



Guardrails for Democracy

A Guide to Strengthening
Independent Institutions

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Guardrails for Democracy: A Guide to Strengthening Independent Institutions
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About IFES

IFES advances democracy for a better future. We collaborate with civil society, public institutions and the private sector to build resilient democracies that deliver for everyone. As a global leader in the promotion and protection of democracy, our technical assistance and applied research develops trusted electoral bodies capable of conducting credible elections; effective and accountable governing institutions; civic and political processes in which all people can safely and equally participate; and innovative ways in which technology and data can positively serve elections and democracy. Since 1987, IFES has worked in more than 145 countries, from developing to mature democracies. IFES is a global, nonpartisan organization based in Arlington, Virginia, USA, and registered as a non-profit organization [501(c)(3)] under the United States tax code.

IFES By The Numbers



Reached 25M+
people with
civic and voter
education in 2021



Supported 30
elections in 2021,
training 300K+
election officials



Worked across 58
countries in 2021

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Introduction: The Guardrails

Independent governmental institutions are an essential part of the democratic fabric.

While some are created to provide important oversight of government functions — mitigating corruption, protecting human rights, and increasing transparency — others serve to insulate important democratic processes from political manipulation. The form and function of these institutions can vary considerably, but include Supreme Audit Institutions, National Human Rights Institutions, Anti-Corruption Authorities, Ombuds Institutions, and Election Management Bodies. When empowered effectively, these institutions can bolster democratic systems. To do so, they require autonomy from political leaders and senior officials to withstand attempts at manipulation, as well as the appropriate accountability mechanisms to ensure that they do not themselves fall prey to corruption, partisan behavior, or unaccountable leadership.

The IFES Autonomy and Accountability Framework

IFES' evidence-based *Autonomy and Accountability Framework* describes the balance of autonomy and accountability needed to ensure that independent institutions are positioned to fulfill their mandates effectively, even in difficult political circumstances.¹ The Framework draws on the broader literature on independent institutions² and IFES' longstanding work with independent electoral management bodies.³

The *autonomy* pillar of the Framework emphasizes five dimensions needed for an independent agency to fully engage in its mandate without political interference. We use “autonomy” to refer to the elements that comprise full institutional *independence*. The *accountability* pillar includes both formal and informal mechanisms across three dimensions: *statutory, public, and internal*.

This Assessment Guide draws on the principles of the *Autonomy and Accountability Framework*⁴ to support an assessment of publicly-funded constitutional or statutory bodies that are legally established as “independent.”^{5,6} Although their specific portfolios vary widely, these bodies generally have mandates to “improve the quality of governance, strengthen the rule of law, encourage transparency and accountability, prevent corruption and ultimately reinforce both the quality and the resilience of democracy.”⁷ The scope of this category of institution is potentially

quite large, and the domestic enabling environment and context may vary. Some countries may consolidate these functions into a few institutions, while others might have many institutions with more targeted mandates. This Assessment Guide facilitates the identification of threats, risks, and weaknesses in the autonomy and accountability of independent institutions. Its greatest utility will be in informing follow-on activities to develop strategies to mitigate or overcome such hazards by institutions, their partners, and external stakeholders. This Assessment Guide allows for an assessment of independent institutions at any stage of establishment or development.

The results of such an assessment can help an institution better insulate itself from political interference and conflicts of interest, shore up its ability to execute its mandate effectively and efficiently, and build or preserve public trust.



Who should use this Assessment Guide?

This assessment tool can be used by an independent institution to conduct a thorough, introspective review of its own autonomy and accountability mechanisms; by an institution in close collaboration with international technical assistance providers or other partners; or by a civil society organization seeking to advance the work of a specific institution or inform the design of advocacy campaigns for legal reform. Constitutional or Legal Drafting committees might also find this resource useful to identify key elements for reform.

An illustrative, but not exhaustive, list of the types of institutions that may benefit from an assessment using this tool is provided in Table 1. For the purposes of this Guide, the terms independent “institutions,” “agencies,” and “commissions” are used interchangeably, though countries may use them in different ways.

Table 1: Examples of Independent Institutions

Example	General Mandate
Supreme Audit Institutions (SAIs) ⁸	<ul style="list-style-type: none"> ✓ Conduct financial audits on annual financial reports of public entities ✓ Conduct compliance and performance audits on public entities or specific government programs⁹ ✓ Perform audits as requested in support of legislative oversight activities
Independent Election Management Bodies (EMBs)	<ul style="list-style-type: none"> ✓ Administer electoral processes ✓ Ensure credibility and integrity of elections and election outcomes
National Human Rights Institutions (NHRIs) ¹⁰	<ul style="list-style-type: none"> ✓ Protect and promote human rights at the national level with reference to international and regional human rights mechanisms and principles
Independent Fiscal Institutions (IFIs) ¹¹	<ul style="list-style-type: none"> ✓ Promote fiscal transparency and accountability ✓ Often instituted as independent parliamentary budget offices or fiscal councils
Anti-Corruption Commissions (ACCs) or Agencies (ACAs)	<ul style="list-style-type: none"> ✓ Prevent corruption through monitoring, awareness raising, and public education¹² ✓ Develop and implement anti-corruption policies¹³ ✓ Propose reforms to the justice system to improve its performance ✓ In some cases, investigate or enforce anti-corruption law¹⁴
Information Commissions ¹⁵	<ul style="list-style-type: none"> ✓ Promote and protect the right to access information from public entities ✓ May oversee or enforce right to information law compliance ✓ May be combined with a data protection oversight function
Ombudspersons/agencies ¹⁶	<ul style="list-style-type: none"> ✓ May investigate complaints of government maladministration, monitor treatment of citizens and their rights under the law, and recommend remedial action ✓ May be in the form of an NHRI or a separate agency, or an independent office of another executive agency

How to use this Assessment Guide

The Autonomy and Accountability Assessment Guide includes a series of question sets to help independent institutions identify and understand strengths and threats to their autonomy and accountability. While the questions are broad, each set is framed by an explanation of the relevant facet of autonomy and accountability with examples from different institutions around the world. These descriptions are intended to elucidate the importance of each factor and assist in identifying the specific considerations that may apply given the institution's unique mandate, structure, or legal context. The listed questions are a starting point, to be expanded on as needed for a holistic analysis of each facet of autonomy and accountability.

Throughout the process, consider approaches to strengthen and address any weaknesses or to mitigate threats. Some suggestions are provided as an annex to this Guide.

Each facet of autonomy and accountability includes some questions that are rooted in the legal framework and others that are *behavioral* or *internal* – that is, within the control of the institution or that may be influenced through internal policy or procedure. While it is important to be aware of weaknesses in the legal framework governing an institution, it may be outside of an institution's ability to influence these weaknesses, or it may be not easy, practical, or advantageous to engage in certain legal reform efforts. However, institutions may be able to adopt new policies or internal strategies to compensate for legal weaknesses in lieu of or along with any legal reform efforts.

A Worksheet that includes all the questions is annexed at the end of this Assessment Guide, with space to take notes and record responses. IFES strongly encourages completion of the Worksheet in consultation with this Guide.

Following the completion of the assessment, institutions can develop and implement an organizational strategy to bolster resilience against any threats identified. Some examples of strategies are included at the end of this Guide.

Assessing Autonomy

1. Institutional autonomy

Institutional Autonomy refers to the *de jure* independence provided to institutions in their establishing legislation or in the Constitution. This autonomy is considered foundational — but insufficient — for ensuring independence in practice (*de facto* independence).¹⁷

- ❖ *Is the institution established in the constitution?*
- ❖ *If not, was it established through legislation passed by the national legislature?*
- ❖ *If it was established through national legislation, are there any additional protections in place to make it more challenging to amend, withdraw, or repeal the legislation, such as a requirement for a higher voting threshold?*

The method of establishing an independent institution in the legal framework can itself provide important protections to ensure the institution’s continuity and sustainability. As noted in the United Nations Office on Drugs and Crime Colombo Commentary, “[e]xperience from around the world has shown that where [Anti-Corruption Authorities] are effective, their success can pose a threat to their very existence.”¹⁸ This lesson holds for other types of independent institutions, particularly those involved in government oversight, where successful implementation of their mandates may prompt political backlash and attempts to abolish the institution or weaken its mandate or capacity.

Anti-Corruption Commissions in Guatemala and Honduras

*The United Nations and the Government of **Guatemala** signed the Agreement on the Creation of an International Commission against Impunity in Guatemala (CICIG) in 2006,¹⁹ creating an “independent international body, whose purpose is to support ... the investigation of crimes committed by members of the illegal security forces and clandestine security apparatuses, and in general in the actions that tend to dismantle these groups.”²⁰ CICIG brought more than 120 cases, obtained more than 400 convictions, and uncovered more than 70 criminal networks.²¹ Soon, however, CICIG began investigating then-President Jimmy Morales and his ruling FCN party for corruption (in the form of illegal campaign financing) during the 2015 presidential election.²² Morales refused to renew CICIG’s mandate when it ended in 2019.²³*

*Similarly, the Government of **Honduras** and the Organization of American States signed an agreement in January 2016 creating the Support Mission Against Corruption and Impunity in Honduras (MACCIH),²⁴ the second international commission against corruption and impunity.²⁵ Its mandate broadly called for “address[ing] impunity and corruption as a system to be attacked simultaneously on multiple fronts ... includ[ing] addressing the role of the business sector in national corruption.”²⁶ The language of the MACCIH specifically maintained the institution’s independence.²⁷ During its tenure, the MACCIH “aided in the prosecution of 133 people and 14 cases,” including the conviction of former first lady Rosa Elena Bonilla de Lobo on charges of fraud and embezzlement.²⁸ The government of President Juan Hernández did not renew its mandate when it ended in January 2020.²⁹*

Establishment in a country's constitution offers the highest level of protection, as it is the most challenging to amend, often requiring a special majority or public referendum. This limits the ability of officials to quickly punish institutions by gutting their legal authority or mandate – at least without widespread support. However, the relative difficulty of amending a constitution also means that it may not be feasible to establish a new institution in this way.

Independent institutions can also be established by legislation, which ideally should provide some protections for the institutions and their leadership. It is also possible in some jurisdictions to require a higher threshold to amend certain types of legislation, which can increase protection further.³⁰ Establishment of an institution by executive order or decree, however, can leave the institution vulnerable to easy and politically motivated revocation or alteration, and undermine its independence from the executive.

Legal Basis for Independent Institutions

South Africa established independent institutions “to strengthen constitutional democracy” in Chapter 9 of its constitution. These so called “Chapter Nine Institutions” include the Public Protector, South African Human Rights Commission, Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Commission for Gender Equality, Auditor-General, and the Electoral Commission.

Kenya, Maldives, and Tunisia have similar constitutional structures with independent institutions incorporated into Chapters 15, 7, and 6 of their constitutions, respectively.³¹

Instead of incorporating independent institutions into the constitution, **New Zealand** has established these institutions through specific enabling legislation. For example, the Electoral Commission is established under the Electoral Act.³² In addition, the Crown Entities Act was introduced to provide a consistent structure for the establishment, governance, and operation of Crown entities, including “the degree to which the Crown entity is required to give effect to, or be independent of, government policy.”³³ The Act provides for three categories of institution with varying degrees of independence from government policy – of which, “independent Crown entities” corresponds directly to the types of institutions for which this Self-Assessment was designed.³⁴

❖ *Does the constitution or law provide for the independence of the institution?*

It is also important that the law specifically references the independence of the institution in its *functioning*, not just its establishment. This type of autonomy — which can be described as *de jure* — is an important legal foundation to support independence in practice. It also reinforces the independence of an institution within a broader system of checks and balances. However, it is important to note that, while independence enshrined in the legal framework is a fundamental element of autonomy, legal guarantees of independence alone are not sufficient to guarantee the independence of institutions in practice. When coupled with the other four pillars of the autonomy framework, explored below, institutions have a stronger foundation for independence in practice.

