



**REGIONAL THEMATIC REPORT:
Inclusion of Vulnerable Groups in Defining Measures to
Strengthen Governance and Combat Corruption**





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Summary

This report addresses the impact of corruption on the guarantee of human rights, mainly for vulnerable populations. The information and analysis are based on the assessment made by civil society organizations participating in the Citizen Corruption Observatory (CCO) regarding the progress or fulfillment of the Lima Agreement, Commitment No. 8: “Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing the serious impact it has on these populations”.

A number of social organizations that participated in the CCO are part of the Citizen Forum of the Americas (CFA) and represent various population groups, such as Afro-descendant communities, indigenous communities, LGBTIQ+ people, religious or other faith-based groups, among others.

The first part of this report addresses the central elements related to the concepts of corruption, human rights, and vulnerable groups, and how they are related to each other. In this regard, it is worth noting that, although the human rights approach and the effects of corruption has been analyzed for several years in the region, a lack of knowledge is still evident on how corruption affects the effective enjoyment of human and collective rights and the inclusion of the most vulnerable populations in designing measures to prevent and fight this phenomenon, from an intersectional approach that includes the different population representations and the various cultural, social, and economic approaches.

The second part gathers and analyzes the results of the reports prepared by the social organizations participating in the CCO in the 19 countries. Finally, the role of international mechanisms to promote greater progress in the fulfillment of this commitment is reviewed and some recommendations for both governments and civil society are presented.

The reports prepared within the framework of the CCO at the regional level and in each of the 19 countries of Latin America and the Caribbean that participated in this initiative show little regulatory and/or practical development regarding the involvement of vulnerable groups in anti-corruption measures. Despite this, it is important to highlight certain specific improvements in some of these countries, which can be taken as good practices and/or starting points to advance in the inclusion of the perspective of guaranteeing human rights and the differential effect that corruption has on vulnerable groups as ways of fighting corruption.

Introduction

Through the Citizen Forum of the Americas (CFA), efforts have been made to strengthen spaces for Civil Society (CS) to meet and engage in dialogue on the social, political, and





economic realities that affect the region. This was done in order to create articulated 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, alongside 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 (CSPSA) 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 are fundamental to strengthen 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).

Between November 2020 and June 2021, over 150 social organizations that participated in the CCO applied a participatory methodology to monitor, from civil society, the fulfillment of these commitments, based on a process involving the analysis and validation of progress in regulatory and practical terms. Several of the organizations included are also part of the CFA¹ and represent population groups such as Afro-descendant communities, indigenous communities, LGBTIQ+ people, religious or other faith-based groups, among others.

Thus, in a participatory and concerted manner, 19 commitments were selected based on four criteria: sustainability, inclusion of new approaches, vulnerable groups, and representativeness. The methodology to monitor and analyze the 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. In addition, this

¹ To learn more about the CFA participating organizations, please click on the following link: <https://forociudadanoamericas.org/foro-ciudadano-de-las-americas/>



analysis was complemented with a progress assessment in each commitment in terms of sustainability, effectiveness, and relevance.

Table 1. Description of Indicators and Reference Sources

	POLICY INDICATORS	PRACTICE INDICATORS
Description	The policy indicators show the legislation in force regulating the issues included in the commitments of the Lima Summit.	The practice indicators are concrete actions or measures taken by each government in response to the anti-corruption commitments assumed 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, media reports, among others. A total of 64 questions were formulated to inquire about the progress of the prioritized commitments.

Source: CCO, Lima Agreement Follow-up Methodology (2021)

Based on this analysis, a report was prepared in each country that includes the results of the follow-up on the Lima Agreement. Two regional reports were also prepared, one on the balance of the policy framework in Latin America to address corruption and another on the general results of the follow-up on the Lima Agreement².

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



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 the context of the pandemic
2. Public procurement in the context of the pandemic
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 a 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, 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), taking into account other vulnerable communities such as Afro-descendants.

This report in particular focuses on the analysis of progress and fulfillment of human rights guarantees (individual and collective) based on the assessment made in the 19 countries of Commitment No. 8: “Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing the serious impact it has on these populations”. This report is complemented by the proposals made by Claudio Nash in the report “Corruption and Human Rights”³.

For this purpose, the policy and practice indicators considered in the methodology of the follow-up on the Lima Agreement carried out by the CCO will be taken into account (see Table No. 2).

Table 2. Policy and practice indicators commitments related to fight against corruption with focus on human rights

Commitment	Indicator	Question
8. Including different vulnerable groups in defining measures to strengthen governance and combat corruption, recognizing	Policy	Do the regulations define vulnerable groups? If so, explain which ones.
		Are there mechanisms for the participation of vulnerable groups in

³ This analysis is also complemented with the bibliography of the Regional Postgraduate Diploma in Transparency, Accountability and Fight against Corruption, taught in 2014 by the Human Rights Center of the Law School at the University of Chile.

