

Citizen Initiative for Freedom of Information in Guatemala Citizen Action¹

Summary

Fifteen Guatemalan civil society organizations joined together to form a **Citizens' Observatory**. Its purpose is to initiate processes and activities that strengthen the democratic capacity to exercise the right to freedom of access to government information and to hold public officials accountable for their administrative actions. Structurally, the Observatory is a voluntary, multistakeholder council that has entrusted Acción Ciudadana [Citizen Action] to serve as its Executive Secretary for monitoring activities in the framework of the project entitled *Citizen initiative for freedom of information*. The project was implemented between April 2002 and June 2004 and divided into three monitoring phases: pre-electoral, electoral, and post-electoral. The case presented here is from the first phase and was implemented in Guatemala City, the capital, and in the municipalities of Chimaltenango and Cobán, Alta Verapaz. The most significant outcomes obtained in the first year of the project were: (i) consolidation of the Citizens Observatory as a civil society entity for the promotion of access to government information; (ii) collective design, editing, and publication of a Citizens' Guide to Freedom of Information [Manual Ciudadano de Acceso a la Información Pública]; (iii) outcome report based on the first pilot experience that put to the test the Guatemalan government's information system; and (iv) development of strategic alliances to use the Manual and the standardization of other instruments to be used in the search, processing, receipt, use, evaluation, and dissemination of administrative acts and government documents.

Background

The Guatemalan government is distinguished by the existence of clandestine records containing personal information that were used illegally to violate people's rights and by a tendency toward secrecy in public administration. The challenges of enforcing constitutional rights (Arts. 30 and 31 of the Political Constitution of the Republic) and breaking with the secrecy that limits democratic participation—both commitments adopted in the Peace Accords—are the keystones for advocating freedom of access to government information; this includes *habeas data*, publicizing administrative acts, and accountability.

This case study has to do with citizens' demands for accountability, the territory of the fifteen sectors associated with the Citizens' Observatory in recognition of the correlation between social audit and participatory evaluation and freedom of access to documents held

¹ Prepared by Edgar Alfredo Pape-Yalibat, pape@intelnett.com

by the government. In a country where secrecy in the conduct of public administration is the rule, creating instruments, processes, and entities capable of developing a freedom of information agenda can contribute to increased transparency and productivity in poverty reduction projects.

The outcomes of the access to information monitoring experience, which was applied in various categories to 67 government administrative units, confirm Guatemalan officials' tendency toward secrecy in providing government information and offers some clarity and input in how to deal with it.

Objectives

To contribute to building a legal and institutional framework that ensures freedom of access to government information through the organization of a civil society entity (Citizens' Observatory) with the following objectives:

- a) implement pilot projects to standardize instruments and procedures for access to public information (government spending, procurement and contracts);
- b) Lobby and advocate in favor of a Freedom of Information Law; and
- c) Establish strategic alliances with national and international actors on freedom of information.

Processes and Methods

a. Monitoring by the Citizens' Observatory

Fifteen organizations are responsible for monitoring activities, including associations, academic research centers, press agencies, and women's and Maya organizations. They joined forces in June 2002, to form the Citizens' Observatory for Freedom of Information. The direct beneficiaries of the project are the constituents of the organizations themselves.

These organizations came to the realization that they would not be able accomplish their particular sector-based objectives without information. They decided, therefore, to monitor the system for access to government documents and archives, and they chose Acción Ciudadana to lead the program. Acción Ciudadana is a civil society institution created in 1996 with a mission to promote transparency and democratic participation by creating links between the government and civil society.

In order to carry out this initiative, Acción Ciudadana hired a coordinator and assistant, both public policy specialists, as well as a monitoring team that includes paid employees and volunteers. Relations between Acción Ciudadana's team and civil society organizations are characterized by mutual respect and regulated by standards of conduct previously approved by the Observatory.

b. Testing the Freedom of Information system in 67 government agencies

The monitoring experience was based on selecting a set of relevant issues and information sources to monitor the freedom of information system. In order to respond to the question: What will be monitored? the Citizens' Observatory consulted with its constituents regarding the types of information of interest and pertinent to their daily work. This was

followed by a survey of government institutions, the development of a monitoring plan, and finally, the hiring and training of monitors.

The Citizens' Guide to Freedom of Information was developed simultaneously using feedback from the monitors' experiences and consultant services for issues relating to laws, and the design and procedures of government budgets, and procurement and contracting systems. Freedom of Information monitoring activities and the role played by the actors within the Observatory are summarized in the chart below.

