How prepared are we to assess real implementation of anti-corruption conventions?

Lessons from the Americas

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by

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Abstract

The United Nations Convention against Corruption (UNCAC) is the latest achievement in a series of international anti-corruption treaties. All of them share a common challenge – how to meaningfully assess their implementation. In fact, for UNCAC a mechanism to review implementation has yet to be agreed upon. This U4 Issue Paper explores lessons learned from the anti-corruption convention that has been in existence longest – the Inter-American Convention against Corruption (IACAC) – which gives useful insights into the requirements for an effective review process. In the Americas, as elsewhere, there is often a gap between formal (legal) aspects of reform and the reality of implementation. This paper analyses the IACAC review mechanism and identifies strengths and weaknesses in generating legal and performance related information about the implementation of the convention. Special emphasis is given to the development of an indicator map to assess some key areas of IACAC implementation in Guatemala. The paper argues that strengthening national information systems and information management capacities can generate more objective knowledge about the progress of anti-corruption reforms. Performance indicators, in particular, are necessary for meaningful assessments of, and debates about, the status of a convention's implementation within a particular country.

It is the purpose of this Issue Paper to make these lessons learned available to the States Parties to UNCAC in their current discussions on a possible review mechanism for UNCAC. However, this experience can also be useful to the different national actors in each country, as well as to donors in guiding their commitment to provide technical assistance for the implementation and follow-up of the UNCAC.

Executive summary

The United Nations Convention against Corruption (UNCAC) is the latest achievement in a series of international anti-corruption treaties. All of them share a common challenge – how to meaningfully follow up on their implementation. In fact, for UNCAC a mechanism to review implementation has yet to be developed. This U4 Issue Paper explores lessons learned from the anti-corruption convention that has been in existence longest – the Inter-American Convention against Corruption (IACAC) – which can give useful insights on follow-up, especially given the similarity between the two conventions in terms of objectives, the heterogeneous composition of their member states, and the broad content of its provisions. More specifically, this paper aims to demonstrate the existing gap between information about formal changes and information about real changes (results and impacts) in the countries. Strengthening national information systems and information management capacities proves to be important in order to generate more objective knowledge about the level of implementation of anti-corruption conventions, and thus about anti-corruption reform. Finally, this paper shows the value of using performance indicators which facilitate the assessments about the degree of implementation of a convention within the respective countries. Special emphasis is given to the development of an indicator map which assesses some key areas of IACAC implementation in Guatemala.

It is the purpose of this Issue Paper to make these lessons learned available to the States Parties to UNCAC in their current discussions on a possible review mechanism for UNCAC. However, this experience can also be useful to the different national actors in each country, as well as to development partners in guiding their commitment to provide technical assistance for the implementation and follow-up of the UNCAC.[1]

The Inter-American Convention against Corruption and its follow-up

Implementation of IACAC, especially in the Latin American sub-region, began with a long process of promoting penal reform in criminal matters. At the national level, the implementation of the IACAC had a series of similar characteristics: New criminal laws were debated and passed more quickly than it took to implement preventive reforms; some explicit anti-corruption reforms have been evaluated publicly and periodically, although this has been an exception rather than the rule; and the change in the legal norms of most countries in the region did not, in its own right, entail a change in practices.

The Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESISIC),[2] was created as a separate international agreement in 2001, some years after the IACAC had entered into force. Out of the 33 States Parties that have ratified the IACAC, 28 participate in the follow-up mechanism. The states have provided the MESICIC with a great deal of information on current legal provisions and administrative and judicial instruments aimed at preventing and combating corrupt practices. In turn, the MESICIC has significantly helped States Parties perform systematic analyses of their progress and has facilitated international cooperation. The public nature of the mechanism, meaning the broad access to reports and evaluations, has been essential. In terms of contributions, the MESICIC has encouraged important dialogue between governmental and non-governmental actors in many countries in the region. With regard to the real effects that MESICIC generates in the States Parties, it can be affirmed that government actors and

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[1] For the purpose of this paper, "implementation" refers to the process of putting public decisions into practice at the various territorial levels and "follow-up" refers to the process of observing the implementation with an evaluative and corrective purpose.

[2] MESICIC consists of two bodies: (i) the Conference of the States Parties – the political body of the mechanism – which issues the most important decisions and guidelines, and which is comprised of political representatives of all States Parties to the Mechanism; and, (ii) the Committee of Experts – the technical body responsible for the review of countries.

civil society in several countries have used the recommendations to encourage debate, reach political agreements and ultimately strengthen the transparency and anti-corruption agendas.

Challenges remain

However, there are issues that undermine a more profound follow-up on the implementation of the IACAC: Despite the valuable and abundant juridical-formal information that the MESICIC generates there is little information about results at the national level. Also, a majority of the States Parties have experienced difficulties in providing qualitative and quantitative information that would allow for a more objective evaluation of the impact of measures established. As such, the need persists to produce higher quality, objective, and accessible information, particularly in the form of statistics and indicators, to evaluate the progress, difficulties, and results of implementation, above all in relation to institutional practices.

Taking into account the *types* of information (legal information, procedural information, and information on objective results) generated for the IACAC following mechanism, and the *quality* of this information, helps to better understand what type of information is considered valuable by the states and how capable they are of producing useful information for the purposes of the mechanism. Regarding the types of information, the questionnaires completed by States Parties provide abundant legal and procedural information; however, they fail to provide the same level of information on results. In terms of quality, a majority of the States Parties has indeed submitted information on objective results, but a good part of this information remains incomplete and unconnected. Reporting on the sources and methods used to collect the data has frequently been omitted. On balance, while most states have submitted legal or procedural information, statistical data or indicators, not one has submitted sufficient information on objective results in every area reviewed in any given round of review.

Part of the problem is that the majority of States Parties has weak national statistical and information systems and thus face difficulties to provide the follow-up mechanism with comprehensive and fully accessible information. The specific information on the results of implementing corruption prevention or sanctioning mechanisms is often put together by the very bodies responsible for the implementation of these mechanisms, but the information is not going through an **independent validation process.** Only in a few cases does this information possess the attributes of integrity, reliability, and accessibility, as important criteria for quality. In general, the countries participating in the MESICIC not only have weak information systems, but they also hardly use indicator systems to evaluate the performance of their policies, laws, and administrative mechanisms to combat corruption.

These difficulties need to be taken into account in any realistic initiative for the follow-up of anti-corruption conventions, because the use of this type of information is fundamental for an adequate and meaningful follow-up.

Measuring performance in Guatemala

A variety of Civil Society Organizations (CSOs) in Latin America have developed indicator-based tools in an effort to help remedy the challenges described above. One illustrative example to create an indicator map in Guatemalan – described in detail in this paper – shows that performance indicators have the characteristics needed for an effective follow-up of an anti-corruption convention. The indicator map in Guatemala focused on indicators for the **legal framework** and **institutional performance**. The results of the exercise showed a notable discrepancy between the legal and the actual realities of the country. The indicators on institutional performance in the reviewed areas showed considerably lower performance levels than the indicators on the legal framework. In fact, most of the areas examined hardly reached acceptable levels. In evaluating this experience, it can be stated that the indicator map produced important inputs for public policymakers and other actors regarding the need to improve decision-making and public management processes associated with the implementation of the IACAC. It also showed that the pure improvement of laws is important albeit

secondary to improving practices. In addition, the results allow efforts to be clearly focused on those thematic areas that were identified as the weaker ones.

The experience of the indicator map in Guatemala has shown both limitations and possibilities for follow-up on the implementation of the IACAC at the national level. The indicator map report notes that limitations are found in practically every anti-corruption convention, including the UNCAC. In the case of IACAC, these limitations are related to the difficulties based on the diversity of its thematic content, the varying degree to which its provisions are legally binding, the multiplicity of actors involved in each measure of the convention, and the inclusion of undefined standards in its provisions. Also, it should be noted that **performance indicators** usually are not used for measuring an anti-corruption convention. However, their methodological development and associated governmental information systems provide powerful capabilities, and should therefore be considered, for instance, for evaluations of anti-corruption measures that are based on UNCAC.

What needs to be considered

There are several aspects of the follow-up of anti-corruption conventions that – while basic – cannot go without being highlighted: First, the diverse universe of cultures and realities of the States Parties united by a convention is a key aspect to be taken into consideration at any stage in the implementation and follow-up processes if the illusion of uniform human behaviour and cultures under a treaty is to be avoided. Also, the institutional capacities of the States Parties to UNCAC vary. Not only do they affect the capacity to implement a convention but also the possibility of obtaining and processing integer, reliable, and accessible information to review progress and setbacks. Finally, the effectiveness of the follow-up mechanisms depends very much on an adequate information system. Some concrete considerations arising from the IACAC experience for governments, legislatures, CSOs, international bodies, and donor countries in the debate about a review mechanism for UNCAC are:

- With or without an inter-governmental follow-up mechanism, enhancing national monitoring capacity is indispensable, as is the strengthening of inter-agency coordination at national level for the follow-up of an anti-corruption convention.

- A follow-up or review mechanism needs to draw on multiple evaluation tools if it aspires to have an adequate view of corruption in a country, the state's capacity to implement the convention, and on the achieved results.

- The use of indicators for the follow-up of conventions seems especially valuable at the national level. However, experience suggests a need for participation of multiple interested parties in their creation and validation.

- The participation of civil society in monitoring efforts is valuable – it might, at times, even be the only way to monitor the government – and has produced solid and serious results in many cases. However, it is above all the States Parties that are called upon to take on a permanent leadership in the follow-up on anti-corruption conventions.

- Government commitment is vital to accessing the sources of information that are necessary to assess the implementation of anti-corruption conventions.

- National debates to review progress on the implementation of anti-corruption conventions and follow-up efforts are a necessary condition for the effectiveness of multilateral reviews.

1. Introduction

The United Nations Convention against Corruption (UNCAC) is the latest achievement in a series of international treaties that seek to tackle corruption. All of these anti-corruption conventions share a common challenge – how to meaningfully follow up on their implementation. The biggest task lies with the States Parties[3] themselves in promoting changes to legal provisions and practices within their respective countries, and sharing information about this process of change. In addition, legislatures, civil society, the private sector, and not least the international body following up on the respective convention expect to access valuable information on the impacts of reforms aimed at implementing the convention. In the case of UNCAC, it also means that the United Nations needs to reach agreements within a diverse community of States Parties in order to create information flows that will facilitate collective decision-making, and promote technical assistance and cooperation. For regional inter-governmental bodies entrusted with follow-up mechanisms for other anti-corruption conventions, follow-up on UNCAC implementation calls for additional coordination, and for further information to be shared and processed.