Commitment	Indicator	Question
the serious impact it has on these populations.		the definition of measures to fight corruption?
		Are there any policies, studies, or official documents that recognize the differential impact of corruption on vulnerable groups?
		During the last two years, have there been any policy developments leading to the inclusion of vulnerable groups in anti-corruption measures?
	Practice	Have mechanisms or actions been developed to promote the inclusion of vulnerable groups in the definition of measures to fight corruption?
		Do you consider that, during the last two years, there has been significant progress towards fulfillment of this mandate?

Source: Prepared based on CCO methodology (2021)

1. Fight against Corruption and Guarantee of Human Rights

The word “corruption” is one of the terms most used by citizens to refer to the management or performance of high government dignitaries, public officials of the three branches of government, and control and sanction bodies. The most recent Latinobarómetro 2021 report shows that, in the last two decades, there has not been a significant change in terms of progress in the fight against corruption in Latin America. Thus, in 2004, 23% of those surveyed considered that progress was being made in the fight against corruption; by 2010, the perception of progress had risen to 36%; but in 2020 it dropped to 29% (Corporación Latinobarómetro [CL], 2021, p. 82). According to this same report:

The officials who hold the most important positions in democracy are under a general suspicion of being corrupt. The president (58%), parliament (55%), the police (50%) and judges and magistrates (47%). Even in the case of religious leaders, placed at the bottom of the list, 24% believe that they are involved in acts of corruption. In this perception, there are no important groups free from the suspicion of corruption in any country in the region. There is no absence of corruption in any significant group in Latin American societies (CL, 2021, p. 83).

The use of the word “corruption” has become so widespread that people deemed as corrupt include those who jump the turnstile to avoid paying the ticket, those who evade paying



taxes, those who submit false invoices to companies to obtain representation expenses additional to those actually incurred, among many other examples. The common denominator among these uses lies in the infringement of an obligation and the attainment of a particular benefit. However, for this analysis it is important to delimit the concept and understand the elements that make it different from other types of crimes.

Corruption is an act that is detrimental to the public interest and is committed by those in a position of power, abusing it for private benefit. There are other broader approaches that link it to the transgression of the “policy framework within which the act or activity qualified as corrupt occurs” (Garzón, 2003, p. 21). Considering that this report seeks to understand the effects of corruption on human rights in vulnerable populations from the perspective of fulfillment of the Lima Agreement, the concept of corruption will correspond to the one presented by the Inter-American Commission on Human Rights: “Corruption is characterized by the abuse or misuse of power, which may be public or private, that displaces the public interest for a private benefit (personal or for a third party), and that weakens democratic institutionalism, the rule of law and human rights” (IACHR, 2019, p. 43). (IACHR, 2019, p. 43).

Regarding the concept of human rights, according to Pinto, “human rights are the subjective rights necessary for human beings to live with dignity in an organized society that the State must respect and guarantee if it does not want to compromise its international responsibility” (1997, as cited in Nash et al., 2014, p. 21). Their main characteristics are universality, referring to the fact that they do not depend on nationality, place of residence, gender, religion; inalienability, meaning that they cannot be suppressed, with exceptions such as the right to freedom, which can be restricted when a person commits a crime; and that they are interdependent and indivisible, referring to the connection between one and the other and that they cannot be fragmented.

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly of 1948 and drawn up by representatives from all regions of the world, established the 30 unwavering fundamental rights to which all human beings are entitled. These rights, in turn, are divided into civil and political rights, and economic, social and cultural rights (ESCR). According to Nikken (1994), the former are aimed at protecting the freedom, security and physical and moral integrity of the individual, as well as his or her right to participate in public life, so that these rights express an individualistic dimension with the purpose of preventing the state from violating certain conditions of the human being. As for ESCR, this author refers to “the existence of conditions of life and access to material and cultural goods in terms that are adequate to human dignity” (Nikken, 1994, pp. 41-43).

The importance of this approach to human rights (individual and collective) in the analysis of the effects of corruption highlights the harm caused to individuals and communities beyond the economic consequences or the institutionalism of democratic systems. According to Nash, Bascur and Aguiló (2014), “a corrupt act formally violates a right when



it immediately means the breach of a state obligation related to that right. Thus, for example, when a judge accepts a bribe, his or her impartiality is immediately affected, thereby violating the right to a fair trial” (2014, p. 27). For example, what happens if the person whose right was violated is a member of an indigenous people, does not have the economic conditions to pay for a private lawyer to defend his or her case, and the judicial agent has not transcribed the trial documents into the victim's native language, nor has he or she conducted the hearings in the presence of a translator? In this sense, it is not only a matter of analyzing the harm to a vulnerable person, but it is also necessary to approach this impact from a perspective that recognizes the criteria of intersectionality.