Independent Constitutional Bodies in South Africa

*In establishing the independence of constitutional bodies, Article 181 of **South Africa's** Constitution provides:*

“(2) These institutions are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.

(3) Other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.

(4) No person or organ of state may interfere with the functioning of these institutions.”³⁵

2. Personnel autonomy

Personnel Autonomy addresses the independence of an institution's leaders and staff. It encompasses the way in which leaders are chosen and removed from their posts, and the ability of the institution to recruit and manage its own staff without interference.³⁶ The individuals selected to lead independent institutions often require special protections to effectively fulfill their mandates without political intervention or fear of retaliation. This is critical to the effectiveness of an institution and, therefore, most of these protections should be incorporated into the legal framework — either the law or constitution. These protections include clear selection and appointment processes, security of tenure, legal immunity, and terms of office. Control over human resources is also critical to an institution's ability to implement its mandate and can be especially vulnerable to executive interference.

This area of autonomy can be particularly sensitive and challenging to assess given that it touches on qualifications, recruitment, and remuneration at various levels of an organization. However, the perceived and actual independence of the leadership and staff of an organization can impact public perception and the ability of an institution to fulfill its mandate, so it is worth careful consideration.

- ❖ *Is the process for appointing the leadership of the institution clearly established in the law?*
- ❖ *Is the body tasked with selecting and appointing the leadership of the institution constituted in such a way that it mitigates political influence (e.g., a legislative committee that includes opposition party members; a body with multiple, including non-political, stakeholders)?*

The law should clearly establish the process for appointing the leadership — whether an individual or a board — of an independent institution. One key consideration for the appointment process is who will have the authority to appoint leadership. While the leadership of some institutions is appointed solely by the executive, the inclusion of additional stakeholders in the decision-making process can avoid the risk and appearance of political influence.³⁷ According to international good practice, the legislature or a legislative committee would lead the appointment process, or at least be involved in recommending or approving the nominee,³⁸ particularly when both the ruling party and opposition are involved.³⁹ The inclusion of multiple stakeholders, including opposition and non-political stakeholders (e.g., civil society, academics) can provide even more insulation.⁴⁰ Transparency in the selection process, such as identifying the selectors, making short lists public, and conducting public interviews can also help alleviate any perception of

political influence.⁴¹ In environments of low public trust, or following a democratic transition, some countries have temporarily included representatives from the international community in selection panels for independent institutions.

Leadership Selection Processes

*In the **Philippines**, the Judicial and Bar Council prepare a list of 21 nominees for the Ombudsman and deputies and the President makes appointments based on this list. The nomination lists are required to be published.⁴²*

*In **Ukraine**, the National Agency on Corruption Prevention was reconstituted in 2019 following a period of public distrust in its efficiency and leadership. A law adopted by Parliament to govern the reconstitution of the institution required half of the members of the selection committee for a new head of the Agency to be international anti-corruption specialists. This requirement was intended to support the appointment of a competent and impartial leader by ensuring that the selection committee itself was made up of competent and independent experts (in this case, drawn in part from the international community).*

- ❖ *Does the recruitment process for leaders/members include merit-based criteria?*
- ❖ *Are there eligibility requirements for leadership in the legal framework?*

The selection of an institution's leaders should be based on merit, not politics. A merit-based approach could include clear and objective eligibility criteria that directly relate to the job requirements (e.g., education, professional certifications, years of experience, absence of a prior criminal record) as well as open application processes. It is important that eligibility requirements include specialized criteria that are flexible enough to produce a sufficiently competitive pool of suitable applicants/possible appointees and clearly defined so that they do not leave room for manipulation to disqualify good candidates. Additional requirements, such as impartiality, neutrality, and integrity, may be included in the legal framework. It is important that the meaning of these principles *in practice* is clear, reasonable, and not so vague as to be exploited to unfairly disqualify otherwise qualified applicants. For example, neutrality may involve a requirement to be apolitical, but this prohibition should be clarified — perhaps differentiating between active membership and general party membership.⁴³ Similarly, integrity may be defined in the law to exclude candidates who have been convicted of a relevant category of crime, such as embezzlement or corruption.

Eligibility Requirements

*While it is common for leaders of independent institutions to be nominated, some, such as the leaders of the anti-corruption agencies of **Indonesia, Maldives, and Kenya**, are selected through open application processes.⁴⁴*

Through these processes, anyone who meets the eligibility criteria can apply, and selections are made according to clear, pre-established criteria.⁴⁵ While more resource intensive than nomination processes, open application processes can build public confidence in institutional leadership and reduce the potential for patronage.

However, these processes can “also alienate highly qualified and experienced officials, who would expect to be nominated and appointed and may find aspects of the competitive, multi-step shortlisting process humiliating.”⁴⁶

In Indonesia, this challenge was bypassed by enlisting NGOs to nominate candidates.⁴⁷

In Chile, a series of corruption scandals drove President Bachelet to create a “Commission against Conflicts of Interest, Influence Peddling, and Corruption,” “an independent advisory body with a 45-day mandate to prepare specific proposals for policy action. The commission was composed of 15 independent and neutral members and chaired by economist Eduardo Engel. The “Engel Commission,” as it became known, did not include anyone who worked in politics or business, a crucial element for building credibility and being perceived as non-partisan.”⁴⁸

*To reduce the high degree of discretion often afforded to authorities selecting and appointing high-ranking officials in public institutions, the **Inter-American Commission of Human Rights (IAHCR)** has described basic parameters by which these authorities should abide during the selection process. Without such parameters, the persons selected often may not be the most suitable for their respective roles and may depress an institution’s autonomous and independent function. IAHCR’s criteria include transparent, fair, and impartial procedures based on objective criteria that allow the authorities to evaluate candidates’ merit, pluralism, and capabilities (IACHR, 2013).*

In France, the High Authority for transparency in public life is an “independent administrative authority”: it is a permanent body in the administrative structure responsible for guaranteeing integrity amongst French public officials. The “High Authority is composed of a collegial body of thirteen members responsible for taking the main decisions of the institution. (...) They serve a non-renewable and non-revocable mandate, and can neither receive nor seek orders or instructions from the Government.”⁴⁹

- ❖ *Are possible causes for dismissal and the process of removal of the institution’s leaders clearly outlined in the legal framework?*
- ❖ *If so, are possible causes for dismissal limited to incapacity and misconduct?*
- ❖ *Is there a transparent, administrative law process established in the legal framework to make determinations on the dismissal of institutional leaders?*

Once appointed, leadership should be protected from being removed arbitrarily or in political retaliation for effective performance. Security of tenure requires that the legal framework clearly outlines both the basis on which leadership can be suspended or removed from their positions and the process by which this is done.⁵⁰ Ideally, justifications for removal should be restricted to incapacity and misconduct and should confer the same level of protection as for members of the judiciary.⁵¹ In some cases, the composition of membership in an institution (e.g., in an EMB in which Board seats are nominated by parties in specific proportion to their membership in the legislature) may require changes during the planned tenure of an individual member or members; such requirements should be clearly set out in the law. The process for removal should not rely entirely on the executive but should involve other stakeholders, such as those within the institution itself, the judiciary, the legislature (by special majority), or a multi-stakeholder board.⁵² The process should be fully transparent to the public, as well as being quasi-judicial (that is, it should include written allegations, a right of reply, and opportunity to appeal).⁵³

Removal of Personnel

*In **Saint Lucia**, removing members of the Integrity Commission requires the establishment of a tribunal of at least three current or former high-level judges, which must issue a recommendation for removal after an inquiry.⁵⁴*

*In **Chile**, the National Prosecutor and the regional prosecutors may only be removed by the Supreme Court, at the request of the President of the Republic, the Chamber of Deputies, or ten of the Chamber's members, due to incapacity, bad behavior, or manifest negligence in the exercise of their functions. The Court will take cognizance of the matter in a plenary session specially convened for this purpose, where the removal must gather the assent vote of four-sevenths of its members in office. The removal of regional prosecutors may also be requested by the National Prosecutor.*

*In **Ukraine**, the Parliament can dismiss the Central Election Commission (CEC) “based on a motivated decision by the President of Ukraine” if no less than two-thirds of MPs vote in favor. The provision was used in September 2019 to collectively dismiss all members of the CEC; five were subsequently reappointed. The provision has been criticized for giving overly broad powers to the executive and undermining the independence of the CEC. In contrast, individual members of the CEC can only be dismissed for concrete violations of law (e.g., if they violate their oath or are found guilty of a corruption offense).*

- ❖ *Once a leader is dismissed or completes their term of office, are there legal procedures governing the delegation of authority while a new leader is appointed?*
- ❖ *Are there rules, regulations, or laws to mitigate or prohibit a “revolving door” (i.e., movement between independent institutions and organizations that would be under those institutions’ purview for regulation or oversight) for former or incoming members?*

After a leader is removed from office or their term comes to an end, a long delay in appointing a new senior leader can negatively impact operations and public trust. This is a particular concern where the legislature or executive has a role in appointment that can be manipulated and delayed for political purposes. The legal framework can require automatic delegation to an existing commissioner or senior staff member in the official absence of the head of the organization, but if this is not in place, the law should provide a timeframe for a replacement to be appointed and recourse for the institution if the appointing body fails to meet this deadline (such as automatic delegation should the established timeframe lapse).⁵⁵ The timeframe to appoint a replacement should be reasonable; that is, long enough to recruit a qualified candidate, but otherwise as short as possible to avoid operational disruptions.

Shutting Down the “Revolving Door”

In Australia, Bhutan, Botswana, Cameroon, Madagascar, Malawi, Namibia, the Philippines, Sierra Leone, Spain, Swaziland, and Zambia, the ACAs have provisions to allow missing commissioners to be replaced by deputies or other senior officials within the institution.⁵⁶

*The Code of Conduct for Commissioners of the **European Union** outlines certain steps former Commissioners must take before finding new employment. In the 18 months after leaving office, the former Commissioner must inform the Commission, with at least four weeks’ notice, of the planned employment. If the occupation is deemed too relevant to the Commissioner’s former portfolio, the Commission will seek the opinion of the Ad Hoc Ethical Committee. In conjunction with the Committee’s findings, the Commission will determine if the work is compatible with Article 245 of the Treaty on the Functioning of the European Union and permit or block the Commissioner from engaging in the work.⁵⁷ Such policies aim to avoid a “revolving door” between public office and corporate or lobbying jobs.⁵⁸*

❖ Are leaders granted legal immunity for actions taken in good faith in the performance of their responsibilities?

Finally, senior leadership should be provided legal immunity from prosecution, civil action, or legal sanction for acts performed in good faith in the course of their official duties.⁵⁹ According to established principles for SAI independence, “Without clear immunity, those wishing to silence the SAI or suppress uncomfortable audit findings can use legal processes to prevent the SAI going about its work, or prohibit or delay release of its reports and other information into the public domain.”⁶⁰ Similarly, the Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies emphasizes that “[d]isgruntled targets of investigations or other individuals affected by the work of an ACA should not be able to use legal proceedings in order to inhibit staff or punish them for doing their jobs.”⁶¹ Ultimately, immunity is important to “shield staff from unwarranted interference.”⁶² This immunity should not be absolute or shelter personnel from prosecution for blatantly illegal acts.

