



**Recommendations for the Biden Administration’s “Root Causes Strategy” for Central America:
US priorities to promote the rule of law and combat corruption**

In the context of President Biden’s focus on addressing the root causes of migration from Central America, and the ongoing rule of law and corruption crises in that region, it is more important than ever to take a strategic, comprehensive, and highly specific approach to foreign policy in El Salvador, Guatemala, and Honduras. The Due Process of Law Foundation (DPLF)¹ welcomes the Administration’s holistic focus on the region. A nonprofit organization dedicated to strengthening the rule of law and the protection of human rights in Latin America, DPLF has decades of unique experience partnering with civil society organizations in El Salvador, Guatemala, and Honduras and providing in-depth technical assistance and support for local advocacy rooted in international law and standards.

In the spirit of the Executive Order on Migration issued on February 2, 2021, which commits to taking into account the view of civil society,² **DPLF presents this briefing document with recommendations for the Administration’s consideration as it further develops its “Root Causes Strategy” for Central America.**

The following recommendations are structured on the basis of the Administration’s priorities as outlined in Section 2103 of the US Citizenship Act (“Combating Corruption, Strengthening the Rule of Law, and Consolidating Democratic Governance”), with several additional recommendations related to Sec. 2104, presented by the Administration to Congress on January 20, 2021.³ **DPLF believes that centering anti-corruption efforts on the victims of corruption should be a cross-cutting priority**, and below we discuss **both regional and country-specific elements that should be carefully considered** to ensure real and long-lasting progress in addressing the root causes of migration from Central America – alongside initiatives to incentivize much-needed political will in the region.

I. IN RELATION TO THE GOAL OF COMBATING CORRUPTION IN CENTRAL AMERICA BY SUPPORTING:

A) Inspectors General and oversight institutions (US Citizenship Act Sec. 2103(1)(A))

¹ 501(c)(3) organization based in Washington, DC and El Salvador, founded in 1996 by Professor Thomas Buergenthal, former International Court of Justice judge and former President of the Inter-American Court of Human Rights. See www.dplf.org for more information.

² Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border (Feb. 2, 2021). Sec 2(b). <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/>

³ <https://www.menendez.senate.gov/imo/media/doc/USCitizenshipAct2021BillText.pdf>, <https://lindasanchez.house.gov/sites/lindasanchez.house.gov/files/2021.02.18%20US%20Citizenship%20Act%20Bill%20Text%20-%20SIGNED.pdf>.

Regional recommendations: Inspectors General and other oversight institutions must be able to operate independently and with accountability to the public to be effective. Therefore, US efforts in this area should seek to:

1. Ensure that the **selection processes** for Inspectors General and similar posts, including the deputies of key oversight and auditing institutions, are merit-based and transparent; and that they include institutionalized mechanisms for **citizen participation**, such as in vetting processes for candidates.
2. In the same vein, to avoid the unjust removal of independent Inspectors General, ensure that the mechanisms for **removal from office** (i) include a previously established, objective list of serious causes, (ii) are carried out by independent authorities, and (iii) guarantee the right to due process.
3. Promote legal and regulatory reforms to provide **qualified immunity** for these officials, to ensure their autonomy and to enable them to carry out their work without fear of spurious lawsuits.
4. Ensure **public accountability mechanisms** for oversight institutions, e.g., the submission of substantive annual performance reports and oversight data to legislative bodies.
5. Recognize and encourage the role of **Human Rights Ombuds** offices in acting as oversight institutions at the **intersection of corruption and human rights issues**.⁴
6. Strengthen institutions charged with overseeing and **regulating the private security industry**. Relevant regulatory authorities must be given increased attention and funding, as well as training on applicable international human rights standards.⁵

Country-specific recommendations: US support for oversight institutions should include (but not be limited to) these key entities:

1. **El Salvador:** Corte de Cuentas, Tribunal de Ética Gubernamental, Inspector General de la Policía, Instituto de Acceso a la Información Pública, Procurador para la Defensa de los Derechos Humanos (PDDH), Sección de Probidad de la Corte Suprema de Justicia
2. **Guatemala:** Procurador de los Derechos Humanos, Contraloría General de Cuentas de la República, Tribunal Supremo Electoral
3. **Honduras:** Tribunal Superior de Cuentas, Comisionado Nacional de Derechos Humanos (CONADEH), Instituto de Acceso a la Información Pública

