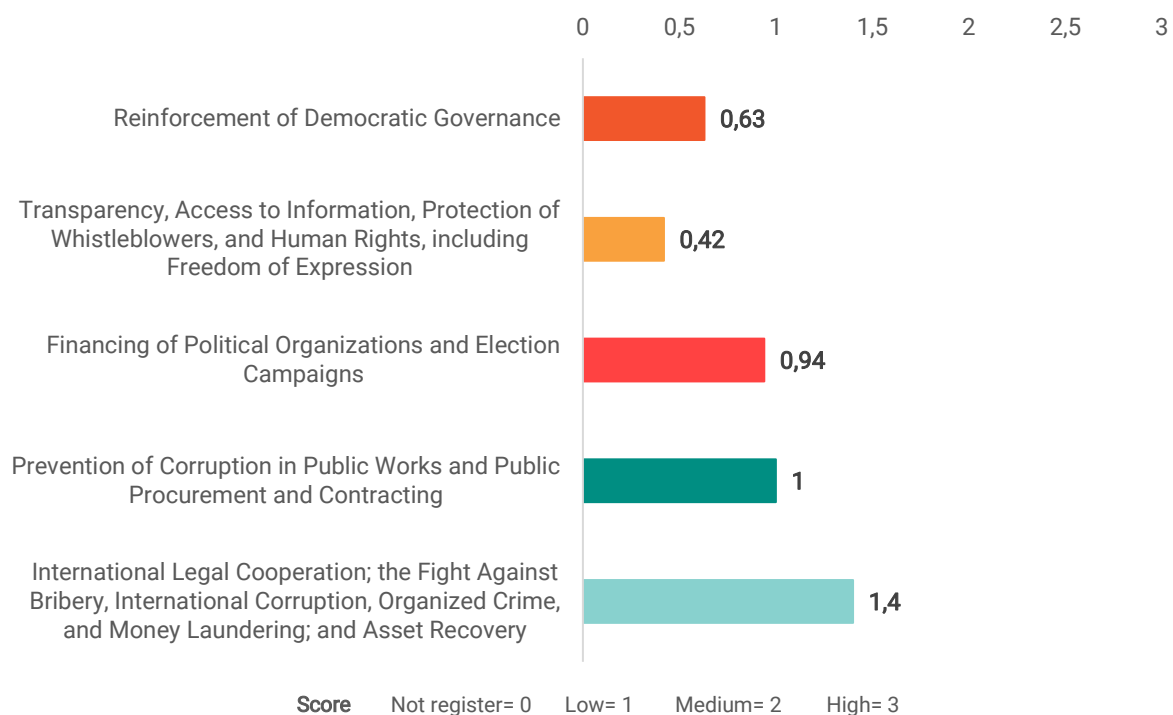
- A. Reinforcement of Democratic Governance.
- B. Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression.
- C. Financing of Political Organizations and Election Campaigns.
- D. Prevention of Corruption in Public Works and Public Procurement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

These commitments were analyzed by identifying policy and practical developments which were rated on a scale<sup>9</sup> 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 shows the general results obtained for Guatemala in the five areas in which the commitments are classified:

Graph 1<sup>10</sup>. Results by Theme under the Lima Agreement



<sup>9</sup> Rated on a scale of 0 to 3: 0=no records, 1=low, 2=average and 3=high

<sup>10</sup> The colors implemented in the graphs herein reflect the color allocation to each of the CCO central themes and do not refer to a number scale.



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

In general terms, Guatemala shows a clear regressive trend in terms of fight against corruption and impunity, derived - in part - from a clear trend towards part of the State to limit the spaces of civil society, highlights the entry into force of reforms to the NGO Law and the limits of the emphasis on criminal prosecution in corruption structures and cases; in part also due to the weakness of social actors and citizens committed to the issue; and, to a large extent, due to the alignment of groups or segments of political, economic and military elites to co-opt the Government.

This is reflected in different areas of the fight against corruption and impunity. For example, in the area of access to public information, although Guatemala continues to have a robust law, there is a perceived reduction in the willingness of national institutions to provide information in a timely and accurate manner, particularly in the context of the COVID-19 pandemic, which allowed institutions to withhold public information.

In terms of political financing, Guatemala continues to have a robust regulatory framework, although there is clearly room for improvement, but there is less willingness on the part of the control bodies to apply these rules and act firmly to prevent the risks and threats arising from illicit money infiltration in politics.

In terms of investment in public works, an area in which some of the main corruption cases and structures have clearly occurred in recent years, there has been less use of the country's existing systems and mechanisms, particularly in the case of GuateCompras. Once again, the exception mechanisms authorized by the Congress of the Republic to address the pandemic, created conditions for direct purchases with reduced or suspended transparency mechanisms.