CHART 1: MONITORING FREEDOM OF INFORMATION

Activities	Actors	Specific Activities (subactivities)	Indicators and measurement units
<i>Monitoring general information</i>	All members of the Citizens' Observatory and Acción Ciudadana -AC-	-Identify issues and agencies to be monitored -Monitoring Plan -Monitor and record the process -Design of notes and catalogue cards	-180 freedom of information requests, each with their respective catalogue card -Monitoring register -Elements for use and feedback for the Citizens' Guide. -Records and reports
<i>Monitoring Government Spending information</i>	Acción Ciudadana Multistakeholder Roundtables Alta Verapaz y Chimaltenango.	-Design of public spending instruments -Consulting services on budget and freedom of information.	-# of requests on capital spending, projects, and others. -Information denied and/or received.
<i>Monitoring Procurement and Contracting</i>	Acción Ciudadana Multistakeholder Roundtables Alta Verapaz y Chimaltenango	-Consulting services on government procurement-contracts -Specific manual on procurement-contracts	-# of requests on procurement and contracts and contractor records. Report (received/denied)
<i>Monitoring Gender-based data</i>	Women's organizations in the Observatory with support from AC	-Monitoring inclusion of the gender perspective in public programs. -Validation of Monitoring Manual with women's organizations.	-Requests for information -Information denied and/or received. -Petition for penalties against those who refuse to provide information.
<i>Monitoring cultural diversity</i>	Council of Maya Organization with support from AC	-Survey of indigenous rights programs – -Monitoring inclusion of a multicultural approach in public programs. -Press campaign	-# of requests for information -Information denied and/or received -Consultation of the Monitoring Manual -Quekchi-Cakchiquel radio or TV spots

c. How was monitoring performed?

The pilot monitoring experience included approaching 5 information sources in 67 government institutions. There were three types of information requests: individual, institutional, and by the Citizens Observatory. The Citizens Observatory selected the issues and information sources, using the following instruments:

- Request forms (individual, institutional, and from the Citizens Observatory .

- Institutional catalogue card for monitoring and recording information requested and received.
- Workshops and focus groups with participants.
- Citizens' Guide to Freedom of Information.
- Specific guides to monitoring information on government spending, procurements, and contracts.
- Consultative workshops with women's groups and Maya organizations.
- Media strategies to advocate for freedom of access and publicize monitoring outcomes.
- Lobbying congressional deputies to move forward with the Freedom of Information Bill.
- Establishment of alliances with national actors, the Human Rights Ombudsman, and international actors like Article XIX and Transparencia Internacional.
- Advocacy strategy for the passage of the Freedom of Information Bill.

d. Budget

The budget is US \$250,000, 75% of which comes from USAID's Civil Society Program - PSC/USAID- grant; Acción Ciudadana finances the other 25%. Assistance from PRODECA, Denmark, for launching the monitoring program in the municipalities is included in the latter. Acción Ciudadana funded the press releases at a reasonable cost thanks to in-kind contributions from one of the country's main newspapers. This fosters sustainability through matching funds for transparency and social accountability projects. More specifically, of the total amount allocated for the first year of the project, direct funding for implementation of the first monitoring experience is approximately \$41,000 annually, including publication of the Citizens' Guide to Freedom of Information.

Chart 2: General Budget, Funding Sources and Budget for First Year of the Freedom of Information Project, in U.S. dollars.

<i>BUDGET CATEGORY</i>	<i>TOTAL BUDGET</i>	<i>PSC/USAID FUNDS</i>	<i>AC FUNDS matching</i>	<i>TOTAL YEAR 1</i>
<i>Wages and stipends</i>	95,256	95,256		23,150
<i>Consultative sessions/monitoring experiences and payment of monitors</i>	34,630	21,340	13,290	16,130
<i>Monitoring Access to Public Spending and Contracts (municipalities)</i>	25,950	14,975	10,975	20,950
<i>Workshops and seminars</i>	14,866	11,841	3,025	4,070
<i>Press work</i>	17,800	17,800		1,850
<i>Training for Citizens Observatory</i>	15,082	15,082		2,630
<i>Training for Government officials</i>	4,100	4,100		0
<i>Publications</i>	8,796	7,606	1,190	2,196
<i>Press releases and dissemination in written press</i>	21,520		21,520	7,500
<i>Furniture, equipment and other overhead costs</i>	12,000	12,000		

<i>BUDGET CATEGORY</i>	<i>TOTAL BUDGET</i>	<i>PSC/USAID FUNDS</i>	<i>AC FUNDS matching</i>	<i>TOTAL YEAR 1</i>
TOTAL BUDGET	250,000	200,000	50,000	78,476

Outcomes

The monitoring experiences have served to solidify the **Citizens Observatory's** reputation as an institutional reference point in the area of Freedom of Information. Its members acquired technical and organizational skills to advocate for respect for this right. As direct beneficiaries of this project, the Citizens' Observatory's stakeholders and constituents became familiar with laws and regulations, negotiating techniques, and instruments to enforce the right to freedom of information.