B) Multilateral support missions against corruption and impunity (US Citizenship Act Sec. 2103(1)(B))

The varied experience of multilateral mechanisms such as CICIG, MACCIH, and CICES offer many lessons to be learned on the factors necessary to effectively investigate and prosecute corruption and abuse of public office in the region. Among the most important are the need for multilateral support mechanisms to have **independence from the executive branch** and to have the authority to present cases alongside

⁴ In particular, the Office of the *Procurador de Derechos Humanos* in Guatemala, which includes corruption and transparency as one of its lines of work, has frequently spoken out and promoted judicial remedies against corruption despite the risks, including in the context of the Covid-19 pandemic. See <https://www.pdh.org.gt/comunicacion/noticias/pdh-recomienda-a-mp-investigar-la-adquisicion-y-venta-de-pruebas-falsas-de-covid-19-1.html>.

⁵ Private security guards have been implicated in cases of corruption and human rights violations, and many private security companies in Central America operate outside the law. See e.g. <https://www.thedialogue.org/wp-content/uploads/2018/03/Security-for-Sale-FINAL-ENGLISH.pdf>. See also <https://www.cambridge.org/core/journals/business-and-human-rights-journal/article/abs/improving-human-rights-in-the-private-security-industry-envisioning-the-role-of-icoca-in-latin-america/823388424049AD9FA6BE84380352BFA5>.

the Attorney General's office. While the mandates of CICIG and MACCIH have ended, there is much that can be done to build upon the work these bodies carried out, including the implementation of their recommendations as published in many official reports.

The US should also work to fulfill President Biden's campaign promise of developing a **regional anticorruption commission**. We propose that this commission focus on 1) developing **regional cooperation among Attorney Generals'** offices in the investigation and prosecution of corruption crimes, and 2) strengthening the **role of victims and civil society in corruption prosecutions** and investigations across the region.

Regional recommendations:

1. The multilateral support missions against corruption and impunity that previously existed in the region – CICIG and MACCIH – issued many proposals and analyses that clearly laid out the problems related to corruption and impunity in the respective countries, along with actionable solutions (such as legal reforms). Therefore, change does not have to start from scratch – the US can and should promote the **immediate implementation of recommendations put forth in proposals and reports by CICIG and MACCIH**. Of particular note are CICIG's proposed constitutional reforms, and MACCIH's report on the "Ley de Secretos."⁶
2. Develop an expert commission to foster **regional cooperation and collaboration on the prosecution of corruption crimes**. This commission should promote dialogue and exchanges of experience between former CICIG and MACCIH officials and current prosecutors throughout the region to elucidate best practices and develop legal strategies, including use of the mechanisms outlined in the UN and Inter-American Conventions Against Corruption.⁷
3. The regional commission should also have as a central goal the **promotion of the role of victims in corruption investigations and prosecutions** (see discussion in Section C, below), through dialogue with civil society organizations and the strengthening of legal procedures allowing their participation and access to reparations.
4. Promote the standards established by the **Inter-American Commission on Human Rights (IACHR)** on **corruption and human rights** and support the IACHR's work in this area.⁸ In particular, raise the profile of and promote the realization of standards regarding the centering of anti-corruption actions on victims, including but not limited to their right to reparations.⁹ In the upcoming election

⁶ <https://www.reformajusticia.org.gt/>;

http://www.oas.org/en/spa/dsdsm/maccih/new/docs/20170705_MACCIH_5.pdf

⁷ UNCAC Chapter IV. Arts 48, 49, and 60 of the UN Convention Against Corruption. Of particular relevance: "Article 49. Joint investigations States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis...". See also references to cooperation among states throughout the Inter-American Convention against Corruption, e.g. Art. XIV. International support for these Convention mechanisms in Latin America is needed as they are currently under-utilized in practice.

