

# Opening Government?

*The Case of Mexico in the Open Government Partnership*

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**Table of Contents**

I. Executive Summary ..... i

II. Introduction ..... 1

III. Open Government Landscape..... 3

IV. The Institutionalization of the Open Government Agenda in Mexico ..... 5

V. Different Commitments, Different Outcomes..... 15

VI. Thinking About Mexico’s Open Government Journey ..... 24

VII. Recommendations for Key Stakeholders ..... 26

References ..... 29

## I. Executive Summary

Mexico faces urgent problems (e.g., poverty relief, rampant corruption and impunity, systematic human rights violations, inequality, environmental concerns, and low competitiveness). In this context, the country has launched a series of initiatives and implemented actions intended to “open the government.” This raises the question of how effective these efforts have been; that is, the extent to which changes have been put into practice beyond intent and rhetoric.

The aim of this case study is to examine Mexico’s open government journey between 2011 and 2015. We focus on the adoption and implementation of the Open Government Partnership (OGP), whether and how stakeholders learned to leverage OGP inputs to advance their agendas, and how, in doing so, they altered the characteristics of an incipient open government agenda.

We study the (process of) institutionalization of the open government agenda via OGP at the country level. In addition, because the adoption and completion of OGP commitments has been far from homogenous, we analyze sectorial differences in the adoption and implementation of OGP commitments to gain further insight and reveal potential lessons for policy-making.

Our research was conducted in Mexico City between July and October 2015. Five key findings result from our investigations.

- 1) Mexican OGP became a start-up platform, which gives specific civil society organizations (CSOs) a voice and opportunity to incorporate some of their priorities into federal policy;
- 2) The model of joint decision-making allowed CSOs and government to collaborate in a way that had not been possible before; yet, OGP did not reduced antagonism or mistrust among partners. OGP in Mexico has had limited impact on broader institutional reform and the involvement of civil society at large (i.e., beyond a limited number of CSOs) in federal policy-making;
- 3) Although OGP “joint decision-making” procedures improved coordination and the quality of commitments (e.g. first versus second Action Plan) they also forced government and CSOs to limit the scope and ambition of demands. In particular, the two-year cycles set a strong restriction for broader reform;
- 4) Not all commitments or sectors are made the same: some were more prone to open governance and agreement, while others were not. Low profile technical commitments were advanced most successfully; and
- 5) Evidence shows that variation across sectors helps explain the feasibility of

studied open government commitments.

## II. Introduction

At just over 120 million people, Mexico is the world's 11th most populous country and its 12th largest economy. Although it has been categorized as an upper middle-income country with a GNI per capita of US\$9,980 and a high human development index score (0.75), Mexico suffers from persistent high levels of social and economic inequality. Over half the total population lives below the poverty line, and, unlike close regional competitors such as Colombia or Brazil, recent data suggests income inequality in Mexico is on the rise (Esquivel 2015; World Bank 2015). In addition, Mexico shows problems related to poor quality of key public services (e.g., education and health) and there are concerns over the deteriorating state of civil liberties (particularly after the events of Ayotzinapa in 2014, when the enforced disappearance of 43 students sparked protests and indignation across the country).

For the largest part of its modern history, Mexico has experienced an authoritarian one-party rule. Partido Revolucionario Institucional (PRI) dominated Mexican politics for over six decades. Only at the end of the 1980s did the political system begin experiencing increased electoral competition. In the 1994 general election PRI lost its majority in the National Congress, and in 2000 the opposition won the presidential election for the first time. Alongside increased electoral competition, deep economic reform took place, particularly after Mexico's entry to the North American Free Trade Agreement (NAFTA) and the Organization for Economic Cooperation and Development (OECD), both in 1994.

Ever since, the country has seen major transformations in the role of government. Changes in the political and economic systems fostered social demands for greater government efficiency, effectiveness, and openness. In response, Mexico has advanced in implementing structural reforms and put in place a number of institutional mechanisms aimed at increasing public service professionalism, governmental accountability, and transparency (OECD 2011).

