CIVIL SOCIETY CONTRIBUTIONS TO THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) IN LATIN AMERICA

2021 REPORT

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Article 13 of the United Nations Convention Against Corruption (UNCAC) calls on State Parties to promote the active participation of civil society in the fight against corruption. In fact, anti-corruption practitioners and other stakeholders, including civil society and the private sector, have and apply improved capacity to prevent and combat corruption.

The Fast-Tracking UNCAC Implementation initiative, funded by the United Kingdom’s Foreign, Commonwealth and Development Office (FCDO), has been launched to promote this type of participation and multi-stakeholder dialogue. To enhance this conversation, the initiative established four regional platforms, one of which in Latin America (officially named: South America and Mexico).

In May 2019, the initiative organized a Regional Conference in the city of Cartagena, Colombia. Governments’ representatives, Civil Society Organizations (CSOs) working on the anticorruption field as well as private sector members gathered to discuss actions to fight against corruption in the region. In February 2020, as a follow-up to Cartagena, UNODC convened a Civil Society Roundtable meeting in Quito, Ecuador.

The UNODC CSU commissioned a survey among 29 civil society organisations from 16 Latin American countries, carried out in June, July and August 2021 via one-to-one dialogue, group consultations, and direct online entries, to gauge a deeper understanding of challenges in the region. The current report shares the findings of that consultation.
ASSESSMENT FINDINGS

Around 85% of the respondents were aware of the UNCAC review process, just a little more than half had government delegates engage with them on the review mechanism and sought their feedback on the process.

In this regard, CSOs listed the following recommendations for a more active civil society participation in the UNCAC review mechanism:
- More entry points for better collaboration with governments;
- More emphasis on the role of civil society as impartial entities and in the role of civil society Organizations as a bridge between government and wider society;
- More opportunities for information-sharing.

Theme 1: CSOs contributions to whistleblowing protection

- Enriching legislative debates.
- Providing easy-to-use platforms.
- Raising awareness on the necessary protection of indigenous leaders who blow the whistle over crimes in the Amazon region.

Theme 2: CSOs key contributions to integrity systems - asset disclosure and conflict of interest

- Collaborating with national and local governments to improve their integrity systems on conflict of interest and asset disclosure, both with inputs on legal reforms and by assessing their existing systems and sharing their findings with law enforcement actors and reformers.
- Building online platforms to promote easier access on asset disclosure data collaborating closer with governmental agencies in charge of anticorruption policies.

Theme 3: CSOs contributions to liability of legal persons

- Collaborating with governments in improving regulations over the private sector compliance with mandatory disclosures on ESG (environmental, social governance) aspects of their activities.
- Training small and medium enterprises in ethics and compliance programs.
- Building a guide on best practices about emergency procurement.

Besides the activities above mentioned, the assessment has identified that CSOs in the region agree with some recommendations of the 2019 Cartagena Regional Conference outcome document, which was agreed upon by governments. The recommendations are the following:

Whistleblowing protection
- Awareness-raising
- Clarity in concepts (witnesses, whistleblowers)
- Effective public policy, including the empowerment of the government agency leading the implementation, resources (budget, personnel) and procedures
In terms of possible approaches and angles for future activities UNCAC Fast-Tracking regional platform, CSOs recommend the following:

- **Promote the nexus between corruption and human rights, notably regarding gender empowerment;**
- **Connect the asset recovery agenda with the debate on reparation of social damage caused by corruption;**
- **Promote greater private sector involvement – including topics such as how to counter illegal political finance and illegal lobbying, and how to promote collective actions;**
- **Promote greater involvement of local governments and grass-roots organizations;**
- **Promote transparency - open data, access to information, civic technology;**
- **Promote and strengthen international conventions and multilateral agreements and tools.**

In terms of a possible future strategy for the anticorruption CSO platform in Latin America, one promising option is to work in the nexus between anti-corruption and transnational organized crime, considering the synergies between UNCAC and UN Transnational Organized Crime Convention provisions, possibly covering the four focus areas below:

- **Beneficial ownership transparency and money laundering;**
- **Independence of institutions and obstruction to justice;**
- **Social-environment integrity - wildlife and forest crime;**
- **Surveillance and open data - cybercrime and identity-related crime.**

**Integrity systems – conflict of interest and asset declarations**
- Metrics, with data on progress being publicly available;
- Clarity in concepts (typologies, parameters for open data versus private data);
- Intensive use of technology, interoperability.

**Liability of legal persons:**
- Standards and guidelines for the compliance programs as well as guides for authorities, prosecutors, oversight governmental agencies;
- Proportionality principle: SMEs and CSOs should not have the same level of demands compared to larger legal persons.
As guardian of the United Nations Convention Against Corruption (UNCAC) and secretariat to the Conference of the States Parties to the Convention, UNODC has the mandate to provide support and technical assistance to States parties to effectively implement the Convention. The backbone for UNODC anti-corruption work is the normative framework provided by UNCAC.