Having said that, this U4 Issue Paper explores lessons learned from the anti-corruption convention that has been in existence longest: the Inter-American Convention against Corruption (IACAC).[4] It can give useful insights on follow-up, especially given the similarity between the two conventions in terms of objectives, the heterogeneous composition of their member states, and the broad content of its provisions. More specifically, by drawing on seven years of concrete experience in convention follow-up in 28 countries,[5] this paper aims to demonstrate the existing gap between information about formal changes and information about real changes (results and impacts) in the countries. The paper also shows that strengthening national information systems and information management capacities proves to be important for generating more objective knowledge about the level of implementation of anti-corruption conventions, and thus anti-corruption reform. Finally, this paper promotes the value of using performance indicators which facilitate the assessments and debates about the degree of implementation of a convention within the respective countries.

To do so effectively, the paper is organized in three parts. The first part, "Analysis of the experience of implementing the IACAC" (page 11), analyses the specific experience of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC) by explaining the central aspects of the implementation and follow-up process of the IACAC. The second part, "Generating information on results: experiences with MESICIC" (page 18), provides a classification of the types of information used by MESICIC and analyses the challenges of generating information about results, based on the experience of States Parties and civil society organizations. "Some pioneering experiences of creating indicators for IACAC follow-up" (page 22) discusses the relevance of creating indicators in order to assess the level of implementation and analyses some pioneering experiences in Latin America. Special emphasis is given to the development of an indicator map to assess some key areas of IACAC implementation in Guatemala. Finally, "What does this experience tell us for future convention follow-up?" (page 30) recapitulates the paper, offering lessons learned in generating and using information to follow up on the implementation of the first international anti-corruption convention.

It is the purpose of this Issue Paper to make these lessons learned available to the States Parties to UNCAC in their current discussions on a possible review mechanism for UNCAC, which is expected to take a decisive step further at the third Conference of States Parties (CoSP) in Doha at the end of

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[3] "State Party" is the official term for countries that have signed and ratified a convention.

[4] The IACAC is often also referred to as the "OAS Convention against Corruption", as it is being promoted through the Organization of American States (OAS).

[5] The IACAC follow-up mechanism was created as a separate international agreement some years after the IACAC had entered into force. Out of the 33 States Parties that have ratified the IACAC, 28 participate in the follow-up mechanism (MESICIC).

2009. However, this experience can also be useful to the different national actors in each country, as well as to development partners in guiding their commitment to provide technical assistance for the implementation and follow-up of the UNCAC.

2. Analysis of the experience of implementing the IACAC

This section describes the process of implementing the IACAC in the region, with a special emphasis on the Latin American sub-region, as well as the characteristics of the follow-up mechanism on the implementation of the IACAC. For the purpose of this paper, *implementation*[6] refers to the process of putting public decisions into practice at the various territorial levels and *follow-up*[7] refers to the process of observing the implementation with an evaluative and corrective purpose.

2.1.   Why the experience of the IACAC is useful for the UNCAC process

The twelve years in which the implementation of the IACAC evolved, and the seven years since the inception of its international follow-up mechanism, allow a process perspective to be used to identify the successes and failures of a particular period in a very heterogeneous continent. Taking this experience into account can be useful in increasing the effectiveness of the process being started by the UNCAC. The implementation and follow-up of the implementation of the IACAC, in addition to notable initiatives by governments and CSOs in the form of reports, evaluations, and indicators, constitute a platform for reflection which can help visualise the potential of the follow-up capacities of the countries themselves, and the international community, in a realistic manner.

The experience of implementing the IACAC can prove instructive for States Parties to UNCAC as the IACAC has the following in common with UNCAC:

First, both conventions apply to a broad and heterogeneous group of states. As of October 2008, UNCAC had been ratified by 126 states, the overwhelming majority of which were developing or underdeveloped countries, while a minority was represented by developed countries. The same pattern emerges in regards to the IACAC. It has been ratified by 33 states,[8] of which, with the exception of the United States and Canada, all are developing or underdeveloped countries. This asymmetry has affected the overall ability to implement the convention. This commonality is further confirmed when comparing governance and anti-corruption figures for the member countries of these two agreements.[9] By contrast, other conventions, such as the anti-corruption treaties of the Organization for Economic Co-operation and Development (OECD) or the African Union were signed primarily by countries with relatively homogeneous conditions of governance and corruption control. The implementation of the IACAC, in turn, has involved the efforts of very diverse groups of countries that face challenges similar to those now faced by the States Parties to UNCAC taking into account the differences in their governance and corruption control indicators.[10]

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[6] This conceptualization has been taken from policy analysis theory. It is based on the assumption that there is no clear dividing line between a public decision and putting it into practice (implementation), as public policies are interactive, dynamic, and multi-linear processes. In the context of this study, the original public decision is the international agreement called IACAC, and implementation is the process of putting this decision into practice through a series of decisions and activities that are inter-related and applied within the national territory.

[7] The focus of this concept is to view observation as a process that accompanies implementation, with the correction of decisions and measures being the expected effect of this process.

[8] The IACAC has been signed by 34 States and ratified by 33.

[9] Taking particularly into account the *Control of Corruption* and *Voice and Accountability* indicators of the World Bank Governance & Anti-Corruption Index. http://info.worldbank.org/governance/wgi/index.asp.

[10] In the Americas, the different country groups that have to implement the IACAC can be divided into: (i) countries with high governance indicator ratings typical of OECD countries, such as Canada, the United States, and Chile; (ii) countries with average levels of governance similar to East Asian and East European countries, such as Argentina, Brazil, Costa Rica, Colombia, El Salvador, Mexico, and Uruguay; and (iii) a group of

A second characteristic shared by the UNCAC and the IACAC is the concurrence of their objectives and the broadness of their provisions, which provide excellent opportunities for a holistic approach to be used to address corruption, but also create challenges for the monitoring of implementation. While UNCAC is the youngest but broadest international legal instrument addressing corruption, the IACAC was the first instrument of its kind and incorporated from the outset a wide array of provisions on the prevention and prosecution of corruption, as well as on cooperation in the fight against it.

2.2.   Background to the IACAC

The IACAC drew on a series of political and economic phenomena as a material source for its content. Politically, it came into being in response to major government corruption scandals in Latin America.[11] Economically, the United States had an interest in establishing common tax and legal conditions in the region in order to level the playing field, since US companies were bound to compliance with the Foreign Corrupt Practices Act (FCPA).[12] The original proposals of the IACAC, negotiated between 1994 and 1996, centred on the punishment of bribery and illicit enrichment, but provisions on measures to prevent and criminalise other corrupt practices were soon added. The hemispheric platforms of the Organization of American States (OAS) and the *Summit of the Americas* process, as well as several states that were proactive in the promotion and negotiation of the IACAC, such as Chile, the United States, and Venezuela, played an important role in providing the political impetus for the convention.

The IACAC was signed by 22 countries in 1996, and entered into force a year later. Its content establishes definitions and objectives, and includes an extensive article on preventive measures,[13] as well as provisions on the criminalisation of domestic and international bribery, the embezzlement of public funds, the laundering of assets derived from corrupt acts, illicit enrichment, and influence peddling. It also sets forth agreements on mutual legal assistance and technical cooperation and designates central authorities for the purposes of the convention. It is currently in force in 33 States Parties in the hemisphere and it has as permanent observers a number of states located outside of the Americas as well as international bodies.[14] The convention did not initially contain a follow-up mechanism. Nevertheless, such a mechanism – the MESICIC – was agreed later on in 2001 by 28 of the 33 States Parties through an inter-governmental agreement contained in the Report of Buenos Aires.[15]

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countries with very low levels of governance, such as Haiti, Nicaragua, Paraguay, and Venezuela, which are similar to various countries belonging to the former Soviet Union and Sub-Saharan Africa.

[11] In 1992, Brazilian President Fernando Collor de Mello was removed from office following an impeachment trial on allegations of corruption and other offences. In 1993, the President of Mexico, Carlos Salinas, was awash in rumours, reports, and allegations of corruption, and in 1995, the President's brother was arrested and is now imprisoned in the United States. In Venezuela, charges were filed against President Carlos Andrés Pérez for the misappropriation of US$ 17 million, and the Supreme Court ruled that there were sufficient grounds to try the President and two of his ministers. In these and other cases, it was believed that the perpetrators in most government corruption cases fled their countries with the ill-gotten funds, making their apprehension, and the recovery of the exorbitant public assets taken abroad, very difficult.

[12] Zedalis, R (1997).

[13] This article is focused mainly on legal change, establishing prevention mechanisms, enhancing accounting and book-keeping regulations in the private sector, strengthening government control systems, creating government procurement and hiring systems, and involving civil society in the prevention of corruption.

[14] A number of states are permanent observer members of the OAS, and in this capacity they may be informed about initiatives to ensure that the convention is in full force and contribute to the respective programmes. This is the case, for example, for Germany, Spain, France, Italy, Japan, the Netherlands, Norway, the United Kingdom, Russia, Sweden, Switzerland, and the European Union, from among a total of 56 States.

[15] OAS/MESICIC (2002a).

2.3.   Implementation of IACAC in the Americas

The OAS was, and is, the largest platform for the international promotion of the IACAC and it was where the treaty was negotiated and where its subsequent signature by all States Parties of the organization was promoted.[16] Currently, the OAS provides support to the MESICIC, as well as assistance to States Parties in the promotion of legal reform proposals. It also serves as a platform for facilitating mutual legal assistance and plays a key role in the creation of the hemisphere's anti-corruption agenda.