According to the International Council on Human Rights Policy (ICHRP), corruption has a disproportionate negative impact on guaranteeing the human rights of population groups considered vulnerable: minorities, indigenous peoples, Afro-descendants, elderly people, immigrants, people with disabilities, women and children, among others. Those who commit acts of corruption will always want to protect themselves in order to remain undetected and keep their positions of power, so they may oppress those who are in a vulnerable position even more. These people have less capacity to defend themselves against acts of corruption. Therefore, when they are victims of corruption, the social exclusion to which they are exposed is reinforced (ICHRP, 2009) as well as their marginalization.

Indeed, in addition to the relationship between corruption and the impact on human rights, there is a differentiated harm experienced by vulnerable populations:

In these cases, the link occurs with various manifestations of the phenomenon of corruption in the region. On one hand, in these contexts, isolated corruption has an aggravated impact on disadvantaged sectors that may be subject to extortive practices of various kinds. On the other hand, cases of grand corruption and macro-corruption also have an impact on these groups, since the funds that are stolen from the public treasury are often precisely those destined for these priority sectors of the state's social policies. What is even worse is that cases of institutional co-optation disproportionately affect these groups, aggravating their vulnerability, which translates into different forms of violence and impunity, particularly when the co-optation is linked to organized crime (IACHR and OAS, 2019, p. 60).

Precisely because these vulnerable groups are the most affected, they should not only be consulted and informed about the measures that may be generated, but should also be encouraged to participate actively and effectively in efforts to combat corruption. The ICHR highlights this approach when formulating anti-corruption measures:

Policymakers should ask themselves how the design or implementation of anti-corruption programs will affect people who are marginalized, socially discriminated against or otherwise disadvantaged. Adhering to human rights principles involves identifying and overcoming obstacles (such as linguistic and cultural differences,



racism and gender discrimination) that make these people especially vulnerable to corruption. Although there seems to be agreement on the fact that corruption has specific concrete impacts on the most vulnerable or disadvantaged groups in society, the inclusion of vulnerability and gender criteria in the design of anti-corruption programs is still limited and exceptional. Making full use of human rights can help strengthen these dimensions of public policies (ICHRP, 2009, p. 9).

This recommendation made by the ICHRP urges the signatory countries of the Lima Agreement to move forward in the fulfillment of Commitment No. 8. It also urges them to do so in the guarantee of fundamental rights from an intersectionality approach, including in the analysis of the impact of corruption the relationship between the characteristics of people's identity and the way in which these characteristics are manifested in the social structures of the countries in the region.

2. Agendas to Fight Corruption and to Guarantee Human Rights in Light of International Treaties

Several international cooperation instruments and mechanisms have been created and provide a guideline for States to create internal norms and strategies with which to work towards common objectives. For the countries of Latin America and the Caribbean, there are three instruments that are in force: the Inter-American Convention against Corruption adopted in 1996, which entered into force in 1997; the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development (OECD) adopted in 1997, which entered into force in 1999⁴; and the last international treaty on the subject, which was the United Nations Convention against Corruption (UNCAC), adopted in 2003, which came into force in 2005, and is also the first global instrument in the fight against corruption.

Several national regulations related to access to and openness of public information, accountability, declarations of conflict of interest by public officials, electronic public procurement systems, among other issues, are derived from these three instruments. They also establish certain crimes constituting corruption, such as bribery, misappropriation, embezzlement of public funds, money laundering, and illicit enrichment. As for mechanisms to fight corruption, these conventions also present different approaches. Some of them are preventive and others are strategies for typification and sanctioning.

⁴ In Latin America and the Caribbean, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions has been ratified by: Argentina, Brazil, Chile, Costa Rica, Colombia, and Mexico.



Within this international development of measures to fight the problem of corruption that took place in the 1990s, a fundamental actor came into play: civil society organizations (CSOs). This was crucial for generating credibility in the initiatives formulated or ratified by governments. As the problem of corruption refers directly to the performance of traditional political actors, it was necessary to engage new independent actors that could fulfill the oversight role that any anti-corruption policy requires (Pereyra, 2013).

Although the international treaties referenced do not include a concrete human rights approach and exclusive orientations towards vulnerable groups, they have indeed laid the foundations for existing normative developments, as well as given tools to civil society organizations to promote an anti-corruption agenda in their countries. An important mechanism that was born in this international context was the Open Government Partnership (OGP), a voluntary international platform of reformers created in 2011 with the aim of establishing a roadmap for government openness, civil society collaboration in public decision-making, and accountability.