In spite of this, urgent and complex problems remain. In recent years, Mexico has launched a series of initiatives and implemented actions intended to "open the government." The underlying assumption behind these efforts is that a transparent and responsive government that communicates and establishes productive collaboration with social and economic actors could become a factor in improving policy-making and increasing political trust. Echoing recent contributions in the literature, it is argued that an open government could strengthen accountability institutions, reduce barriers for citizens' involvement, and foster policy innovation (Cejudo 2015; Kaufman and Oszlak 2014).

However, in light of past experiences in which reforms were inoperative or fell short of producing the desired results, there are reasons for suspicion. Moreover, there is no agreement about the conceptual limits of "open government" (Oszlak 2015), nor is there consensus about its potential impact and benefits. This raises the questions as to what is the nature of the open government reform agenda in the country and how effective reform

efforts have been; that is, the extent to which changes aimed at opening the government have been put into practice beyond intent and rhetoric.

The present study addresses when and to what extent Mexico has advanced towards an open government. In particular, we seek to answer the question how and in which circumstances Mexican pro-reform actors have been able to leverage the Open Government Partnership (OGP) movement—its processes, spaces, and resources—to pursue improved government responsiveness and accountability? To do so, we used process tracing (an analytic tool) to carry out within-case analysis based on qualitative evidence. This means that the analysis pays attention to the sequential, fine-grained systematic description of Mexico's open government journey. The analysis also considers alternative causal mechanisms (the roles of learning that improves pro-reform actors' navigational expertise, the empowerment of pro-reform leaders, and of coalitions and collective action) by which OGP may have contributed. The analytical tool was adapted in consideration of the contextual limitations (e.g. the novelty of the phenomenon under study), the research time frame (6 weeks of fieldwork), and the needs and interests of the project's non-academic target audience.

The following section describes the context of Mexico's open government journey. Section IV explores the institutionalization of the open government agenda in the country, while Section V unpacks the differences between OGP commitments in different sectors, and explains how contextual factors affected the implementation of those commitments, as well as their influence on the broader open government landscape. Section VI distills this account, and explains that, while OGP has modestly contributed to the navigational expertise of open government reformers in Mexico, the empowerment of pro-reform leaders, and power-rebalancing coalitions, the influence of OGP inputs is limited. Section VII provides recommendations tailored to key stakeholders who may be interested in further leveraging OGP inputs in Mexico.

### III. Open Government Landscape

To understand Mexico's trajectory of change, it is important to recognize first the preexisting conditions and obstacles, and the characteristics of the constellation of actors. Before OGP, an incipient reform agenda in Mexico was concerned, for the most part, with transparency, especially as a means to inhibit and curb corruption. However, even though access to public information has been included in the constitution since the 1970s and was recognized as a right by Mexico's Supreme Court in the 1990s, governmental transparency and openness remained "*letra muerta*" (lit. "dead letter"; i.e., regulations that are not enforced) until the 2000s (Ramírez 2006). Accountability institutions stayed weak and impunity was ubiquitous.

However, developments in the late 1990s and throughout the 2000s contributed to creating a more auspicious environment for OGP and made room for open government initiatives. Two factors in particular appear to be critical.

First, before OGP, there were in Mexico City a few well-organized civil society organizations (CSOs) with both organizational capacity (professional staff and technical know-how) and mature agendas. Mexico's transition to democracy opened opportunities for political and civic participation. Ever since, the country has witnessed an exponential growth in the number and influence of CSOs (Somuano 2011). Moreover, members of some of these organizations have actively participated in shaping the transition to democracy and institutional reform. Not only was a small, yet influential cluster of social leaders and civil organizations involved in the transparency circuit recognized as legitimate stakeholders by the government (although not necessarily by society at large) by the time OGP was adopted, but also some CSOs had sound expertise and were capable of mobilizing resources (particularly those coming from external funders). Thus there was a critical mass of CSOs in Mexico not only used to competing against each other for resources, but also capable of cooperation – particularly in order to exert pressure on the government.