Implementation in the region began with a long process of promoting penal reform in criminal matters, initially in regards to bribery and illicit enrichment, but later other offences such as influence peddling, the embezzlement of public funds, misappropriation, and money laundering, were added.[17]

Additionally, the impetus of the IACAC to strengthen preventive anti-corruption measures coincided in the 1990s with a wave of public administration and government reform in Latin America.[18] The IACAC therefore provided the grounds for governments and multilateral lending agencies to promote legal and institutional reform related to access to information, codes of conduct for public officials, declarations of assets, public procurement, financial management systems to improve accountability, and public hiring systems. Many of the legal reform initiatives were based on studies of domestic legislations as well as on model laws promoted by the OAS.[19] The IACAC also provided a framework in support of the creation of anti-corruption offices and programmes in some countries.[20]

At the national level, the implementation of the IACAC has had a series of similar characteristics:

1.   **New criminal laws were debated and passed more quickly than it took to implement preventive reforms.** This is due to multiple reasons. First, pro-transparency and prevention reform have often required the creation of new public bodies, duties, and procedures for their implementation, while criminal reforms already have penal legislation as their basis, as well as a criminal procedural system and legal bodies for their implementation in place. Also, the

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[16] To promote the IACAC, the OAS General Assembly adopted the Inter-American Program for Co-operation in the Fight against Corruption in 1997.

[17] In 1998, the report on the outcomes of the Summit of the Americas stated that: "Many governments have taken specific anti-corruption measures, including the passage or strengthening of legislation against corruption and the approval of codes of ethics for public officials." It adds later that "Most countries of the Hemisphere are implementing integrated financial management systems to improve accountability and transparency in the area of public resources". See The White House (1998).

[18] In addition, in the past two decades, numerous countries in the region have reformed their constitutions and made sweeping changes to their justice systems.

[19] The OAS promoted the use of model laws drafted by itself which were taken into account in the drafting of bills and in discussions held by the legislative bodies of numerous countries in Latin America. The main model laws focused on bribery and illicit enrichment. The OAS General Assembly tasked the Inter-American Juridical Committee, in follow-up to the adoption of the IACAC, under Resolution AG/RES/1395 (XXVI-0/96) with drafting model legislation on illicit enrichment and transnational bribery so that these model laws could be used by IACAC States Parties. This model legislation, which contained guidelines for lawmakers in the States Parties to the IACAC, was approved by the OAS in 1998. Model laws were also drafted on the standards of conduct for the correct, honourable, and proper fulfilment of public functions; declarations of income, liabilities and assets; protection for whistleblowers of acts of corruption; access to administrative information; and on mechanisms for the participation of civil society in the prevention of corruption. The texts are available at www.oas.org/juridico/spanish/legmod.htm (Spanish only).

[20] This is applicable to offices of irrelevant and notable activity created in the late 1990s. The first type of office includes the defunct National Office of Public Ethics created during the Carlos Menem administration in Argentina (1998) and the National Integrity Committee created during the Arnoldo Alemán administration in Nicaragua (1998). While the second type of office includes the Anti-Corruption Programme of the Office of the Vice President of Colombia, which began in 1996 under the name *Plan Transparencia* and remains in force today.

strong international drive to combat bribery in the 1990s should not be underestimated, nor should the larger incentives of legislators to quickly pass "laws that are tough on corruption" in times of election or fierce political competition. That being said, several years after the approval of the penal reforms, no independent studies or evaluations have been conducted on the impact of these legal changes. Everything indicates that the punishment of corrupt practices incorporated into criminal laws has followed the same fortunes as former provisions: their effectiveness has generally depended on the ability of the system in each country to detect and prosecute the crimes, and, in some cases, on how the legal system has been used for political purposes.[21]

2. **Some explicit anti-corruption reforms have been evaluated publicly and periodically, although this has been an exception rather than the rule**. The periodic and public evaluations, when they have taken place, have been owed, first and foremost, to the political will of the bodies implementing the reform, which used the evaluations to further their work. This has been the case, for example, for Argentina's Anti-Corruption Office, Colombia's Anti-Corruption Programme, and Mexico's Secretariat of Public Administration. It is also owed to an enhanced capacity for the evaluation of public policies on the part of governments, as is the case, for example, in Canada, Chile, and the United States. However, numerous areas of sectoral reform in the area of corruption prevention have only been partially evaluated, despite having been implemented for many years. These reforms have often even lacked any known evaluation. The presence of multilateral lending agencies and their support for the implementation of certain preventive measures, particularly in relation to budgetary control, have often served as a measure of control and evaluation of the state bodies responsible for implementing these measures. Greater transparency and accountability vis-à-vis the citizenry, however, can hardly be asserted.

3. **The change in the legal norms of most countries in the region seen during the 1990s and the following years did not, in its own right, entail a change in practices**. Inter-governmental reports and civil society studies have shown indications of a major gap between legal anti-corruption provisions and the actual practices in States Parties to the IACAC. While the implementation of the IACAC through legal reforms has seen progress in most countries in the hemisphere, government practices, and the intervention of private agents in public decisions does not appear to have changed significantly. A report by Transparency International (TI) on public integrity covering nine countries in Latin America stated that the legal norms are not the most relevant aspects, but that "government practices pose the greatest challenge" given that there is a notable gap between the legal norms and the practices of state bodies.[22] But not only CSOs point to this challenge. The MESICIC issues recommendations to its member states regarding the implementation of the provisions contained in the IACAC, and the majority of its recommendations have referred to the need to put legal norms into practice.[23]

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[21] In numerous countries in the region, allegations of anti-corruption criminal laws being constantly used for political purposes against political opponents. In Nicaragua, for example, multiple documented sources have for years pointed out the clear politicisation of the Supreme Court and the use of judicial bodies for political gain. Similar circumstances have also been seen in Mexico, Paraguay, Peru, and Venezuela for some time.

[22] Transparency International (2007).

[23] By way of example, the Committee of Experts issued a recommendation to 22 States Parties stating that they should take measures to make the legal norms on the preservation of public resources effective. It also issued a recommendation to 16 States Parties stating that they should take measures to ensure the effectiveness of legal norms governing the prevention of conflicts of interest, and to 15 States Parties stating that they should develop effective measures to prevent conflicts of interest among public officials while performing their functions. OAS/MESICIC (2006c).

2.4. The Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption (MESICIC)

Since 2002, the MESICIC has been a major catalyst for follow-up on the implementation of the IACAC at the national level. The states have provided the MESICIC with a great deal of information on current legal provisions and administrative and judicial instruments aimed at preventing and combating corrupt practices. In turn, the MESICIC has significantly helped States Parties perform systematic analyses of their progress and has facilitated international cooperation.

According to the *Report of Buenos Aires*, the members to MESICIC agreed that this mechanism must have the following characteristics:

1.   It must be impartial and objective in its procedures and in the conclusions it reaches
2.   It must guarantee fair application and equal treatment among States Parties
3.   It must not entail the adoption of sanctions
4.   It must strike an appropriate balance between the confidentiality and the transparency of its activities, and
5.   It must be conducted on the basis of consensus and on the basis of the principle of cooperation among States Parties.[24]

Implementation of the IACAC is reviewed by the MESICIC, which consists of two bodies: (i) The Conference of the States Parties – the political body of the mechanism – which issues the most important decisions and guidelines, and which is comprised of political representatives of all States Parties to the Mechanism; and, (ii) the Committee of Experts – the technical body responsible for the review of countries – which is normally comprised of those institutions within each States Party that are legally or politically responsible for anti-corruption efforts.

The implementation follow-up process for the convention is horizontal. At the start of each round of review, the Committee of Experts determines which set of provisions in the convention will be subject to review in all States Parties. The round is defined as the length of time it will take to review the provisions selected in all States Parties to the mechanism. At the start of each round, the Committee agrees on a methodology to be used to review the provisions and prepares a questionnaire that asks all states about the implementation of the selected provisions. The questionnaire serves as the data collection tool for the process and focuses on the following aspects of each state under review:

1.   The legal and institutional framework
2.   The existence and description of legally required provisions in the areas under review
3.   The existence of mechanisms to implement these provisions
4.   The adequacy of the legal framework in place
5.   The objective results obtained and statistical data

Each country review process in each round includes an initial response period during which the questionnaire is completed by the central authority of each country in charge of the IACAC. CSOs from the country under review may participate in this stage by completing the questionnaire and submitting additional information. Then, an information exchange and analysis stage takes place with a subgroup of the Committee of Experts, which is comprised of the experts of two States Parties and assisted by the Secretariat. This is followed by the examination of the country under review in the plenary of the Committee of Experts, after which the Committee issues a country report with

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[24] OAS/MESICIC (2002a).

recommendations for implementing the convention. Implementation of these recommendations is followed up in the next round.

With this structure and these procedures, the MESICIC has reviewed the implementation of multiple provisions contained in the IACAC related to prevention, criminal prosecution, and cooperation in 28 States Parties, having completed two rounds of review between 2002 and 2008. The MESICIC has thus served as a key catalyst for IACAC follow-up activities at the regional and national levels, and has helped produce and disseminate most of the information about the implementation of the IACAC. For these reasons it is important to examine some of the challenges that the process still faces in the region, putting special emphasis on the MESICIC and the types of information it administers.

The positive impact of MESICIC

The OAS hosts the main reports and documents of the MESICIC online, including the reports submitted by States Parties and CSOs. This gives interested parties access to a large amount of information on how governments are implementing the IACAC, and on follow-up efforts in English and Spanish. The public nature of the mechanism, which has improved steadily over the years at the insistence of government proposals and CSO demands, has been an essential pillar that has helped decisions of the MESICIC produce some effects in the signatory countries of the IACAC.

In terms of contributions, the MESICIC has encouraged important dialogue between governmental and non-governmental actors in many countries in the region. Moreover, States Parties have provided an extensive amount of information on current legal provisions, and administrative and judicial instruments aimed at preventing and combating corrupt practices. This exchange has helped consolidate some practices of systematic review and cooperation between the states. Also, in addition to participating in peer reviews – a practice that was somewhat uncommon in the hemisphere and in this area until the MESICIC was established – some national control bodies have used the framework of MESICIC to form technical cooperation initiatives and create alliances. Furthermore, the additional reports submitted by CSOs have often contained useful evaluation information on how well national legal provisions and administrative mechanisms comply with the objectives of the convention, and in this manner have complemented the information provided by governments.

