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**REGIONAL THEMATIC REPORT:  
Guaranteeing the Right of Access to Information**





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## 1. Summary

This report addresses the state of the right of access to information in the region, reassessing some of the international instruments on the matter, based on the analysis of the results obtained in the follow-up developed by the CCO. The analysis includes the identification of some strengths and weaknesses to guarantee access to information in the region, as well as some recommendations to make progress in the matter.

In general terms, progress related to regulatory developments and public policies aimed at promoting active transparency and digital government have been identified in the region. However, the 19 countries participating in the CCO recognize the lack of development of initiatives that promote citizen participation regarding policies that favor the fight against corruption, as well as controlling bodies, as one of the main obstacles in the matter.

An important element towards this analysis is how the pandemic has had a direct effect on guaranteeing the right of access to public information, due to changes in management and citizen interaction with institutions. Likewise, during the follow-up period, several of the CCO participating countries reported limitations involving citizen participation, threats and lack of guarantees for the exercise of social control.

## 2. Introduction

Through the Citizen Forum of the Americas (CFA), we have sought to strengthen Civil Society (CS) meeting and dialogue spaces to address the social, political and economic realities that impact the region, in order to create shared agendas to strengthen democracies, guarantee human dignity, and improve the quality of life in the continent (Citizen Forum of the Americas, 2021).

Within the framework of this initiative, the project “Citizen Corruption Observatory (CCO) - Follow-up on the Lima Agreement” was created to strengthen the CFA by co-creating, together with the Latin American and Caribbean Network for Democracy (REDLAD) and the Chapters of Transparency International in the region, an observatory to provide technical support for the implementation of the Civil Society Participation in the Summit of the Americas (PASCA) project.

The CCO is made up of a coalition of civil society organizations and social actors from 19 countries of the American continent who have jointly pursued a follow-up on the fulfillment



of the agreements adopted by the governments of the region at the VIII Summit of the Americas held in Lima, Peru, in 2018.

As a result of this summit, the countries signed the Lima Agreement “Democratic Governance in the Face of Corruption”, which includes 57 commitments regarding the adoption and progress of measures to fight corruption in the region. These commitments, which the CFA actively participated in defining, acknowledge that preventing and combating corruption is fundamental to strengthening democracy in the region and that corruption has a negative impact on institutions, public trust and the full enjoyment of human rights. In this sense, several of the actions included in the Lima Agreement reaffirm the agreements made by the governments of the region within the framework of other international anti-corruption treaties such as the United Nations Convention against Corruption (UNCAC) and the Inter-American Convention against Corruption (IACAC).

In order to follow up on the progress made by civil society in the fulfillment of these commitments between November 2020 and June 2021, over 150 social organizations participating in the CCO (several of which are also part of the CFA)<sup>1</sup>, implemented a participatory methodology that made it possible, on the one hand, to select specific commitments for follow-up and, on the other, to deploy a process of analysis and validation of the progress made in both policy and practical terms.

Thus, in a participatory and concerted manner, 19 commitments were selected on the basis of four analysis criteria: sustainability, inclusion of new approaches, vulnerable groups and representativeness.

The methodology for monitoring and analyzing progress on the prioritized commitments consisted of an inquiry into the regulatory frameworks in force in each of the 19 CCO countries and their comparison with practical implementation. This analysis was complemented with an assessment of progress in each commitment in terms of sustainability, effectiveness, and relevance.

**Table 1. Description of Indicators and Reference Sources**

	POLICY INDICATORS	PRACTICE INDICATORS
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<sup>1</sup> For more information on the FCA's participating organizations, please visit the following website: <https://forociudadanoamericas.org/foro-ciudadano-de-las-americas/>



Description	The policy indicators show the legislation in force that regulates the issues covered by the commitments of the Lima Agreement Summit.	The practice indicators are specific actions or measures taken by each government in response to the anti-corruption commitments undertaken or reiterated during the VIII Lima Summit.
Reference Sources	For these indicators, each country's standards, relevant jurisprudence, and constitution were reviewed through 74 questions that inquired about progress on each prioritized commitment.	The analysis based on practical application is substantiated by verification such as interviews, reports on fulfillment of anti-corruption commitments, requests for information, and media reports, among others.  A total of 64 questions were formulated to inquire about the practical progress of the prioritized commitments.