⁸ http://www.oas.org/en/iachr/media_center/PReleases/2019/346.asp

⁹ CIDH, *Corrupción y Derechos Humanos* (2019). See e.g. Chapter 3(A)(5). See also paragraph 155 ("Como eje transversal de los principios anteriormente mencionados, la Comisión reitera que las víctimas de la corrupción deben estar en el centro de la lucha contra este fenómeno y formar parte del análisis, diagnóstico, diseño e implementación de mecanismos, prácticas, políticas y estrategias para prevenir, sancionar y erradicar la corrupción considerando los principios de no discriminación e igualdad, rendición de cuentas, acceso a la justicia, transparencia y participación.") <http://www.oas.org/es/cidh/informes/pdfs/CorrupcionDDHHES.pdf>

of IACHR Commissioners (at the 2021 OAS General Assembly), the US should publicly support and vote for candidates with a proven commitment to democracy, and who have some understanding of and are open to the corruption and human rights agenda. Furthermore, the US should advocate for the creation of a Unit or Special Rapporteurship on Corruption and Human Rights at the IACHR.

5. Through the regional anti-corruption commission or otherwise, promote the formation of **international panels of independent experts** to monitor the selection processes for Attorneys General and for high court judges and magistrates.¹⁰
6. Through the regional anti-corruption commission or otherwise, promote the adoption in domestic legislation of the broad definitions of “public official” established in international law to prevent impunity for acts of corruption when they are carried out by individuals such the spouses of Presidents or private third parties.¹¹
7. Support the strengthening of the **specialized anti-corruption units of the Attorneys General’s offices** that work or historically have worked in coordination with multilateral anti-corruption mechanisms (e.g. FECI and UFERCO), through the following:
 - a. Encourage the explicit commitment of Attorneys General to protect the **technical independence** and stability of the prosecutors that comprise these specialized units, in order to ensure that there are no unjustified changes in the composition of investigative teams.
 - b. Promote legal reforms that establish **reinforced guarantees of immunity** for the prosecutors of anti-corruption units.
 - c. Guarantee adequate **protective measures** for the life and personal safety of anti-corruption prosecutors and staff, their families and their homes, including for a certain period of time after they leave their posts.

Country-specific recommendations: The failure to renew the mandates of MACCIH and CICIG have (predictably and intentionally) weakened efforts to investigate corruption and fight impunity in **Honduras** and **Guatemala**. The US should coordinate with the UN and/or the OAS to support the **(re)establishment** of independent multilateral anti-corruption mechanisms in these countries. While this may be a challenge to achieve in the short-term, at minimum the US should help create the conditions for this to be possible. In **El Salvador**, the US should work alongside the OAS to strengthen the mandate of **CICIES**¹², by promoting reforms that have been proposed by civil society on February 2, 2021¹³ and by CICIES itself on March 25, 2021.¹⁴ The US should seek to ensure that CICIES has:

¹⁰ DPLF has organized independent expert panels for the selection of high court officials in El Salvador and Mexico to shed light on the candidates’ qualifications and to promote transparency in the selection processes. See <http://www.dplf.org/es/resources/informe-final-del-panel-independiente-seleccion-de-magistrados-de-la-sala-de-lo-0> and <http://www.dplf.org/es/resources/informe-final-del-panel-internacional-de-expertos-para-la-eleccion-de-ministro-de-la-0>. Panels such as these can serve a similar function as the ABA Committee on the Judiciary, which analyzes federal judicial candidates.

¹¹ See e.g. UN Convention Against Corruption, Art. 2 (a public official is “any...person who performs a public function...”). This issue is important because it would enable multilateral anticorruption mechanisms to pursue corruption crimes committed through private advisors or family members of elected officials. For example, in its report proposing reforms to the Criminal Code of Honduras, MACCIH recommended that Honduras adopt the international definition of “public official”. See <http://www.oas.org/es/sap/dsdme/maccih/new/docs/REPORTE-MACCIH-2.pdf>, paragraphs 35-39 (July 2016).

¹² See http://www.dplf.org/sites/default/files/analisis_1_acuerdo_marco_oea_cicies_-_mandato_vff.pdf

¹³ <http://dplf.org/es/news/el-salvador-ongs-presentan-una-propuesta-de-ley-ante-la-asamblea-legislativa-para-fortalecer-la>

¹⁴ https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-028/21.