Legal Immunity

*In **Uganda**, the Auditor General and all employees have legal immunity for actions or omissions done in good faith in the exercise of the functions of the Office of the Auditor General.⁶³*

- ❖ Does the institution have the legal authority to recruit, compensate, discipline, and dismiss staff independently?*
- ❖ Does the institution have the legal authority to oversee and direct staff independently?*
- ❖ If so, has it implemented clear internal policies and procedures for these processes (e.g., codes of conduct; policies for recruitment, discipline, dismissal, remuneration)?*

Generally, it is important that independent institutions have control over the recruitment, direction, oversight, discipline, and dismissal of their staff.⁶⁴ This helps ensure staff are not unfairly targeted by civil service authorities in fulfilling their duties and the institution is not gutted of the human resources necessary to effectively deliver on its mandate. Ideally, this authority over human resources should be included in legislation. Independence from the rest of the civil service could extend to remuneration, particularly when it is critical to recruit staff with specialized skills,

as is often the case in SAIs and ACAs. In contexts where staff are part of the formal civil service, it is important for policies and procedures to be in place to reinforce their functional and behavioral independence and impartiality from the government — and to ensure the institution’s leadership can otherwise exercise full oversight and direction of staff during their tenure with the institution. Whether staff are independent or part of the civil service, the conditions of service (remuneration, adequate human and technical resources) should be designed to minimize external and internal pressures, such as corruption.

Recruitment and Appointment Authority

In Jamaica, the Public Service Commission is the “independent and impartial body” tasked with appointing public officers to their posts rather than each independent institution.⁶⁵ Serbia’s Council of the State Audit Institution has “independent” control over the institution’s appointment of Supreme State Auditors following a proposal by the SAI President (who is an official elected by Parliament).⁶⁶

Indonesia’s anti-corruption authority, the Komisi Pemberantasan Korupsi (KPK), was once lauded as one of the most trusted institutions in the country.⁶⁷ In 2019, legal reforms, which were made quickly without input from the institution or the public, stripped the KPK of important investigative and human resource management authority, bringing its staff into the civil service. 75 staff have been suspended and 51 staff dismissed, many with strategic positions in the institution.⁶⁸ These changes have been widely criticized as attempts to curtail the independence of the institution and many have pointed to diminished performance in the time since the reforms were adopted.⁶⁹

3. Financial autonomy

To be effective, institutions need the resources to attract skilled staff and fulfill their mandates. Restrictions or excessive controls on the use of funding can severely undermine the independence and efficacy of an institution.

Financial Autonomy

To protect their financial independence in the face of budget cuts, the World Bank advised SAIs to clearly articulate the value of their role during the COVID-19 crisis.⁷⁰ The Auditor General in South Africa, for example, highlighted actions it took to “ensure continued relevance and value add” including:

- *“Making contact with Government to assert the relevance and value of SAIs in times of crisis”*
- *“Making appropriate use of media to elevate messages regarding the relevance of SAI’s mandate”*
- *“Reconfirming key relationships in Government (e.g., National Treasury) to develop and implement audit response”*
- *“Consider the value of work done by CSOs as a preventative control on Government’s responsiveness”⁷¹*

❖ *Does the institution propose its own budget?*

❖ *Is the process for review and approval of the budget independent of executive control or alteration?*

An independent institution should have the discretion to prepare its budget proposal based on its workplan.⁷² The ability of the ministry of finance or other executive officials to reduce or alter the institution's budget should be limited; it is good practice for the legislature or an independent body to directly review and approve the budget proposal.⁷³

Review and Approval of Budgets

*In **Canada**, the Treasury Board oversees budgeting and staffing for most independent offices at the federal level in a manner similar to its oversight of government departments and agencies.⁷⁴ One such institution is the Office of the Auditor General, which presents annual budget proposals to the Treasury Board, which must approve of the proposals before tabling them in Parliament for review. In a 2019 presentation about ongoing budgeting and funding challenges, the Auditor General pointed out to the Standing Committee on Public Accounts that:*

The fact that government departments that we audit are involved in determining how much money is allocated to us is not consistent with our independence or our accountability only to Parliament. To give you an example, in the audits we released in early May, we reported on the activities of the Department of Finance and Treasury Board Secretariat, both of which are involved in supporting government decisions about our funding.⁷⁵

The Office of the Auditor General maintains that the growing financial pressures were undermining its ability to “deliver on our mandate, to keep up with the complexity of the audit environment, and to ensure that we have the people, support services and systems we need to fulfill our responsibilities.”⁷⁶

❖ Does the institution have sufficient resources to effectively carry out its mandate?

Often a law may require that independent institutions be provided with sufficient resources to fulfill their mandates. However, it is often unclear what this means in practice. There is no exact formula to determine the optimal budget for an institution to ensure it can perform effectively; some considerations include the scope of the institution's mandate, the size of the country's population, and the amount of the entire government budget. Some countries include baseline budget guarantees to provide a minimum level of protection for independent institutions.⁷⁷ For instance, establishing an institution's budget as a set percentage of the government's total budget ensures that budget reductions are made only in proportion to all other expenses, limiting arbitrary or retaliatory cuts.⁷⁸ As the COVID-19 pandemic has made clear, some independent institutions may also need to be able to access and use – transparently – contingency or emergency funds.

Sufficient Resources

*In **Burkina Faso**, the law provides that the budget of the Higher Authority for State Control and the Fight Against Corruption cannot be less than 0.1 percent of the national budget.⁷⁹ Similarly, **Tuvalu's** enabling legislation for the Auditor-General sets a budget floor at 0.6 percent of total government appropriations for the year.⁸⁰ The law also stipulates that the budget proposal is to be based on the Auditor-General's workplan for the year.⁸¹*

❖ *Is the institution's budget allocated directly to the institution and disbursed in a regular and timely manner?*

An independent institution should be allocated funds directly, ideally through a separate budget line in the national budget.⁸² Additionally, the funds should be disbursed in a timely manner. It is best if they are released all at once at the beginning of the year, but they also can be distributed in tranches at regular intervals. Regardless of how the funds are distributed, it is important that they are provided directly to the institution and not through an executive ministry or office that might delay the funds to manipulate the institution's policies or activities. Additionally, the distribution of funds should be regularized through a predictable schedule and not provided on an ad hoc basis to enable planning and smooth operations.

Budget Allocation and Disbursement

*In Tuvalu, the appropriations for the Auditor General's office must be made in accordance with the amounts and intervals approved by Parliament.*⁸³

*In Nigeria, the Parliament recently adopted the Electoral Act (2022), which includes a new provision stating that all funding required for a general election will be released to the Independent National Electoral Commission (INEC) not later than one year before the next general elections.*⁸⁴

❖ *Does the institution exercise control over decisions on how to use funds to meet its mandate?*

Oversight of independent institutions is important, as will be discussed in detail in "Statutory Accountability" below. However, these oversight bodies should not have direct control over spending and operations but should provide general guidance on overall activities and ex-post review of financial management and spending. Independent institutions should have the authority to manage and allocate the resources allotted under their budgets without needing to seek approval from the executive or other external bodies.⁸⁵ Although public finance management systems will vary by country, in general, funds allocated to independent institutions should not be earmarked by the legislature or executive for specific initiatives, activities, or policy priorities where this might limit the institution's ability to exercise its mandate effectively or independently.⁸⁶

Control Over Expenditures

*In India, the Human Rights Commission is legally empowered to "spend such sums as it thinks fit for performing the functions under" its enabling legislation.*⁸⁷

4. Functional autonomy

Functional autonomy captures the extent of the institution's power, decision-making approach, and resources at its disposal to prevent political, executive, or other power-broker interference in its activities.⁸⁸ An institution with functional autonomy has (and utilizes) broad powers and independence in setting policy, where appropriate, and determining its internal rules and procedures. An independent institution's strategic and operational plans should not be subject to governmental approval, and the institution should have the resources required to effectively implement

these plans. Ultimately, the institution should have and exercise effective control over all policies, procedures, and tasks required to effectively carry out its mandate.

The Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies addresses challenges to functional autonomy experienced by anti-corruption agencies: “Experience has shown that many anti-corruption agencies (ACAs) suffer from excessively broad mandates without accompanying powers and/or adequate resources to fulfil their responsibilities. For example, ACAs may be tasked with running asset disclosure systems, but lack the powers to compel public servants to submit asset declarations; or they may have a mandate to audit public bodies and provide them with recommendations to prevent corruption, but lack the powers to conduct proper audits and impose penalties for non-compliance with their recommendations; or they may have a mandate to investigate corruption without the police powers necessary to investigate allegations of corruption. As such, good practice shows that the mandate of an ACA needs to be clearly described, ideally in law, including the specific powers needed to discharge the mandate.”⁸⁹

❖ *Are the institution’s mandate, responsibilities, and authorities clearly codified in the legal framework?*

❖ *Are the institution’s decision- and policy-making authorities sufficient to effectively implement its mandate?*

Independent institutions must have clearly defined legal mandates, functions, and responsibilities. Certain categories of independent institutions, such as SAIs, ACAs, NHRIs, and Ombudspersons have international standards and guidance on the functions and responsibilities appropriate to their mandates, which are summarized in Table 2. Regardless of the type of institution, it is important that the institution’s mandate and responsibilities are clear and that the institution has the legal authority necessary to discharge them. For example, a common consideration for independent institutions with an oversight mandate is whether they have sufficient authority to access information.⁹⁰ This may include the power to require cooperation of individuals and government agencies in oversight or investigation activities, and even physical access to premises, if needed.⁹¹

Table 2: Summary of institution-specific international standards and guidance for functions and authorities

Anti-Corruption Agencies	The United Nations Convention Against Corruption outlines the required functions of independent anti-corruption authorities, which can be spread across multiple institutions: prevention, education, awareness raising, investigation, and prosecution. ⁹²
Supreme Audit Institutions	The SAI Independence Resource Centre summarizes the elements of an SAI's mandate that should be specified in law: the types of audit (financial, compliance, and performance); the auditing jurisdiction or "field of audit"; the ability to follow public resources to their final point of expenditure; auditing standards and methodology; and discretion in the prioritization of audit activities. ⁹³
National Human Rights Institutions	The Paris Principles outlines the required and optional responsibilities of NHRIs, and the Global Alliance of National Human Rights Institutions Sub-Committee on Accreditation has indicated that a NHRI mandate should: "extend to the acts and omissions of both the public and private sectors; vest the [NHRI] with the competence to freely address public opinion, raise public awareness ... and carry out education and training programs; provide the authority to address recommendations to public authorities, to analyse the human rights situation in the country, ...; authorize unannounced and free access to inspect and examine any public premises, documents, equipment and assets without prior written notice; authorize the full investigation into all alleged human rights violations, including the military, police and security officers." ⁹⁴
Ombudspersons	The International Ombudsmen Institute outlined the powers that ombudspersons should be granted, including: access to all relevant documents and premises; full co-operation from all bodies in jurisdiction; power to consider all complaints within jurisdiction; ability to undertake investigations at their own initiative; and ability to make recommendations to remedy injustice. ⁹⁵

❖ *Is there productive and efficient coordination and collaboration with institutions that have complementary or overlapping mandates?*

Sometimes independent institution functions are centralized in a few institutions, and in other cases these functions are spread across multiple institutions. There are benefits to both a single-institution and multi-institution model, and neither is inherently preferred over the other.⁹⁶ In some cases, inter-institutional coordination and communications are essential, and can be facilitated through agreements of understanding, the creation of inter-institutional groups, and the promotion of the exchange of relevant information like banking, tax and stock information, transparency of end beneficiaries, and records of real estate and personal property.