Based on this analysis, a report was prepared in each country that includes the results of the follow-up to the Lima Agreement. Two regional reports were also prepared, one on the balance of the policy framework in Latin America to address corruption and the other on the general findings of the follow-up to the Lima Agreement<sup>2</sup>.

To complement this process, a consultation exercise with the CFA organizations defined five specific topics to be analyzed in greater detail, based on the results of the follow-up on the Lima Agreement carried out by the CCO:

1. Access to public information in pandemic context.
2. Public procurement in pandemic context.
3. International legal cooperation in investigations and proceedings related to crimes of corruption, money laundering, bribery and transnational corruption.
4. Gender focus in the fight against corruption.
5. Fight against corruption with human rights approach and inclusion of vulnerable groups.

These issues seek to contribute to the challenges and needs for transformation and progress in the region highlighted by the CFA, in terms of "gender, non-discrimination,

<sup>2</sup> Both country and regional reports are available on the OCC website. See: <https://occ-america.com/#>





respect for the territories and culture of indigenous peoples, and the real and effective commitment that States must have to address difficulties such as the pandemic generated by COVID-19 and the climate crisis” (Citizen Forum of the Americas, 2021).

This report expressly focuses on the progress analysis and compliance with guaranteeing the right of access to public information, based on the assessment made in the 19 CCO participant countries regarding agreements No. 14 “Promoting and/or strengthening the implementation of national policies and plans and, as appropriate sub-national plans in the areas 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.” and No. 16 “Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on applicable international practices.”

The analysis is complemented by reports on the subject submitted by organizations such as the Inter-American Development Bank (IDB), the Open Government Partnership (OGP), the Economic Commission for Latin America and the Caribbean (ECLAC), IDEA International, UNESCO and social organization alliances such as the Regional Alliance for Free Expression and Information, and the Citizen Corruption Observatory.

## 1. Guaranteeing the Right of Access to Information

Access to public information is an essential principle of democracy and a fundamental right that enables citizen participation, control of public management and the exercise of other rights. In line with the provisions in Resolution 1/18 of the Inter-American Commission on Human Rights - IACHR, public information is essential in the fight against corruption, since it allows public management monitoring and control and promotes accountability. Discretion in decisions in times of crisis, without due control and accountability, is a source of possible acts of corruption that end up violating fundamental rights.

In the last two years, calls have been made from various international organizations for governments to guarantee the right of access to public information, even in scenarios of political instability or a pandemic, being contexts in which it is even more important to protect human rights and democratic systems.

Even before the pandemic, several reports on the conditions of democracy in Latin America have identified weaknesses and threats to this right. These adverse conditions for



democracies in the region also affect constitutive aspects of democracy and open government initiatives. For example, the 2019 Open Government Partnership (OGP) global report drew special attention to the deterioration of civic spaces, the basic freedoms of assembly, association and expression, as well as the fundamental rights that enable transparency, participation and accountability (Open Government Partnership, 2019). In addition to this, the Latinobarómetro survey acknowledged that freedom of expression “fell 12 points, from 58% to 46% between 2018 and 2020” (Corporación Latinobarómetro, 2021, p. 54).

Democratic deterioration in the region has become more evident in times of pandemic, due to the inability of several governments to face the crisis (IDEA International, 2021), which led them to scenarios of “political polarization, fragmented party systems, a deep crisis of representation and legitimacy, and citizen discontent with political elites and traditional decision-making bodies” (IDEA, 2021, p. v).

In order to analyze the state of democracy index in the countries of the region<sup>3</sup>, IDEA sums up the weakening and difficulties for the exercise of civil liberties in Latin America and the Caribbean and, in particular, presents the case of Uruguay as the only country in the region that has had a high performance regarding its democracy. In contrast, countries such as Brazil, Bolivia, and Colombia, despite being average performers, are democracies that have experienced declines in civil liberties, checks and balances, policy compliance, and corruption indicators.