1. The authority to prosecute cases in partnership with the Attorneys General's office as a **co-prosecutor** (*querellante*).
2. A mandate of at least 6 years, subject to renewal, to ensure independence from sitting presidents.
3. Sufficient staff and resources, budgetary and otherwise.
4. The authority to **select and certify specialized units of elite prosecutors** within the Attorney General's office, dedicated to the investigation and prosecution of corruption cases in conjunction with CICIES.
5. A **thorough, public, and transparent process for selecting the CICIES Commissioner** that ensures that the person appointed is independent and fully qualified.
6. The right of CICIES to have broad access to information held by the State and all its offices, with the exception of reserved or classified documents in accordance with law.
7. **Guarantees that CICIES can present or file complaints before the internal oversight bodies** of the Attorney General's office, the judiciary, or any other monitoring body, with respect to public officials who hinder or impede the corruption investigations.
8. The elimination of limitations imposed in the current Framework Agreement of the CICIES that prevent the head of the CICIES from making public pronouncements on matters within its competence.
9. The elimination of the obligation to submit specialized reports at the request of the President of the Republic of El Salvador. Performance reports should be submitted periodically to the OAS and should be made public and presented to the citizens of El Salvador.
10. The ability of CICIES to receive information, complaints or warnings directly from **civil society organizations (CSOs) and individuals**, and the strengthening of institutionalized mechanisms for civil society participation that allow for direct and substantive consultation by CSOs.

C) Civil society organizations conducting oversight of executive and legislative branch officials and functions, police and security forces, and judicial officials and public prosecutors (**US Citizenship Act Sec. 2103(1)(C)**)

The role of civil society, including victims, is vital in the fight against corruption – as witnesses and actors who can shed light on facts related to corruption (through investigative journalism, for example), as change agents who can lead and contribute to greater social pressure in the fight against corruption through advocacy and litigation, and as active participants in criminal and civil proceedings. In recent years, many civil society organizations from the human rights movement and regional transparency networks have been encouraging discussions on **centering anti-corruption actions on victims**. This is also a core area of work for the current term of the Inter-American Juridical Committee (principal organ of the OAS).

As noted in the IACHR report referenced above, **victims of corruption should have the right to reparations**. However, the participation of victims should not be limited to this; rather, granting the legal status of victims to persons or groups affected by corruption should also include their right to access to justice, i.e., to have those responsible investigated and sanctioned according to the law. As noted by the IACHR in its report on Corruption and Human Rights,

In light of the State's obligation to investigate acts of corruption: ... the state authorities must initiate without delay serious, impartial and effective investigations by all available legal means and aimed at determining the truth of the facts and the prosecution and eventual punishment of

the perpetrators. During the investigation process and the judicial proceedings, the victims should have ample opportunity to participate and be heard, both in the clarification of the facts and the punishment of those responsible, as well as in the search for just compensation.¹⁵

In Central American countries – unlike in the United States – victims have certain procedural rights in criminal proceedings enabling them to serve as civil prosecutors or to demand that the Attorney General’s office prosecute cases in which they are victims. However, a general attitude persists that corruption is a victimless crime. As can be seen in cases such as the assassination of Berta Caceres, this is far from true.¹⁶ However, there are often challenges in identifying discrete victims of specific acts of corruption. **More work is needed to strategize with civil society in Central America about identifying victims in cases of corruption and to consider possible means of increasing their participation, not only in criminal investigations and prosecutions but in civil cases, such as class actions** (which may require legal reforms).

Regional recommendations: The US should support initiatives to incorporate victims and promote their rights in the fight against corruption, by:

1. Promoting **participation of direct victims and civil society in criminal cases** prosecuting corruption, including through legal reforms where necessary.¹⁷
2. Promoting legal reforms that would allow **greater access to reparations via civil litigation** for large numbers of victims, including class actions.¹⁸
3. Supporting a wide variety of civil society organizations promoting a **victim-centric approach to combatting corruption**, including by:
 - a) Fostering technical and strategic discussions on overcoming challenges to the identification of victims of grand corruption¹⁹ and to enabling their **participation in legal proceedings**.
 - b) Strengthening the **investigative capacities of civil society organizations** to identify individual victims of grand corruption, including through collaboration with independent investigative journalists.
 - c) Promoting dialogue and **exchange of information** between civil society organizations in Central America and those in **other countries that have achieved some level of victim participation in corruption cases**, such as Argentina²⁰ and the US.²¹

¹⁵ <http://www.oas.org/es/cidh/informes/pdfs/CorrupcionDDHHES.pdf>, paragraph 263.