Finally, in terms of international legal cooperation, the recent experience of non-renewal of CICIG's mandate, the increase of nationalist narratives and the growing distrust of the international community towards national institutions involved in the fight against corruption and impunity, generate a context of weakening of legal cooperation mechanisms or reduced willingness of national institutions to use them.

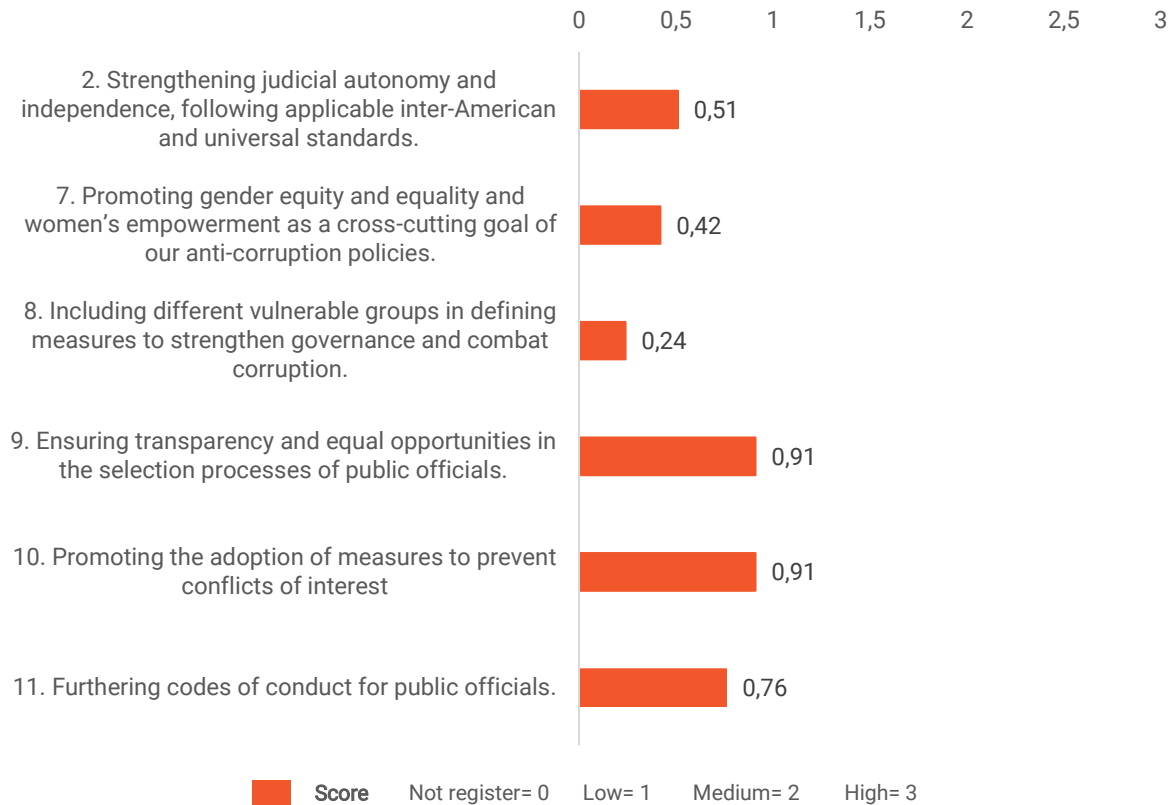


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## 1. Reinforcement of Democratic Governance

Graph 2. Results of commitments related to reinforcing democratic governance



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

- Guatemala is clearly going backwards in terms of democratic governance. Actions taken by the government to comply with the Lima Agreement are minimal and ineffective. Historical and other clearly contextual factors contribute to this situation: the former refer to the accumulation of a widespread social and territorial conflict related to multiple issues such as the exploitation of subsoil resources, access to water and land, just to mention some of the most relevant ones; the contextual factors suggest a scenario of marked political and social polarization at the national level, which reproduces a friend-enemy logic among various organized actors, whose origin is related to the approach and results of the fight against corruption, but which has been extending to other areas such as the restriction of human rights such as freedom of association through the entry into force of Decree 4-2020 Reforms to the Law on Non-Governmental Organizations for Development, which establishes summary and discretionary procedures to close organizations, a political tool to eliminate voices that criticize the country's system of corruption; and the reform to the security and justice sector <sup>11</sup>.