Article 13 of the UNCAC calls on State Parties to promote the active participation of civil society in the fight against corruption. Civil society organisations (CSOs) play a pivotal role in fighting corruption, that ranges from providing expertise to governments, conducting anti-corruption research, monitoring and reporting on the status of implementation of UNCAC commitments, denouncing all forms of corruption, advocacy activities and as well as raising awareness on what corruption is and its deleterious effects [1].

It is against this backdrop that the United Nations office on Drugs and Crime (UNODC) organised a multi-stakeholder conference in Cartagena, Colombia in May 2019, that brought together high-level government officials together with the private sector and civil society organisations to discuss and prioritise on how to fast-track the implementation of the UNCAC under four thematic areas as regional priorities. These include the following:

a) Whistleblowing protection  
b) Liability of legal persons with emphasis on corporate compliance systems.  
c) Integrity systems with a focus on conflict of interest and income and asset declaration  
d) International cooperation

In February 2020, a follow-up to Cartagena, UNODC convened a meeting in Quito, Ecuador, to which 29 Civil Society Organizations attended. The CSOs came from all the ten Latin American countries participating in the initiative: Argentina (2 CSOs), Bolivia (3), Brazil (3), Chile (2), Colombia (3), Ecuador (5), México (5), Paraguay (2), Peru (2) and Uruguay (1) – the other organization represented was UNCAC Coalition.
This intervention was executed under a project known as “Fast-Tracking the Implementation of the United Nations Convention against Corruption (UNCAC)”. The major outcomes of the project are four Regional Platforms across the world that were created to prevent and combat corruption in the Southeast Asia, Eastern Africa, South America and Mexico as well as in Southern Africa. In Latin America the project was sponsored by the United Kingdom (FCDO).

In the Quito roundtable, CSOs concentrated on three priority themes within the original four (Integrity Systems, with a focus on asset and income declaration and conflict of interest; Liability of Legal Persons; and Whistleblower’s protection), exchanging views and presenting anti-corruption initiatives and studies related to their work in the region and in their respective countries.

In June, July and August 2021, UNODC Fast-Tracking initiative made a series of consultations with CSOs from Latin America, both one-to-one and group consultations, to assess their contribution to UNCAC implementation as well as their challenges and barriers to further and more active participation.

Amongst these consultations, a survey was distributed. The aim of the assessment was to capture and document civil society contributions and examples of best practices in the implementation of the UNCAC to reflect and to better inform future civil society activities in the anti-corruption landscape.

This report shares the findings of such consultations, discusses lessons learned and finalizes with concluding remarks and recommendations for next steps.
According to Latin American CSOs consulted for this assessment exercise (see Annex the list of CSOs), the pandemic radically changed their agendas, forcing them to an adaptation, both in strategy and operations, with scarce resources, while political context has also exacerbated. Meanwhile, there has been a growing shared perception, amongst different stakeholders, from civil society and private sector, of a setback in the fight against corruption in the region. Published in June 2021, an independent assessment[2], jointly prepared by a risk assessment consultancy firm and an international business organization, found that “[t]he fight against corruption in Latin America suffered a new wave of setbacks over the past year”. The “2021 Capacity to Combat Corruption Index” covered 15 Latin American countries and looked at 14 key variables, which are organized within three larger categories:

i) legal capacity;  
ii) Democracy and political institutions;  
and iii) Civil society and media.

During a one-to-one consultation, the head of Transparencia por Colombia, Andres Hernandez, agrees with the independent assessment and affirmed that, while it is crucial to monitor progresses around the efforts to counter corruption, “[u]nfortunately, in general, I see a setback in the fight against corruption in the [Latin American] region”. Another evidence of such interpretation is a report recently published by Transparency International entitled "Brazil: Setbacks in the Legal and Institutional Anti-Corruption Frameworks" [3].

In terms of the UNCAC Review Mechanism, there is a perception amongst Latin American CSOs that there should be more entry points for civil society organizations, especially when compared with two fora in which CSOs in the region usually participate actively: the OAS (Organization of American States) mechanism to implement the Inter-American Convention against Corruption, known as MESESIC, and the multilateral platform Open Government Partnership (OGP).
Asociación Chilena de Voluntarios, a CSO from Chile that actively participated in the Fast-Tracking UNCAC implementation initiative, affirmed that spaces for civil society participation have closed and multistakeholder dialogues have been affected: “we had a real setback on that”\(^{(1)}\).

In this regard, some international experiences could be observed in terms of illuminating attempts on pushing for more active and fruitful civil society participation. The above mentioned MESESIC and the OGP approaches for the co-creation of action plans are interesting comparative studies.