The Colombo Commentary notes that for Anti-Corruption Agencies, “there is no one-size-fits-all approach to determining which institutional framework will be most appropriate for a given national context; models also need to be adapted to account for differences in size, geography, systems of government (e.g., federal or decentralized) and available human and financial resources.”⁹⁷ Similarly, human rights institutions can have broad general mandates over human rights in a country, or there can be several institutions that are responsible for the rights of specific groups (e.g., women’s rights, children’s rights, indigenous rights, minority rights) or for human rights generally, but in a specific part of the country.⁹⁸ When there are institutions with overlapping or complementary mandates, it is important that they coordinate and collaborate, including through the use of formal arrangements like memorandums of understanding, and avoid conflict, inefficiency, and obfuscation of responsibilities.⁹⁹

Coordination Among Independent Institutions

In Nigeria, there are many institutions with anti-corruption mandates, including the Economic and Financial Crimes Commission, the Independent Corrupt Practices Commission, the Public Complaints Commission, the Code of Conduct Bureau and Code of Conduct Tribunal, and the Federal Character Commission. Conflicts of interest have emerged among key institutions, particularly regarding the line between the roles, functions, and powers of the primary institutions.¹⁰⁰ To improve coordination, the Inter-Agency Task Team was created to facilitate regular meetings between the heads of agencies.¹⁰¹

In India, the National Human Rights Commission works with specialized commissions, including the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes, and the National Commission for Women. To facilitate coordination among these bodies, the Chairperson for each of these specialized commissions is an ex officio member of the National Human Rights Commission.¹⁰²

❖ Does the institution engage in planning, policymaking, and internal rulemaking without interference from the government?

It is important that independent institutions can engage in planning and setting strategic objectives for their work without external interference. This includes full control over the policies and procedures they use to implement their mandates. For example, the SAI Independence Resource Centre highlights the importance of “independence in how the SAI’s mandate is given effect,” including the need to be free from executive or legislative direction in the “selection of audit issues; planning, programming, conduct, reporting, and follow-up of audits; and enforcement of decisions where applicable to the mandate.”¹⁰³ Similarly, NHRIs must have “independence to determine their own priorities, programs and projects.”¹⁰⁴ Without autonomy in setting priorities and objectives to fulfill their mandates, institutions would be vulnerable to cooptation by government interests.

Planning and Policymaking

The Human Rights Commission of New Zealand is legally empowered to “determine the strategic direction and the general nature of activities undertaken in the performance of the Commission’s functions.”¹⁰⁵

- ❖ *Does the institution have sufficient resources (e.g., human resources/expertise/staff, information, and communications technology [ICT] infrastructure) to effectively implement its mandate?*

While this consideration is closely tied to financial autonomy, as discussed above, it is important to consider specifically whether institutions have sufficient expertise and infrastructure to fulfill their mandates effectively. Many institutions require special expertise, which can necessitate special consideration for recruitment and investments in training and capacity building programs, for instance, to monitor and investigate illicit funding or cybercrime.¹⁰⁶ In addition, institutions should have adequate premises, transportation, and information and communication technologies suited to the smooth and effective conduct of their duties.¹⁰⁷ For institutions engaged in auditing, the use of ICTs and data science tools can make their work more efficient and effective, and increase the possibility of discovering irregularities regardless of the volume of data. For this reason, these independent institutions must have ICTs that allow them to consistently analyze large and continuously expanding databases. Human resources are also critical to institutional efficacy (see “Personnel Autonomy” above).

Technical Capacity and Resources

*The **Malaysian** Anti-Corruption Commission (MACC) established the Malaysian Anti-Corruption Academy to build anti-corruption capacity in prevention, investigation, and prosecution for MACC officials, other relevant Malaysian government officials, and regional practitioners.¹⁰⁸*

5. Behavioral autonomy

Behavioral autonomy is broader than the other facets of autonomy and accountability in this framework because it is intended to capture the ways that an institution demonstrates its independence through decisions and actions — both internally and externally. These actions are not necessarily legal requirements but are a part of institutional culture that are cultivated over time through leadership, communication, decision- and policy-making practices, and established relationships with other institutions and stakeholders. Proactive institutional investments in behavioral autonomy can be critical to upholding institutional independence.

- ❖ *Does the leadership of the institution encourage and demonstrate dissent where appropriate?*
- ❖ *Does the leadership of the institution communicate reasons for its decisions internally?*
- ❖ *Does the leadership of the institution encourage ethics, integrity, and behavioral independence among staff?*

Behavioral autonomy requires that the administrative culture of an institution places an internal priority on mission, public service, ethics, impartiality, competence, and professionalism. There must be both a commitment from leadership and supportive policies (e.g., established dissent channels, regular internal communications, codes of ethics, and conduct and ethics training) to promote this culture.

Encouraging Ethical Behavior

*Created by the 1992 Constitution, **Ghana's** Commission on Human Rights and Administrative Justice was vested with a triple mandate: ombuds office, anti-corruption agency and human rights monitor. Its first leader, [Emile Short](#), had to execute a constitutionally broad mandate and develop a public reputation for independence, despite limited resources and no enforcement authority. The Commission's power lay in its evidence-based investigations and public hearings, which helped to expose high-level corruption and mobilize public pressure for greater accountability. Short focused on building the Commission's credibility, developing public education programs, creating a network of anti-corruption civil society groups, and taking a tough stance on internal ethics.¹⁰⁹*

- ❖ *Does the institution proactively communicate and build relationships with the legislature, particularly the institution's oversight committee and other committees relevant to the institution's work?*

Independent institutions have opportunities to develop constructive and collaborative relationships with legislatures. As will be detailed below in "Assessing Accountability," these relationships are both vertical and horizontal; legislatures (ideally) oversee independent institutions, but both are mandated to support government integrity. Most independent institutions can submit reports to parliament in addition to legally mandated annual reporting requirements, demonstrating behavioral autonomy by sharing important findings or additional information about decisions and actions. They also can engage with legislative oversight committees by sharing information or presenting their work in formal oversight processes. Building strong relationships within the legislature and showing institutional value can help to protect an institution's independence from executive interference in the form of legal reform proposals or budget cuts. Independent institutions should maintain transparency when building these relationships to ensure there is no perception of influence or collusion (e.g., issuing press releases detailing objectives and outcomes when an independent institution meets with the Executive).

Working with Legislatures

*In response to COVID-19, some NHRIs, including the **Finland** Ombudsman and the Equality and Human Rights Commission of **Great Britain**, engaged with legislatures to provide technical support and recommendations for draft legislation related to lockdowns and quarantine and isolation measures.¹¹⁰*

- ❖ *Does the institution collaborate consistently and effectively with other government institutions with complementary mandates or responsibilities?*

To build trust, reduce resistance and friction, and increase efficiency, independent institutions should cultivate relationships with other government institutions. For some institutions, collaboration with certain government agencies may be incorporated into their enabling legislation. For example, ACAs may require assistance from other law enforcement agencies or public prosecutors.¹¹¹ This cooperation and any MOUs adopted to facilitate it also may benefit corruption investigations.¹¹² For most types of independent institutions, furthering their mandates requires buy-in from all sectors of government, and developing positive relationships to share information and build capacity helps further any number of aims – human rights, corruption prevention, access to information, or public sector integrity and ethics. However, it is also important to carefully manage these relationships to avoid conflicts of interest.

Working with Other Institutions

*In 2021, the State Audit Office of **Latvia** collaborated with internal auditors of public sector institutions on the audit of the consolidated annual financial statement of the state and local governments. This collaboration has provided “an opportunity to engage internal auditors across institutions in discussions about the audit’s progress and the best ways to address challenges.”¹¹³*

- ❖ *Does the institution maintain effective communication and relationships with civil society?*
- ❖ *If so, are there formal or informal fora for collaboration, such as working groups or advisory committees?*

Like the legislature, civil society also has a government oversight function and can be a natural ally of independent institutions (oversight institutions in particular) if the relationships are carefully cultivated and maintained. This relationship is largely informal but can also be formalized by an independent institution as a mechanism to receive reports of alleged violations, for example. Strong civil society support can help institutions withstand political pressure or attempts to undermine their independence and contribute to legal reform advocacy. It can also help build widespread public support by supplementing institutions’ limited awareness raising or public education capacity. Independent institutions can facilitate relationships with civil society through working groups, periodic consultations, forums, or events. However, when public consultation is optional, it can often be bypassed, especially by institutions that are overwhelmed by workload or facing statutory deadlines. Mandatory public consultation can help to inculcate new norms around engagement between the public and institutions.

Working with Civil Society

*Transparency International **Bosnia and Herzegovina** helped develop and implement the anti-corruption strategy of the Agency for the Prevention of Corruption via various initiatives (e.g., supporting 20 municipalities to develop integrity plans and monitoring their implementation). Through this collaboration, the Agency was able to extend its reach to the subnational level.¹¹⁴ In **France**, the High Authority for Transparency of Public Life has accredited two anti-corruption organizations — Transparency International and Anticor — to receive reports of alleged violations from the public. The public can submit suspected cases involving “conflicts of interest, non-compliance with declarative obligations or revolving doors practices” to the High Authority.¹¹⁵ In **Kenya**, Independent Electoral and Boundaries Commission (IEBC) regulations on campaign spending were annulled by the National Assembly (and this annulment was confirmed by the High Court) on several grounds, including that “the regulations were enacted without the IEBC involving the public.” The Court stated that such public consultation was mandatory.¹¹⁶*

- ❖ *Does the institution communicate directly with the public (e.g., by issuing press releases, updating websites, and social media)?*
- ❖ *If so, does the institution tailor communication about its mandate and achievements for a public audience?*

Effective communication can help foster public trust and support for an independent institution that can strengthen its independence in the face of political pressure. Institutions can engage with the public by maintaining an up-to-date and easily navigable website and social media and conducting public awareness campaigns.

Communicating with the Public

*The National Audit Office of **The Gambia** maintains an active presence on Twitter and publishes summarized audit reports and infographics on its website to provide information on audit processes and findings.¹¹⁷*

❖ *Does the institution actively engage at the regional or international level with peer institutions?*

Many types of independent institutions have established international or regional communities to facilitate peer learning, capacity building, and standard setting. These institutions, which include the International Organization of Supreme Audit Institutions (INTOSAI), the Specialized Working Group in the Fight against Transnational Corruption (GTCT) of the Latin American and Caribbean Organization of Supreme Audit Institutions (OLACEFS), the Global Alliance of National Human Rights Institutions (GANHRI), and the International Association of Anti-Corruption Authorities, also help leverage international support when an institution's independence is threatened.