¹⁶ <https://dplfblog.com/2021/03/25/corruption-on-the-gualcarque-river-will-its-victims-have-their-day-in-court/>

¹⁷ See e.g. id.

¹⁸ In Latin America more widely, some countries have established that civil associations may participate as plaintiffs in judicial proceedings in which they claim that collective assets or diffuse interests are affected, but it is not always clear whether corruption offenses fall into this category. Bolivia, Ecuador, Peru, Chile and Costa Rica are among the countries recognize class actions in cases of public interest; the latter also expressly provides for class actions in corruption cases.

¹⁹ Transparency International defines grand corruption as “the abuse of high-level power that benefits the few at the expense of the many.” It typically includes a “systematic or well-organized plan of action involving high-level public officials that causes serious harm, such as gross human rights violations.” See <https://www.transparency.org/en/our-priorities/grand-corruption>.

²⁰ See, e.g. <https://poderciudadano.org/en-un-fallo-sin-precedente-la-justicia-permitio-a-poder-ciudadano-ser-querellante-en-causa-de-corrupcion/>

²¹ See e.g. <https://globalanticorruptionblog.com/2021/03/10/actions-for-damages-caused-by-corruption-american-law/#more-17875>

- d) Promoting the professionalization of civil society organizations to not only monitor, but also **document and litigate corruption cases**; and to work in national and regional anti-corruption coalitions.

Furthermore, in Central America, **corrupt actors have strategically co-opted institutional spaces** for civil society participation, such as those that exist for judicial selection processes. To address this, the US should support rising leaders and new voices in civil society and academia in the region. Specifically, we recommend:

1. Support for the creation of organizations or small firms dedicated to **strategic anti-corruption litigation**.
2. Support for academics committed to integrity, who seek to occupy leadership positions (deanships, rectorates, etc.) in universities, to displace the corrupt groups that have infiltrated many of these positions, and to **actively involve academia in the fight against corruption**.
3. Given that corrupt bar associations tend to play a key role in many selection processes for high-level officials in the region, the US government should **support the creation of new bar associations**, especially by young lawyers committed to integrity.

II. IN RELATION TO THE GOAL OF STRENGTHENING THE RULE OF LAW IN CENTRAL AMERICA BY SUPPORTING:

(A) Attorney General offices, public prosecutors, and the judiciary, including enhancing investigative and forensics capabilities (US Citizenship Act Sec. 2103(2)(A))

Regional Recommendations

1. Promote training of judges that oversee anti-corruption cases, facilitating their ability to produce emblematic judgments that **advance anti-corruption jurisprudence** to the maximum extent allowed by domestic law and in light of international standards.
2. Ensure **security for judges** overseeing sensitive cases.
3. Strengthen prosecutors' abilities to **investigate complex corruption** cases through training and resources.
4. Promote the incorporation of internal counterweights in the institutional design of the prosecutors' offices to balance the power of the Attorney General, such as, for example, incorporating councils made up of a representative selection of prosecutors from all levels.
5. Establish procedures to **allow prosecutors to present objections to illegal instructions** from their superiors, without fear of reprisals, in accordance with international standards.
6. Support the obligation of the Attorneys General to prepare and publicly present a **Criminal Prosecution Policy Plan** at the beginning of their term of office, based on objective indicators, which establishes criteria and priorities for criminal prosecution.
7. Guarantee the **independence of the internal affairs body** of the Attorney General's Office.
8. Establish **mechanisms for citizen participation**, such as the existence of citizen representatives on prosecutorial councils, or the need to consider analyses and reports on the perception of violence by victims and civil society organizations in the formulation of strategic plans.
9. Increase the levels of **active transparency** (sharing updated information with the public on a proactive basis) by the Attorneys General offices. Reform accountability standards for public

reporting requirements so that prosecutorial authorities must present substantive rather than merely pro forma information.