This mechanism does not function in the same way as an international convention insofar as states are not required to ratify it. OGP is a voluntary international initiative that stems from the interest and commitment of governments to defend the principles of open and transparent government by approving the Open Government Declaration⁵. In this sense, the National Action Plans (NAP) should be:

the product of a process involving co-creation and participation in which government and civil society jointly develop commitments. Successful OGP action plans focus on important national open government priorities and ambitious reforms; are relevant to the values of transparency, accountability, and public participation; and contain specific, measurable, and time-bound commitments (OGP, 2016).

At present, 15 of the 19 countries assessed in this report are part of the OGP. This becomes a great opportunity to include various vulnerable groups in the definition of measures to strengthen governance and fight corruption. Furthermore, in some cases this could be a source of credibility and trust so that vulnerable groups can join the initiatives (Pereyra, 2013).

The gender and inclusion fact sheet published by OGP in November 2021⁶ provides a view of global progress and member-level examples of open government work in this policy area, highlighting the following points:

- An increasing number of OGP members use their national action plans to address issues relevant to gender and underrepresented groups.

⁵ Available at the following link: <https://www.opengovpartnership.org/es/process/joining-ogp/open-government-declaration/>

⁶ Available in English at the following link: <https://www.opengovpartnership.org/wp-content/uploads/2021/11/Gender-Inclusion-fact-sheet.pdf>



- Besides making co-creation processes more inclusive, 40%⁷ of OGP members are currently implementing a gender-related commitment.
- The next steps for OGP members include actively engaging women, non-binary and LGBTQIA+ communities, as well as underrepresented groups in the co-creation process, making commitments that target inclusion directly, and applying inclusion and intersectionality principles in all government reforms.

A final document that addresses this issue as a priority is the one prepared by the Inter-American Commission on Human Rights (IACHR) called “Corruption and Human Rights: Inter-American Standards”, which highlights the need to establish a regional, national and local strategy to fight corruption considering the multidimensional impact of the phenomenon and its impact on the enjoyment and exercise of Human Rights (IACHR, 2019). In this sense, one of the specific recommendations of this document is:

Indeed, the phenomenon of corruption has a differentiated impact on the enjoyment and exercise of human rights, particularly with regard to different groups in situations of vulnerability or historical discrimination. In particular, corruption affects people living in poverty and extreme poverty because, due to their vulnerable condition, they suffer the consequences of the phenomenon in an aggravated manner (IACHR, 2019. p. 201).

3. Human Rights Approach and Inclusion of Vulnerable Groups in Fulfilling the Lima Agreement

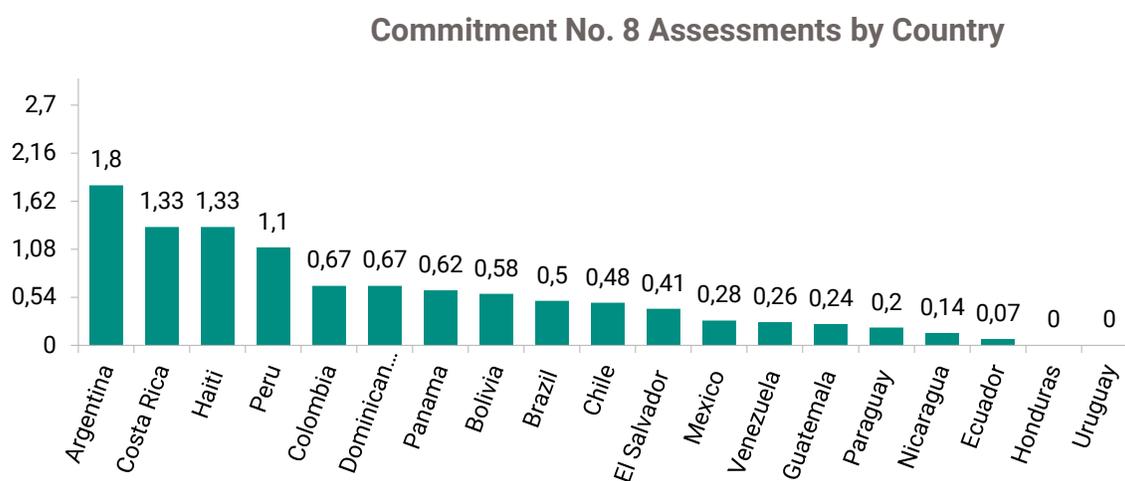
As it was previously stated, the Lima Agreement takes up several of the calls to action that have been made for the region in the fight against corruption, seeking to strengthen democratic governance and increase citizen trust in institutions. In order to analyze the fulfillment of Commitment No. 8, it is necessary to delve deeper into the results of the information collected by the over 150 social organizations that participated in the CCO (many of them linked to the process of the Citizen Forum of the Americas).

The follow-up inquired about the regulations existing in the 19 CCO countries, including whether there is a definition of vulnerable groups; if there are regulations, official documents, or mechanisms for these groups to participate in the definition of measures to fight corruption; and whether there have been regulatory developments in this regard over the last two years. This regulatory and jurisprudential framework was compared with its application in practice, considering the existence and effectiveness of mechanisms to promote the inclusion of vulnerable groups in the structuring of these measures.