\(^{(1)}\) Translated from the original sentence “en eso retrocedimos bastante”. Response given by Asociación Chilena de Voluntarios” to the question “Is/Are there any lessons learned that you distilled from your interventions in the area of civil society contribution to the UNCAC Review Mechanism?”. 
CIVIL SOCIETY CONTRIBUTIONS TO THE UNCAC IMPLEMENTATION REVIEW MECHANISM

The UNCAC Implementation Review Mechanism (IRM) comprises two five-year cycles. The first cycle (2010–2015) covered chapter III of the UNCAC on criminalisation and law enforcement and chapter IV on international cooperation. The second cycle (2015–ongoing) covers chapter II on preventive measures and chapter V on asset recovery. The IRM is an effort to check on the implementation progress by UNCAC State Parties, that is to say, states that signed and ratified the UNCAC. These State Parties have an obligation to implement the provision of the UNCAC. The UNCAC itself recognises the crucial role of civil society organisations in supporting governments to meet their UNCAC obligations and contributing to ongoing assessments of their performance through the UNCAC review process. This supports the contributions of civil society organisations to the IRM.

2.1 CSOs participation in the UNCAC implementation review mechanism

Among the 29 CSOs consulted, 45% have have made some type of contributions in either the first or the second phase of the UNCAC review Mechanism, while 55% did not.

Among those 13 which have participated, seven have reported they participated in both cycles: ONG Contraloria Ciudadana para la Rendicion de Cuentas (Mexico); Chile Transparente; Transparencia por Colombia; Uruguay Transparente; Transparência Internacional – Brasil; Proética (Peru); and Semillas para la Democracia (Paraguay).

One (Transparencia Mexicana) was involved only in the first cycle first cycle (2010–2015), which covered Chapter III (on criminalization and law enforcement) and Chapter IV (on international cooperation), whereas five claim involvements only in the second cycle, which covers Chapter V (on asset recovery): Fundepco (Bolivia), FCD (Ecuador), IBGC (Brazil), CPC (Ecuador), and IDEA (Paraguay).

Besides consulting CSOs about the UNCAC review mechanism, the consultations asked on the status of the topics discussed under the scope of this initiative in Latin America.

2.2 Civil society contributions in the UNCAC implementation review mechanism

Nonetheless, the type of involvement reported points to some informal and indirect activities. Six CSOs have informed country visit, considering the participation in both Cartagena and Quito events as part of the review process, for instance. Five organizations have stated they disseminated the country review report, whereas four have worked on parallel reports (a fifth CSOs informs that a parallel report is being prepared). Two CSOs claim they have participated in the self-assessment checklists.
2.3 Civil society interest to participate in the UNCAC review mechanism

Although less than half of the surveyed CSOs have participated in the review, most of them seem to be eager to participate more actively in the future. According to almost 70% (21 out of 29) of the CSOs surveyed, the main route to foster more dialogue between civil society and governments in the region is to identify and establish contact with the government focal point. Other three options have been chosen by the majority (+50%) of the CSOs surveyed.

Figure 1 – Civil Society views on the most promising routes for a more fruitful dialogue between CSOs and governments in Latin America, regarding UNCAC implementation

When read altogether, the graphs above tell the story of an ecosystem that is eager to participate more actively, looking for more suitable entry points. Additionally, anticorruption CSOs are willing to demonstrate to governments that they are part of the solution and could be partnering with governments in terms of advancing anticorruption measures in general, and UNCAC implementation, particularly.

Besides consulting CSOs about the UNCAC review mechanism, the consultations asked on the status of the topics discussed under the scope of this initiative in Latin America.
There are legislations in place in five (Argentina (2), Brazil(3), Ecuador, Peru and Uruguay) out of the ten countries involved in the initiative; however, CSOs understand that whistle-blowers are still at risk in the region: according to 83% of the organizations surveyed, whistleblowing is unsafe:

**Figure 2 – How safe are whistle-blowers in your country?**

As noted from the graph above, around 80% (24 out of 29) of the surveyed CSOs believe whistle-blowers are not safe in their respective countries:

**Figure 3 – How safe are whistle-blowers in your country?**

(2) Two Argentinian CSOs responded “no”, whereas other two responded “yes” to the question “Is your country having a law/policy for whistleblowers protection?”. Some CSOs believe the existing law or policy do not fall within the concept of whistleblowing protection.

(3) Two Brazilian CSOs responded “no”, whereas other three responded “yes” to the question. Some CSOs believe the existing law or policy do not fall within the concept of whistleblowing protection.
A list of types of challenges have been presented at the survey, and CSOs responded that these are the main challenges whistle-blowers face (multiple answers were accepted)

**Figure 4 – What are the main challenges whistleblowers face?**

- Significant personal and professional risk: 10 responses
- Risk of retaliation in the workplace: 5
- Lack of protective measures against forms of retaliation: 3

The following are noteworthy examples of their interventions:

- **Chile Transparente** and **Transparencia por Colombia** have both, in their respective countries, contributed for the formulation of legislation and public policy on whistleblowing protection.
- **Semillas** (Paraguay) and **Uruguay Transparente** both provide online platforms which citizens use.
- **Poder Ciudadano**, from Argentina, leads an “Anticorruption Legal Assistance Center” (ALAC), a service of free legal advice and accompaniment to, among others, victims and witnesses of acts of corruption. **Transparencia Internacional Brasil** reported they are in the structuring phase of its own ALAC in Brazil.
- **GCNB (UNDP’s Global Compat Network Brazil)** encourage companies to enhance whistleblowers’ protection by reporting indicators of their respective existing channels and exchanging best practices on those channels, etc.; IDEA (Paraguay) responded they participate in public debates about whistleblowing protection.