Gaps in technologies and internet access have been identified, since, despite the implementation of digital government programs in the region, the coverage and differences between urban and rural areas connectivity have been evident, so much so that “67% of urban households are connected to the Internet compared to only 23% in rural areas” (ECLAC, 2020, p. 3). In spite of this, during the pandemic, countries such as Argentina, Colombia, and Honduras had an increase in websites use to report on the epidemiological evolution, vaccination, hiring, among other issues associated with the pandemic (Regional Alliance, 2021).

In this regard, Resolution No. 01/20 of the Inter-American Commission on Human Rights - IACHR calls for the adoption of measures to confront the pandemic and guarantee Human Rights in the Americas, highlighting the importance of access to information regarding government decisions to deal with the pandemic. The foregoing, in order to increase citizen access to care services and programs.

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<sup>3</sup> See more at: <https://www.idea.int/gsod-indices/welcome#/democracy-indices>





During the last two years, in addition to these difficulties, another challenge related to the right of access to information regarding environmental issues has arisen. The lack of ratification of the 1992 UN Rio Declaration on Environment and Development, specifically Principle 10, and the adoption of the Escazú Agreement in the region do not allow understanding the importance of information as a public good that requires both policy measures and the adoption of practices in various public and private spheres.

### 1.1. Guaranteeing Access to Information and the Fight against Corruption in the light of International Treaties

The United Nations (UN) Universal Declaration of Human Rights and the United Nations International Covenant on Civil and Political Rights (ICCPR), the United Nations Assembly and the United Nations Special Rapporteur on Freedom of Opinion and Expression, recognize the right to access information as a human right. Similarly, the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, the Inter-American Commission and the Inter-American Court of Human Rights, and the Office of the Special Rapporteur for Freedom of Expression, have deepened the scope of the right to freedom of expression and access to public information.

In this same line of guaranteeing fundamental rights, the Convention on the Rights of Persons with Disabilities commits countries to promote actions to ensure access to information through the use of new systems and Information and Communication Technologies (ICT), facilitating access to timely information and eliminating any barrier that affects its accessibility.

These international bodies have also ruled on the importance of protecting Human Rights during the pandemic, protecting access and free circulation of information. The UN Human Rights Committee<sup>4</sup>, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression<sup>5</sup>, and the Inter-American Commission on Human Rights<sup>6</sup> issued resolutions in this regard during 2020 and 2021. These rulings draw

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<sup>4</sup> Ruling <https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatement.docx>

<sup>5</sup> United Nations. Human Rights Council. Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. Pandemics and Freedom of Opinion and Expression. April 23, 2020, paragraph 17. [Consulted on 11-18-2020]. Available at: [https://freedex.org/wp-content/blogs.dir/2015/files/2020/04/A\\_HRC\\_44\\_49\\_AdvanceEditedVersion.pdf](https://freedex.org/wp-content/blogs.dir/2015/files/2020/04/A_HRC_44_49_AdvanceEditedVersion.pdf)

<sup>6</sup> Resolution No. 1/2020: Pandemic and Human Rights in the Americas. April 10, 2020. [Consulted on 11-18-2020]. Available at: <http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-20-en.pdf> and Resolution No. 4/2020: Human Rights of Persons with COVID-19. July 27, 2020. [Consulted on 11-18-2020]. Available at: <http://www.oas.org/es/cidh/decisiones/pdf/Resolucion-4-20-es.pdf>



attention to the fact that the suspensions of International Covenants and Conventions occur only under extraordinary conditions and in compliance with a series of requirements, based on a legitimate and proportional interest with respect to guaranteeing other rights, among them, the right to freedom of expression and access to public information.