Second, in 2002, the Federal Law for Transparency and Access to Public Information was enacted. Although it is debatable whether the new law was responding to a sincere commitment to transparency or to President Vicente Fox's need to control what was perceived as an unreliable bureaucracy (cf. Michener, 2015, 12), it did create for the first time procedures and a legal infrastructure for enforcement. In fact, it was not until the passage of this law that explicit reform was made on the matter of governmental transparency and openness. Central to this was the creation of the Federal Institute for Access to Information and Data Protection (IFAI). According to its mandate, the Institute became an intermediary between the government and the citizenry regarding access to information, forcing public officials to abide by their legal obligations. Thanks to its success in guaranteeing citizens' rights to access public information (at least during its first years of existence), IFAI received recognition from the United Nations, hailing it as a model for other nations to follow.

In 2006 the Mexican Congress guaranteed access to information as a constitutional right, and additional legal reforms strengthened the institutional framework for governmental transparency. New legal amendments in 2013–2014 resulted in a new general law, an expansion of IFAI's mandate (now renamed the National Institute for Transparency, Access to Information and Personal Data Protection, INAI), and a nationwide transparency system concerning all levels of government (federal, state, and local).

While the country has made significant progress on making data accessible to the public and protecting its citizens' right to information, the concept of open government, by and large, remained limited to these parameters. In the case of Mexico, adoption (and implementation) of OGP, and the creation and eventual institutionalization of an open government agenda, must be understood within the context of an ongoing debate on governmental openness and transparency. By the time OGP appeared, Mexico already had a developed legal framework and explicit governmental obligations and programs. That is, OGP came about in the context of a already developed infrastructure around transparency. There were also stakeholders, from both the administration and civil society, with explicit agendas and vested interests.

Furthermore, the specific institutional architecture of IFAI was particularly propitious for the OGP framework. IFAI was originally designed to be both "autonomous" and a "citizen organization." In fact, the latest constitutional reform (2013) granted full autonomy to the Institute, which means that, in principle, it operates with full independence from the government and political actors. Moreover, the members of the board of the Institute ("comisionados") – at least during the first years – were social leaders rather than bureaucrats or career politicians. Most were renowned experts in transparency and access to information, and some were members of CSOs. Given these characteristics, both the government and CSOs could see in IFAI a trusted broker and ally by the time OGP appeared.

## **IV. The Institutionalization of the Open Government Agenda in Mexico**

This section reconstructs the history of adoption and implementation of an open government agenda in Mexico up to 2015. The analysis focuses on understanding how stakeholders (especially CSOs) learned to leverage OGP to shape the scope and sustainability of open government in Mexico. Special attention is also paid here to the limited transformation of government–civil society relations and the decision-making procedures that arose from changes within this association. Through the analysis of interviews and systematic comparisons between official documents and interviewees' accounts, we were able to identify different stages of this process. In particular, we found evidence for two distinct stages after OGP appeared (see Table 1).

### ***IV.1 Trial and Error***

Mexico's OGP journey officially began in 2011. It seems that, at first, Mexico's motivation to join the initiative was related to IFAI's interest in broadening the domestic transparency agenda (e.g., triggering a debate on archives and open data), as well as a more general concern with consolidating existing transparency institutions:

I believe Mexico was selected [to participate in OGP] because, at that time, IFAI was a global referent ... [Mexico] was a country that had experienced a democratic transition and had succeeded in building institutions for transparency (interview, Juan Pardinas and Ricardo Corona, September 15, 2015).

María Marván, then a member of the board of IFAI, was invited by White House officials to spark efforts in Mexico. As the organization that was best equipped to coordinate the project and given the fact that the administration was almost over, the Office of President Felipe Calderón agreed to work together with IFAI. Little information was available at this point and a lack of common understanding prevailed. Negotiations seemed to take place in two simultaneous arenas: one between IFAI and CSOs within the transparency circuit, and another between IFAI and the administration (Figure 1). Even though initial efforts were largely exploratory and in both cases lacked concrete objectives, high expectations soon began to mount.