**Box 2.**

**Online platforms in various Latin American countries and participation in drafting a new legislation in Mexico**

A regional, civil-society, non-profit organization founded in 2010, PODER coordinates the initiative Mexicoleaks, self-described as “a tool that allows people to send information of public interest to media outlets and civil society organizations through secure technologies that protect the identity of the source”. PODER has also helped create Guatemala Leaks, Uruguay Leaks, ChileLeaks and PeruLeaks.

In October 2020, the Mexican government agency Secretaria de la Funcion Publica (the office of the federal executive power with functions of Comptroller) started a round of consultations on possible new ambitious legislation on whistleblowing protection. A redaction committee, presided by the Secretaria de la Funcion Publica, with the participation of CSOs and citizens, have been created to draft the bill. The discussions advanced with several round of consultations and, according to PODER, the current version of the draft (as of September 2021) is an adequate proposal, mirroring most of the best practices worldwide.
Protection of indigenous leaders in Peru who blows the whistle on corruption and environmental crimes

In July 2020, Proetica, a Peruvian CSO (Transparency International chapter), along with other two CSOs and four indigenous communities, sent a request to the Inter-American Commission of Human Rights (ICHR) for a thematic hearing on “Corruption and violation of human rights of defenders of indigenous peoples in the Peruvian Amazon”. According to the CSO, 11 indigenous defenders have been slain in the past few years, of which two have been murdered during the Covid-19 pandemic. According to the request, the situation “is expressed in the numerous attacks and threats against the life and individual and collective integrity that defenders of the rights of indigenous peoples have been suffering in the communities of Alto Tamaya-Saweto (ashéninka people), Santa Clara de Uchunya (shipibo-conibo people) and Unipacuyacu (kakataibo people).” The hearing was held in October 2020.
3.2 ANTI-CORRUPTION PRIORITY: Liability of legal persons

There are legislations in place in most of the countries in the region; however, the view of CSOs is that the following challenges exist:

Figure 5 – What are the main challenges posed by the liability of legal persons?

Out of the 29 surveyed CSOs, 16 reported they contribute with the issue. Some highlights:

Box 4: Compliance programs, ESG and beneficial ownership transparency

Brazil’s IBGC (Instituto Brasileiro de Governança Corporativa) published in March 2021 a report on the compliance programs of Brazilian companies not listed in the stock market exchange. Entitled “Overview of Compliance Programs in Unlisted Companies” (free translation from “Panorama dos Programas de Compliance em Empresas de Capital Fechado”), the publication brings light, based on inputs from 104 experts in Brazil, to compliance practices trends and challenges of unlisted companies. In another initiative, also in March 2021, IBGC participated in a public hearing organized by the Brazilian securities regulator (CVM) on the informational regime of issuers (listed companies). IBGC presented to the regulator some proposals on the level of transparency of companies so as to reflect ESG (Environment, Social and Governance) aspects and suggested improvements on the identification of the beneficial owners. ODJ attempted to discuss the findings with the government when the report was launched, in 2020; however, given the Covid pandemic, other priorities emerged. ODJ intends to update their report in the coming months and to present it to the national government and the recently elected Parliament.
• ODJ (Ecuador) also prepared a report on good anti-corruption practices for the private sector, with a view to fostering transparent organizations; similarly, Semillas (Par) has recently prepared a report on this subject.

• Transparencia por Colombia has contributed with Transparency International’s report[6], published in 2020, that served as an assessment of the enforcement of the OECD Anti-Bribery Convention

• Chile Transparente has trained several multi-member organizations in the criminal liability systems of legal entities and preventive anti-corruption policies; has been part of roundtables with public authorities and civil society to strengthen the list of competent authorities and has presented technical proposals to improve the legislation and implementation of policies in this matter.

• AHK Argentina has trained more than 600 small and medium enterprises since 2015, following the standards and best practices of international organizations; GCNB (Brazil) also trained companies and enhanced debates about Brazil’s legislation.

• Poder Ciudadano has been part of the Civil Society Group that contributed to the drafting of a legislation in Argentina.

• Transparency Mexicana has created a diagnosis and evaluation[7] of the presence, quality, publicity and transparency from what the 500 most important companies in Mexico publish about their integrity policies.

3.3 ANTI-CORRUPTION PRIORITY: Integrity systems – conflict of interest

Figure 6 – What are the main challenges regarding the implementation of effective conflict of interest legislation?.

There are legislations in place in most of the countries in the region; however, CSOs understands that some challenges are still present:
Out of the 29 surveyed CSOs, 16 reported they contribute with the issue.