In this regard, EuroSocial (2020) identified that countries such as Bolivia, Argentina, El Salvador, Mexico, Panama, Peru, and the Dominican Republic ordered the suspension of administrative deadlines, which in practice affected the realization and response to requests for information, as well as appeals or services provided by the enforcement bodies (Montero de Espinosa Candau, Carneiro Freire, Cordero Sanz, & Juanjo, 2020)

Likewise, several of the countries participating in the CCO in 2020 sent a notification to the Secretary General of the United Nations to communicate the temporary suspension of rights contained in the ICCPR<sup>7</sup>, specifically the rights related to freedom of movement, peaceful assembly, free association, and no longer be subject to arbitrary arrest or detention. Colombia<sup>8</sup> was the only country that reported the suspension of the right to freedom of expression, to seek, receive and disseminate information.

The right of access to information has also been recognized in the framework of environmental issues and disaster management. The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, signed in March 2018, which entered into force in April 2021, aims to strengthen access to the information owed in the CCO countries. So far, only seven CCO countries have ratified this commitment: Argentina, Bolivia, Ecuador, Mexico, Nicaragua, Panama, and Uruguay. This Agreement is essential to comply with Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean.

The foregoing is due to international commitments that have been acquired in the region through various treaties and today represent challenges in their adoption and compliance. These types of agreements propose new approaches to address access to information and this is where barriers are identified. The great challenge is to understand that beyond the adoption of a regulation, in practice, the right is exercised in various areas of people's lives and it is essential to strengthen it in key areas so as to manage public affairs, such as

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<sup>7</sup> Peru, Argentina, Ecuador, Colombia, Paraguay, Guatemala, Dominican Republic, Chile, and El Salvador.  
[https://treaties.un.org/Pages/CNs.aspx?cnTab=tab1&clang=\\_en](https://treaties.un.org/Pages/CNs.aspx?cnTab=tab1&clang=_en)

<sup>8</sup> <https://treaties.un.org/doc/Publication/CN/2020/CN.163.2020-Eng.pdf> and  
<https://treaties.un.org/doc/Publication/CN/2020/CN.131.2020-Eng.pdf>





the environment, mining, disaster management, access to services, gender, and human rights.

## 2. Compliance with the Lima Agreement regarding Guaranteeing the Right of Access to Information

To analyze the progress concerning access to information based on the two prioritized commitments (commitment No. 14 and No. 16), 14 questions or indicators were defined; eight related to policy aspects and six to their implementation, as shown in the following table:



Table 2. Policy and Practice Indicators - Commitments Related to Access to Information

Commitment	Indicator	Question
No. 14. Promoting and/or strengthening the implementation of national policies and plans and, as appropriate sub-national plans in the areas 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.	Policy	Are there national policies and plans on digital government and digital participation to facilitate the fight against corruption?
		Is there an entity in charge of leading the formulation of policies or plans to promote digital government and digital participation to contribute to the fight against corruption?
		During the last two years, have policies or plans been promoted for the adoption or strengthening of e-government, digital participation and, in general, the relationship between the State and citizens based on digital tools, which contribute to the fight against corruption?
	Practice	During the last two years, have actions been carried out to develop the guidelines of international alliances and conventions such as OGP[1], Open Budgeting[2], Open Contracting[3], among others, related to the promotion of new technologies for the fight against corruption?
		Does the citizenry have a role (informative, consultative, decision-making/or control) in the development of e-government policies and plans, digital participation and, in general, the relationship between the State and the citizenry based on digital tools that favor the fight against corruption?
		Do you consider that, during the last two years, there have been significant advances towards the fulfillment of this commitment?
No. 16. Implementing and/or strengthening of bodies responsible for transparency and access to public information, based on applicable international practices.	Policy	Is there a law on access to public information that takes into account the principle of Active Transparency?
		Does this law apply to all state entities?
		Are there manuals, policies, decrees, or procedures aimed at ensuring access to public information?
		Is there a controlling body independent of the other branches of governmental authority, in charge of monitoring compliance with the law on public information?
	Practice	During the last two years have there been policy developments on access to public information?
		Are there mechanisms, formats or channels to monitor compliance with the law on public information?
		Does the body in charge of monitoring compliance with the public information law have financial autonomy for its operation?
		Do you consider that, during the last two years, there have been significant advances towards the fulfillment of this commitment?