<sup>11</sup> Several lawsuits have been filed against Decree 4-2020. One of them can be accessed at the following link: <https://lahora.gt/presentan-inconstitucionalidad-contra-reformas-a-ley-de-ons/>



- The most highly rated commitment is that of ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria such as merit, equity and aptitude. Although there is a broad and long-standing debate on the validity or not of a properly structured civil service regime, at least there are certain minimum protocols and procedures that favor the disclosure of positions that are open to competition and minimum provisions aimed at promoting competition for such positions, however, there is evidence of stagnation, as old as the Civil Service Law itself, which dates back to 1968.
- The lowest rated commitment is the inclusion of vulnerable groups in defining measures to strengthen governance and combat corruption. There is a widespread political and socioeconomic dynamic of exclusion of segments of the population with unfavorable, insufficient or differentiated access to public services. This particularly affects indigenous peoples, who represent - according to demographic estimates - at least 40% of the Guatemalan population, women with 51% of the population, and even more the LGTBIQ+ communities who face systematic discrimination from a conservative Government.<sup>12</sup>

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<sup>12</sup> Such exclusion is visible in different areas. The LAMBDA Association, which played a key role in the Observatory by participating as a CSO presenting the situation of the LGTBIQ+ community, has produced several reports on the differentiated impact. For further information, see: <http://asociacionlambda.org/informes>

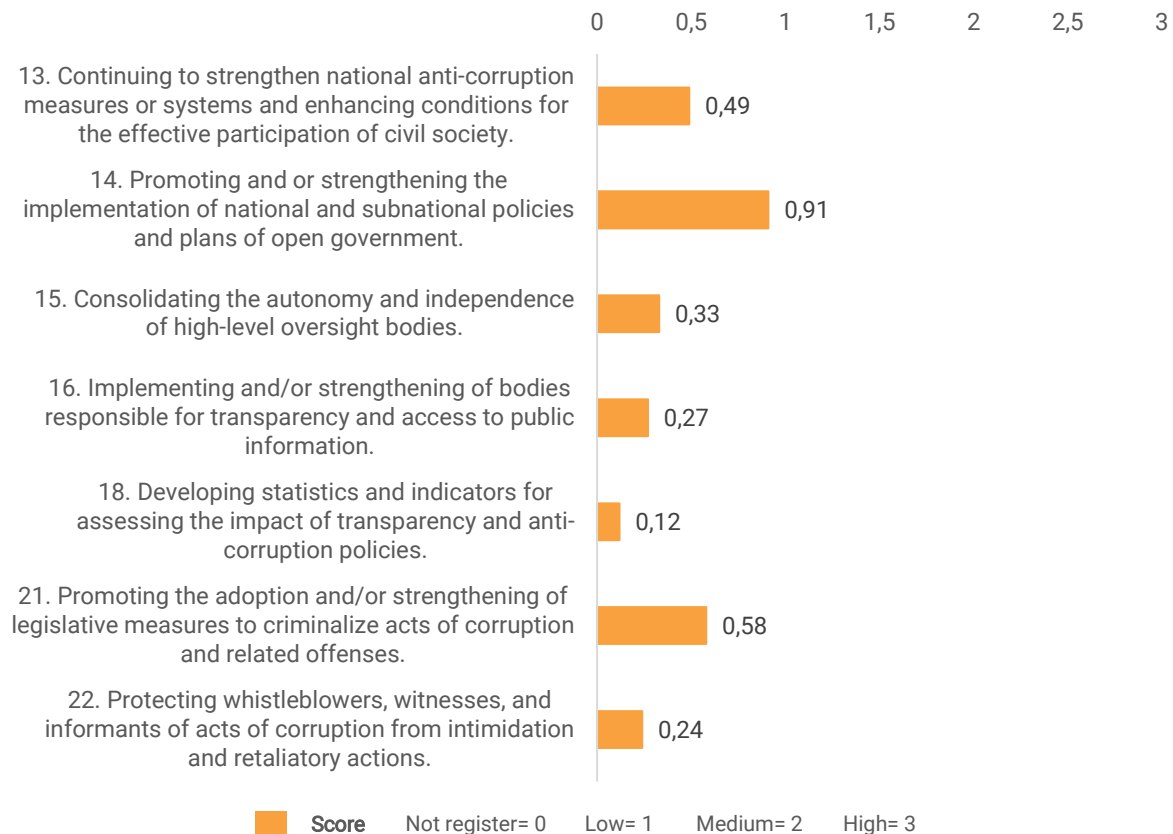


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## 2. Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression.

Graph 3. Results of commitments related to transparency, access to information, whistleblower protection, and human rights, including freedom of expression.



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

- Guatemala has a robust and well-structured law on access to information, which - for several years - has been reasonably and effectively applied, although greater appropriation of this law by the public has always been pending, in order to increase the social demand for transparency and accountability. However, in the context of the current reversion situation of the anti-corruption progress achieved prior to 2016, the validity and effective application of this legal framework has been decreasing and faces growing challenges, particularly due to a reduced willingness of institutions to provide information in a timely and clear manner. There is also an increase in terms of the threats and risks faced by whistleblowers, human rights operators and, in general, civil society organizations and the media, in the face of the attack by public, political and private actors who consider these types of operators as political opponents. In fact, members of CSOs, specifically REDNACTP, have been victims of threats and violent attacks as a result of their work in favor of the fight against corruption and the exercise of their right to Social Auditing <sup>13</sup>.