Engaging with Networks and Peers

***Fiji's** Supreme Audit Institution volunteered to undergo an assessment based on the Supreme Audit Institution Performance Measurement Framework. The assessment was conducted by reviewers from the Pacific Association of Supreme Audit Institutions and the **Tonga** Office of the Auditor-General. The Auditor-General of Fiji published the findings and submitted it to Parliament despite there being no requirement to do so.¹¹⁸*

*The **Latin American and Caribbean** Organization of Supreme Audit Institutions (OLACEFS) created a Specialized Working Group in the Fight against Transnational Corruption (GTCT) in 2019. A subgroup was formed with **Brazil, Chile, Ecuador, El Salvador, Honduras, Mexico, and Peru** to prepare a Manual of Good Practices in the Fight against Corruption. The Court of Accounts of **Italy**, a member of INTOSAI, reviewed the Manual.*

❖ *Does the institution communicate consistently with the media?*

❖ *Does the institution have personnel specifically tasked with strategic communications?*

Having an effective media presence can build public awareness and support for an independent institution and help address or respond to attacks on its independence or impartiality. However, it is important that an institution not be merely reactive to crises and instead develop clear messages about the institution's priorities and work. It is helpful to develop an institutional strategy for media that targets specific outlets for different purposes and messages.

Strategic Communications

***Guyana's** Elections Commission established Rules of Procedure for Public Relations, which includes guidance on media releases, press conferences and briefings, website maintenance, responding to queries and comments, and a quarterly newsletter.¹¹⁹ The National Human Rights Commission of **India** has a Public Relations Division, a media and outreach policy, and an advisory group of senior media professionals to advise on the promotion of human rights and engagement with the public through media.¹²⁰*

Assessing Accountability

The second part of the framework for effective independent institutions is formal and informal accountability. Accountability mechanisms are essential, as no institution is immune from corruption and other risks, but they must reinforce, rather than stymie, autonomy and effectiveness. We have designated three types of accountability mechanisms: statutory, public, and internal.⁵⁰ There is a clear, reinforcing relationship between accountability and behavioral autonomy.

1. Statutory accountability

Although they require a high degree of autonomy to fulfil their mandates, independent institutions must be held accountable for their performance. Statutory accountability refers to the formal accountability mechanisms that are established in law. These often include periodic reporting requirements and annual internal and external audits but can also include required whistleblower or internal complaints procedures, or the establishment of an ombuds or internal compliance office. However, when public consultation is optional, it can often be bypassed, especially by institutions that are overwhelmed by workload or facing statutory deadlines.

❖ *Does the institution have periodic reporting requirements to the legislature?*

❖ *If so, does the institution meet these requirements in a timely manner?*

Most independent institutions are legally required to report periodically to the legislature; however, this requirement alone is not sufficient to ensure that reporting will be an effective accountability measure. Many institutions' enabling legislation also sets out structural and content requirements, and some include a performance review component which compares actual performance to the institutions' established goals.¹²¹ In addition to serving as a foundational accountability mechanism, formal and regular reporting offer an opportunity for independent institutions to build public awareness and support of their mandates, highlight successes and accomplishments to build public trust, raise challenges, and seek support from the legislature to address those challenges.

Reporting Requirements

*In **Maldives**, legislation governing most independent institutions includes a list of topics that must be submitted in annual reports to the President and the People's Majlis. For example, the ACA is required to include the following: activities undertaken, complaints filed, cases decided, ongoing inquiries, pending cases, recommendations made to institutions, recommendations adopted and abandoned by such institutions, and details of administrative actions on the management and employees.¹²²*

❖ *Does the institution provide for disclosure of assets of its members?*

❖ *Does the institution have annual auditing requirements?*

❖ *If so, does the institution meet these requirements and respond promptly to any findings or recommendations?*

Independent institutions should be required to undergo an annual financial audit, much like any other public institution, to ensure accountability for their budgets. It is important that institutions promptly respond to any findings and have mechanisms in place to implement recommendations.

Financial Disclosures and Audits

*The Kenya National Commission on Human Rights is required by law to undergo an annual financial audit by the Auditor General.*¹²³

- ❖ *Are the institution's periodic reports and audit results required to be published?*
- ❖ *If so, are they published in a timely manner on a platform that is accessible to the public?*

To be accountable to the public in addition to the legislative oversight body, it is important that periodic reports on an institution's finances as well as its performance are published and made available to the public. Ideally, these reports should be published on the institution's website. Some institutions may choose to create summary documents or explainers that make the content more accessible to the public or to hold press briefings on their reports and distribute them to stakeholders and partners.

Publication of Reports

*The Office of the Auditor General of Fiji publishes all annual reporting on its website.*¹²⁴ *Similarly, the Auditor General of New Zealand publishes annual reporting on its website, along with a "year in numbers" snapshot that quickly highlights accomplishments in an easy to digest format.*¹²⁵ *The Anti-Corruption Commission of the Maldives holds a press briefing as well as a summary that it sends to ministries, government offices, and media.*¹²⁶

2. Public accountability

To be accountable to the public interest and build a culture of public awareness and trust, independent institutions should be transparent in their decision-making and adopt additional measures beyond those that are statutorily required to receive and incorporate public feedback.

- ❖ *Does the institution have mechanisms in place to answer requests for information from the public (e.g., under right to information legislation)?*
- ❖ *Does the institution proactively disclose information of general interest to the public (e.g., declaration of assets by members at the start of their terms)?*

Access to information held by public institutions is central to ensuring public accountability. Many countries have adopted right to information or freedom of information laws, which include both proactive disclosure requirements for information and established processes for the public to make requests for information. According to international best practice, these laws should apply to all public bodies, including independent institutions.¹²⁷ Regardless of whether it is legally required, institutions can design and implement policies and procedures for both proactive disclosure — which should aim to publish information, policies, and procedures that would not otherwise be protected for privacy

concerns — and requests for information, which should have clear and limited criteria for refusal in line with international standards. For more information on criteria to consider when reviewing right to information policies, the Global Right to Information Rating uses 61 indicators that may serve as useful reference points.¹²⁸ Additional resources can be found in the Open Data Charter or Open Government Partnership.¹²⁹

Providing Information to the Public

*The **Australian** Human Rights Commission must adhere to the requirements under the Freedom of Information Act; the Commission includes a page on its website that summarizes the right to information, including categories of information that the Commission holds, who can make a request, and how to make a request. The Commission has a dedicated email address for freedom of information requests and maintains a log of disclosures that it has made under the legislation, which is also available on its website.*¹³⁰

*In the **United States**, qui tam actions allow a private party to bring a case on behalf of the government. Under the False Claims Act, for instance, private parties may initiate lawsuits against persons suspected of defrauding the federal government; the government is considered the true plaintiff and, if successful, will give a portion of its award to the private party.*¹³¹

*In **Uruguay**, the Law on the Right of Access to Public Information established a Unit for Access to Public Information (UIAP) within the Agency for the Development of the Government of Electronic Management and the Information and Knowledge Society (AGESIC). This Unit is tasked with ensuring regulatory compliance within AGESIC and has the authority to declassify information whose classification process does not comply with current regulations.*

*The Organization of **Latin American and Caribbean** Supreme Audit Institutions (OLACEFS) calls for SAIs to actively use “internal control systems” to provide “sufficient evidence on the accuracy and truthfulness of the financial statements and the retention of records of operations and transactions performed” as well as “reasonable assurance regarding the prevention or early or timely detection of acquisitions, use or disposal of unauthorized or irregular resources.”¹³² According to OLACEFS, SAIs also should strengthen their collaboration with and training for internal auditors, as part of the SAIs’ defense against corruption and lack of integrity.*¹³³

❖ Does the institution provide opportunities for public consultation on rulemaking or proposed regulation?

While not all independent institutions have regulatory or rulemaking authorities that are subject to formal public consultation mechanisms (e.g., public hearings, public note and comment periods), it is important that policies and procedures impacting external stakeholders still be subject to public consultation processes. Regardless of the consultation method chosen, the public should be given enough notice to provide effective input and the process should be based on the public submission of written documentation.¹³⁴

Public Consultation

*The **United States**’ Federal Election Commission holds periodic public hearings to offer interested stakeholders an opportunity to provide input on proposed regulations.¹³⁵ Additionally, the Administrative Procedure Act mandates that every United States Government agency promulgate regulations pursuant to notice and public comment and*

make certain types of documents (e.g., final opinions made in the adjudication of cases, statements of policy and interpretations adopted by the agency but not published in the Federal Register, copies of all records) “available for public inspection and copying.”¹³⁶

❖ *Does the institution provide opportunities for public input on performance?*

When input on the institution’s performance is gathered and given an active and appropriate response, it can show that the institution takes its responsibilities to serve the public seriously. There are many ways that institutions can incorporate external input into a performance review process, including through customer satisfaction surveys, citizens’ perception surveys, and civil society organizations (CSO) contributions and reporting.¹³⁷ The appropriate mechanism for input may vary based upon the role of the institution and its level of interaction with the public. It is not sufficient to merely collect external input; the institution should report on it in published performance reviews, address identified weaknesses, and show improvement where needed.

Public Feedback

*The Independent Commission Against Corruption of **Hong Kong** conducts annual public perception surveys to capture opinions about the work of the Commission, public attitudes towards and concerns about corruption, and the behavior and experience of the public in reporting corruption.¹³⁸*

❖ *Is there a mechanism available for the public to file complaints against the institution?*

❖ *If so, is the data related to the use of this mechanism (e.g., complaints, timelines for resolution) available for public access?*

An effective public complaints mechanism can bolster trust in an institution. A separate independent institution, such as an ombuds office with a mandate over the institution in question, may conduct an external complaints process. Otherwise, an institution may have an internal ombuds office or advocate that operates as an independent office within the institution to hear public complaints.

Complaints Mechanism

*The **Indonesian** National Ombudsman Commission was established to “encourage public participation in the development of the necessary conditions to eradicate corruption, collusion and nepotism; to protect people’s right to public services, justice and welfare; to capture knowledge about the needs of citizens and provide an impartial resolution mechanism; and to receive and follow up on complaints from the public about irregularities in the administration.”¹³⁹ The Commission has a mandate to conduct investigations with or without a complaint,¹⁴⁰ and has jurisdiction over other independent institutions, such as the Corruption Eradication Commission (KPK).*

*The **Australian** Election Commission has a broad Complaints Management Policy that provides a mechanism for stakeholders and the public to report complaints, including general complaints as well as complaints specifically related to legal violations, fraud, or breaches of privacy.¹⁴¹*

3. Internal accountability

In addition to formal accountability through legal oversight mechanisms and public accountability, institutions should maintain robust institutional standards and procedures to foster a culture of integrity, professionalism, and individual accountability among all employees. This ensures that the institution is actualizing its values and can serve as an example to other public institutions.

- ❖ *Does the institution have a code of conduct in place that is applicable to all staff?*
- ❖ *Does the institution have organization-wide ethics policies?*
- ❖ *Are there mechanisms in place to ensure that leaders are accountable to their staff for decisions they make? For staff to be held accountable to the leadership for their performance towards achieving their mandates?*

Codes of conduct and ethics policies can help set standards for the conduct of public officials, which can enable them to be held accountable both internally and by the public. Independent institutions should consider adopting both an ethics policy and a code of conduct, as both are important but perform different functions. Codes of ethics are statements of values and principles to guide staff behavior and decision making, while codes of conduct establish specific behaviors that are required, acceptable, or prohibited for members of an organization.¹⁴² It is important that the legal foundation of a code of conduct is clear and enforceable,¹⁴³ and that there are mechanisms in place to ensure it is applied and enforced consistently in practice. One example of a code of conduct is the Council of Europe's model code.¹⁴⁴ Beyond formalized codes of ethics and conduct, institutions should also consider whether leadership and staff are accountable to each other for performance and decision-making.