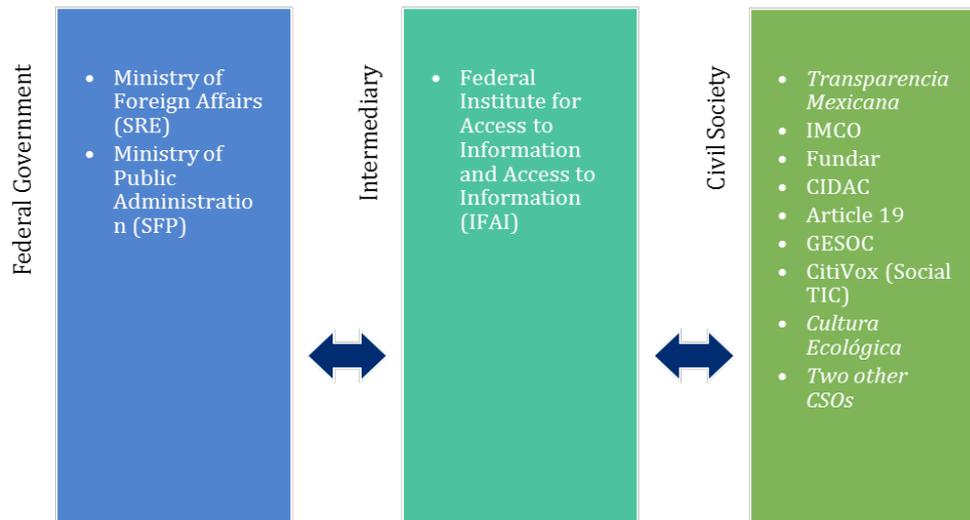
**Table 1: Stages of OG Institutionalization in Mexico**

	<b>Pre-OGP</b>	<b>Entry of OGP</b>	<b>3–4 years after OGP</b>
<b>Scope</b>	Pre-existing transparency obligations	Transparency and open data in connection with governmental anti-corruption and modernization programs	Transparency and open data in policy areas that are priority to CSOs  “Proactive” commitments made by the government, esp. regarding open data
<b>Sustainability</b>		CSOs contest legitimacy of first action plan  Amendments and an “extended” action plan are necessary to keep CSOs in the partnership	OGP is not the arena in which to discuss structural reforms  Potentially, new CSOs will be included  A third action plan is feasible
<b>State–civil society relations</b>	CSOs had a marginal role in defining policy priorities, but had a developed pro-transparency agenda  Low coordination between CSOs	Low coordination between CSO and government  Prevalence of a confrontational style; government keeps unilateral decision-making power  Government–CSO relations follow a consultation model with high coordination costs for the government (due to multiple CS partners)	Greater coordination both between CSOs, and between government and CSOs  “Contained” conflict thanks to explicit procedures for “joint decision-making”  Reduced coordination costs for the government; increased coordination costs and collective action dilemmas for CSOs

IFAI invited ten CSOs to discuss OGP and identify areas of opportunity. It seems that the invitation was directed to those CSOs within the transparency circuit, and those that, in some cases, had worked with IFAI in the past. It is unclear, however, what the explicit criteria were for inviting only these organizations and not others (e.g., CSOs outside the transparency circuit or private companies). In any case, it is clear that, in the Mexican case, civil society participation in OGP initially came only reactively in the form of an invitation from IFAI. Nevertheless, by 2011, it was certain that these organizations were important stakeholders on issues of government transparency. Some were part of prominent issue networks (e.g., “Colectivo por la Transparencia” or “Red por la Rendición de Cuentas”), and had expertise on critical policy domains (e.g., budgeting, human rights, extractive industries, etc.). They were “consolidated” national organizations – albeit all based in Mexico City – that enjoyed branding and had superior organizational capacity over the potential alternatives. All organizations had an “in-house transparency agenda”: they had strong interests in obtaining information and data from the government, thanks to

an internal research and advocacy agenda. Moreover, international funders fostered CSOs' involvement in the initiative through, for instance, the organization of meetings. In this sense, it seems that breakfasts hosted by the Hewlett Foundation proved crucial in consolidating the relation between some CSOs and IFAI officials.

**Figure 1: Interactions During Construction of the First Action Plan**



After initial discussions, eight CSOs joined a potential open government partnership. It is unclear why the remaining two organizations declined to participate, but evidence shows that at least in the case of CIDE (Centro de Investigación y Docencia Económicas, a prominent research center and think tank) concerns were raised about the legitimacy of the initiative and the potential for cooptation. With the uncoordinated participation of eight CSOs and IFAI's brokerage a large number of potential open government commitments were referred to the administration:

The proposal has the quality it has, which some people may think [...] is too technical. It was like that because we did not have all the information. We were sort of guinea pigs. They invited us [...] and we made proposals based on our own work agendas (interview, Haydeé Pérez, Fundar, September 2, 2015).