Below some significant activities held by CSOs in the region on conflict of interest:

- **FCD (Ecuador)**, in collaboration with one of the vice-presidents of the National Assembly, has co-created a bill for the Prevention of Conflicts of Interest, which is currently (as of September 2021) being discussed in the Legislative House.
- **Proetica (Peru)** has participated in the technical discussions and evaluations that have been carried out. Additionally, has carried out advocacy activities during implementation to improve compliance to the existing legislation.
- **Uruguay Transparente** has presented the subject in workshops and in Parliament.

**Box 5.**

**In Argentina, civil society – government dialogue to improve regulation on conflict of interest at national and local levels**

As a new regulation on food labelling is under discussion in the Congress, FUNDEPS, along with organizations working in the field of right to health, is currently (as of Sept 2021) attempting to collect data on possible conflict of interest by lawmakers which is proving to be a challenging task. As member of the Advisory Council of the Oficina Anticorrupción ("Anticorruption Office", which is formally a decentralized agency reporting to the Ministry of Justice and Human Rights of the Federal Government), FUNDEPS will share those challenges with the Office to contribute to a better regulation on conflict of interest in Argentina.

Another Argentinian CSO, Poder Ciudadano participated a few years ago in the drafting of a Public Ethics Law, which contained a more complete system for regulating conflict of interest. While the draft law is under discussion in the National Congress, Poder Ciudadano is part of a formal forum of the Buenos Aires provincial government and contributes with the discussion of a legislation to the region.

**Box 6.**

**Standards, capacity building and transparency in Chile**

Chile Transparente has promoted the improvement in the application of the standards, has participated in the legislative debate; and has trained the different stakeholders in the fulfilment of the obligations. Likewise, it has a web platform (https://integritywatch.cl/) to allow easy access to data. Integrity Watch Chile is designed to be a central platform that allows citizens, journalists, and civil society to monitor the integrity of decisions made by Chilean politicians. To do this, they collect and harmonize data that is often scattered and difficult to access. The platform allows citizens to search, classify and filter information in an intuitive way. In this way, Integrity Watch Chile contributes to increasing transparency, integrity and equal access to political decision-making and to supervising the institutions of the Republic to identify possible conflicts of interest, undue influence or corruption.
3.4 ANTI-CORRUPTION PRIORITY: Integrity systems – asset declaration

There are legislations in place in most of the countries in the region; however, the view of CSOs is that the following challenges exist:

Figure 7 – What are the main challenges regarding the implementation of effective asset disclosure legislation?

An assessment of the Ecuadorian asset declaration law
In June 2020, the Ecuadorian Civil Society Organization ODJ (Observatorio Derechos y Justicia) published a report entitled "Asset declarations – an analysis from the access to information standpoint ("Declaraciones patrimoniales – un analisis desde el acceso a la informacion publica). The report compares the current legislation in Ecuador, that came into force in 2017, with the Inter-American Convention Against Corruption and the recommendations of the follow-up mechanisms of the Convention. ODJ attempted to discuss the findings with the government when the report was launched, in 2020; however, given the Covid pandemic, other priorities emerged. ODJ intends to update their report in the coming months and to present it to the national government and the recently elected Parliament.

These are some of the relevant activities reported by the CSOs surveyed:
- **Poder Ciudadano (Argentina)**, via judicial litigation, has broadened the level of disclosure of asset income and declaration data.
- **AHK Argentinan** has organized events to share best practices. The recommendations revolve around a policy of active transparency, digitization and centralization of data.
Collaborating with Brazilian subnational governments in asset income and declaration systems

Brazil is comprised of 27 autonomous federal units. Transparency International Brazil has conducted research in seven federal states, across the diversity of the regions, and has identified some important elements. The declaration of assets and income is mandatory in five of the investigated states. In four of them, the internal oversight body is obliged to evaluate the data in order to identify possible incompatibilities. In two states this declaration is obligatorily made electronically. It is not mandatory in any of the states that the statements are made public. The findings have been shared and discussed with focal points within each federal state, mainly the respective Offices of the Comptroller General.

3.5 ANTI-CORRUPTION PRIORITY: International cooperation

Most CSOs understand that challenges are noticeable in this topic, namely lack of resources and training as well as enforcement capabilities:

Figure 8 – International cooperation questions.

Does your organization understand that central authorities and relevant institutions in your country have adequate resources and training, as well as appropriately structured and power, to prepare and respond to requests for mutual legal assistance, including with respect to translation and interpretation, when required?
• "No": 19 responses
• "Yes": 10

Are you/your organization aware of any measures in place to promote informal cooperation and intelligence sharing, including spontaneously, between law enforcement bodies across jurisdictions?
• "No": 22 responses
• "Yes": 7
Are you aware of any capacity-building activities for practitioners engaged in mutual legal assistance related to corruption investigations and prosecutions?
• "No": 26 responses
• "Yes": 3

Below is a list of additional valuable initiatives improving transparency and integrity in Latin America carried out by CSOs in the region.

**Civil Society contributions: Domestic Cooperation**

**Argentina:** AHK (Chamber of Commerce Argentina-Germany) has collaborated with the Oficina Anticorrupción (Anticorruption Bureau, a decentralized agency reporting to the Ministry of Justice and Human Rights), making recommendations in the guidelines of integrity programs within the framework of a new legislation, in the Integrity Guide for SMEs and in the creation of the Registry of Integrity and Transparency for Companies and Entities promoted in 2021, together with the Interamerican Development Bank.