Codes of Ethics

Bhutan's ACA has adopted an *Ethical Code of Conduct*, which has combined elements of an ethics policy and a code of conduct. It applies to staff at all levels of the organization and is published on the Commission's website.¹⁴⁵

Guatemala's SAI declared 2021 "the Year of Ethics and Probity."¹⁴⁶ It has adopted a mandatory Code of Ethics (applicable to all internal staff) that emphasizes such priorities as transparency and anti-corruption. The Code also created the *Tribunal Institucional de Ética* (Institutional Court of Ethics) to develop additional regulations, resolve complaints about violations of the Code, and plan and implement dissemination events for oversight institutions.¹⁴⁷ The Organization of American States (OAS) recognized the Guatemalan SAI's Code of Ethics as a good anti-corruption practice.¹⁴⁸

The Code of Ethics for **Croatia's** SAI identifies five core ethical values by which all employees of the State Audit Office must abide and how the Office will ensure compliance.¹⁴⁹ In particular, the Code provides the steps necessary to appoint ethics commissioners, establish a register to monitor conflicts of interest and gifts received, and conduct external evaluations of employees' work.¹⁵⁰ Violations of the Code may result in the "imposition of measures provided by the Law of Civil Servants."¹⁵¹

- ❖ *What types of administrative or criminal sanctions are available to the institution?*
- ❖ *Are these sanctions applied and enforced consistently?*

Independent institutions should explicitly define how they will sanction individuals who violate the institution's codes of ethics or conduct. Proportionality is important when punishing ethical violations; available sanctions should range from minor administrative rebukes (e.g., small fines) to criminal punishment (where an act or omission violates criminal statute). In practice, independent institutions can list a range of disciplinary sanctions (e.g., fines, demotion, dismissal, pursuit of criminal charges) in their codes of ethics or conduct to best address violations and deter similar conduct in the future. With respect to enforcement, inter-institutional cooperation is important: referral mechanisms should be in place with relevant ministries, civil service authorities (in the case of secondment of staff), and criminal justice authorities, with effective follow up mechanisms to ensure that disciplinary mechanisms or criminal proceedings are being pursued where appropriate and have a deterrent effect for current staff.

Sanctions and Disciplinary Measures

Ghana's *Audit Service Act* contains an entire section dedicated to offenses committed by members of the Audit Service. It states that any individual who takes a bribe, willfully fails to report abuse, or lies to the Auditor General "is liable on summary conviction to a fine no less than 500 penalty units or to imprisonment for a term not exceeding 2 years or both."¹⁵²

Both **Vietnam's** *Law on the State Audit of Vietnam*¹⁵³ and **Zimbabwe's** *Constitution*¹⁵⁴ explicitly mandate the removal of the Auditor General from office for ethical misconduct. **Belize's** *Ombudsman Act* states that the Ombudsman shall vacate his position if "[he] has at any time been convicted of any offence involving dishonesty or moral turpitude"¹⁵⁵ though it does not further define those offenses.

❖ Does the institution engage in continuous performance monitoring, evaluation, and adaptation?

Setting goals for performance, engaging in internal monitoring and measuring of outcomes, and using the collected data to adjust and improve approaches is an important way to show accountability for the achievement of institutional goals and objectives. In addition, the process of "designing a strong results-based management framework, theory of change, or logical framework can help identify what results the organisation can be held accountable for, given its resources and constraints."¹⁵⁶ Institutions should not consider learning as only an activity with benefits internal to the institution; rather, institutions also should consider the "user" or "customer" to which they are accountable and how learning can meet their needs and interests. Institutions should employ surveys and other participatory methodologies for gathering feedback as a critical input into institutional monitoring, evaluation, and learning.

Monitoring, Evaluation, and Adaptation

To monitor progress on its [Participatory Strategic Plan](#), the Election Commission of **Sri Lanka** (ECSL) identified relevant indicators for each of seven performance goals, and developed and trained provincial and headquarters office staff on data collection and data entry tools. The data entered by trained staff creates indicator logs that are used to instantaneously aggregate indicator values in dashboard. The ECSL's Planning Unit compiles and presents indicator data to the Chairman, Members of the Commission, and other institutional leadership on a quarterly and annual basis to track progress and make decisions.

- ❖ *Does the institution have internal controls in place to protect the integrity of internal processes and guard against corruption?*
- ❖ *Within the institution, are there channels for internal dissent and reporting violations of law and policy, including codes of conduct?*
- ❖ *If yes, are they known, understood, and used by employees when needed?*

Internal reporting mechanisms can be important and effective tools to protect the public interest. They can serve as an internal safeguard “against risks such as financial loss, legal action and reputational damage.”¹⁵⁷ Three key elements of an effective internal reporting mechanism include: “the provision of accessible and reliable reporting channels; robust protection from all forms of retaliation; and mechanisms for disclosures that promote reforms that correct legislative, policy or procedural inadequacies and prevent future wrongdoing.”¹⁵⁸ It is critical that employees are aware of and trust the mechanism, which institutional leadership can achieve through increased support for use of the mechanism and commitment to addressing its results.¹⁵⁹

Whistleblowing is one type of internal complaint and an important last line of accountability in the public sector.¹⁶⁰ As one scholar notes, “The decision to blow the whistle...is never an easy one; unless there is a legal obligation to report, it should be considered a step one takes when all else has failed. A genuine case of external whistleblowing requires the whistleblower to have utilized, unsuccessfully, all appropriate channels within the organization to right a wrong.”¹⁶¹ Because of the high level of personal and professional risk undertaken by a whistleblower, it is important that there are sufficient protections in place to prevent retaliation.

Internal Reporting and Control Mechanisms

*The Anti-Corruption and Civil Rights Commission of **South Korea** oversees a whistleblower mechanism that can receive complaints for a wide range of government bodies, including election commissions and the Board of Audit and Inspection.*¹⁶²

*The Organization of **Latin American and Caribbean** Supreme Audit Institutions (OLACEFS) calls for SAIs to actively use “internal control systems” to provide “sufficient evidence on the accuracy and truthfulness of the financial statements and the retention of records of operations and transactions performed” as well as “reasonable assurance regarding the prevention or early or timely detection of acquisitions, use or disposal of unauthorized or irregular resources.”*¹⁶³ *According to OLACEFS, SAIs also should strengthen their collaboration with and training for internal auditors, as part of the SAIs’ defense against corruption and lack of integrity.*¹⁶⁴

Autonomy Assessment Worksheet

Institutional Autonomy

	Yes	Partially	No
1. Is the institution established in the constitution?			
1a. If not, was it established through legislation passed by the national legislature?			
1b. If it was established through national legislation, are there any additional protections in place to make it more challenging to amend, withdraw or repeal the legislation, such as a requirement for a higher voting threshold?			

Comments:

2. Does the constitution or law provide for the independence of the institution?			
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Comments:

From the responses to the questions above, what are the institution's strengths in Institutional Autonomy?

What are the threats to the institution's Institutional Autonomy?

What strategies or approaches could be considered to mitigate and/or overcome these threats?

Personnel Autonomy			
	Yes	Partially	No
1. Is the process for appointing the leadership of the institution clearly established in the law?			
<i>Comments:</i>			
2. Is the body tasked with selecting and appointing the leadership of the institution constituted in such a way that it mitigates political influence (e.g., a legislative committee that includes opposition party members; a body with multiple, including non-political, stakeholders)?			
<i>Comments:</i>			
3. Does the recruitment process for leaders/members include merit-based criteria?			
<i>Comments:</i>			
4. Are the eligibility requirements for leadership in the legal framework?			
<i>Comments:</i>			
5. Are possible causes for dismissal and the process of removal of the institution's leaders clearly outlined in the legal framework?			
5a. If so, are possible causes for dismissal limited to incapacity and misconduct?			
<i>Comments:</i>			

	Yes	Partially	No
6. Is there a transparent, quasi-judicial process established in the legal framework to make determinations on the dismissal of institutional leaders?			
6a. Once a leader is dismissed or completes their term of office, are there legal procedures governing the delegation of authority while a new leader is appointed?			
<i>Comments:</i>			
7. Are there rules, regulations, or laws to mitigate or prohibit a “revolving door” (i.e., movement between independent institutions and organizations that would be under those institutions’ purview for regulation or oversight) for former or incoming members?			
<i>Comments:</i>			
8. Are leaders granted legal immunity for actions taken in good faith in the performance of their responsibilities?			
<i>Comments:</i>			
9. Does the institution have the legal authority to recruit, compensate, discipline, and dismiss staff independently?			
<i>Comments:</i>			
10. Does the institution have the legal authority to oversee and direct staff independently?			

	Yes	Partially	No
10a. If so, has it implemented clear internal policies and procedures for these processes (e.g., codes of conduct; policies for recruitment, discipline, dismissal, remuneration)?			
<i>Comments:</i>			
From the responses to the questions above, what are the institution's strengths in Personnel Autonomy?			
What are the threats to the institution's Personnel Autonomy?			
What strategies or approaches could be considered to mitigate and/or overcome these threats?			

Financial Autonomy			
	Yes	Partially	No
1. Does the institution propose its own budget?			
<i>Comments:</i>			
2. Is the process for review and approval of the budget independent of executive control or alteration?			
<i>Comments:</i>			
3. Does the institution have sufficient resources to effectively carry out its mandate?			
<i>Comments:</i>			
4. Is the institution's budget allocated directly to the institution and disbursed in a regular and timely manner?			
<i>Comments:</i>			
5. Does the institution exercise control over decisions on how to use funds to meet its mandate?			
<i>Comments:</i>			

From the responses to the questions above, what are the institution's strengths in Financial Autonomy?

What are the threats to the institution's Financial Autonomy?

What strategies or approaches could be considered to mitigate and/or overcome these threats?

Functional Autonomy			
	Yes	Partially	No
1. Are the institution's mandate, responsibilities, and authorities clearly codified in the legal framework?			
<i>Comments:</i>			
2. Are the institution's decision- and policy-making authorities sufficient to effectively implement its mandate?			
<i>Comments:</i>			
3. Is there productive and efficient coordination and collaboration with institutions that have complementary or overlapping mandates?			
<i>Comments:</i>			
4. Does the institution engage in planning, policymaking, and internal rulemaking without interference from the government?			
<i>Comments:</i>			

	Yes	Partially	No
5. Does the institution have sufficient resources (e.g., human resources/expertise/staff, information and communications technology [ICT], infrastructure) to effectively implement its mandate?			
<i>Comments:</i>			
From the responses to the questions above, what are the institution's strengths in Functional Autonomy?			
What are the threats to the institution's Functional Autonomy?			
What strategies or approaches could be considered to mitigate and/or overcome these threats?			

Behavioral Autonomy			
	Yes	Partially	No
1. Does the leadership of the institution encourage and demonstrate dissent where appropriate?			
<i>Comments:</i>			
2. Does the leadership of the institution communicate reasons for its decisions internally?			
<i>Comments:</i>			
3. Does the leadership of the institution encourage ethics, integrity, and behavioral independence among staff?			
<i>Comments:</i>			
4. Does the institution proactively communicate and build relationships with the legislature, particularly the institution's oversight committee and other committees relevant to the institution's work?			
<i>Comments:</i>			
5. Does the institution collaborate consistently and effectively with other government institutions with complementary mandates or responsibilities?			
<i>Comments:</i>			

	Yes	Partially	No
6. Does the institution maintain effective communication and relationships with civil society?			
6a. If so, are there formal or informal fora for collaboration, such as working groups or advisory committees?			
<i>Comments:</i>			
7. Does the institution communicate directly with the public (e.g., by issuing press releases, updating websites and social media)?			
7a. If so, does the institution tailor communication about its mandate and achievements for a public audience?			
<i>Comments:</i>			
8. Does the institution actively engage at the regional or international level with peer institutions?			
<i>Comments:</i>			
9. Does the institution communicate consistently with the media?			
<i>Comments:</i>			
10. Does the institution have personnel specifically tasked with strategic communications?			
<i>Comments:</i>			

From the responses to the questions above, what are the institution's strengths in Behavioral Autonomy?