⁷ This percentage comes from OGP's analysis of all the commitments included in the action plans under implementation in 2020, from the 98 national and local members.

The first general finding of the information collected indicates that only eight of the 19 countries assessed have made some progress in this commitment: Argentina, Costa Rica, Peru, Haiti, Colombia, Panama, the Dominican Republic, and Bolivia. On the other hand, the countries with the least progress in this area are Ecuador, Honduras, and Uruguay. In any case, it is important to mention that Commitment No. 8 was the one with the lowest score for the region as a whole, with an average of 0.56/3.00. It is striking that this average is so low, given that various international and regional commitments have been urging governments to include the perspective of human rights violations in anti-corruption norms and policies.

Graph 1. Commitment No. 8 Assessments by Country



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

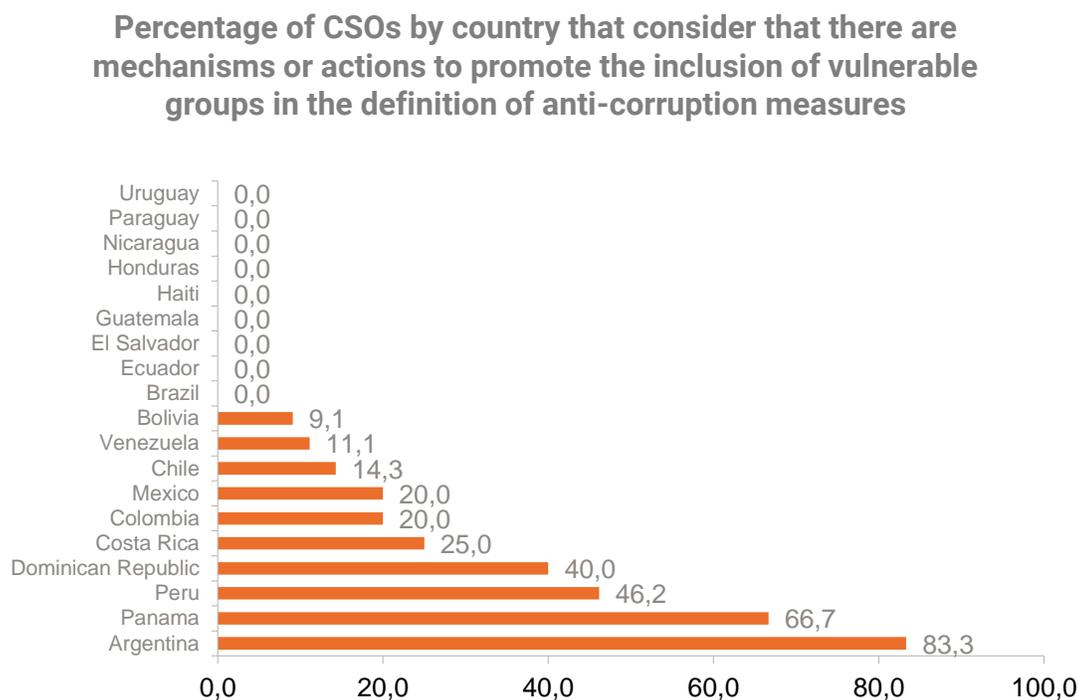
In terms of the progress identified, this graph shows that three countries have regulations that include a definition of vulnerable groups: Mexico, which includes it at a general level in the Anti-Corruption Policy; Costa Rica, which includes the protection of human rights in the electricity sector; and Chile, which has a regulation included in Law No. 20,530 of 2019. In regards to the recognition of the differential impact of corruption on vulnerable groups, Panama, Peru, Costa Rica, and Mexico stand out due to the existence of regulations, studies, or official documents in this area. Regarding the inclusion of vulnerable groups in the definition of anti-corruption measures, Panama and Peru also reported the existence of mechanisms for vulnerable groups to participate in the definition of these measures.

It is important to mention that the countries where regulatory developments in this area were identified—Panama, Peru, Costa Rica, and Mexico—also stated that the official documents or studies that recognize the differential impact of corruption on vulnerable groups lack depth and that the approach is superficial or outdated.

In terms of recent regulatory developments for the inclusion of vulnerable groups, in the last two years there have been references to laws that address very broad issues such as the recognition of sign language in Costa Rica and the Law on Comprehensive Care for Victims in Nicaragua.

The following graph (2) shows the percentage of civil society organizations that responded affirmatively to the question on the existence of mechanisms for the participation of vulnerable groups in the definition of anti-corruption measures.