Monitoring in Alta Verapaz and Chimaltenango (carried out by the Multistakeholder Roundtables [Mesas de Concertación] created by the Peace Accords) has provided measurement units to monitor public spending at the municipal level and laid the groundwork for citizen mobilization and education regarding freedom of information. Besides raising awareness about this right, which indirectly benefits all citizens, the Citizens' Guide to Freedom of Awareness represents a concrete contribution as a basic tool for activities to monitor public spending and particularly the social audit taking place in the provinces.

Another outcome of monitoring pertains to testing the freedom of information system in 67 government institutions. This process confirmed the persistent secrecy in public administrative actions. These were not only due to freedom of information restrictions, but rather to public officials who remain silent and ignore citizens, particularly when the requests come from everyday citizens. The most serious cases of secrecy were recorded in denials of information on government contracts and budget management.

On the positive side, the documents received during the monitoring process served as feedback for the Observatory's activities, particularly in the area of journalistic research and auditing of municipal projects. They also served other, internal purposes of the organizations such as institutional planning, budgets and reports to the government. Here the receptivity to suggestions displayed by some more open officials should be highlighted. For example, the Social Security Institute added to its statistics data on **female members and CEOs**. Thanks to the Citizens Observatory's petitions, other institutions are more sensitive to including data of interest to **indigenous populations** in the information they manage.

The experience has left advocacy lessons in terms of accountability, particularly because it has contributed to pressuring officials who, in the case of Guatemala, remain trapped by a level of secrecy that impedes the effectiveness of anti-corruption programs.

In terms of alliances, one of the project's accomplishments was the monitoring conducted by other organizations such as the Mutual Support Group [Grupo de Apoyo Mutuo-GAM]

and the National Council on Human Rights [Consejo Nacional de Derechos Humanos-CONADEHGUA] on the military budget; dissemination of the techniques used by the observatory contributed to their efforts to the national budget in general. Moreover, the sharing of experience with the Coordinadora Si Vamos por la Paz and its use of the Guide to Freedom of Information in social audit activities served to broaden project coverage in different municipalities around the country.

In addition, a **cooperation agreement has been signed with the Human Rights Ombudsman [Procuraduría de Derechos Humanos]**, to impose moral, and to the extent possible, legal penalties against officials who refuse to provide requested government documents. The Social Audit Committees that are currently being established in the municipalities pursuant to the new Decentralization Law and the new Municipal Code also will use the Guide.

Limitations and Opportunities

Two basic limitations were encountered: The first is the difficulty of maintaining the “cohesion” of a **voluntary** civil society group, when its members do not see immediate results relevant to their interests. Because freedom of information is not a priority on the citizen agenda, greater effort is required to raise “consciousness” in the course of monitoring and clarify the game rules from the outset. This is to keep requests to “remunerate” members of the organizations from detracting from their commitment to work voluntarily for this right. The organizations began to participate more actively in the process as the benefits of monitoring became visible.

The second limitation was encountered in the area of lobbying for the freedom of information bill. After ongoing discussions over three years, and after negotiating a favorable vote with congressional deputies, the government party secretly and unilaterally proposed a series of amendments that distorted the spirit of the Bill. This led the opposition to refuse to move the bill forward and it was sent back to committee. The whole process had to begin all over, which is tantamount to “deadlettering the law.”

This situation led to frustration in the Citizens’ Observatory as it represented a lost opportunity have clear rules for gaining access to “sensitive” information about people found in public archives and for ensuring that data would not be manipulated and used for profit by private enterprise. It also meant a reversal for efforts to have in place a legal instrument to reduce secrecy in the custody, use, and release of information belonging to all citizens.

An opportunity for change for the future is the popular education edition of the Citizens’ Guide, which enables people to exercise this right, regardless of whether there is a law on the books. The consolidation of the Observatory as a reference point for promoting freedom of information is the best asset we have for shifting the strategy away from the original goal of enacting a specific law to focusing on the importance **of using the right enshrined in the Constitution of the Republic**. This shift stresses practical application by demanding that officials be held accountable for their actions; even in the absence of legislation, it enforces the law through monitoring, civic education, and citizen’s use of the *amparo* law against government officials who deny information.

Lastly, in the context of the Poverty Reduction Strategy, the outcomes of this civil society initiative could be strengthened and replicated with small supplementary funds. However, it is important to take into account that there can be no social audit or participatory evaluation of projects without first consolidating institutions, processes, and instruments that ensure freedom of information.

Additional Resources

In order to ensure that the experiences of this project are disseminated and used by other organizations working for transparency, Acción Ciudadana's Web page is provided here (www.guate.com/acciongt). The Citizens' Guide to Freedom of Information [Manual Ciudadano de Acceso a la Información] is a practical guide to search, process, and evaluate experiences that facilitate citizen oversight and the accountability of public officials.