What are the threats to the institution's Behavioral Autonomy?

What strategies or approaches could be considered to mitigate and/or overcome these threats?

Accountability Assessment Worksheet

Statutory Accountability

	Yes	Partially	No
1. Does the institution have periodic reporting requirements to the legislature?			
1a. If so, does the institution meet these requirements in a timely manner?			
<i>Comments:</i>			
2. Does the institution facilitate the disclosure of assets of its members?			
<i>Comments:</i>			
3. Does the institution have annual auditing requirements?			
3a. If so, does the institution meet these requirements and respond promptly to any findings or recommendations?			
<i>Comments:</i>			

4. Are the institution's periodic reports and audit results required to be published?			
4a. If so, are they published in a timely manner on a platform that is accessible to the public?			
<i>Comments:</i>			
From the responses to the questions above, what are the institution's strengths in Statutory Accountability?			
What are the institution's weaknesses and opportunities?			
What strategies or approaches could be considered to address these weaknesses?			

Public Accountability

	Yes	Partially	No
1. Does the institution have mechanisms in place to answer requests for information from the public (e.g., under right to information legislation)?			
<i>Comments:</i>			
2. Does the institution proactively disclose information of general interest to the public (e.g., declaration of assets by members at the start of their terms)?			
<i>Comments:</i>			
3. Does the institution provide opportunities for public consultation on rule making or proposed regulation?			
<i>Comments:</i>			
4. Does the institution provide opportunities for public input on performance?			
<i>Comments:</i>			
5. Is there a mechanism available for the public to file complaints against the institution?			

5a. If so, is the data related to the use of this mechanism available for public access (e.g., complaints, resolution, timelines)?

Comments:

From the responses to the questions above, what are the institution's strengths in Public Accountability?

What are the institution's weaknesses and opportunities?

What strategies or approaches could be considered to address these weaknesses?

Internal Accountability			
	Yes	Partially	No
1. Does the institution have a code of conduct in place that is applicable to all staff?			
<i>Comments:</i>			
2. Does the institution have organization-wide ethics policies?			
<i>Comments:</i>			
3. Are there mechanisms in place to ensure that leaders are accountable to their staff for decisions they make? For staff to be held accountable to the leadership for their performance towards achieving their mandates?			
<i>Comments:</i>			
4. Are there mechanisms in place for staff to be held accountable to the leadership for their performance towards achieving their mandates?			
<i>Comments:</i>			
5. What types of administrative or criminal sanctions are available to the institution?			
5a. Are these sanctions applied and enforced consistently?			
<i>Comments:</i>			

	Yes	Partially	No
6. Does the institution engage in continuous performance monitoring, evaluation, and adaptation?			
<i>Comments:</i>			
7. Does the institution have internal controls to protect the integrity of internal processes and guard against corruption?			
<i>Comments:</i>			
8. Within the institution, are there channels for internal dissent and reporting violations of law and policy, including codes of conduct?			
8a. If yes, are they known, understood, and used by employees when needed?			
<i>Comments:</i>			
From the responses to the questions above, what are the institution's strengths in Internal Accountability?			
What are the institution's weaknesses and opportunities?			
What strategies or approaches could be considered to address these weaknesses?			

Filling the Gaps – Sample Strategies to Build Resilience

To effectively build resilience, institutions cannot simply react to threats when they arise. Instead, institutions should engage proactively in developing strategies and tools to mitigate potential future harm. Illustrative mitigation strategies are outlined in the table below.

Area of Concern	Illustrative Threats	Examples of Strategies to Improve Institutional Resilience if Threats Arise
Autonomy		
Institutional Autonomy	<ul style="list-style-type: none"> × Absence of provisions in the law that protect institutional autonomy × Legal reform efforts initiated that would undermine institutional independence and shield corrupt actors from justice 	<ul style="list-style-type: none"> → Build strong relationships with relevant stakeholders, such as the institution’s legislative oversight committee, civil society actors, peer institutions from other countries, regional and international institutions, and associations that can help propose and advance beneficial legal amendments or support the institution if/when adverse legal reforms are proposed → Foster a strong public image and trust in the institution through a media and outreach strategy → Engage in outreach to regional peer institutions and networks as well as relevant international bodies for support
Personnel Autonomy	<ul style="list-style-type: none"> × Politically motivated efforts to remove a leader from power × Efforts to bring an institution’s human resources under the control of the executive 	<ul style="list-style-type: none"> → Engage allies and champions in the legislature to intercede, if possible → Leverage strategic communication to inform the public of the risks to the institution’s independence → Engage in outreach to peer institutions, networks, and relevant regional or international bodies to communicate support and the importance of protecting personnel autonomy
Financial Autonomy	<ul style="list-style-type: none"> × Politically motivated budget cuts × Unwarranted delays in distributing funds allocated to the institution × Executive offices reducing the institution’s budget proposal before it is tabled in the legislature 	<ul style="list-style-type: none"> → Proactively publish and publicly discuss proposed institutional budgets → Clearly articulate the “value add” of the institution’s work during a crisis to the government, legislature, and the public¹⁶⁵ → Leverage relationships with civil society organizations to encourage advocacy for protection of the institution’s financial autonomy and resources → Consider redirecting resources to strategic priority areas, if needed

Area of Concern	Illustrative Threats	Examples of Strategies to Improve Institutional Resilience if Threats Arise
Functional Autonomy	<ul style="list-style-type: none"> × Politically motivated attempts to limit the institution’s mandate or reduce its powers so that it is unable to fulfill its mandate × Executive interference in internal policymaking or priority setting × Attempts to establish new institutions with duplicate or largely overlapping mandates, particularly when they are less independent 	<ul style="list-style-type: none"> → Formally and informally coordinate with other government institutions with complementary or overlapping mandates → Build positive relationships with key staff of government institutions and agencies that have complementary or overlapping mandates that can support the institution’s independence from inside government → Proactively monitor, report, and issue public recommendations, leveraging partnerships with civil society and relationships with the public. → As needed, advocate for the institution with the appropriate legislative committee
Behavioral Autonomy	<ul style="list-style-type: none"> × Political actors engaging in negative media campaigns to undermine trust and legitimacy of the institution 	<ul style="list-style-type: none"> → Develop a public outreach and media strategy to consistently disseminate clear messaging on the institution’s mandate and value and respond effectively to misinformation → Foster close relationships with civil society and the public to build trust and support → Maintain transparency when working with partisan agencies or actors. Publicly release any recommendations as well as the justifications/rationale for any decisions taken in coordination with partisan actors or agencies → Avoid real or perceived conflicts of interest when working with partisan institutions
Accountability		
Statutory Accountability	<ul style="list-style-type: none"> × Failure of the legislature to review legally mandated reporting 	<ul style="list-style-type: none"> → Request to present on required reporting to the responsible legislative committee in person, if appropriate → Create clear and concise summary documents to accompany legally mandated reporting → Help to fill gaps in legislative capacity by providing technical support to oversight activities → Monitor the executive and proactively flag concerning actions to the relevant legislative committee → Build productive working relationships with key legislators and committees to encourage closer review of and feedback on reporting

Area of Concern	Illustrative Threats	Examples of Strategies to Improve Institutional Resilience if Threats Arise
Public Accountability	<ul style="list-style-type: none"> × Low public trust in the institution 	<ul style="list-style-type: none"> → Provide opportunities to the public to offer input on institutional policy development, rulemaking, and priority setting (if appropriate) → Consider technological innovations that increase opportunities to interact with the public and improve access to services and information → Provide opportunities for civil society and the public to participate in the institution's performance review process → Ensure that there are mechanisms in place to respond to public and civil society feedback appropriately and effectively. Communicate these responses to the public
Internal Accountability	<ul style="list-style-type: none"> × Staff poorly represent the institution when interacting with the public and other stakeholders, undermining trust in the institution × A scandal within the institution is not properly addressed and undermines the credibility of the institution × The institution fails to show clear and measured results, undermining value of the institution to the public 	<ul style="list-style-type: none"> → Foster a strong culture of integrity throughout the institution based on clear policies that are <i>known</i> by all staff throughout the institution. Ensure that these policies are enforced consistently → Engage in monitoring, evaluation, and learning processes and share results with the public and with key stakeholders in government and the legislature → Establish an internal line of communication to report ethical or code of conduct violations. Immediately initiate disciplinary proceedings or refer to the relevant authority and impose appropriate sanctions to deter future violations

Endnotes

¹ Shein, E., & Brown, A. (2020). *Preserving Independent and Accountable Institutions*. International Foundation for Electoral Systems (IFES). <https://www.ifes.org/publications/ifes-covid-19-briefing-series-preserving-independent-and-accountable-institutions>

² See, e.g., De Vrieze, F. (2019). *Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework*. Westminster Foundation for Democracy. [Independent oversight institutions and regulatory agencies, and their relationship to parliament | Westminster Foundation for Democracy \(wfd.org\)](https://www.wfd.org/publications/independent-oversight-institutions-and-regulatory-agencies-and-their-relationship-to-parliament)

³ See Shein, E., Ellena, K., Barnes, C., & Szilagyi, H. (2020). *Leadership in Crisis: Ensuring Independence, Ethics, and Resilience in the Electoral Process*. International Foundation for Electoral Systems (IFES). <https://www.ifes.org/publications/leadership-crisis-ensuring-independence-ethics-and-resilience-electoral-process-0>

⁴ Some types of independent institutions have specialized international standards or best practice that pertain to their autonomy and accountability. These standards, to the extent that they apply broadly to independent institutions, also have been considered in development of the *Autonomy and Accountability Framework* and can be referenced directly by relevant institutions. They include: the *Mexico Declaration on Supreme Audit Institution Independence* (Mexico Declaration); the *Jakarta Statement on Principles for Anti-Corruption Agencies* (Jakarta Statement); the *Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies* (Colombo Commentary); and the *Principles Relating to the Status of National Human Rights Institutions* (Paris Principles)

⁵ For a brief discussion of whether to create these independent institutions in constitution or statute and the potential impacts on their flexibility, institutional stability, and resilience, see Bulmer, E. (2019). *Independent Regulatory and Oversight (Fourth-Branch) Institutions*. International Institute for Democracy and Electoral Assistance (IDEA). <https://www.idea.int/sites/default/files/publications/independent-regulatory-and-oversight-institutions.pdf>

⁶ *Id.* at 20.

⁷ *Id.* at 7-8.