Graph 2. Percentage of CSOs by country that consider that there are mechanisms or actions to promote the inclusion of vulnerable groups in the definition of anti-corruption measures



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

Some examples of mechanisms for the inclusion of vulnerable groups can be found in the co-creation processes of Open Government action plans in Costa Rica and Argentina; local development plans that promote community and population-based organizations to develop social control initiatives in Cartagena, Colombia; the Disability Councils or Committees in Bolivia, Panama, and the Dominican Republic; the publication of the Law on Transparency and Access to Information in Braille in Colombia; the creation of a working group to propose regulations and measures to guarantee effective sanctions in cases of corruption linked to sexual conditions in Peru; and the perspective aimed at including people in vulnerable conditions implemented by the Anti-Corruption Office in Argentina.

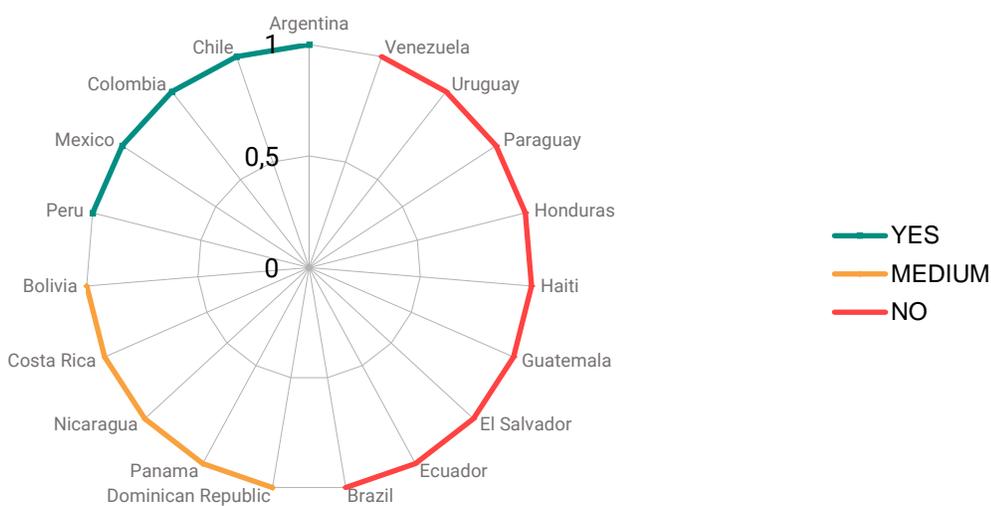
Although these mechanisms may not be specifically oriented towards vulnerable groups in some cases, they are spaces that the states have opened in recent years with the purpose of engaging various population groups in the definition of public policies or solutions to common problems.

4. Strengths and Progress of Region in Fight against Corruption with a Human Rights Approach and Inclusion of Vulnerable Groups

Despite the fact that fulfillment of Commitment No. 8 is among those that lagged furthest behind in the component of strengthening democratic governance (0.56/3.00), there is evidence of good practices that could be used as an example to progress in the fulfillment of this commitment. Graph 3 shows the progress levels in the 19 countries assessed:

Graph 3. Strengths and progress in the region in guaranteeing human rights

Strengths and progress in the region in guaranteeing human rights



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

Some of the good practices that stand out are:

- The Mexican National Anti-Corruption System (SNA, 2020), which allows observing the knowledge and proactive approach on the risk of corruption and its link with vulnerable groups. Prior to the signature of the Lima Agreement, Mexico was already working on constitutional anti-corruption amendments. After that, the reforms that gave constitutional autonomy to the Office of the Prosecutor General of the Republic and the inclusion of the Financial Intelligence Unit and the Tax Administration Service of the Ministry of Finance as catalysts in the effective control of corruption came into force.
- Costa Rica and Argentina refer to the Open Government Plan, a requirement that member countries of the Open Government Partnership (OGP)⁸ must formulate every two years. Vulnerable groups have participated in the co-creation process and, in some cases, commitments have been made aimed toward these population sectors.
- Although the Lima Agreement is a duty assumed by national governments, it is a good practice that local governments, which are closer to citizens, begin to generate initiatives that include vulnerable groups in public decision-making and, specifically, in measures to fight corruption. This is the specific case in Cartagena de Indias, Colombia, where the “Let’s Save Cartagena Together” Development Plan has become a local success story.
- Peru has made progress on an essential issue such as the special system for judging corruption-related crimes, a legal framework for effective cooperation and an insurance mechanism for the reparation of corruption-related victims. The national government has been implementing ombudsman's offices and training public officials to inform vulnerable groups about the workings of the public administration and the mechanisms available to them to act in the event of a threat of corruption.
- The countries' internal situations, for example, the social outburst during 2019 in Chile, which led to a constituent process, have opened the doors to include vulnerable groups in public decision making. Similarly, in Colombia, the signing of the Peace Agreement has allowed for a more inclusive approach to those groups affected by the violence left by the armed conflict, and expressly mentions women and children.