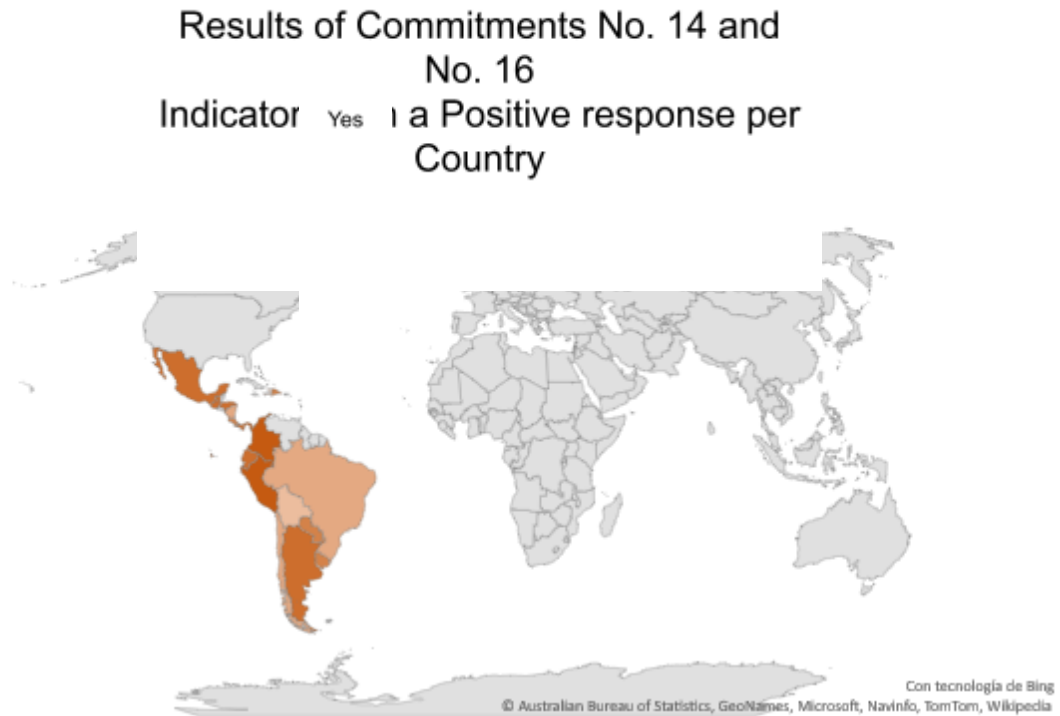
Source: Prepared according to the CCO methodology (2021).



The main advances in terms of access to information in the region are at the policy level, since 15 of the 19 countries have laws on access to information that are mandatory for State entities. However, “more than half of the regulations to advance in the fight against corruption existed before the signing of the Lima Agreement” (Citizen Corruption Observatory, 2021, p. 8) and only five countries have adopted complementary regulations on access to public information in the last two years (Colombia, Costa Rica, Panama, Peru, and Honduras).

The following map shows, on a color scale, the results of compliance assessment with the eight policy indicators of commitments No. 14 and No. 16:

**Graph 1. Results of Commitments No. 14 and No. 16. Policy Indicators with Positive Response by Country**



Source: Prepared by the author based on information filled out by the CSOs participating in the CCO.

When comparing the advances in terms of policy development and practical application concerning the two commitments at the regional level, more advances are observed in terms of regulations (69%) than in terms of practice (50%). Although at least half of the countries have developed regulations and policies, in practice there are weaknesses in complying with regulations, promoting participatory processes in anti-corruption policies,



and even setbacks due to policy proposals and decisions that restrict access to information are identified.