With regard to the real effects that MESICIC generates in the States Parties, it can be affirmed that government actors and civil society in several countries have used the recommendations to encourage debate, reach political agreements and ultimately strengthen the transparency and anti-corruption agendas. This occurred in Chile in 2006, when the government took the recommendations of the MESICIC into account – in addition to other important elements – when preparing its governmental agenda for probity, transparency, and policy quality. This agenda is to a considerable extent based on the commitments derived from the different anti-corruption conventions the country had joined since 1996. In Nicaragua, the recommendations issued by the MESICIC were consistently included in the legislative debate that ultimately led to the passage of the access to information law in 2007. In Argentina, CSOs and the Anti-Corruption Office alike have used the recommendations issued by the mechanism to promote reform related to asset declarations and access to information, *inter alia*. The recommendations issued by the MESICIC have also been actively used by CSOs to promote reform, and to participate in legislative and political debates in Colombia, El Salvador, Guatemala, Panama, Paraguay, and Peru.

Remaining challenges for MESICIC

Despite this good news about the impact the MESICIC has had, there are issues that undermine a more profound follow-up on the implementation of the IACAC. Some of these issues are related to the information provided by the states, while others are related to the recommendations issued by the Committee of Experts to the States Parties. They include the following:

1.   Despite the valuable and abundant juridical-formal information that the MESICIC generates and uses regarding the implementation of IACAC, there is little information about results at the national level. This scarcity of information about results concerns all aspects of the convention, but specifically those related to corruption prevention, e.g., the prevention of conflicts of interest, or public hiring systems.

2.   A majority of the States Parties to the MESICIC have experienced difficulties in providing qualitative and quantitative information to the Committee that would allow for a more objective evaluation of the impact of the provisions and measures established in these countries in order to comply with the provisions of the IACAC. This issue has been documented in the country reports issued by the Committee of Experts and in the Hemispheric Report of the First Round of the MESICIC, as well as in CSO documents.[25]

3.   Also, many States Parties have cited in their reports a difficulty in gathering statistical or objective data on the results of their actions from within their very apparatus, or have included disaggregate information. In some cases, these difficulties have been acknowledged in an honest, straightforward manner, stating that "the country does not have an information system that enables it to provide objective data and statistics concerning the results obtained through the application of the standards and mechanisms referred to in this and other sections of the questionnaire,"[26] and in others "there is no statistical data."[27] In other cases, the data has been entirely insufficient[28] or reflects a disparity in the ability of public entities to provide information.[29] Only a minority of states have submitted, on an ongoing basis, more comprehensive information on the results of the IACAC's implementation.[30]

4.   Another challenge has been the absence of clear incentives to achieve greater national adhesion with the recommendations issued by the Committee of Experts. At the national level, the use of the information about the MESICIC and the recommendations of the Committee have normally depended on the level of domestic dissemination they have enjoyed. In the majority of cases, this dissemination has been handled by civil society and in some cases by the governments. The incentives to make the recommendations of the Committee public, and thus disseminate information about difficulties and progress, seem to be clearly less strong for the governments. Nevertheless, some States Parties have made notable efforts to ensure greater dissemination of the reports of the Committee of Experts. They have assumed a voluntary commitment to develop a public or semi-public plan for the implementation of the recommendations which has considered the participation of multiple actors, including civil society, in its revision.[31] Despite the weak dissemination of the recommendations, the governments' reports on the compliance with the recommendations of the Committee have provided relevant information on government activities. However, in many cases the information submitted continues to be incomplete with regard to the measures taken and their impact in practice.

One central challenge that remains is the need to produce higher quality and accessible information to evaluate the processes of change at the national level. A special challenge lies in generating objective information, particularly in the form of statistics and indicators, on the progress, difficulties and results

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[25] To view the "Hemispheric Report" and the country reports from the first round of the MESICIC, visit www.oas.org/juridico/english/FightCur.html. To view proposals from CSOs in the region, visit www.transparency.org/regional_pages/americas/conventions/other_documents.

[26] Ecuador (2006), Paraguay's response to the questionnaire for the first round reiterated this idea, see Paraguay (2006).

[27] Honduras (2006).

[28] For example, Panama in the first round of MESICIC and Guatemala in the second.

[29] For example, Colombia's response in the first round: www.oas.org/juridico/spanish/col_res28.htm.

[30] This category includes Argentina, Canada, Chile, Mexico, and the United States, in the first round.

[31] This refers to an initiative promoted by the OAS, with financial support from the governments of Canada and the United States, in which Argentina, Nicaragua and Paraguay have participated.

of implementation, above all in relation to institutional practices. This will be addressed in more detail in the next section.

3. Generating information on results: experiences with MESICIC

A follow-up mechanism is a legal and technical instrument that allows States Parties to a convention to assess implementation and to make decisions about unilateral, bilateral, or multilateral measures with a view to improving implementation of the international treaty. In order to supply a follow-up mechanism with the necessary knowledge about the extent to which the convention is implemented in a given country, every follow-up mechanism needs to be based on an information system.[32] The latter influences the quality of the decision-making process among all participating parties. This section examines the strengths and weaknesses of MESICIC with respect to the type and quality of information used by the mechanism. This allows to extract lessons that may be applied to a future follow-up or review mechanism for the UNCAC and that could strengthen it.

The MESICIC uses a variety of information sources in its country reviews, and issues recommendations to the states based on this information. A distinction can be made between two major subject areas that are usually evaluated[33] regarding anti-corruption conventions: **laws** and **administrative measures.**[34] The MESICIC evaluates these two areas by requesting information from the States Parties about legislation and the measures taken in each of the thematic areas examined in each round of review.[35]

Distinguishing between the types of information generated on the one hand, and the quality of this information on the other hand, helps to better understand what type of information is considered valuable by the states and how capable they are of producing useful information for the purposes of the mechanism.

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[32] An information system operates in its most basic form as a set of elements that receive information, process it, and send it out again. These processes operate in the field of convention follow-up with the objective to generate change through a feed-back process. Hence, a follow-up mechanism should be analysed taking into account that is based on an information system that provides such feed-back to the decision-making bodies responsible for changes to legal norms, public policies, and practices. At the national level these decision making bodies are basically the governments, and at the international level they are mainly the international organizations that can influence these changes.

[33] This paper uses the term *evaluation* as a broad concept that comprises issues ranging from the analysis of information to the monitoring of activities carried out in each country. The MESICIC has avoided using this term and has instead preferred to use *exam* or *analysis*.

[34] The laws comprise legal norms in the areas of prevention, law enforcement, and cooperation. The administrative measures basically refer to policies, programmes, and administrative systems related to the same subject areas.

[35] During the first round of review, conducted between 2002 and 2006, the MESICIC examined the following thematic areas of the IACAC: standards and mechanisms for the prevention of conflicts of interest; standards and mechanisms for the administration of public financial resources; systems for reporting acts of corruption; systems for declaring income, assets and liabilities; high-level oversight bodies; and the participation of civil society in the prevention of corruption (which included the right to access information). The second round, which ended in 2008, was dedicated to the review of public contracting systems, hiring systems for public servants, systems for the protection of whistleblowers of acts of corruption, and the acts of corruption set forth under article VI of the Convention (in reference to bribery, misappropriation of public funds, and the laundering of assets derived from corrupt acts).

3.1.   Types of information used in the MESICIC

The methodology followed by the MESICIC specifies that the information to be reviewed by the Committee of Experts shall consider:[36]

- The legal framework and other measures each State Party has in place for the implementation of the provisions of the IACAC

- The adequacy of this legal framework for the purposes of the convention and each States Party's results, and

- Progress in implementing the laws and administrative measures.

This general methodology is specified subsequently in the questionnaire of the review round. In essence, the questionnaires returned by the States Parties, and the CSOs that have participated in the review process, have to contain the following types of information:

1.   **Legal information** describes current coercive regulations that govern the operation of government bodies and the conduct of public servants and other legal persons in the country under review. The nature of these descriptions ranges from general (addressing, for example, constitutional law and key principles of the national legal system, corruption prevention and anti-corruption regulatory bodies and the statutes of government bodies and public servants) to highly specific (addressing, for example, sets of legal regulations that apply to a given thematic area, such as public contracting, the financial administration of the state, tax exemption systems, access to public information and citizen participation, to name but a few)

2.   **Procedural information** describes the sets of government mechanisms, procedures, measures, bodies, and systems that administratively govern the application of the laws relating to the thematic area under review in each round. Procedural information is usually used to explain how legal regulations are theoretically put into practice through the use of administrative regulations, administrative measures, and systems in specific areas. This is useful for understanding, for example, what disciplinary actions are taken, how sanctions are imposed, what measures are available for reporting legal and ethical violations, and how contracting, hiring, asset statements, and oversight systems operate

3.   **Information on objective results** is provided in the form of well-supported qualitative and quantitative statements outlining government efforts in specific thematic areas, and the results of these efforts. These statements may refer to a public body in charge of anti-corruption efforts that has been created or reformed, an anti-corruption plan that has been formulated, or a policy that has been designed. They may also provide figures showing government actions in a specific field and the outcomes of these actions, such as training, awareness-raising or oversight efforts, a rise in the percentage of reports of corruption, the perceived level of corruption or victimisation of the population, the benefits derived from the implementation of more transparent procurement systems, or the level of quality of public services as perceived by citizens, for example.

The States Parties submit the three types of information to the MESICIC with varying degrees of detail. Partly, the countries do not have the same capacities to submit the entire requested information, or they focus mainly on some types of information, to the detriment of others. In total, the questionnaires completed by States Parties provide abundant legal and procedural information, while they fail to provide the same level of information on results. The quality of this latter type of information varies significantly from one thematic area to the next.

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[36] OAS/MESICIC (2006a).

As an example, the following table shows the types of information submitted by a sample of countries in the second round, in regards to two thematic areas under review: public contracting systems and government hiring systems.[37]

Countries reviewed	Transparent, equitable and efficient public procurement systems			Transparent, equitable and efficient government hiring systems		
	Submitted legal information	Submitted information on measures and procedures	Submitted information on objective results	Submitted legal information	Submitted information on measures and procedures	Submitted information on objective results
Argentina	YES	YES	YES	YES	YES	YES
Paraguay	YES	NO	YES	YES	YES	NO
Nicaragua	YES	NO	YES	YES	NO	YES
Uruguay	YES	YES	NO	YES	NO	NO
Ecuador	YES	YES	YES	YES	NO	NO
Honduras	YES	NO	YES	YES	NO	NO

███ YES   ░░░ NO

The examples indicate that, first, most States Parties are clearly capable of submitting legal information, followed by procedural information. Second, it seems easier to submit the three types of information for some thematic areas (public contracting) than for others (government hiring, in this case). Third, some of the countries in the hemisphere seem more capable of submitting all types of information requested by the mechanism than others.