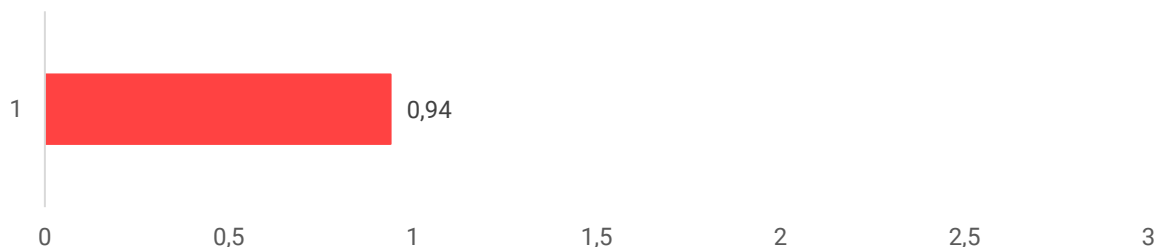
<sup>13</sup> A clear example is that of Carlos Sajmoló Pichiyá, available at: <https://pbi-guatemala.org/es/quién-acompañamos/asociación-de-vecinos-contra-la-corrupción-de-patzic%C3%ADa-avccp>



- The highest rated commitment in all three criteria is the implementation of national policies and plans in the areas of open government. However, recent governments have used open government mechanisms to legitimize decisions contrary to the fight against corruption, such as the expulsion of CICIG from Guatemala. These mechanisms do not respond to a true inclusion of Civil Society or groups in vulnerable situations in defining transparency policies and public policies in general. Space has been further limited by the government's decision to approve the entry into force of Decree 4-2020 Reforms to the Law of Non-Governmental Organizations for Development, which establishes summary and discretionary procedures to close organizations, a political tool to eliminate voices that criticize the country's system of corruption.
- The lowest rated commitment is developing statistics for assessing the impact of transparency and anti-corruption policies and, to this end, advancing government capacities in this field. In Guatemala, there are no public policies for transparency and the fight against corruption; after the withdrawal of the International Commission against Impunity in Guatemala, dynamics of lack of transparency and corruption have been established; and the few actions that have been taken do not allow for a true monitoring of their impact.

### 3. Financing of Political Organizations and Election Campaigns

Graph 4. Results of the commitment related to the financing of political organizations and electoral campaigns.



■ 25. Adoption and/or strengthening of measures to promote transparency, accountability, appropriate accounting, and use of the banking system for income and expenditures of political organizations and electoral campaigns.

■ Score Not register= 0 Low= 1 Medium= 2 High= 3

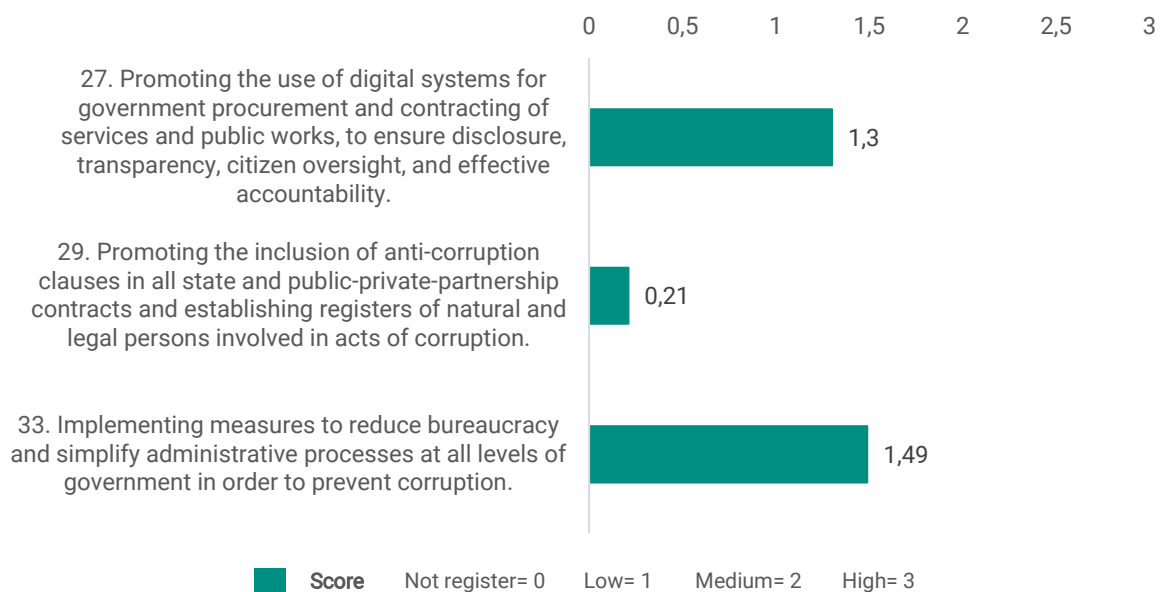
Prepared by author on the basis of information provided by CSOs participating in the CCO Platform