Colombia and Peru stand out as the countries with the greatest policy developments on the subject. In terms of practical implementation, Argentina and Panama are the countries that report the most progress in terms of these two commitments. In countries like El Salvador, Guatemala, Honduras, and Costa Rica the difference between the regulations and the practice is even greater:

**Table 3. Percentages of Positive Responses for Policy and Practice Indicators**

Country	Percentage of Positive Responses for Policy Indicators	Percentage of Positive Answers for Practice Indicators
El Salvador	88%	44%
Guatemala	88%	27%
Honduras	88%	48%
Costa Rica	75%	42%

Source: Prepared by the author based on information filled out by the CSOs participating in the CCO.

As presented in the Regional Report of the Citizen Corruption Observatory, the regional average of commitments No. 14 and No. 16 is 1.51/3.00 and 1.37/3.00, respectively. When analyzing the results of the assessment of the policy and practice indicators in a disaggregated manner by sub-regions, it is observed that Mexico and Central America account for the region with the lowest assessments in both commitments, as shown in the following graph<sup>9</sup>:

<sup>9</sup> Assessed on a scale from 0 to 3: 0= no record, 1=low, 2=medium and 3=high





Graph 2. Regional Results of Commitments No. 14 and No. 16

### Regional Results of Commitments No. 14 and No. 16



Source: Prepared by the author based on information filled out by the CSOs participating in the CCO.

In the case of South America, the situation in Venezuela should be mentioned, where the assessments of these commitments were less than 1.00/3.00. This situation evidences a precarious development of the policy frameworks to guarantee access to public information, but in other cases it accounts for setbacks in the actions carried out in these countries to promote access to information.

### 3. Strengths and Progress of the Region concerning Guaranteeing the Right of Access to Information.

Follow-up carried out by the CCO shows some progress and good practices in guaranteeing the right of access to information. As mentioned above, since there is a gap between the enactment of regulations and their actual enforcement, the strengths identified in the region are focusing in enacting further regulations on the subject.

In this regard, of the 19 participating countries, 14 have national regulations and policies to promote digital government and digital participation. Likewise, 14 countries have an entity in charge of leading policies with budgetary or administrative autonomy. While, in Venezuela, Honduras, Brazil, and Chile, although there is some government entity or area that is transversally in charge of issues associated with access to information, they do not have a specific mandate or do not have autonomy for their management.



Another improvement in the region is the existence, in 15 of the 19 countries, of a law on access to public information, which is also based on the principle of Active Transparency, thus recapturing the OAS Model Law on Access to Information. With the exception of Venezuela, Panama and Haiti, the region shows the existence of manuals, policies, decrees, or procedures aimed at developing guidelines for guaranteeing access to public information.

Taking into account that an institution is necessary to guarantee policy compliance and promote policies with specific resources, plans or programs, it is worth noting that in 12 of the CCO countries there is a controlling body independent of the other branches of governmental authority, responsible for monitoring compliance with the law on public information and that in most countries these institutions or agencies have autonomy and their own budget. On the contrary, in the cases of Venezuela, Paraguay, the Dominican Republic, Bolivia, Nicaragua, Uruguay, and Haiti, either there is no body in charge or it exists, but it is dependent on some branch of governmental authority.

While generally the region has adopted policies, programs and/or plans that promote digital government (as reported in 14 countries), specific actions to promote anti-corruption actions related to the matter are not necessarily highlighted. The foregoing evidences, in several cases, the disconnection between state modernization initiatives such as digital government and its incidence or direct impact on the fight against corruption, particularly in relation to access to information, but also, in aspects such as the reduction of bureaucracy and the simplification of administrative management.

In this sense, it is worth noting that of all the countries participating in the CCO, only Bolivia, the Dominican Republic, Haiti, and Venezuela are not members of OGP (Open Government Partnership, 2021). Likewise, 11 out of the 19 countries are working on actions to strengthen open contracting and publish standard data (Open Contracting partnership, undated). In addition, the same number of countries have carried out or are carrying out *country projects* with members and partners of the Global Initiative for Fiscal Transparency (GIFT) to implement the High-Level Principles of Fiscal Transparency, Participation and Accountability (GIFT, undated).