3.2.   Quality of information used in the MESICIC

In contrast to types of information, the quality of the information used in the MESICIC is far more difficult to classify. Quality, for the purposes of this study, is defined as the sum of three attributes: *integrity*, *reliability* and *accessibility*. These attributes are found in most accepted information management and control systems and have been used in this study to simplify the conditions that must be met by information used in the review and decision-making processes. *Integrity* refers to the accuracy and completeness of the information,[38] in this specific case, provided in relation to legal regulations, procedures and results. *Reliability* refers to the suitability and verifiability of the information, whereby the information is useful to the review and can be corroborated. The *accessibility* of the information refers to its availability upon request, that is, its ability to be current given the purpose set forth in the mechanism. Quality information, then, would effectively possess these three attributes.

The MESICIC has reasonable rules and procedures established to promote the collection of quality information. In accordance with the review methodology, the States Parties must submit all information requested in the questionnaire, and are often later requested by the review subgroup, the MESICIC Secretariat and the Committee during its plenary sessions to submit additional information. The information submitted by the states must also be as up-to-date as possible, and in no event must any data refer to a time prior to a predetermined period.[39] The provision of reliable information is

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[37] Both thematic areas are contemplated in the numeral 5 of Article III of the IACAC.

[38] These concepts have been adapted from the definitions set forth in the Control Objectives for Information and Related Technology (COBIT) created by the Information Systems Audit and Control Association (ISACA) in 1998. COBIT is a widely recognised information management model, which sets seven information criteria that must be met by the information: effectiveness, efficiency, confidentiality, integrity, availability, compliance and reliability. Similar attributes are also included in the well-known Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control Report.

[39] Any information provided by a State Party must refer to a period subsequent to the date of ratification of the Convention and must be as up-to-date as possible. As far as statistical data are concerned, such data must not

driven by the States Parties' obligation to submit annexed documents that contain descriptions of their laws and regulatory procedures. It is also supported by the fact that the Committee of Experts may take into account the alternative reports submitted by CSOs and/or may consult other sources of information, which allows for a cross-check control of each area reviewed.

However, despite the rules established, the quality of the information received by the Committee of Experts has taken on different nuances. This is particularly true with regard to the quality of the information describing the objective results achieved in the implementation of the provisions of the IACAC. While a majority of the States Parties have indeed submitted information on objective results, a good part of this information remains incomplete and unconnected. This thereby undermines the integrity of the information that the Committee of Experts should have. The situation is further compounded by what is not a minor issue: the frequent omission of the sources and methods used to collect the data.

The comparative table below illustrates in an exploratory manner the current difficulty faced by States Parties to the MESICIC in producing and presenting quantitative information on objective results. The table details the submission of information on objective results in a specific area by a sample of States Parties.[40]

Countries reviewed	The States Party submits data on the implementation of transparent, equitable and efficient public procurement systems		
	Shows results of some kind associated with the objectives of transparency, equity and efficiency	Shows results in every area of the government where the procurement system should be applicable	Cites verifiable sources for the information submitted
Argentina	YES	NO	YES
Paraguay	YES	NO	NO
Nicaragua	YES	NO	YES
Uruguay	NO	NO	NO
Ecuador	YES	NO	NO
Honduras	YES	NO	NO

█████ YES   ░░░░░ NO

On balance, only a few of those countries participating in MESICIC have submitted statistical or objective data that could be considered sufficient in a specific thematic area reviewed.[41] While it is true that most states have submitted legal or procedural information, statistical data or indicators, not one has submitted sufficient information on objective results in every area reviewed in any given round. Finally, it is also a fact that the information about objective results submitted to the MESICIC does not normally allow the evolution of country processes throughout a series of years to be verified.[42]

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refer to a period that varies between two and five years prior to the date of a State Party's response to the questionnaire, depending on the subject matter reviewed. OA/MESICIC (2006a).

[40] The table shows the submission of information on objective results in the implementation of transparent, equitable and efficient public procurement systems (item 5 of article III of the IACAC) in the first six countries reviewed in the second round.

[41] For example, Canada, and to a lesser extent Mexico, in the area of public contracting, in the second round.

[42] In the majority of questionnaires completed by the States Parties during the second round, the objective and statistical information used was not compatible or comparable with the information submitted during the first round. Even reports from Canada and the United States, countries with great information gathering and processing capacities, can in some cases be classified as partially complete with respect to the data and indicators of results.

Despite the clear commitment of the States Parties to the MESICIC to be examined, the majority of them have weak national statistical and information systems that do not provide the mechanism with comprehensive and fully accessible information. For that reason, the specific information on the results of implementing corruption prevention or sanctioning mechanisms is often put together by the very bodies responsible for the implementation of these mechanisms, while the information is not going through an independent validation process. Only in a few cases does this information possess the attributes of integrity, reliability and accessibility, attributes that are desirable for the mechanism to have higher quality information and to improve the implementation of the IACAC.

These facts reflect the existence of genuine difficulties on the part of the States Parties in collecting the objective information needed to follow-up on the implementation of this convention in the hemisphere. These difficulties, which have also been identified by the CSOs in the region, need to be taken into account in any realistic initiative for the follow-up of anti-corruption conventions, because the use of this type of information is fundamental for an adequate and meaningful follow-up. Diverse CSOs in Latin America have put forth efforts toward developing indicator-based tools for this purpose. These experiences will be described and discussed in the next section.

4. Some pioneering experiences of creating indicators for IACAC follow-up

Due to the increase in resources managed by the public sector and the complexity of their control, many countries develop mechanisms to evaluate public administration performance and they use different mechanisms for this purpose. In general, these mechanisms aim to obtain a systematic and continuous measurement of the results that public institutions achieve with regard to improving their performance standards.[43] At the heart of performance measurement mechanisms are indicator systems. Their creation requires methodological strengths in order to create reliable and useful indicators.[44] The lack of these and other characteristics creates vulnerabilities in the analyses and evaluations, and may lead to misguided decisions, both on the part of the governments that use them to define strategic priorities for implementation as well as to evaluate the effectiveness, and on the part of other national stakeholders who use them to define their strategic priorities for advocacy and/or monitoring.

In general, as has been shown above, the countries participating in the MESICIC not only have weak information systems, but they also hardly use indicator systems to evaluate the performance of their policies, laws, and administrative mechanisms to combat corruption. This is specifically the case for the follow-up of the implementation of anti-corruption conventions. In some countries, bodies responsible for anti-corruption policy (such as anti-corruption, government ethics, or general audit offices) do introduce results-based indicators. However, these are adapted to their own institutional needs rather than of general value for convention follow-up. In addition, those bodies usually must overcome serious institutional and political obstacles limiting their ability, resources, and competence to conduct a performance evaluation. In general, complex government information and management control systems by design lack the flexibility and specificity required to evaluate the implementation of an anti-corruption convention.

As the Guatemalan example described later shows, however, performance indicators have the characteristics needed for an effective follow-up of an anti-corruption convention. Although tools called *performance indicators* usually are not used for measuring an anti-corruption convention, their methodological development and associated governmental information systems provide powerful

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[43] OECD/PUMA (1998).

[44] The experiences of the OECD and Latin American countries in designing these indicators have identified at least ten criteria that must be met: (i) Pertinence; (ii) Homogeneity; (iii) Independence; (iv) Cost; (v) Reliability; (vi) Simplicity and Comprehensiveness; (vii) Opportunity; (viii) No Redundancy; (ix) Focus on Controllable Areas; and, (x) Participation. (ECLAC, 2003).

capabilities, and should therefore be considered, for instance, for evaluations of anti-corruption measures that are based on UNCAC.

Although MESICIC has been a crucial instrument in promoting reviews of IACAC implementation, it has had its weaknesses and shortcomings. Hence, the need emerged to create complementary tools in order to generate knowledge about progress was desired. There have been three exploratory experiences in which indictors have been built to follow up on the implementation of anti-corruption conventions in the Americas. They have emerged from the need of CSOs to deepen the review performed by the MESICIC.

The first such experience came about as an initiative of the Anti-Corruption Conventions Programme in the Americas by TI, and involved an analysis conducted in nine countries. The two other initiatives were of national scope, carried out by groups of CSOs in Guatemala and Nicaragua. In the following, the processes and results of these first two exercises are briefly presented. The Nicaraguan experience is still underway and has suffered from the difficulties associated with a technically complex exercise, which requires great coordination and cooperation capacities among the participating actors. Hence, it would be too early to review this here.

4.1.   Transparency International's Public Integrity Report Card

TI's initiative was entitled the Public Integrity Report Card and was born out of "the need for […] CSOs, governments, international bodies and development agencies to have pertinent, timely and reliable information on the extent to which international commitments have been implemented in the various countries," as stated in the report card's final report.[45]

The tool was used in 2005 as a pilot exercise in nine countries: Argentina, Chile, Colombia, Costa Rica, Guatemala, Panama, Paraguay, Peru, and Venezuela. It examined laws and practices related to measures for the prevention of conflicts of interest, declarations of income, assets and liabilities, the duty to report acts of corruption and systems for whistleblower protection, in accordance with IACAC and UNCAC provisions. The specific purpose of the exercise was to identify legislation addressing the issues under review, to produce an expert opinion evaluating the implementation of the laws based on pre-established rating criteria, and to examine if statistical data on the implementation exists and is available to the public.