⁸ Of the 19 countries that are part of this assessment, only four are not part of the OGP: Bolivia, Haiti, Nicaragua, and Venezuela.

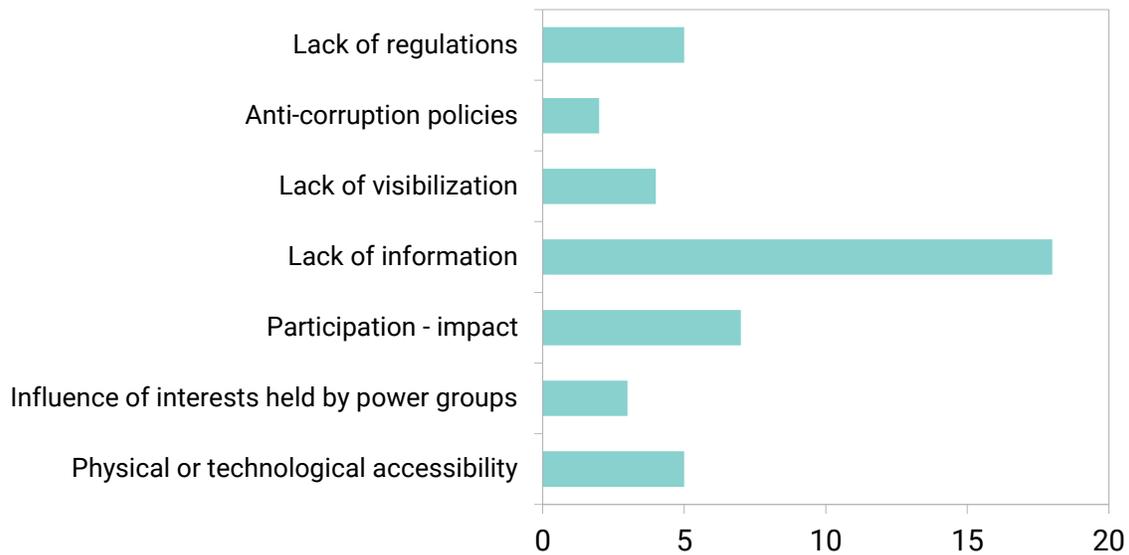


5. Main Barriers and Challenges in the Region in Guaranteeing Human Rights and Inclusion of Vulnerable Groups

As a result of the analysis of the information gathered by the CSOs participating in the CCO, Graph 4 shows the main obstacles and challenges identified in relation to Commitment No. 8.

Graph 4. Main barriers and challenges in the region in guaranteeing human rights of vulnerable groups

Graph 8: Main barriers and challenges in the region in guaranteeing human rights of vulnerable groups



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

Most of the responses coincided in the difficulty of accessing information, which affected the rights of vulnerable groups. This difficulty was exacerbated during the pandemic and the closure of physical offices. Despite the existence of official digital portals, the difficulties of connectivity in rural areas, the digital literacy gaps for low-income population groups, as well as the lack of tools that allow access to information for people with visual or hearing disabilities, became apparent.

The second barrier identified is the lack of public regulations and policies aimed at fighting corruption with a human rights approach. Although some existing mechanisms and laws were recognized, they date back to years prior to the signature of the Lima Agreement. This regulatory and mechanism vacuum could have multiple causes, from the lack of knowledge



of the human rights approach on the part of legislators and technical public policy makers to what Nash, Bascur and Aguiló (2014) refer to as structural discrimination and structural corruption. On one hand, the authors refer to structural discrimination as an ordered preference in favor of the interests of certain social groups to the detriment of others. This refers, for example, to the formulation of initiatives in favor of women, boys and girls, but also leaving out indigenous communities, Afro-descendants, the elderly, and the LGBTQIA+ population, a key aspect of the intersectionality approach. On the other hand, structural corruption is defined as the functioning of certain institutions that operate through networks of power, whose main function is to protect and keep the institutional corruption of their group in impunity. In this case, corrupt interests influence the production of a state's norms and public policies, generating a regulatory framework that legalizes both illegitimate benefits and exclusion.

Overcoming this barrier requires that the norms to be created contain an intersectional perspective, seeking rather than the individualization of the problems faced by each community in particular, the recognition of structural barriers. This is what the Latin American and Caribbean Network for Democracy (REDLAD) considers in its study "Intersectionality: a commitment to networking":

To have an intersectionality perspective, it is necessary to find points of convergence between different groups and social struggles, to work together for the construction of collective agendas and to advance in the shaping of more egalitarian societies, where diversity and difference are not used to create inequality in terms of access to rights (2021, p. 10).