**Ecuador:** FCD, a CSO that attended both Cartagena and Quito events, has collaborated with the office of the second vice president of the National Assembly, in a draft law for the Prevention of Conflicts of Interest, which is currently being discussed in the National Assembly.

**Paraguay:** Semillas, a CSO that attended both events, have established a fruitful relationship with the leadership of the National Anticorruption Secretariat (SENAC), technical and specialized management body of the Presidency of the Republic, and 14 other relevant local CSOs and media partners, which allowed for exchange information and for carrying out joint activities, such as proactive publication of public budget information and capacity building.

**Civil Society contributions: Regional Cooperation**

**Open data:** Datasketch, a CSO that attended both Cartagena and Quito events, have been collaborating with the government of Colombia in the Open Government Partnership Platform. Additionally, they have collaborated with Ecuadorian government to assist in the implementation of an OAS (Organization of American States) endorsed program on open data to counter corruption. Lastly, they have been working with CAF (Development Bank of Latin America) and OAS to develop an algorithm able to predict corruption patterns in public procurement based on risk assessment models formulated by Paraguayan and Ecuadorian government agencies in charge of procurement.

**Emergency procurement:** Transparencia Mexicana, Transparency por Colombia and Transparency International Brazil (all three have attended both events and are Transparency International chapters) have built a public procurement guideline for emergency procurement, entitled "Guide to Buy Fast and Buy Well in Emergencies". It is a compendium of experiences that presents areas of opportunity for organizations working on the issue anti-corruption and public contract that allow moving from diagnosis to action.
CONCLUSION AND RECOMMENDATIONS

Latin America has seen in recent years economic and political challenges which were exacerbated during the Covid-19 pandemic. There is a shared perception, amongst Civil Society Organizations and private sector champions, that the fight against corruption has seen some setbacks in the region. Despite the context, CSOs working in the anticorruption field in South America and in Mexico managed to participate in relevant debate around legal frameworks on conflict-of-interest systems, produced actionable knowledge on asset disclosure regimes, raised awareness on whistleblowing protection, provided training and recommendations for compliance systems in the private sector. It is worthwhile noting that private sector and local governments have been more active in these fora and more eager to be involved in anticorruption initiatives across Latin America.

Those activities and initiatives occurred in Latin America, even though CSOs in the region report they have not had active participation in formal review mechanisms around UNCAC, according to the survey and the consultations held. Additionally, in their understanding, the mechanism does not provide the same level of entry points for CSOs in comparison to other fora and mechanisms well-known across the region, such as the Inter-American mechanism; case in point, the Inter-American Convention against Corruption dates back to 1996; that is, it is prior to the UNCAC, which translate into the countries of the Americas having been learning and interacting around the Inter-American diploma longer than the UN instrument. Latin-American CSOs, however, demonstrate they are interested in more active engagement with UNCAC mechanisms. Evidence of which is that 21 out of the 29 CSOs surveyed understand that the best avenue to foster dialogue with governmental counterpart is to identify focal points within government and nurture a fruitful relationship. With the technical assistance provided by UNODC, Latin American governments can take great advantage of a closer dialogue with CSOs.
4.1 Lessons learned and best practices

According the 2011 Guidelines in the conduct of a country review (Basic Document), paragraph 28, “[t]he State party under review shall endeavor to prepare its responses to the comprehensive self-assessment checklist through broad consultations at the national level with all relevant stakeholders, including the private sector, individuals and groups outside the public sector”.

However, the CSOs consulted have reported that they have had little or no contact with their respective governmental counterparts regarding the UNCAC implementation and its review mechanism in recent years. The very fact that the most marked response, when asked about main avenues to foster partnerships with governments, was “identifying focal points” corroborates the interpretation of a shortage in the dialogues between the most relevant anticorruption CSOs in the region and their respective governments. On the other hand, the eagerness and level of interest presented by CSOs mean that there are opportunities for further future engagements. The feedbacks received from the CSOs in Mexico and South America also allows for the envisioning of open avenues for future initiatives to be built upon the Fast-Tracking UNCAC Implementation project.

If there has been, on the one hand, some frustration in terms of Latin American civil society engagement specifically around the UNCAC formal review mechanism, on the other hand, this assessment exercise demonstrates that there has been multistakeholder dialogue in different countries and even regionally around specific issues, such as open data, liability of legal persons, conflict of interest and whistleblowing – although Fast-Tracking UNCAC Implementation initiative may not have been the main reason, the activities of the project seem to have raised awareness and capacities amongst CSOs.

Civil Society Organizations in South America and Mexico are ready to engage and contribute with their expertise and large experience.
According to the survey and the consultations held, most of Civil Society Organizations from South America and Mexico working in the anticorruption field have not actively been participating in the UNCAC Review Mechanism activities. Additionally, in their understanding, the mechanism does not provide the same level of entry points for CSOs in comparison to other fora and mechanisms, such as the Inter-American mechanism; case in point, the Inter-American Convention against Corruption dates back to 1996; that is, it is prior to the UNCAC.