Each country report card process consisted of a sequence of four phases: (i) design, (ii) implementation, (iii) information processing, and (iv) dissemination. Although the main objective was not to generate comparisons between countries, it was necessary for TI to develop structured questionnaires and common instructions for the experts in the nine countries and to put the instruments through a control process. After that, in each of the mentioned countries, a local CSO took on the challenge to evaluate the country's compliance with the provisions of the IACAC, using the questionnaires and instructions. For this purpose the CSOs contracted renowned experts in the different subjects under review and requested information and statistical data from government entities. The processing of information was entrusted to externals (a private company and another consultant) and results were reviewed again by experts. Finally, the dissemination of results was taken on by a national CSO, while TI published the general results of all nine countries.[46]

The general conclusions of the study found that: (i) following the introduction of comprehensive legal reforms several years ago, the challenge lies in making them work in practice, not in introducing even more reforms; (ii) it is crucial to improve the effectiveness of corruption prevention practices because

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[45] This exercise benefited from a similar Report Card exercise that TI had applied to OECD countries. To view the report, visit:
www.transparency.org/regional_pages/americas/conventions/report_card#integrity (Spanish only).
[46] Transparency International (2007).

the national experts found new norms but the same old practices and weak institutional performance of the governance entities in public integrity; and finally, (iii) the generation of statistical data and indicators on public integrity, as well as access to them must be strengthened considerably in every country in the sample. The report identified a recurrent difficulty to obtain precise and objective information from the public entities entrusted with the implementation of the norms and mechanisms for public integrity that are promoted by the IACAC.

In terms of statistical data, the final report detailed that:

> statistical data are particularly scant in the area of prevention of conflicts of interest and reporting and whistleblower protection mechanisms since efforts to collect data only produced results in 20% and 30% of the cases, respectively […] the amount of data available on declarations of assets (43%) is slightly higher perhaps because there are institutions that have specific responsibilities in this area and because monitoring systems have often been developed.

The description of the limited possibilities of CSOs to obtain this kind of data coincides with the MESICIC's, which has recommended to all States Parties reviewed that they shall "adopt indicators for the objective measuring of progress with the tasks needed for implementation of the recommendations."[47]

As a pilot experience, this notable effort had difficulties and important limitations that were compiled by the network of the nine participating CSOs.[48] A first lesson learned seems to have been the realisation of the great technical difficulty in developing uniform measurement tools for culturally and legally different contexts as well as for drawing comparisons between countries. Therefore, the final report does not make such comparisons and focuses on analysing results by topic instead. Second, in every country, CSOs experienced difficulties in finding and accessing statistical data and indicators that could supplement the opinion of experts. This is an issue that should be taken into account in future exercises. The weakness of information systems related to the implementation of anti-corruption conventions seems to be a recurrent issue.

4.2. An experience of collaboration between the state and civil society: The indicator map in Guatemala

The process

The second noteworthy exercise of creating indicator-based monitoring tools was carried out in Guatemala between 2006 and 2007 by a group of CSOs led by the non-governmental organization Acción Ciudadana. Various citizen organizations in Guatemala took part in both rounds of review of the MESICIC by submitting independent reports. The organizations, however, were convinced that advocacy for the implementation of the IACAC should not be limited to submitting reports to MESICIC at certain intervals. They thus decided to explore new and improved tools for advocacy as the strategic objective of their action.

Hence, the Guatemalan CSOs focused on creating appropriate indicators to evaluate and monitor the IACAC. They assumed that indicators in general would provide data that enjoy a higher degree of consensus and acceptance and suffer less from discursive bias. Also, they assumed that indicators could be represented in figures or maps that would help guide political decisions concerning the fight against corruption in general and the implementation of the IACAC in particular. Thus, the idea to create an *indicator map* on the implementation of the IACAC in this country emerged.

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[47] OAS/MESICIC (2006c) page 26.
[48] The CSOs participating in the initiative held discussion workshops during the implementation of the exercise as well as at the occasions of processing the data in Washington, DC (2004) and Berlin (2005).

Striking a balance between political and technical aspects was a central element of the strategy followed by the organizations. To this end, Acción Ciudadana convened the participation of CSOs that were representative in the different thematic areas of such a map to facilitate the impact of the project and subsequent advocacy efforts. At the same time, the organizations sought to design high quality tools with a view to reducing the room for political discourse and disputes. The search for this balance required more time than originally planned due to the need to ensure participation, coordination and technical quality. The first task was to form a representative team of CSOs. The second task was to create a methodology in which the participation of all those involved would be ensured. The third task was to collect and process the obtained information.

The methodology

The indicators were built by a team of eight CSOs[49] and focused on provisions and practices, the latter of which were defined as institutional performance, in seven areas of the IACAC and applied to 22 governmental entities.[50] Two types of indicators focused on the *legal framework* and *institutional performance*. Those indicators were derived from two sources of information:

1. The *legal framework* was reviewed by approximately 20 experts using templates that enabled them to evaluate the existence and quality (adequacy) of existing provisions. The *existence* of the legal norms was verified by comparing them to the standard and technical tools that had been predefined in the methodology. The *quality* review of the legal norms examined the degree to which the legal norms showed thematic pertinence, normative stability, level of coverage, self-execution and enforceability.

2. For the *institutional performance* indicators, 24 public entities were used as the source of information. Officials were asked to submit information on *activity levels* and *results* in various thematic areas by filling out specific answer forms. The activity and result indicators used can be illustrated in the following way: the number of reports of acts of corruption, percentage of investigations on the basis of reports made by public officials, percentage of sanctions in cases that originated in a report by a public official (in the area of the reporting obligation of public officials), percentage of requests for whistleblower protection and percentage of granted requests for whistleblower protection (in the area of whistleblower protection), percentage of public procurement done through public tendering, percentage of public procurement processes in which the final decision is public, and percentage of objections to adjudications (in the area of public procurement).

The risk of having insufficient political will to provide information that was in the hands of state entities was mitigated through a collaborative alliance between the team of CSOs and the Presidential Office for Transparency and Anti-Corruption. This alliance was crucial for the effectiveness of the initiative, since it sent a political signal to the public entities holding the information and allowed the social and public actors to share objectives and information.[51]

The results

The results of this monitoring exercise consisted of multiple indicators on the legal framework and institutional performance that shed light on the direction that governmental anti-corruption actions

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[49] The CSO group was entitled the "IACAC Implementation Follow-Up Team in Guatemala".

[50] The thematic areas under review were: (i) prevention of conflicts of interest; (ii) the obligation of public officials to report acts of corruption; (iii) whistleblower protection systems; (iv) systems for the declarations of assets; (v) public procurement systems; (vi) systems for the hiring of public officials; and (vii) civil society participation mechanisms. Some parts of the map also included the UNCAC as a useful source of interpretation to eliminate legal loopholes that helped define international standards and indicators.

[51] The project was presented to half a dozen government entities and an offer of cooperation was received from the presidential anti-corruption office.

should take in Guatemala. In terms of the legal framework, for example, it could be concluded that the country had provisions in place that implemented the IACAC in all of the thematic areas reviewed. However, the *quality* of these provisions was inadequate, particularly in areas that are important to ensuring the integrity of the civil service, such as the prevention of conflicts of interest, as well as the systems for the contracting of public officials, whistleblower protection, and the declarations of assets. These indicators on the legal framework are reflected in the following figure:
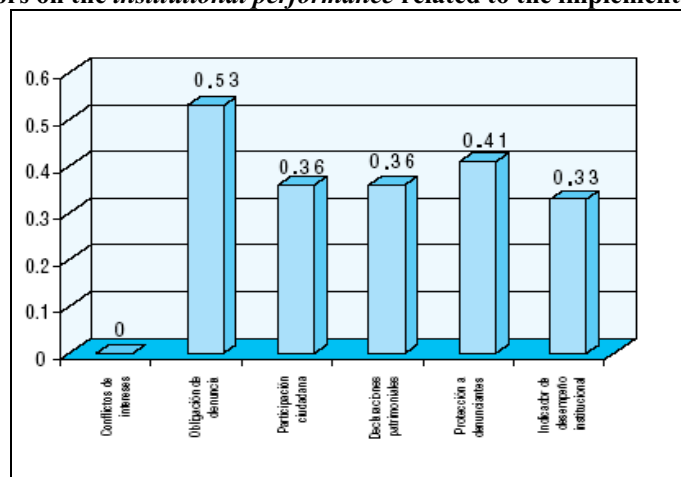
Figure 1 Indicators on the *legal framework* related to the implementation of the IACAC
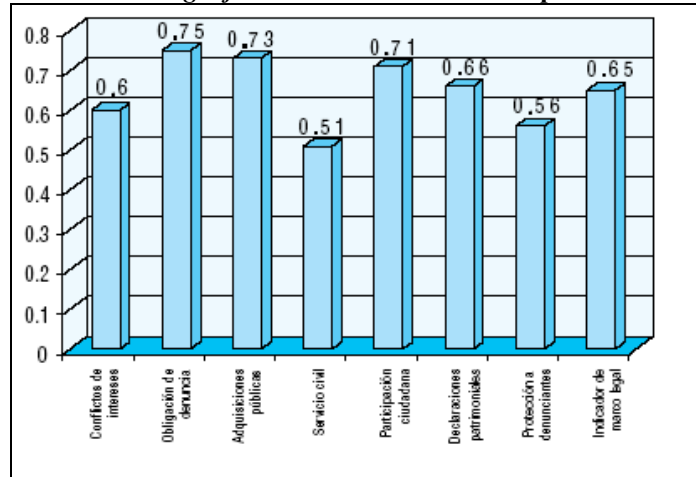
Weighing scale for the indicators of the legal framework: 0-0.33 inadequate; 0.34-0.66 median adequate; 0.67-1.0 adequate. (X-axis [from left to right]: Conflicts of Interest, Duty to Report, Public Contracting, Civil Service, Citizen Participation, Asset Statements, Whistleblower Protection, Legal Framework Indicator). Source: *Mapa de Indicadores sobre la Implementación de la Convencion Interamericana Contra la Corrupción en Guatemala, Acción Ciudadana, 2007.*

This diagnostic stood in stark contrast with the indicators on institutional performance, which showed a notable discrepancy between the legal and the actual realities of the country. The indicators on institutional performance in the reviewed areas showed considerably lower performance levels than the indicators on the legal framework. In fact, most of the areas examined hardly reached acceptable levels and one was inefficient, as shown in the figure below:

Figure 2: Indicators on the *institutional performance* related to the implementation of the IACAC

Weighing scale for the indicators of the legal framework: 0-0.33 inefficient; 0.34-0.66 median efficient; 0.67-1.0 efficient. (X-axis [from left to right]: Conflicts of Interest, Duty to Report, Citizen Participation, Asset Statements, Whistleblower Protection, Institutional Performance Indicator). Source: *Mapa de Indicadores sobre la Implementación de la Convencion Interamericana Contra la Corrupción en Guatemala, Acción Ciudadana, 2007.*