The third barrier identified in the fulfillment of this commitment is the low participation of vulnerable groups in the spaces that exist for denouncing acts of corruption, exercising social control, or defining measures to prevent corruption. This is an aspect that requires special attention considering the human rights situation and the closure of civic spaces in Latin America and the Caribbean over the last two years. According to El Salvador's country report, there has been a setback in the fulfillment of existing regulations on the subject of transparency and access to public information, as well as a deterioration in the institutional strength of the Institute for Access to Public Information, which has increased the loss of citizen confidence in this body (El Salvador Report, 2021).

According to information gathered by CSOs, the situation in countries such as Bolivia, Guatemala, Nicaragua, and Venezuela is a cause for concern, as the measures involving vulnerable sectors tend to mix politics with other interests. Thus, the provision of goods and services is co-opted by corrupt institutions or officials who demand bribes from these vulnerable groups, who do not have the mechanisms to defend themselves or report such acts. This is the type of situation that exacerbates the non-compliance with the fundamental human rights of vulnerable groups.



Conclusions and Recommendations

This document included a detailed analysis of the responses provided by the Civil Society Organizations participating in the CCO. In general, and according to what has been described throughout the report, Commitment No. 8 of the Lima Agreement is the one with the lowest progress level among the analyzed commitments. In order to contribute to the fulfillment of the commitment, as well as to generate initiatives that benefit the anti-corruption agenda, the guarantee of human rights, and the inclusion of vulnerable groups, the following recommendations are made, which are divided into two parts.

The first part corresponds to the compilation of recommendations presented by the countries in their national reports, grouping them according to common points:

Graph 5. Recommendations to make progress in fulfilling Commitment No. 8

Recommendations to make progress in fulfilling Commitment No. 8



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

A first call to action for most countries is to promote a clear and precise definition of which groups are vulnerable in each country. With this in place, progress should be made in the creation of strategies that allow for the participation of these groups in the formulation, execution, and monitoring of anti-corruption policies. Moreover, anti-corruption plans should be designed that are sustainable over time and that are internationally aligned, taking up the Lima Agreement as an instrument that articulates anti-corruption measures with international conventions.

Although most countries have general frameworks for reporting acts of corruption, the essential recommendation is, in addition to creating mechanisms for the implementation of



policies and strategies to provide an effective response to reports of corruption cases, to provide special protection to those groups of people who, because of their role in the fight against corruption, are affected in the enjoyment and exercise of their human rights or are victims of violence, threats, or other acts of harassment. These groups of people include human rights defenders, environmentalists, and officials in charge of fighting corruption (IACHR, 2019). Similarly, it is crucial to create comprehensive public policies, both in terms of norms and actions, with regard to guaranteeing the protection of whistleblowers and witnesses.

Along the same lines, to ensure the protection of whistleblowers, the partner organizations recommend strengthening regulations and reforming the justice system. In several of the countries studied, there is a call to action for reforms in areas such as transparency and accountability, budgetary independence and autonomy, and the development of a code of conduct for public officials. The proposal by civil society groups in Venezuela for a Special International Justice System against Grand Corruption⁹ is worth reviewing.

Another point mentioned by the partner organizations is the importance of monitoring and generating reports, statistics, and analyses on the differentiated impact of corruption on vulnerable groups. At present, there are no databases to keep such records. In addition to being an exercise in transparency of public information, this promotes research and a diagnosis of the situation in the countries carried out by civil society organizations, international agencies, and academia.

The second part of the challenges identified in this area corresponds to institutional strengthening and the training of public officials in this approach.

The ICHRP precisely mentions that international anti-corruption treaties offer very little guidance on how public officials should reconcile their commitment to fight corruption with their obligation to promote and protect human rights (ICHRP, 2009). To strengthen the knowledge of public officials, Nash, Bascur and Aguiló include a chapter entitled “Guide to address a corruption case from a human rights approach” (ICHRP, 2014, pp. 111-118), a section that can provide valuable elements for institutions to create their roadmaps.

The final recommendation is to keep fluid communication channels on the progress and challenges that may arise. It is recommended to make use of the formal instances of articulation between government and civil society. In addition to the disability, victims, and women's committees that exist in the countries, the Open Government Partnership (OGP) Multi-Stakeholder Forums are very important. Due to the makeup of these bodies, as well as the roles they play in the co-creation and implementation of the NAPs, they provide good

⁹ This can be viewed at:

http://dplf.org/sites/default/files/anexo_1_transicion_democratica_venezuela_final.pdf





opportunities to address issues related to the inclusion of vulnerable groups in the definition of measures to strengthen governance and fight corruption.

Furthermore, civil society has developed different instances to address this problem, promoting action and advocacy along with the recognition of the diversity and plurality of voices and population groups in the region. For example, there are the National Scenarios developed within the framework of the Citizen Forum of the Americas¹⁰.

¹⁰ See: <https://forociudadanoamericas.org/2021/09/17/los-escenarios-nacionales-del-foro-siguen-fortaleciendose/>



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