- In terms of political party and electoral campaign financing, it is clear that Guatemala made a qualitative leap from the legal reform approved in 2016. However, it is clear, looking at the performance of control bodies established during the 2019 elections, that this legislation shows certain limitations in terms of design, interpretation and effective application. In terms of design, the legislation includes certain unclear norms with some contradictions, which make its application difficult and may generate undesired effects, such as inhibiting licit actors interested in financing parties and campaigns; interpretation problems, referred to the way in which the Supreme Electoral Court (TSE, but its Spanish initials) has regulated the issue of control and

oversight, and - particularly - to the criteria for applying the sanctions regime; and application problems, related to certain norms which could not be enforced either due to the lack of technical capacity on the part of the control body or due to resistance or lack of clarity about the scope of the norms on the regulated subjects<sup>14</sup>.

#### 4. Prevention of Corruption in Public Works and Public Procurement and Contracting

Graph 5. Results of commitments related to the Prevention of Corruption in Public Works, Public Procurement and Contracting



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

- The evidence gathered in previous years and made public in the major corruption cases prosecuted by the Public Prosecutor's Office and CICIG, shows that public works is one of the investment areas most vulnerable to corruption practices. Some CSO members, specifically from REDNACTP, recently presented a social audit report detailing irregularities in certain contracts<sup>15</sup>. In 2016 there was an important reform to the procurement and contracting law that strengthened transparency and control mechanisms, resulting in a significant change in the regulatory approach compared to the previous law. This reform had undesired effects, such as reducing public investment due to what some critics consider an excess of control that hinders the procurement and contracting processes. However, it is evident that the emphasis continues to be placed more on controlling and sanctioning corruption, and less on developing systems to prevent and detect corruption risks at an early stage.

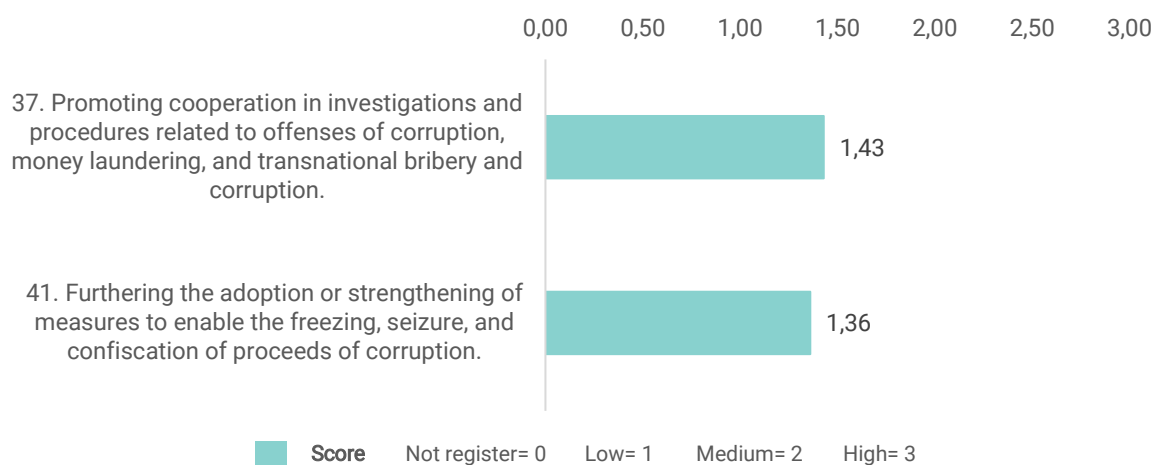
<sup>14</sup> For more information, visit: <https://www.prensalibre.com/guatemala/politica/propuesta-de-reformas-a-la-ley-electoral-favorecen-a-los-partidos-politicos/>

<sup>15</sup> For more information, visit <https://lahora.gt/senalan-lentitud-en-investigaciones-por-79-denuncias-presentadas-en-mp/>

- The highest rated commitment in the three criteria is implementing measures to reduce bureaucracy and simplify procedures at all levels of government to prevent corruption; the reason for this is the recent approval of the Law for Simplification of Administrative Requirements and Procedures (Decree 5-2021), which aims at reducing bureaucracy and promoting government efficiency and productivity. This law was approved on May 5, 2021; however, since it was recently approved, it has not yet been implemented.
- The lowest rated commitment is promoting the inclusion of anti-corruption clauses in all state contracts. Guatemala's State Contracting Law does not set forth in any article the obligation to establish anti-corruption clauses in contracts with government suppliers and contractors. However, the Law does regulate the eligibility requirements for them, as well as the prohibition of their involvement in illicit or criminal activities.