Through a general comparison that discrepancy was demonstrated in a figure that is easily understandable for a layman audience in the following manner:

Figure 3: *Indicator map* **on the implementation of IACAC based on the legal framework and institutional performance**
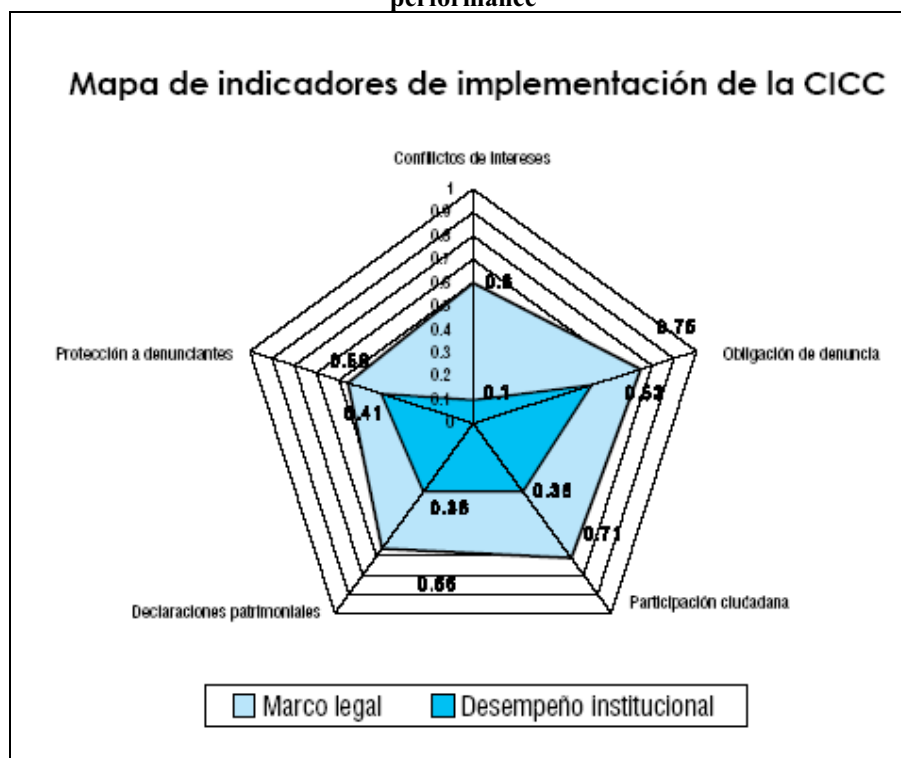
IACAC Implementation Indicator Map (clockwise, starting at top: Conflicts of Interest, Duty to Report, Citizen Participation, Asset Statements, Whistleblower Protection) (key: L to R: Legal Framework, Institutional Performance). Source: *Mapa de Indicadores sobre la Implementación de la Convencion Interamericana Contra la Corrupción en Guatemala, Acción Ciudadana, 2007*

This figure is a simplification of a series of interlinked and more complex elements. The report details the results for each thematic area showing the reasons for the low or high received weighing, both in the area of *adequacy* of the legal framework and the *efficiency* of performance. For example, regarding the legal framework for the prevention of conflicts of interest, the report states that the experts coincide in identifying two major weaknesses of the national norms: the low degree of self-execution, and enforceability. The report concludes that these norms have a low probability of being put into practice and lack coercive mechanisms. The inefficient performance, on the other hand, is a result of the absence of activities that would need to be carried out by the public body responsible for putting the norms into practice, in this case the Comptroller General's Office.

The general conclusions of the final report revealed some problems and challenges: "In relation to the implementation of the IACAC, the coverage of the provisions still leaves many areas exposed while institutional performance is clearly less adequate than the provisions in place." It also stated that: "…it is shown that, in the short term, the fight against corruption in the country is mainly a challenge of making existing processes (decision-making and implementation), mechanisms and instruments work. Legal reforms are of course complementary and necessary but not a brake on the former."[52]

In terms of implementing the thematic areas of the convention, the report adds more specifically:

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[52] Acción Ciudadana (2007).

> In thematic areas where the coverage shows significant discrepancies between the legal provisions and institutional performance, as in the case of conflicts of interest, declarations of assets and citizen participation, it will be more important to streamline the management and the efficient and effective use of the public authority. In thematic areas where the discrepancy between both types of indicators is less salient and/or where the indicator on the legal framework is below the average of both types of indicators combined, as in the case of whistleblower protection and conflicts of interest, legal reforms become a priority.[53]

In evaluating this experience, it can be stated that the indicator map produced important inputs for public policymakers and other actors regarding the need to improve decision-making and public management processes associated with the implementation of the IACAC. This leaves the improvement of laws on an important albeit secondary level. In addition, the results allow efforts to be clearly focused on those thematic areas that were identified as the weaker ones. One example of this can be found in the Office of the Presidential Commissioner for Transparency and the Fight against Corruption of Guatemala which used the report as a basic element for the development of the work plan in which they identified the prevention of conflicts of interest as a priority area. Other actors, like the press, modified their media discourse by abandoning the idea to advocate for a new law on illicit enrichment, and demanding instead the application of existing legislation.[54] Unfortunately, some of these positive effects are instable, due to, for example, the changing political priorities of governments. The year following the exercise, a new government came to power through elections, and it has not preserved the areas of action that the prior government had established as priorities on the basis of the indicator map.

The cooperation between the CSOs and the government was fundamental in building consensus. For the initiative to be successful, it was necessary to reach certain political agreements on the central aspects that the anti-corruption measures under review should contain at the domestic level in order to appropriately translate the IACAC to the national context, and to obtain objective information from the governmental sources of information. Another noteworthy aspect was that the indicators made it possible to create simple, understandable figures that showed to what extent the IACAC had been implemented. This increased the understanding of the general public and created opportunities for public debate. Finally, these results constitute a baseline for future evaluations at the national level of IACAC implementation.

In addition, the experience of the indicator map in Guatemala has shown both limitations and possibilities for follow-up on the implementation of the IACAC at the national level.[55] The theoretical framework of the indicator map already noted that

> …the content of the anti-corruption conventions are normally addressed by using generic language, thematically incomplete commitments and varying degrees of agreement as to the legal enforceability of the commitments. These characteristics normally affect the possibilities of establishing standard measurements that are easily comparable across States, and even within a single State.[56]

The indicator map report thus notes that limitations are found in practically every anti-corruption convention, including the UNCAC. In the case of IACAC, these limitations are related to the difficulties based on the diversity of its thematic content,[57] the varying degree to which its provisions

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[53] Ibid.

[54] Interview with the Director of Acción Ciudadana.

[55] Acción Ciudadana (2007).

[56] Ibid.

[57] The IACC was not only the first anti-corruption convention, and thus not fully developed, but also, like any convention of this kind, constitutes the highest-level agreement that could be reached by a group of countries on

are legally binding, the multiplicity of actors involved in each measure of the convention, and the inclusion of undefined standards in its provisions.

Another interesting aspect in the Guatemalan experience, especially from a legal point of view, was that restrictions that are found in any design of indicators relevant for anti-corruption conventions were addressed by using methodological measures that mitigated them.[58] The authors of the measurement decided explicitly that they would: (i) select those provisions of the IACAC that had, in their opinion, relatively well-defined characteristics and that would be more easily linkable; (ii) assume an existing commitment of the states to ensure a progressive development of the international commitments contained in the IACAC; (iii) define the scope of the study to the most relevant public institutions of the country; and (iv) translate the provision of the convention into a more national precise standard by building on accepted international experience. These prior decisions about how to methodologically deal with the limitations of an international convention facilitated the design of indicators and allowed to focus on the scarce resources of the organizations involved in the mapping exercise.

Undoubtedly, further developments are required to improve the methodology, and its further use will depend on the frameworks and incentives for cooperation. It is nevertheless a first step in Guatemala and, more importantly, it shows that the interests of CSOs and public bodies can converge with regard to the creation of public values. This convergence of interests allows primary information scattered across various government bodies to be accessed, on the one hand, and greater political legitimacy to be garnered, on the other.

Lessons learned

The lessons learned from such an exercise can help avoid mistakes and strengthen other similar initiatives currently being designed or already underway, for instance for following up the UNCAC. Although the indicator map is the result of a specific national experience, with mistakes and limitations, some of its aspects can easily be identified as common to other indicator-based anti-corruption initiatives. The main aspects that should be highlighted are as follows:

- Transforming general international provisions into national indicators required participating actors to acknowledge the limitations of basing their work on an international convention. **Dealing with these challenges was only possible by reaching agreements** among the actors involved about how to translate such norms into sensible standards for the country in question and about which international sources to use.

- **Cooperation between CSOs and the government was useful in building consensus** on the indicators that are most important to evaluate each corruption prevention mechanism under review and how to obtain the basic information needed to feed those indicators. It also was fundamental in obtaining objective information from the governmental sources of information, which is often a recurrent problem in the region as shown by the TI report card exercise.

- **The published information enjoyed great acceptance and credibility due to the fact that various governmental and non-governmental actors were involved in its collection and processing.** The prestige of the CSOs and the collaboration between civil society and the government provided the results with more legitimacy than they would have obtained if the exercise had been carried out by either the government or CSOs separately.

- **The monitoring tool based on performance indicators made it easier to distinguish the areas with greater or lesser formal legal strength and with greater or lesser practical**

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measures that can be effective in combating current corrupt practices, by recognising that corruption is in any event a phenomenon that historically evolves and takes new forms.

[58] A lesson learned from the Public Integrity Report Card is noted here as the NGO that spearheaded the indicator map in Guatemala participated in the TI effort.

implementation (institutional performance). It also allowed areas with a greater discrepancy between the de jure and de facto realities to be identified.

• The creation of indicators made it **possible to create figures that show in a simple and understandable manner to what extent the IACAC has been implemented**. This increases the understanding of layman audiences and creates opportunities for public debate. The media, and through it the citizenry, were the first beneficiaries of these tools.