10. Support **independent units within the Attorney General's office** and ensure sure they are adequately resourced and trained and have independent control of their docket.
11. Promote legal reforms that curb the **malicious and groundless use of "amparo"** and other mechanisms that have been used to delay and harass prosecutors and judges.
12. Support the establishment of guarantees and adequate conditions of security and stability for the **return and reincorporation of anti-corruption judges and prosecutors** from the Northern Triangle countries who are currently in exile (some of them in the United States), so that they can continue to contribute their experience and specialized skills in the fight against corruption in their respective countries.

(B) independent, merit-based selection processes for judges and prosecutors, independent internal controls, and relevant ethics and professional training (US Citizenship Act Sec. 2103(2)(B))

Regional recommendations: There is now wide recognition that selection processes for judicial and other high-level officials are a key factor in the state of the rule of law in Central American countries; however, progress has been difficult and has at times been reversed, given that reformed processes have been coopted by entrenched power structures (see e.g. the situation of the nominating commissions in Guatemala). The US should promote a renewed commitment to independent and impartial selection processes, by furthering:

1. Selection processes for high-level officials that are not political in nature and for which **individuals who work formally or informally for political parties are not eligible** candidates.
2. The election of **Deputy Attorneys General** with the same guarantees and standards as the election of the Attorney General.
3. The obligation to follow transparent and meritocratic mechanisms for the election of senior prosecutors and the head of the internal affairs body of the Attorney General's office.
4. The **role of civil society in selection processes for high-level justice sector officials**, for example, through monitoring activities and through the possibility of raising complaints or objections to specific candidacies or providing information to the evaluation bodies.
5. **International panels of independent experts**, supported by the international community, to observe selection processes.²²
6. Inclusion of **gender parity** in the norms that regulate selection processes, e.g. the requirement to select, at every opportunity and as a minimum, one third of women candidates for senior positions in the justice systems.

Country-based recommendations:

El Salvador:

Support the approval of a general law on second degree elections (officials that are selected by the Legislative Body)²³ that:

1. Incorporates the **standards developed by the Constitutional Chamber** of the Supreme Court of Justice.

²² See supra note 10.

²³ http://www.dplf.org/sites/default/files/eleccion_autoridades_vf.pdf

2. Establishes the obligation to **approve profiles** (a list of ideal candidate qualifications) for the positions prior to the commencement of the selection process.
3. Incorporates objective mechanisms for the evaluation of the constitutional requirements of “**notorious morality and competence**” (“*moralidad y competencia notorias*”).
4. In the case of the selection of magistrates of the Supreme Court of Justice, eliminate the mechanism by which the Federation of Lawyers Associations (FEDAES) proposes half of the candidates in the first round. In practice, because the various lawyers’ associations follow their own internal rules for preselection, this has failed to ensure merit-based selection and has allowed for the presentation of candidates who do not have the appropriate credentials.²⁴

Regarding the election of the Attorney General:

1. Promote **stricter requirements and qualifications** to hold the position (currently the requirements are no more than those required for an appellate judge).
2. Promote reforms to the election procedure for the Attorney General via **a regulation that has the equivalent rank of law**, such as the organic law of the Attorney General’s Office (this law currently does not include election regulations).
3. Support the strengthening of the **technical capacities of the National Council of the Judiciary (CNJ)**, to carry out its functions in the selection processes.

Guatemala:

1. Support the resumption of the debate and approval of the Justice System Reform proposal promoted by CIGIG in 2016, which had a broad participation of all governmental and social sectors, and includes:
 - a) Reforms to the system for electing senior justice system officials (magistrates of the Supreme Court of Justice and Courts of Appeals, and Attorney General, among others, to **eliminate the mechanism of nominating commissions** [*Comisiones de Postulación*]).
 - b) The strengthening of the **judicial career system**, to incorporate appellate court judges (who are currently appointed by political mechanisms).
 - c) The strengthening of an **objective performance evaluation** mechanism for judges.
 - d) The recognition of **indigenous justice systems** as co-equal with ordinary law, whenever there is no conflict with international human rights law or the Constitution. This would bring Guatemala into line with international standards, as well as with many other countries in the Americas that have successfully integrated indigenous justice systems into their broader legal framework.²⁵
2. Promote **reforms to the impeachment mechanism**, in order to incorporate safeguards that prevent it from being abused to pressure justices the Constitutional Court, the Human Rights Ombudsman, the Attorney General, anti-corruption judges and prosecutors, etc.