Latin-American CSOs, however, demonstrate they are interested in more active engagement. Evidence of which is that 21 out of the 29 CSOs surveyed understand that the best avenue to foster dialogue with governmental counterpart is to identify focal points within government and nurture a fruitful relationship.

The CSOs consulted have reported that they have had little or no contact with their respective governmental counterparts regarding the UNCAC implementation and its review mechanism in recent years. The very fact that the most marked response, when asked about main avenues to foster partnerships with governments, was “identifying focal points” corroborates the interpretation of a shortage in the dialogues between the most relevant anticorruption CSOs in the region and their respective governments. On the other hand, the eagerness and level of interest presented by CSOs mean that there are opportunities for further future engagements. The feedbacks received from the CSOs in Mexico and South America also allows for the envisioning of open avenues for future initiatives to be built upon the fast-tracking UNCAC implementation.
c) CSOs contributions to the implementation of conference recommendations

According to the CSOs consulted, the priorities agreed in the Quito event have been relevant as a guide to their strategies:

“The establishment of regional priorities for the implementation of the UNCAC has helped a lot to direct our work, in addition to regional cooperation and among CSOs.” Contraloria Ciudadana para la Rendición de Cuentas, Mexico

“(…) it [the UNCAC Fast-Tracking initiative] helped us to delve further into the agendas and themes of the UNCAC, participate in national initiatives such as the Network of Organizations against Corruption, establish a closer link with the Oficina Anticorrupción, the National Anti-Corruption Office (we are currently part of its Advisory Council, above all because of our federal component - since we are located as an NGO in the interior of the country - and the human rights agenda in our organization). Likewise, as a result of the UNCAC initiative, we have had more capacity to be part of regional initiatives, as a follow-up to the Lima Commitments [list of anticorruption commitments signed by countries in 2018 during the Americas Summit before the OAS - Organization of American States] through a regional Citizen Observatory of Corruption.” Fundeps, Argentina

“After Cartagena and Quito, a permanent relationship was maintained with countries in the region and also with the presentation of projects and partnership with good practices, an environment related to the issue was created, I do not know if I managed to influence accelerated implementation because the pandemic also erased some progress, but if I have no doubt that the theme is

d) CSOs reflections on the UNCAC Fast-Tracking regional platform

Besides those notes on proposing further participation in more formal arenas, CSOs consulted mentioned positive outcomes from their engagement in the Fast-Tracking initiative. Those feedbacks could be summarized with the following keywords:

- **Capacity building**
  CSOs reported they now feel more knowledgeable about UNCAC and its provision.

- **Moving ahead fast-tracking initiative specific issues**
  There have been a few reports about new legislative debates on specific issues of the fast-tracking initiatives – namely conflict of interest and whistleblowing – partly attributed to the CSOs participation in the initiative and the knowledge building thereof.

- **Knowledge and experience sharing**
  CSOs reported that learning about other organizations’ work in their contexts helped both understand the status of anticorruption provisions in different countries and inspired innovation.

- **Enhancing dialogue with government and better regional coordination and cooperation amongst CSOs**
  There have been reports of improvement in the dialogue with specific anticorruption agencies and improvements in the collaboration amongst CSOs and networks.

- **Enhancing more active participation in regional and global fora.**
  Because of the knowledge building and the cooperation amongst CSOs, there have been reports of more active participation of the Latin American CSOs in the UNGASS as well as regional initiatives related to the assessment of anticorruption commitments made within the OAS and the OGP.
Besides the natural diversity of points of view, there are convergences that have been mapped during the UNCAC fast-tracking implementation initiative. With the technical assistance provided by UNODC, Latin American governments can take great advantage of a closer dialogue with CSOs. As highlighted in this report, many CSOs produce technical knowledge, publish reports, organize events. They can bring expertise and present gaps, loopholes in legislations and public policies. Furthermore, CSOs participation in the formulation and evaluation of policies may bring more legitimacy to these processes.

In a broader term, CSOs have requested more space for active and substantial participation. Multi-stakeholder platforms in which CSOs can be heard and considered are also suggested.

“When there are fora for interaction and deliberation between the decision-makers, the private sector and civil society, when these stakeholders actually meet and dialogue in a constructive and horizontal way, substantial changes can be generated”. Chile Transparente.

“We consider that, in addition to the moments of proper evaluation (Review Mechanism), it is essential to generate permanent fora in which the CSOs can contribute to evaluating the implementation of the UNCAC in their countries”. JAPIQAY, Peru.

“The actions of civil society are more fruitful when they are side by side with State representatives, it is worth deciding, for those actors who often pose an obstacle to the gate to generate greater mechanisms of opening and public scrutiny. Therefore, efforts should be made to sensitize these actors to produce greater openings that will allow civil society to have a better impact in order to produce effective changes. If the State itself does not want to open the port, the level of impact for the changes is much lower, therefore, it is necessary to focus on raising awareness on this from the beginning” Fundepco, Bolivia.