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

Graph 6. Results of commitments related to international legal cooperation; the fight against bribery, international corruption, organized crime and money laundering; and asset recovery



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

- Guatemala innovated in terms of international legal cooperation since the establishment of CICIG, an organization that not only contributed to improve the technical capacities of investigation and criminal prosecution of corruption structures and cases, but also strengthened the regulatory and institutional dimension of the Guatemalan Government. However, the non-renewal of its mandate in 2019 dealt a serious blow to the process of strengthening national capacities and the fight against corruption, strengthening a regressive counter-reform agenda in this area, including the dismantling of some of the most important regulatory and institutional progress. This takes place in a broader context, where under a narrative of sovereignty, there are economic, social and political elites increasingly resistant to accept international

norms and institutions as part of the framework for the fight against corruption and impunity.

- The most highly rated commitment is promoting the broadest cooperation among judicial authorities, police, prosecutors, financial intelligence units and administrative authorities in investigations and procedures related to offenses of corruption, money laundering, bribery and transnational bribery. In this regard, the Special Prosecutor's Office against Impunity in Guatemala has promoted exchanges with other prosecutors' offices and coordination to carry out transnational investigations; likewise, there is progress in the Law on Forfeiture. This shows that actions have been taken that contribute to the fight against corruption.
- The lowest rated commitment is the furthering and adoption of measures to enable the seizure, forfeiture and confiscation of proceeds from corruption. However, in Guatemala there is the Law on Forfeiture (Decree 55-2010) that has allowed recovering, in favor of the Government, without prior criminal conviction or any consideration, assets, profits, products and proceeds generated by illicit or criminal activities.

## Conclusions

The following conclusions can be drawn from the work carried out by the Guatemalan organizations that participated in the exercise to monitor the progress and setbacks of the Lima commitments:

- I. Over the past two years, Guatemala has suffered a serious setback in terms of democratic governance, marked by the weakening of the justice system through the co-optation of the courts of justice, systematic attacks against oversight bodies such as the Special Prosecutor's Office against Impunity in Guatemala, the Human Rights Ombudsman and judges at greater risk; and, the approval and entry into force of Decree 4-2020 Reforms to the Law of Non-Governmental Organizations for Development that establish mechanisms and summary and discretionary procedures to close society organizations, a sign of decisions aimed at limiting guarantees and freedoms for participation of large sectors of the population, including indigenous peoples, women and the LGTBIQ+ community.
- II. There is little progress in terms of transparency and access to public information. Attacks against the Human Rights Ombudsman (authority guarantor of access to public information) stand out, to the point of restricting its budgetary resources assigned by the same law. In addition, there is evidence of measures that benefit the lack of transparency and facilitate corruption, marking an intentional setback in these issues.



- III. The few anti-corruption policies, such as the Open Government spaces or the Presidential Commission against Corruption, are mechanisms used to legitimize decisions contrary to the fight against corruption and transparency promotion. In general, actions carried out under these initiatives have failed to prevent or adequately respond to corruption scandals and to a large extent fit into what is internationally known as open wash.
- IV. There is evidence of regulatory progress to control political financing in Guatemala. However, in practice, the capacities of the oversight bodies are limited by several factors, including the lack of political willingness of authorities to implement the reforms and also limitations in the design, interpretation and application of the rules for overseeing the financing of political parties.
- V. There was evidence of progress in terms of transparency in public procurement. The Guatecompras system and other transparency mechanisms administered by the Ministry of Public Finance are important tools for citizen oversight, which, despite requiring technical knowledge for their use, allow for the monitoring of public procurement.
- VI. Despite having transparency tools, the prevention of corruption in public works and infrastructure is limited, partly because there are no actual anti-corruption policies in the contracting of this type of works, such as the inclusion of anti-corruption clauses in State contracts and above all the lack of political willingness to implement a true anti-corruption policy in the State entities in charge of the country's works and infrastructure.
- VII. Progress made in the fight against organized crime, bribery and international corruption, money laundering and international legal cooperation derives from the legacy of the International Commission against Impunity in Guatemala, which is reflected in the work carried out by the Special Prosecutor's Office against Impunity in Guatemala.
- VIII. Despite the progress made in the fight against corruption, impunity and organized crime, the Special Prosecutor's Office against Impunity in Guatemala has been the victim of systematic attacks for its closure and also of smear campaigns, even by the government itself.