On the other hand, officials of the Ministry of the Public Service (Secretaría de la Función Pública, SFP) led the government "coalition." At the time OGP was adopted, SFP was a sort of "super ministry," with legal capacity to arrange intra-government coordination. Based on the mandate of the Special Program for Transparency, Accountability and the Fight against Corruption, SFP officials argued that the initiative fell within their competence. With endorsement of the president and agreement from IFAI, SFP officials took on drafting Mexico's First Action Plan. This appropriation is important because it meant that the administration's first engagement with OGP was made not under a logic of joint decision-making with civil society, but under a logic of pursuing

preexisting transparency obligations while promoting the administration's modernization and anti-corruption programs and avoiding international criticism.

The prevalence of the government's agenda over CSOs' priorities and proposals became apparent in the presentation of the first action plan in New York, in which only one commitment (regarding open data from public enterprises) out of 38 directly responded to a CSO proposal. Immediately after, CSOs questioned the legitimacy of the plan and threatened to leave and denounce the partnership. They maintained that the action plan did not reflect open government principles, but instead responded to putative efforts aimed at obtaining domestic and external endorsements (at that time, the Mexican government faced important legitimacy challenges due to a very aggressive and seemingly ineffective strategy against drug-trafficking and organized crime):

The very first action plan that the government published was terrible! [...] It was so bad that it turn out to be a positive factor for OGP, because the government saw the consequences of doing this unilaterally, just following a bureaucratic logic (interview, Juan Pardinás and Ricardo Corona, September 15, 2015).

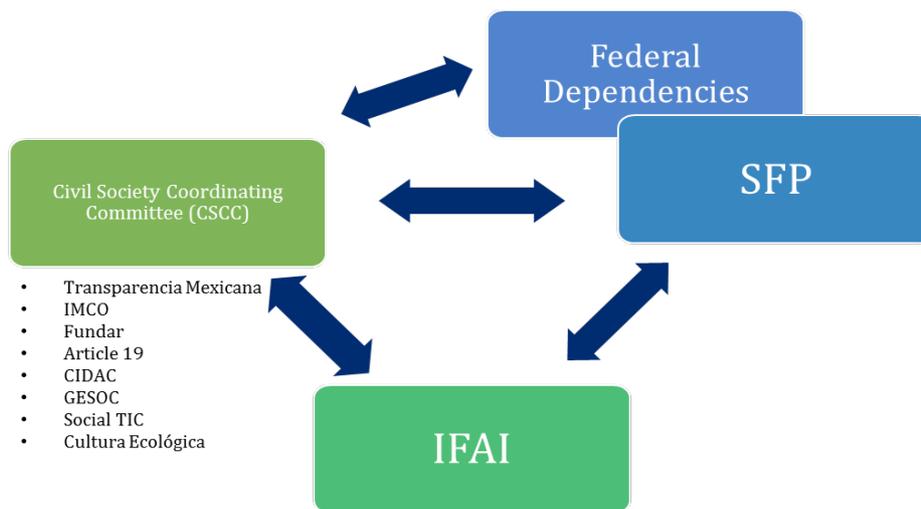
In response to criticism and under strong pressure (particularly from irritated CSOs that complained in the media and other outlets), a new round of negotiations began *directly* between the government and CSOs, with IFAI's mediation. This represents a first correction in course. New discussions resulted in two critical adjustments. First, actors agreed on a new methodology for creating an "extended" action plan. The central principle stipulated that all decisions regarding the action plan would be made in consultation and consensus between all members of the partnership. Second, actors decided to adopt a new organizational structure: a Tripartite Technical Secretariat (TTS) in which all three members of the partnership would join the decision-making process as equals (Figure 2). This innovation not only reduced conflict, but also decreased coordination costs in the relation between government and CSOs. In principle, CSOs could organize their collective action and act as a single voice within the partnership (thus maximizing impact), while the administration could negotiate with a single counterpart (rather than eight different civil society organizations). That is, the cost of coordination between civil society and government reduced to the extent that costs were absorbed by CSOs, which now faced collective action dilemmas (sharing operation costs, intra-coalition negotiation, and turf-claiming):

What happens in the end, within the TTS ... is that all organizations want things done, but they are not always willing to spend time or resources in doing them (interview, Verónica Baz Suárez and Ana María Petersen, September 21, 2015).