5. What does this experience tell us for future convention follow-up?

This Issue Paper has presented a brief review of experiences generated in the follow-up on the implementation of the IACAC in the Americas, including lessons related to the use of information by the MESICIC and CSOs. The challenges faced are relevant for governments, state entities, development partners, and domestic stakeholders dealing with the implementation and follow-up of any anti-corruption conventions in general, including of course UNCAC.

5.1.   Some preliminary considerations

Before moving on to the concluding reflections, there are several aspects of the follow-up of anti-corruption conventions that – while basic – cannot go without being highlighted in any analysis. The first aspect is that anti-corruption conventions are essentially legal-political agreements that are reached at a historic moment in time between states. They are therefore major commitments on how each state should tackle the nature of its own corruption. Indeed, **the diverse universe of cultures and realities of the States Parties united by a convention is a key aspect that must not be forgotten** at any stage in the implementation and follow-up processes if the illusion of uniform human behaviour and cultures under a treaty is to be avoided.

A second inevitable aspect is the need to clarify the objectives of a follow-up activity. Although follow-up efforts of international treaties can theoretically perform multiple functions, such as evaluating compliance with the commitments, making action models uniform and promoting cooperation and technical assistance, **the existence and functioning of a follow-up mechanism has to be explicitly linked to the purposes that the original negotiators pursued.** These purposes are, in the case of UNCAC, the general objectives of the States Parties laid out in its first article[59] and the specific objectives laid out in article 63, which focus on a desire to improve the capacity of States Parties and cooperation between them in order to achieve the objectives of the convention and to promote and examine its implementation.

A third basic aspect to take into account is that **the institutional capacities of the States Parties to UNCAC vary.** Not only do they affect the capacity to implement a convention but also the possibility of obtaining and processing integer, reliable, and accessible information to review the progress and setbacks experienced in the implementation process. In some cases, the institutional capacity of the states allows them to address the challenges of convention follow-up without collaboration from external actors, while in others, institutional weaknesses make it recommendable for states to complement their own efforts with support and/or external efforts from universities, specialised NGOs or professional associations, to name but a few types of non-governmental actors whose collaboration could be useful. In any case, the diverse institutional capacities of States Parties should be considered in every agreement on follow-up mechanisms and on requirements regarding the expected information in the framework of such mechanisms.

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[59] That is to promote measures to prevent and combat corruption more effectively and efficiently, to promote and approve international cooperation and technical assistance in the prevention of corruption, and to promote the integrity, accountability and the proper management of public affairs and public property.

Fourth, **the effectiveness of the follow-up mechanisms depends very much on an adequate information system.** A follow-up mechanism is a legal-technical tool that enables States Parties to a convention to review the status of implementation and helps taking decisions on unilateral, bilateral, and multilateral measures that are useful in the implementation of the convention. The quality of the decision-making process therefore rests heavily on the information system that nurtures it, and that is based on the national capacities of each State Party. If the information system, either at the inter-governmental or at the national level, has weaknesses in terms of the integrity, reliability, and accessibility of the information, as has been shown in many cases, basing public decisions on such systems is risky. Hence, assessing the status of the information systems and quality of the information beforehand is essential. The capacity to create processes and submit data at the national level is a crucial condition for any inter-governmental follow-up mechanism.

5.2.   Reflections for the follow-up approach for UNCAC implementation

Following the above preliminary considerations, some reflections are drawn from the content and analysis of this paper. These reflections or conclusions are directed at governments, legislatures, CSOs, international bodies, and donor countries, in order to contribute to the analysis and debate about the follow-up mechanism for UNCAC (in the UNCAC negotiations also referred to as "review mechanism").

1.   **With or without an inter-governmental follow-up mechanism, enhancing national monitoring capacity is indispensable, as is the strengthening of inter-agency coordination at the national level for the follow-up of an anti-corruption convention**. The experience of MESICIC helps to understand that all information in the end comes from the States Parties. However, if the countries do not have adequate information systems, relevant information might not reach the follow-up mechanism or information is delivered incomplete. An important number of States Parties to the UNCAC already participate in the regional follow-up mechanisms of other anti-corruption conventions. While these mechanisms can be a useful platform for collaboration on a UNCAC follow-up mechanism, the national capacities to manage and coordinate the collection of information required for the reviews are rather dissimilar, as illustrated in this study. At the same time, many States Parties to the UNCAC do not participate in any other follow-up mechanism and there is no guarantee that these countries have the necessary capacity to supply a follow-up mechanism with integer, accessible, and reliable information. These challenges should encourage States Parties to consider integrating the strengthening of national anti-corruption information systems into any UNCAC follow-up mechanism. The mandate of the UNCAC to strengthen inter-agency coordination is a sound point to support this.

2.   **A follow-up or review mechanism needs to draw on multiple evaluation tools if it aspires to have an adequate view of corruption in a States Party, the state's capacity to implement the convention, and on the achieved results**. These tools need to allow legal aspects to be addressed, but also political and administrative aspects and real performance to the same degree or even more so. Public policies on anti-corruption need to be evaluated, and especially the results and impacts achieved by the states through their implementation activities. The purpose of a convention should be to change the de facto reality not the de jure one. A real and precise view about the implementation of a convention can be generated by knowing the *results* and *impacts* of the state's action, two areas that are more effectively approached through the use of objective information and indicators.

3.   **Follow-up efforts based on measurements seem to be more successful if they aim at evaluating the particular situation of a specific country and its progress, instead of establishing cross-country rankings or comparisons**. This has been shown, among others, in the experience of NGOs in the Americas as described in section 3. There are legal and cultural factors that have complicated the use of uniform measurement tools for convention implementation. From this perspective, it becomes important that assessments regarding the implementation of anti-corruption conventions need to be conceived in a way that translates

international standards into the national context. This strengthens their domestic support and the legitimacy of the follow-up. In addition, it is possible that measurements with the objective to assess progress over time become more important, so that the situation in the country itself at different points of time will constitute the basis for comparison.

4. **The use of indicators for the follow-up of conventions seems especially valuable at the national level; however, experience suggests the need for participation of multiple interested parties in their creation and validation.**[60] Participation obliges the interested parties to focus their efforts on achieving consensus in defining the concrete standards that would be applicable at the national level. In this way, the construction and use of indicators fuel domestic debate and allow the national identity of an international treaty to be defined. This national debate on monitoring and indicators helps translate international treaties into concrete legal provisions and thus give them greater national relevance, as could be seen in the experience of Guatemala.

5. **The participation of civil society in monitoring efforts is valuable** – it might, at times, even be the only way to monitor the government – and has produced serious results in many cases, as has been shown throughout this study. Civil society participation is a factor that has strengthened inter-governmental follow-up efforts in the Americas, by lending greater legitimacy to them, and in many cases improving the quality of review efforts. On multiple occasions during the two rounds of review of the MESICIC, CSOs have conducted research and studies, and have obtained additional statistical data that has helped improve the reviews of the Committee of Experts of the MESICIC. In this area, the CSOs have been able to unite academic, social, and citizen efforts, often with the support of public and private donor organizations. CSOs have complemented governmental efforts in the follow-up on anti-corruption conventions.

6. Despite this, the creation of indicators for the follow-up of anti-corruption conventions is such a complex and important task that in the majority of cases it can only be taken up by the states themselves. NGOs often lack resources, technical capacity, and sufficient information to perform this task continuously. **Although they are relevant actors and have carried out pioneering initiatives, it is above all the States Parties that are called upon to take on a permanent leadership in the follow-up on anti-corruption conventions through modern evaluation tools.**

7. **Government commitment is vital to accessing the sources of information that are necessary to assess the implementation of anti-corruption conventions**. This is true in the case of both an inter-governmental follow-up mechanism and a citizen monitoring exercise. Beyond constantly changing political scenarios, long-term government commitment will depend on the importance that each state attaches to the transparency of public information and the development of evaluation capacities for the policy implementation processes. Equally important is increased dissemination about the monitoring of UNCAC within the state apparatuses, especially since they are complex structures with joint responsibility in the implementation of such a broad convention. The political will is also disaggregated and distributed between multiple public bodies. For this reason, broader dissemination of the challenges of UNCAC vis-à-vis these bodies, and the involvement of other actors increase the possibilities of generating political commitment for the production and publishing of information.

8. **National initiatives related to indicator systems should adhere to international or renowned standards of information systems in order to increase the reliability of data and information**. Indeed, follow-up exercises not only require having expert knowledge of the thematic areas of the UNCAC. They also require that the information systems, indicator-building methodologies, and the use of statistics follow a set of recognised standards and best practices.

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[60] See for example Bonnefoy and Armijo (2003).

9.   **National debates to review progress on the implementation of anti-corruption conventions and follow-up efforts are a necessary condition for the effectiveness of multilateral reviews**. The use of indicators promotes these debates by allowing average citizens to participate. Indeed, the described indicators, albeit simplifications of complex issues usually dealt with by lawyers and experts, become a fruitful means to encourage debate among less expert audiences and facilitate citizens' understanding of progress and challenges. This has occurred in various areas, such as budgetary processes and crime prevention policies, where political discussions have been succeeded by discussions of policies.

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Abstract

The United Nations Convention against Corruption (UNCAC) is the latest achievement in a series of international anti-corruption treaties. All of them share a common challenge – how to meaningfully assess their implementation. In fact, for UNCAC a mechanism to review implementation has yet to be agreed upon. This U4 Issue Paper explores lessons learned from the anti-corruption convention that has been in existence longest – the Inter-American Convention against Corruption (IACAC) – which gives useful insights into the requirements for an effective review process. In the Americas, as elsewhere, there is often a gap between formal (legal) aspects of reform and the reality of implementation. This paper analyses the IACAC review mechanism and identifies strengths and weaknesses in generating legal and performance related information about the implementation of the convention. Special emphasis is given to the development of an indicator map to assess some key areas of IACAC implementation in Guatemala. The paper argues that strengthening national information systems and information management capacities can generate more objective knowledge about the progress of anti-corruption reforms. Performance indicators, in particular, are necessary for meaningful assessments of, and debates about, the status of a convention's implementation within a particular country.

It is the purpose of this Issue Paper to make these lessons learned available to the States Parties to UNCAC in their current discussions on a possible review mechanism for UNCAC. However, this experience can also be useful to the different national actors in each country, as well as to donors in guiding their commitment to provide technical assistance for the implementation and follow-up of the UNCAC.

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