Honduras:

1. Reform the processes for selecting Supreme Court justices and the Attorney General so that they are truly transparent and apolitical processes. Consider eliminating the role of Congress, as this has contributed to highly politicized and opaque selection processes and limited the impact of previous reforms (*Ley Orgánica de la Junta Nominadora de 2001*) that should allow for civil society involvement and oversight in the first round of selection. Explore the possibility of a **transitory**

²⁴ http://www.dplf.org/sites/default/files/seleccion_mag_esv5.pdf

²⁵ <http://dplf.org/en/news/guatemalan-congress-must-address-indigenous-justice-judicial-selection-constitutional-reforms>

mechanism for the selection process akin to the selection mechanisms for the Special Jurisdiction for Peace in Colombia.²⁶

2. Ensure that there is full **access to information on candidates and the selection criteria**, especially that used by the Congress, so long as that body retains a role in the selection processes.
3. Promote the removal of the legal obstacles that currently prevent the presentation of criminal charges against public officials by the Attorney General's Office until audit reports are issued by the General Court of Accounts.
4. Promote the **reversal of sentence reductions** in relation to corruption offenses approved from 2016 onwards.
5. Seek the **repeal of the Law of Secrets** (*Ley para la Clasificación de Documentos Públicos Relacionados con la Seguridad y Defensa Nacional*), which allows for overly broad discretion in classifying government documents and has severely limited the right of access to information in the country.

III. IN RELATION TO THE GOAL OF DEFENDING HUMAN RIGHTS BY SUPPORTING:

(A) Human rights ombudsman offices (US Citizenship Act Sec. 2103(4)(A))

1. Ensure the **independence of Ombuds offices** through adequate funding, the promotion of qualified immunity and removal processes that are insulated from political attacks, and transparent and merit-based selection processes as outlined above.
2. Promote **compliance by authorities** with the resolutions and recommendations of the Ombuds offices.

(B) Civil society organizations that promote and defend human rights and environmental protection (US Citizenship Act Sec. 2103(4)(C))

1. Ensure that US policies and practices related to foreign direct investment – particularly in the agricultural, and energy, mining sectors – are in accordance with regional standards on **access to information and public participation in environmental matters**, and that they do not increase risks to environmental human rights defenders.
2. Support **indigenous peoples'** right to autonomous governance of the natural resources in their territories and their right to free, prior, and informed consent.
3. Support environmental defenders that promote **climate justice** for marginalized groups, including indigenous peoples, rural communities affected by drought, and those raising awareness of the role of monocultures and agribusiness in global warming. Provide protection, assistance, and a rights-based approach to persons and **communities displaced by the effects of climate change**.

Addendum: Regarding the Administration priorities outlined in Section 2104 of the US Citizenship Act (**Combating Criminal Violence and Improving Citizen Security**) DPLF makes the following recommendations specific to **El Salvador**:

1. Strengthen the police internal affairs unit (the Secretary of Professional Responsibility). Ensure that not only crimes committed by gang members are investigated, but also crimes committed by

²⁶ http://www.dplf.org/sites/default/files/the_special_jurisdiction_peace_colombia_web_06_03_2016_0.pdf. For a discussion of the problems with the most recent Attorney General selection process, see http://www.dplf.org/sites/default/files/se_busca_fiscal_general_para_honduras_.pdf.

police – especially human rights violations such as enforced disappearance, extrajudicial executions, and torture. Ensure that the catalogs of offenses and sanctions include gender-based violence and that these types of cases are effectively investigated.

2. Ensure that the Secretary of Professional Responsibility has autonomy and resources to investigate the cases that are reported, especially when they involve high command/superior level police officers.
3. Promote effective coordination between the Secretary of Professional Responsibility and the Attorney General in relation to the investigation of crimes committed by police officers.

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