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## Calls for Action (Actions and Recommendations)

### Theme 1 – Reinforcement of Democratic Governance

Action	Recommendations
Strengthening judicial autonomy and independence to promote respect for the Rule of Law and access to justice, as well as to promote policies of integrity and transparency in the judicial system.	Create coordination mechanisms between national and local entities aimed at developing anti-corruption policies.
	Promote citizen training spaces in order to provide an effective mechanism for participation and social control.
	Encourage plural spaces for participation in defining public and anti-corruption policies, and in particular, reforming decentralization systems to avoid corruption and nepotism when defining public policies at the local level.
	Strengthen and consolidate the institutional framework of the Special Prosecutor's Office against Impunity in Guatemala.
Promoting gender equity and equality and women's empowerment	Include provisions for promoting gender equity and equality in anti-corruption policies.
	Promote cooperation actions at the national and international level on the subject, including measures to ensure effective implementation thereof.
Including different vulnerable groups in defining measures to strengthen governance and combat corruption.	The regulations should define which groups are in vulnerable situation.
	Promote mechanisms for vulnerable groups to participate in defining anti-corruption measures.
	Promote studies and official documents that recognize the differentiated impact of corruption on vulnerable groups.
Ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria, such as merit, equity, and aptitude.	Reforms to the justice system are necessary to allow for a proper judicial career that takes into account meritocracy and evaluation of judges in the Judiciary.
	Mechanisms must be in place so that the public can learn about the selection processes of public officials (such as accountability reports or web pages with updated and reliable information).
Other	Articulate national and international efforts aimed at reducing and eradicating threats against non-governmental organizations, such as Decree 4-2020.

Theme 2 - Transparency, Access to Information, Protection of Whistleblowers, and Human Rights, including Freedom of Expression

Action	Recommendations
<p>Creating and strengthening national anti-corruption measures or systems for effective participation of civil society, organizations, citizens, and other actors.</p>	<p>Create a manual, policy or procedure that specifies how and where complaints can be made.</p>
	<p>Generate general statistics on reports of possible acts of corruption, showing the number of complaints, the issues and the entities involved.</p>
<p>Strengthening the implementation of open government policies and plans</p>	<p>Promote e-government and digital participation policies and plans that are built in consensus with civil society and generate a real impact in the fight against corruption, giving citizens an informative, consultative, decision-making and/or oversight role.</p>
	<p>Open government spaces should include representative organizations, especially indigenous peoples, women, LGTBIQ+ community and other important segments of the population, so that they can contribute to creating a representative Open Government Plan that does not allow their instrumentalization.</p>
<p>Ensuring the strengthening of bodies responsible for transparency and access to public information.</p>	<p>Promote construction of political and social support networks to help reducing regressive tendencies and capturing the bodies involved by other public or private powers.</p>
	<p>Develop advocacy and social auditing processes aimed at guaranteeing the budgets of bodies responsible for access to public information.</p>
	<p>Strengthen coordination and cooperation among specialized bodies at the regional level and with international cooperating partners.</p>
<p>Ensuring protection of whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.</p>	<p>Promote effective measures for physical, labor and reputational protection of whistleblowers, witnesses and informants.</p>
	<p>Create a comprehensive public policy on whistleblowing and whistleblower protection.</p>

Action	Recommendations
Consolidating the autonomy and independence of high-level oversight bodies.	In order to prevent possible acts of corruption, promote the reporting and processing of conflicts of interest.
	Promote the construction of political and social support networks to help reducing regressive tendencies and capturing the bodies involved by other public or private powers.
Other	Create support networks to prevent and help reducing attacks, aggressions or undue dismissals of judicial officials and oversight bodies committed to the fight against corruption and impunity.
	Provide opportunities for international insertion of operators committed to the fight against corruption and impunity, not only to maintain their contributions, but also to guarantee them security and employability.

### Theme 3 - Financing of Political Organizations and Election Campaigns

Action	Recommendations
Strengthening of measures promoting transparency, accountability of political organizations and parties	Strengthen mechanisms to oversee political financing, especially by providing regulatory tools and resources for the Supreme Electoral Court to control and sanction political parties that are not accountable for their financing.
	Ensure the reporting of all contributions and funding sources in the electronic platform " <i>Cuentas Claras</i> ".
	Strengthen the inter-institutional coordination mechanisms with the General Comptroller's Office, the Superintendence of Tax Administration (SAT, by its Spanish initials), the Special Verification Intendancy within the Superintendence of Banking Administration and the Superintendence of Telecommunications, guaranteeing the cross-checking of money flows in politics, as established by the Electoral and Political Parties Law.

### Theme 4 – Prevention of Corruption in Public Works and Public Procurement and Contracting.

Action	Recommendations
Strengthening the use of digital systems for	Make GuateCompras more user-friendly for anyone who is a supplier or user interested in monitoring or overseeing public procurement.



Action	Recommendations
government procurement and contracting of services and public works, to ensure transparency, citizen oversight, and effective accountability	Complete implementation of all phases of the GuateCompras system until it is fully optimized.
	Generate an educational campaign to explain the use of the GuateCompras platform.
Promoting the inclusion of anti-corruption clauses in all state and public-private-partnership contracts and establishing registers of natural and legal persons involved in acts of corruption and money laundering with a view to ensuring that they are not contracted	Implement anti-corruption clauses in public works contracts.
	Build and implement a policy to prevent and identify corruption in entities in charge of executing public works.