#### **4. Main Barriers and Challenges of the Region concerning Guaranteeing the Right of Access to Information.**

Regarding the barriers and challenges for the region, it should be mentioned that although there is a positive assessment in 77% of the responses regarding the existence of mechanisms, formats or channels to monitor compliance with the public information law; in countries such as Haiti, Honduras, Nicaragua, and Venezuela, no progress was identified



in terms of regulatory and/or policy developments in this area. In particular, the gap on the strengthening of citizen participation in anti-corruption actions and initiatives is highlighted, as well as the entities that guarantee the right of access to information.

The absence or low participation of citizens in the construction of digital government policies and plans, in digital participation, and in the guidelines that favor the fight against corruption, shows a significant setback in guaranteeing the right of access to public information since they isolate citizens from the process and implementation of said regulations and policies, generating a greater barrier with the State.

Faced with the implementation of open information and open government initiatives, it is important to review the follow-up to this type of action in the countries. On the one hand, in the 2020 Open Data Barometer, the average score in Latin America regarding the maturity of Open Data initiatives is 42.29/100. Of the CCO countries, Uruguay shows the best results (64/100), while Nicaragua (17/100), Haiti (18/100), and El Salvador (25/100) have the lowest scores (RedGealc, 2021). The foregoing may reflect obstacles when implementing standards and good practices in open data to develop guidelines for alliances and international conventions such as OGP, Open Budget, and Open Contracting.

Regarding the digital government index of the Department of Economic and Social Affairs of the United Nations (DESA), the regional average is 62.93/100. When disaggregating the information, it stands out that once again Uruguay has the best score (85/100) and, in contrast, Honduras (45/100), Nicaragua (51/100) and Guatemala (52/100) the lowest scores. Likewise, concerning the digital participation component, Colombia shows the best score (87/100), as opposed to the results of Venezuela (24/100) and Honduras (49/100) (RedGealc, 2021).

Although compliance with Commitment No. 14 has been highlighted, in terms of advancing Open Government plans and commitments, there are challenges regarding the positioning of actions to advance in this line and strengthen subnational initiatives and even in commitments that involve non-state actors, such as the private sector, taking into account the policy areas prioritized by OGP (beneficial owners, extractive industries, public services) (Open Government Partnership, 2019).

According to the XII Saber Más Report of the Regional Alliance for Freedom of Expression and Information, in four countries (Brazil, Guatemala, El Salvador, and Mexico) weaknesses were identified in the bodies that guarantee the right of access to information due to factors that “altered the autonomy of their guarantor, either due to political conditions, ways of appointing members and budget” (Regional Alliance, 2021, p. 8).

During the pandemic, situations arose that deteriorated autonomous entities. The case of Brazil is highlighted, which despite having a Law on Access to Information since 2012, citizens did not have access to the necessary information and the formation of a



consortium of journalists was required to access information on the number of cases, deaths and vaccines (Brazil Report, 2021). In addition, in El Salvador, the President appointed a former deputy candidate for his party as commissioner of the Institute of Access to Public Information, thus undermining the independence and trust of citizens in this entity (El Salvador Report, 2021). Additionally, policy changes were recorded in responses to requests for information, in several cases driven by the same controlling bodies, as highlighted by the XII Saber Más report that identified this situation in nine countries (Regional Alliance, 2021). Likewise, in 67% of the countries it is considered that the situation regarding responses to requests for information has worsened and 33% of the countries indicated a setback in relation to the principle of Active Transparency (Regional Alliance, 2021).

In this sense, the pandemic has meant a challenge for compliance with transparency standards and access to public information in central aspects of public management such as contracting, budgeting, and social programs. Thus, in 78% of the countries in Latin America, emergency purchases have been made with exceptions and in 56% of the countries there has been no proactive disclosure regarding the benefits delivered in the context of the health crisis (REAL, 2021). In addition, questions are identified in several countries about the beneficiaries of credits, bonds and other government aid. Finally, 33% of the countries have not established transparency mechanisms on private donations during the pandemic (REAL, 2021).