The extended action plan that resulted from the new round of negotiations restored many of the original proposals made by CSOs – in some cases, verbatim. However, the plan encountered immediate restrictions and challenges. As it was created during the last year of Calderón's administration, responsible officials could only pay limited attention to

fulfilling OGP commitments and little interest was found among other members of the administration. Furthermore, the contents of the extended plan were largely technical in nature and mostly reflected informational requests and demands for open data that directly responded to CSOs' internal (equally technical) agendas. In any case, it is evident that neither the first action plan nor the extended version included a conceptual discussion on open government, nor did they include a diagnosis of or discussion of the potential impacts.

**Figure 2: Structure of the Technical Tripartite Secretariat**



#### **IV.2 Procedures for Joint Decision-Making**

In 2012, President Enrique Peña (PRI) took office. A new administration meant a threat to the partnership: recently appointed officials were reluctant to endorse and implement commitments made hastily during the last year of the previous administration.

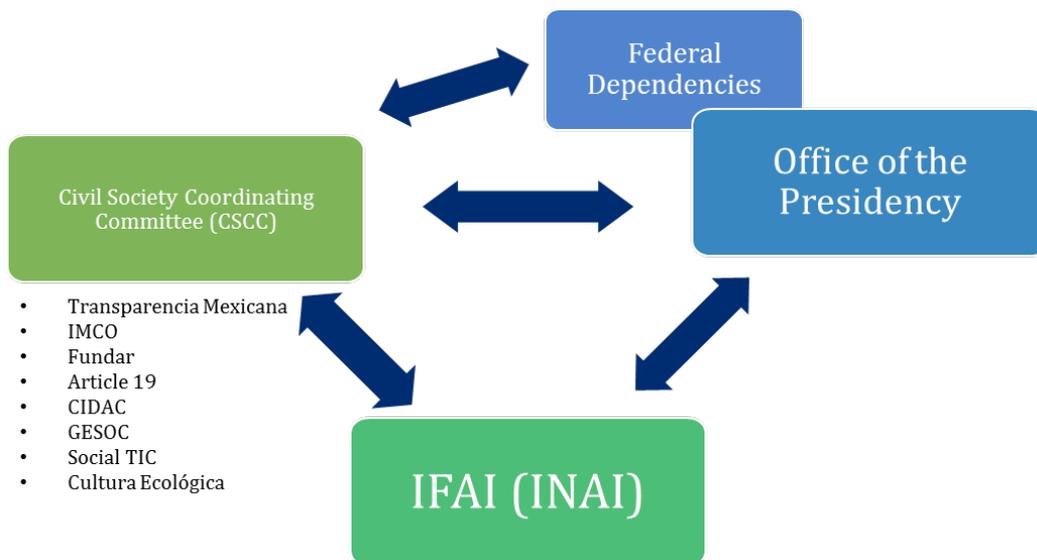
The [new] administration, in the very beginning, did not really understand what this open government initiative was ... PRI joined the meetings with “an attitude” and lots of anxiety. ... They claimed that civil society organizations wanted all the information, and they could not just give all information away (interview, Ricardo Luévano, September 4, 2015).

However, at least two factors helped revitalize OGP at this time. First, Peña’s package of institutional reforms (“Pacto por México”) included explicit commitments to increase transparency, curb corruption, and improve the regulation of financial contributions during electoral campaigns. Although it is yet unclear whether the administration truly committed to these goals – beyond rhetoric – the package of structural reforms, and, more important, the President’s public commitment created an opportunity to reactivate the discussion on open government. Second, international OGP procedures and the fact that Mexico had an appointed member in the International OGP Steering

Committee created immediate incentives (and increased political risks) for the administration and gave leverage to other members of the TTS (especially CSOs). In particular, clear deadlines and the existence of an Independent Reporting Mechanism put pressure on the administration to begin working on a second action plan.