⁸ Strategy, Performance Measurement and Reporting (SPMR) Team, INTOSAI Development Initiative. (2020). *COVID-19 Implications for SAI Strategic Management: Guidance Note for Supreme Court Audit Institutions*. <https://www.idi.no/en/covid-19/covid-19-strategic-management>

⁹ Organization for Economic Co-operation and Development. (n.d.). *External Audit – Supreme Audit Institutions*. Retrieved September 19, 2020, from <https://www.oecd.org/gov/external-audit-supreme-audit-institutions.htm>

¹⁰ European Network of National Human Rights Institutions. (n.d.). *About National Human Rights Institutions*. Retrieved September 9, 2020, from <http://ennhri.org/about-nhris/>

¹¹ Independent fiscal institutions (IFIs) also had a very relevant mandate during the pandemic, though they are not found in every country. Following the 2008-09 global financial crisis, some policymakers (particularly in countries in the OECD) “searched for new ways to safeguard fiscal discipline and re-build public trust in their capacity to manage public budgets prudently and transparently.” Von Trapp, L. & Nicol, S. (2016). *Designing Effective Independent Fiscal Institutions*. Organization for Economic Co-operation and Development. <https://www.oecd.org/gov/budgeting/designing-effective-independent-fiscal-institutions.pdf>. IFIs generally take the form of independent parliamentary budget offices or fiscal councils, and their primary mission is to “promote fiscal transparency and accountability.” Organization for Economic Co-operation and Development. (2020, May 22). *Independent Fiscal Institutions: Promoting Fiscal Transparency and Accountability During the Coronavirus (COVID-19) Pandemic*. Retrieved July 12, 2022, from <http://www.oecd.org/coronavirus/policy-responses/independent-fiscal-institutions-promoting-fiscal-transparency-and-accountability-during-the-coronavirus-covid-19-pandemic-d853f8be/>. A recent OECD analysis notes that many independent fiscal institutions have moved quickly during the pandemic to provide rapid analysis of the financial impact of the pandemic; monitor government actions to suspend normal fiscal rules in their crisis response; scrutinize the official estimates of the costs of emergency legislation, and generally promote “transparency and accountability for the emergency procedures that governments and legislatures may have introduced to expedite responses to the crisis.” *Id.*

¹² United Nations Office on Drugs and Crime (UNODC). (2012, November 26-27). *Jakarta Statement on Principles for Anti-Corruption Agencies*. https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf

¹³ United Nations Convention Against Corruption, Oct. 31, 2003, 2349 U.N.T.S. 41, Art. 5-6. (Multilateral).

¹⁴ United Nations Development Programme. (2011). *Practitioner’s Guide: Capacity Assessment for Anti-Corruption Agencies*. United Nations. https://www.undp.org/sites/g/files/zskgkqe326/files/publications/Practitioner's_guide-Capacity%20Assessment%20of%20ACAs.pdf

¹⁵ The structure of the institutions responsible for overseeing the implementation of right to information legislation can vary widely across countries. In some countries, this function may fall under the mandate of the ombudsman or human rights commission; in others, it may be combined with a data protection mandate or be housed in a standalone institution. ARTICLE 19. (n.d.). *International standards: Right to information*. Retrieved July 8, 2022, from <https://www.article19.org/resources/international-standards-right-information/>

¹⁶ The form of ombuds agencies varies considerably across countries. Ombuds offices may be found within executive agencies but exercise a high degree of independence; in other cases, the Ombudsperson may be charged with handling complaints related to

government writ large. In some countries, the Ombuds agency is synonymous with the national human rights institution. According to the United Nations Ombudsman, there are broadly “two types of Ombudsman roles: the ‘classical,’ a government representative with broad powers to investigate complaints of maladministration, monitor treatment of citizens under the law and recommend appropriate remedial actions; and the ‘organizational’ ombudsman, a designated neutral within a specific organization, who is independent, who does not conduct investigations or keep records, and who works to help managers and staff resolve their workplace concerns informally through facilitation, shuttle diplomacy, conflict coaching and mediation.” For the purposes of this self-assessment tool, the former type of ombudsman is most relevant. Dodson, S. (2020, April 23). *Questions & Answers*. United Nations Ombudsman and Mediation Services. <https://www.un.org/en/ombudsman/assets/pdf/faq.pdf>

¹⁷ The United Nations Special Rapporteur on the independence of judges and lawyers has identified both institutional and individual elements that must be present to guarantee the independence of the judiciary. See Despouy, L. (2009). *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*. United Nations Human Rights Council. https://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/a.hrc.11.41_en.pdf

¹⁸ United Nations Office on Drugs and Crime (UNODC). (2020). *Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies*. United Nations. https://www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf

¹⁹ Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission Against Impunity in Guatemala (“CICIG”), December 12, 2006, 2472 U.N.T.S. 47. (Bilateral between the United Nations and the State of Guatemala).

²⁰ CICIG. (2018, March 5). *CICIG Mandate and Agreement*. CICIG. Retrieved May 9, 2022, from <https://www.cicig.org/cicig/mandato-y-acuerdo-cicig/>

²¹ Cuffe, S. (2019, September 1). *Guatemala’s anti-corruption CICIG body to shut down: What to know*. Al Jazeera. Retrieved May 9, 2022, from <https://www.aljazeera.com/news/2019/9/1/ghatemalas-anti-corruption-cicig-body-to-shut-down-what-to-know>

²² Schwartz, R. (2017, September 6). *Guatemala’s president tried to expel the U.N. commissioner who announced he was under investigation*. The Washington Post. Retrieved May 9, 2022, from <https://www.washingtonpost.com/news/monkey-cage/wp/2017/09/06/ghatemalas-president-tried-to-shut-down-a-u-n-commissioner-that-announced-it-was-investigating-him/>

²³ Cuffe, S. (2019, September 1). *Guatemala’s anti-corruption CICIG body to shut down: What to know*. Al Jazeera. Retrieved May 9, 2022, from <https://www.aljazeera.com/news/2019/9/1/ghatemalas-anti-corruption-cicig-body-to-shut-down-what-to-know>

²⁴ Agreement between the Government of the Republic of Honduras and the General Secretariat of the Organization of American States for the Establishment of the Mission to Support the Fight against Corruption and Impunity in Honduras, January 19, 2016, (Bilateral between the Organization of American States and the Republic of Honduras).

²⁵ Democracy Lab. (2016, September 22). *What is MAACCIH?* Retrieved July 14, 2022, from <https://www.demolabcr.org/reportes/2016/9/20/what-is-maccih>

²⁶ *Id.*

²⁷ Agreement between the Government of the Republic of Honduras and the General Secretariat of the Organization of American States for the Establishment of the Mission to Support the Fight against Corruption and Impunity in Honduras, January 19, 2016, (Bilateral between the Organization of American States and the Republic of Honduras).

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³⁰ United Nations Office on Drugs and Crime (UNODC). (2020). *Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies*. United Nations. https://www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf. Super majorities often can be required to amend constitutions (e.g., in Zimbabwe) and for other types of legislative actions. In the U.S., super majorities are required to override presidential vetoes, remove Federal officers by impeachment, ratify treaties, and expel members of the legislature, in addition to proposing constitutional amendments. See ZIMBABWE CONST. part 2, § 328; Rybicki, E. (2020, March 26). *Voting and Quorum Procedures in the Senate*. Congressional Research Service. <https://crsreports.congress.gov/product/pdf/RL/96-452>

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³⁶ See Shein, E., Ellena, K., Barnes, C., & Szilagyi, H. (2020). *Leadership in Crisis: Ensuring Independence, Ethics, and Resilience in the Electoral Process*. International Foundation for Electoral Systems (IFES). <https://www.ifes.org/publications/leadership-crisis-ensuring-independence-ethics-and-resilience-electoral-process-0>. Appointees should have sufficient individual authority to withstand pressure and act impartially. Protections should include security of tenure and immunities, staggered terms in office, reappointment provisions, and protections related to removal. Adequacy and surety of remuneration and benefits, with independent determination of salaries and benefits, such as pensions, that are aligned with judicial or other constitutional bodies, are also important characteristics. This pillar of EMB autonomy is adapted and expanded from Anne Van Aaken’s criterion that EMBs have “personal autonomy.” See Van Aaken, A.

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- ¹⁴² Codes of ethics are statements of values of an organization with general principles to guide staff behavior and decision-making. They will state the expectation that any staff member faced with a problem will choose the solution that most conforms with those values. A code of conduct generally outlines more specific behaviors that are required, acceptable or prohibited for someone who is a member of an organization. As distinguished from a Code of Ethics, it provides limited decision-making guidance if a problem is confronted that has not been anticipated. The organization will usually specify clear sanctions for not meeting the standards. See Shein, E., Ellena, K., Barnes, C., & Szilagyi, H. (2020). *Leadership in Crisis: Ensuring Independence, Ethics, and Resilience in the Electoral Process*. International Foundation for Electoral Systems (IFES). <https://www.ifes.org/publications/leadership-crisis-ensuring-independence-ethics-and-resilience-electoral-process-0>. Brown, A., Shein, E., & Ellena, K. (2020). *Parliamentary Oversight of Constitutional Bodies in the Maldives: Introducing an Autonomy and Accountability Framework with Global Comparative Practices*. International Foundation for Electoral Systems (IFES). <https://www.ifes.org/publications/parliamentary-oversight-constitutional-bodies>
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¹⁴⁶ Contraloría General de Cuentas de Guatemala. (2021). *SAI Guatemala Declares 2021 the Year of Ethics and Probity*. [EFS DECLARA, EL 2021 Año EyP Ingles \(contraloria.gob.gt\)](https://www.contraloria.gob.gt/DECLARA_EL_2021_Año_EyP_Ingles_(contraloria.gob.gt))

¹⁴⁷ Salazar Jerez, E. H. (2021). Código de Ética de la Contraloría General de Cuentas. Contraloría General de Cuentas de Guatemala. Retrieved July 12, 2022, from [Codigo-de-Etica-y-su-Reglamento-2021-VF.pdf \(contraloria.gob.gt\)](https://www.contraloria.gob.gt/Codigo-de-Etica-y-su-Reglamento-2021-VF.pdf)

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¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² Audit Service Act, 2000 (Act No. 584/2000) (§ 33(3)) (Ghana).

¹⁵³ Law on the State Audit of Vietnam, (promulgated by the National Assembly, June 24, 2015), arts. 8(1) and 27(2), 2015 No. 81/2015/QH13 (Vietnam).

¹⁵⁴ ZIMBABWE CONST_No 20, 14-05-2013, ¶ 313.

¹⁵⁵ Ombudsman Act, 2000 (¶¶ 5(1)(d)—(2)) (Belize).

¹⁵⁶ (2017). *Bespoke Monitoring and Evaluation of Anti-Corruption Agencies*. U4, 2. <https://www.u4.no/publications/bespoke-monitoring-and-evaluation-of-anti-corruption-agencies.pdf>

¹⁵⁷ Transparency International. (2017, June 28). *Internal Whistleblowing Mechanisms*. Topic Guide: Whistleblowing, 4. <https://knowledgehub.transparency.org/guide/topic-guide-whistleblowing/4250>

¹⁵⁸ *Id.* at 5.

¹⁵⁹ *Id.* at 5-7.

¹⁶⁰ Whistleblowing in the public sector has been defined by the Government Accountability Project as an act by employees to “challenge institutional illegality, abuse of power or other betrayals of the public trust they learn of or witness on the job.” See Levine, Tom. (2016). *International Best Practices for Whistleblower Policies*. Government Accountability Project. <https://whistleblower.org/international-best-practices-for-whistleblower-policies/>. More broadly, whistleblowers have been characterized as “people who expose negligence, abuse or danger such as professional misconduct or incompetence that exists in the organization in which they work.” Ray, Susan L. (2006). Whistleblowing and Organizational Ethics, *Nursing Ethics*, 2006 13(4). doi/10.1191/0969733006ne882oa

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