### 3. Conclusions and Recommendations

The Lima Agreement has been an opportunity for the countries to reaffirm international agreements to strengthen democracy, access to public information and the fight against corruption. To make progress concerning compliance and deepen its implementation, the following recommendations are presented that take up those presented by international organizations, the national reports of the CCO and the aspects presented in this document.

- Strengthen the construction of digital government policies, plans and/or programs to increase digital participation scenarios and generate specific actions to fight corruption. It is important to build these initiatives in consensus with civil society and that the actions generate an impact in the fight against corruption.
- In the national reports of the CCO there is a recurrent suggestion to provide citizens with a role that is not only informative but also consultative, of decision-making and/or auditing transparency and anti-corruption policies. The implementation of the OGP initiative has been an opportunity to expand the level of incidence of



citizenship, which is important to continue deepening in all State entities, at subnational levels and in different sectors.

- Information and communications technologies have played an important role in the pandemic. Countries must continue to advance in measures to ensure connectivity and telecommunications services under a principle of equality considering an inclusive digital transformation, facilitating multiple channels that take into account the population without internet access, technologies, necessary skills, as well as socioeconomic barriers (ECLAC, 2020).
- The countries of the region must review their response to disasters to include actions of transparency and guaranteeing the right of access to information as an asset of vital importance in emergency situations. IDEA International (2021) generated a series of recommendations for States based on the lessons of the pandemic, among which they proposed to regulate States of Emergency to review the measures that may limit access to public information (IDEA, 2021). Along these same lines, the IACHR expressed, in its Resolution 01/20, the importance of reviewing the limitations and suspensions so that they are necessary, proportional, and required by the demands of the situation.
- In accordance with the previous recommendation, it is important that the guarantors and the entities subject to the laws of access to public information identify the risks that may arise in emergency situations and plan the actions to deal with the contingency. The pandemic should serve as a lesson to identify the vulnerabilities of such entities and the violations of the law in emergency contexts.
- Implement measures according to differentiated criteria used by vulnerable populations to access public information. Thus, establish multi-channel strategies to address the digital divide, eliminate barriers to access information, and strengthen accessibility and plain language measures. This implies carrying out diagnoses on the information needs of vulnerable groups and adopting a population, differential and gender approach in transparency and access to information policies.
- Ensure the strengthening of transparency bodies and access to public information in general. Supervisory or enforcement bodies are essential for compliance with the laws on access to public information. Therefore, it is important to strengthen their financial and decision-making autonomy, respecting their independence to issue rulings and decisions. An important factor is the powers of the guarantor body in each country, its binding nature or not, and the ability to impose sanctions.



As part of strengthening, advocacy and social audit processes can be developed aimed at guaranteeing the budgets of the bodies responsible for access to public information (Citizen Corruption Observatory, 2021).

- The capacity of the guarantors to sanction is essential to ensure standards of active transparency. Establish standards for the publication of useful and timely information, especially to adopt measures for disclosure to citizens in emergency situations. Likewise, develop standards for the publication of information in plain language that allow evaluating the conditions and principles of the right of access to information.
- Work on actions that put into practice access to information, under a sectoral, gender, intersectional and human rights approach. From focused transparency initiatives that address the dynamics of a sector, as well as to produce and access public information with a human rights approach, understanding that it is a democratic legal right that ensures the effective implementation of fundamental rights. It is important to understand that access gaps deepen inequalities and coordinate actions with human rights and gender equality programs or plans in the countries.
- Finally, it is important to draw attention to the situation in some countries in which the decline in guaranteeing access to information is being accompanied by other situations such as the legitimate fear of denouncing corruption, investigating these issues or speaking about them publicly, since people can be harassed, persecuted or imprisoned, as reported in the Nicaragua report (Nicaragua. Citizens Corruption Observatory, 2021a). This indicates that guaranteeing the right of access to public information in the region must be accompanied by the protection of other fundamental rights.







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