Institutional reforms initiated by the new administration significantly reduced the role of the Ministry of the Public Service. OGP leadership of the government was transferred directly to the Office of the President, in particular to the Department for the National Digital Strategy (DNDS), as it absorbed the government’s open data agenda (Figure 3). This department was home to some pro-reform young officials, although they had limited influence and experience. Although interest in OGP surged again under the leadership of the DNDS within the administration and among CSOs, no new actors were considered (the same eight CSOs remained the entirety of societal actors in the partnership), nor were additional resources made available. However, the available evidence does not indicate that at that time there would be a demand from new actors to be included in OGP.

**Figure 3: Changes in Governmental Actors**



During the creation of Mexico’s second action plan, important innovations were agreed upon by the TTS. No longer could unilateral government proposals dictate the content of the plan, nor could it be a direct reflection of civil society’s demands for open data – which in some cases were technically or legally unfeasible. Thus, the new methodology moved away from the previous “consultation model,” creating procedures for joint decision-making on the basis of an open dialogue between the TTS partners, policy experts, and academics. Both the government and CSOs forced themselves to limit the scope and ambition of demands. This meant that CSOs moved away from unrealistic

goals, while government officials pushed for commitments that were both feasible and, importantly, *measurable in the short run*:

That's one of the important features of OGP ... I mean, OGP tells you: "I do not care about your process or whatever you learn from it. But this has to be done every two years, and every two years you need to renew commitments." Then, what OGP tells you is that the commitment as such is not what matters, but what matters is to engage the government in the logic of cooperation every two years [...]. The point is to find new forms, new ideas, and to do so in cooperation with civil society constantly (interview, Verónica Baz Suárez and Ana María Petersen, September 21, 2015).

Four methodological principles guided the elaboration of the second plan: 1) there were only nine discussion groups coordinated by a designated CSO, each focusing on a concrete policy or domain; 2) all commitments (maximum two per discussion group) were to be measurable and feasible; 3) in all groups an external (professional) facilitator would guide the discussion and push for agreements; and 4) only officials with sufficient authority could participate in the discussion. In addition to the commitments agreed upon in each group, a number of "proactive" commitments (unilaterally proposed by the government) were included in the final document by decision of the TTS. Although it is not clear what criteria were used to filter proposals and select these additional "proactive" commitments, it does seem that they helped to shift away from a sole focus on transparency by introducing elements of social participation into the action plan. In other words, in comparison to the first plan, the second action plan included commitments within a wider range of open government domains (transparency, open data, social participation).

Overall, participants in the roundtables for the production of the "second-generation" commitments felt that these were good mechanisms by which to collaborate and establish feasible agreements. However, this evaluation was not without reservations. Firstly, CSO representatives felt that commitments ended up being watered down in order to make them achievable in the two-year time period. That is, because compromise was prioritized, commitments were not seen as efforts to truly transform substantive policy:

We have amazing rules and procedures. Really! ... No country or very few countries have a tripartite secretariat, in which few civil society organizations really formed an alliance, or they do not have an action plan like the Mexican one ... And yes, all commitments will be accomplished ... But, really, what is the relation with more substantive issues? I mean, yes, we get a golden start for our OGP, and so what? (interview, Paulina Gutiérrez and Almudena Ocejo, August 12, 2015).

More importantly, some participants criticized the fact that activities were prioritized over objectives. This dynamic had ripple effects that later meant certain commitments' progress stuttering. The nature of each commitment established activities and outputs/products, but not what those actions were for, or what (policy) outcomes were

hoped for through those actions. This position was held by people from within both the public sector and the government. The latter group's concern was that evaluating the commitment's progress became very difficult, for some measured outcomes in terms of the degree of activity completion, and in terms of results. Frictions generated by these different expectations made moving forward more complicated. Indeed, this dynamic reflected that when commitments were formulated little or no attention was paid to the underlying theories of change that connect activities, products, results, and (potential) policy impacts.