4.2 Recommendations

Besides the natural diversity of points of view, there are convergences that have been mapped during the UNCAC fast-tracking implementation initiative. The items below emerge from the analysis of the following:

- The 2019 Cartagena Regional Conference – as the main reference document
- The 2020 CSOs Roundtable in Quito
- Consultations held during this initiative, from 2019 to 2021

Some of the initiatives mapped during this assessment exercise are aligned with the proposed actions composing the 2019 Cartagena outcome document. Evidence that multistakeholder dialogue poses a great capacity to promote change.

4.3 Whistle-blowing protection

1. Awareness-raising on the very concept of whistle-blowers and increased clarity in concepts (for instance, the difference between witnesses and whistle-blowers)
2. Review existing norms
3. Effective public policy, including the empowerment of the government agency leading the implementation, resources (budget, personnel) and procedures
4. Ensure confidentiality and anonymity while disclosing statistics
4.4 Liability of legal persons

1. Standards and guidelines for the compliance programs of legal persons as well as guides for authorities, prosecutors, oversight governmental agencies.
2. Develop compliance programs following the proportionality principle: SMEs and CSOs should not have the same level of demands compared to larger companies.

4.5 Integrity systems – conflict of interest and asset declarations

1. Integrity system on conflict of interests with metrics, and whose data on progress is publicly available.
2. Clear concepts, management, supervision, sanction in conflict of interests systems
3. Maximum transparency in asset declaration: clear parameters for open data versus private data, inclusive norms, intensive use of technology, data interoperability.

In terms of additional priority areas, CSOs surveyed highlighted the following proposals:
- Private sector involvement – including topics such as how to counter illegal political finance and illegal lobbying; and how to promote collective actions.
- Transparency – access to information, open data, proactive transparency, civic technology
- Multilateral instruments -- such as UNCAC implementation, mutual legal assistance requests, asset tracing.
- Asset recovery and reparation of social damage caused by corruption
- Beneficial ownership transparency
- Nexus between corruption and human rights, notably regarding gender issues
- Local governments

4.6 Addressing the links between fighting corruption and transitional organized crime

Another angle to observe and recommend future actions relates to the calls for synergies and nexus between the UNCAC and the UNTOC (the UN Convention against Transnational Organized Crime); that is, provisions on countering corruptions aligned with the fight against organized crime.

Based on the survey responses and online consultations with the Latin American CSOs, it is possible to state that these are the main topics to be considered in regard to the nexus between both UN Conventions:

- **Independence of anticorruption authorities** - UNCAC, art 6. Preventive anti-corruption body or bodies
  Synergies with **obstruction of justice** - UNTOC, art 23. Criminalization of obstruction of justice
- **Beneficial ownership transparency** – UNCAC Art 14. Measures to prevent money-laundering
  Synergies with **money laundering**: UNTOC Art 7. Measures to combat money-laundering
- **International cooperation (technical assistance)** – UNCAC Art. 59 Bilateral and multilateral agreements and arrangements
  Synergies with **International cooperation (technical assistance)**: UNTOC Art 62. Other measures: implementation of the Convention through economic development and technical assistance
- *Emerging issues:*
  
  Social-environment integrity - wildlife and forest crime  
  Surveillance and open data - cybercrime and identity-related crime  

The pandemic deeply affected civil society organisations in the region, as South American countries and Mexico are in a group of countries most severely harmed by the covid crises. This has changed their strategies and operations, holding back a more positive participation in the efforts for a faster UNCAC implementation in the region.

However, as noted throughout this report, there is plenty of room to advance towards a greater involvement of civil society in the UNCAC implementation in Latin America. The various stakeholders could a) keep the pace in the issues already developed in the scope of this initiative (whistleblowing protection, liability of legal persons; integrity systems; international cooperation); b) could select topics from the additional items abovementioned (countering illegal lobbying and illegal political finance; promote collective action; promote transparency and open data; multilateral instruments; asset recovery; beneficial ownership transparency); or c) even move forward an agenda of synergies between UNCAC and UNTOC.

Civil Society Organizations in South America and Mexico are ready to engage and contribute with their expertise and large experience.
REFERENCES


[3] Translated from the original sentence: “Lastimosamente veo en general un retroceso en lucha contra la corrupción en la región”. Comment made by Andres Hernandez, the executive director of Transparencia por Colombia, in a consultation made on 15.jun.2021


[5] Translated from the original sentence “en eso retrocedimos bastante”. Response given by Asociación Chilena de Voluntarios” to the question “Is/Are there any lessons learned that you distilled from your interventions in the area of civil society contribution to the UNCAC Review Mechanism?”.


## ANNEXES

### List of consulted Civil Society Organizations (CSOs)

<table>
<thead>
<tr>
<th>Name of the CSO</th>
<th>Country</th>
<th>Status on participation to the UNCAC Review Mechanism</th>
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