**Theme 5 – International Legal Cooperation; the Fight Against Bribery, International Corruption, Organized Crime, and Money Laundering; and Asset Recovery.**

Action	Recommendations
Promoting the broadest possible cooperation among authorities in investigations and procedures related to offenses of corruption.	Provide for an effective exchange of information between judicial, police, prosecutorial and administrative authorities.
	Foster an evidence-based debate on the relevance and usefulness of international cooperation in the fight against corruption to help overcome the current tendency towards isolationism.



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## Annexes

### Annex No. 1 Rating of the Lima Agreement in Guatemala

#### Reinforcement of the Democratic Governance

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

Commitment	Relevance	Effectiveness	Sustainability	Country Average
2. Strengthening 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.	0.45	0.64	0.45	0.51
7. Promoting 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.	0.45	0.45	0.36	0.42
8. Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing their serious impact on these populations.	0.27	0.18	0.27	0.24
9. Ensuring transparency and equal opportunities in the selection processes of public officials, based on objective criteria, such as merit, equity, and aptitude.	1.00	1.00	0.73	0.91
10. Promoting the adoption of measures to prevent conflicts of interest, as well as the submission of declarations of assets and financial information by public officials, as appropriate.	0.91	1.00	0.82	0.91
11. Furthering codes of conduct for public officials 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.	1.00	0.91	0.36	0.76

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

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

Commitment	Relevance	Effectiveness	Sustainability	Country Average
13. Continuing to strengthen national anti-corruption measures or systems and enhancing	0.45	0.64	0.36	0.48

Commitment	Relevance	Effectiveness	Sustainability	Country Average
conditions for the effective participation of civil society, social organizations, academia, the private sector, citizens, and other social actors in monitoring government performance, including the development of prevention mechanisms, channels for reporting possible acts of corruption and facilitating the work of watchdogs, including other citizen oversight mechanisms, and incentivizing the adoption of digital means of participation.				
14. Promoting and/or strengthening the implementation of national and subnational policies and plans of open government, digital government, open data, fiscal transparency, open budgeting, digital procurement systems, public contracting and a public registry of state suppliers, considering towards that end the participation of civil society and other social actors.	1.00	0.91	0.82	0.91
15. Consolidating the autonomy and independence of high-level oversight bodies.	0.45	0.27	0.27	0.33
16. Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on applicable international best practices.	0.27	0.55	0.00	0.27
18. Developing statistics and indicators in our countries for assessing the impact of transparency and anti-corruption policies and advancing government capacity in this field.	0.18	0.18	0.00	0.12
21. Promoting the adoption and/or strengthening of legislative measures to criminalize acts of corruption and related offenses consistent with the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organized Crime, and the Inter-American Convention against Corruption (IACAC).	0.64	1.00	0.09	0.58
22. Protecting whistleblowers, witnesses, and informants of acts of corruption from intimidation and retaliatory actions.	0.36	0.27	0.09	0.24

### Financing of Political Organizations and Election Campaigns

Table 3. Follow-up criteria for commitments related to Financing of Political Organizations and Election Campaigns.

Commitment	Relevance	Effectiveness	Sustainability	Country Average
25. Encouraging adoption and/or strengthening of measures to promote transparency, accountability, appropriate accounting, and use of the banking system for income and expenditures of political organizations and parties, especially those related to their electoral campaigns, in order to guarantee the licit origin of the contributions and penalizing anyone involved in accepting illicit contributions.	1.00	1.09	0.73	0.94

Prevention of Corruption in Public Works and Public Procurement and Contracting

Table 4. Follow-up criteria for commitments related to Prevention of Corruption in Public Works and Public Procurement and Contracting

Commitment	Relevance	Effectiveness	Sustainability	Country Average
27. Promoting the use of digital systems for government procurement and contracting of services and public works, to ensure disclosure, transparency, citizen oversight, and effective accountability.	1.27	1.55	1.09	1.30
29. Promoting the inclusion of anti-corruption clauses in all state and public-private-partnership contracts and establishing registers of natural and legal persons involved in acts of corruption and money laundering with a view to ensuring that they are not contracted.	0.27	0.27	0.09	0.21
33. Implementing measures to reduce bureaucracy and simplify administrative processes at all levels of government in order to prevent corruption.	1.64	1.64	1.18	1.48

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

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

Commitment	Relevance	Effectiveness	Sustainability	Country Average
37. Promoting 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.	1.55	1.45	1.27	1.42
41. Furthering the adoption or strengthening of measures through relevant institutions to enable the freezing, seizure, and confiscation of proceeds of corruption.	1.36	1.55	1.18	1.36