Ultimately, joint decision-making procedures did result in a more concise action plan. Follow-up meetings and a control panel created opportunities for adjustment, enabling CSOs to monitor governmental performance. Overall, procedures for joint decision-making increased coordination and collaboration between government and CSOs by opening communication channels and fostering direct contact between antagonistic partners. For CSOs, OGP became an additional arena in which to push for governmental openness and responsiveness, while allowing them to maintain their traditional advocacy strategies and outlets. For the administration, OGP became a source of political and social legitimacy and, for some agencies, a direct line of communication with (specific) civil society counterparts.

### ***IV.3 Assessment and Sustainability***

There were drawbacks to the methodology used in the second action plan. Because it lacked trust-building mechanisms, the narrative of "open communication" fostered false expectations of collaboration between CSOs and the government. The "open communication" narrative starts from the assumption that actors trust each other a priori, and thus are willing to collaborate. However, the Mexican case shows that the opposite is true: low trust (if not open misgiving) guided the construction of OGP rules and procedures. Moreover, trust remained low throughout the process. Actors' interests sometimes remained misaligned or even opposed. While the methodology did increase collaboration and reduce coordination cost between CSOs and the government, it did not reduce antagonism and mistrust. Instead of a common vision and outcome orientation, some group discussions suffered from tunnel vision, paid extreme attention to terminology, and reached minimal consensus. Many OGP commitments ended up having limited use due to their technical nature (cf. Brockmyer and Fox, 2015). Furthermore, in 2013–2014 OGP ran parallel to the negotiations of the Transparency Reform Act. It seems that this was the result of a deliberate decision by CSOs to keep OGP and transparency (and anti-corruption) reforms separate:

I think that was part of the success [of OGP] ... that we decided to keep things separate. We did not want to mix issues. OGP was not the place to discuss structural reforms. ... It is a bureaucratic logic ... OGP comes and tells you how to do your action plan and we cannot reduce structural reforms to short-term commitments (interview, Eduardo Bohórquez, October 2, 2015).

The fact that CSOs and the administration were playing in both fields simultaneously sometimes caused conflicts in one field to spill over to the other. For example, during negotiations over the transparency reform, conflict spread to OGP, threatening to reduce cooperation or worsen relations within the TTS. In this sense, OGP in Mexico had to compete with sister initiatives and broader structural reform.

Implementation of the commitments has not been trouble-free either. In some cases, unforeseen glitches (e.g., resource scarcity) have compromised the government's ability to comply with the original terms. This has sometimes led to additional negotiations and a re-interpretation of the commitment. According to our interviewees this "might have further reduced the potential impact of the Action Plan." The fact that no legal experts or administrative lawyers were consulted during the original negotiations also had a negative effect on the legal feasibility of some commitments (see below for an analysis of sectorial differences).

**Box 1: Plausible Mechanisms at Play**

*1. Learning:*

Pro-reform actors learn to redirect actions (navigate the landscape) in order to (a) improve negotiating power and (b) keep counterparts in the negotiation.

*2. Short-term strategizing:*

OGP framework keeps actors engaged in short-term negotiation and implementation cycles, thus reducing incentives to commit to long-term obligations.

*3. Maximin strategizing:*

Joint decision-making procedures among antagonistic partners provide incentives to reach minimum consensus decisions, i.e., pro-reform actors try to maximize minimum gains (e.g., by producing less impactful but feasible commitments).

*4. Spillover:*

Because OGP is not the only negotiation arena and thus actors keep their exit option, OGP outcomes are vulnerable to external events, even when no additional actors are present.

*5. Legitimation:*

Actors derive legitimacy both from attaining commitments and from being actors in the negotiation.

The fact that Mexico hosted the OGP Global Summit 2015 might have provided an additional incentive to fulfill the commitments on time. However, the future of OGP in Mexico remains uncertain and a fully-fledged open government policy has not yet been

adopted.<sup>1</sup> Although OGP increased cooperation, the relation between CSOs and the government remains vulnerable. There is a need to revise procedures and address the issue of representing and including a broader range of social actors. (At the time of writing a plan to include new CSOs and to allow the exit of current CSOs is being discussed.) In addition to compliance with commitments, the impact of those commitments on broader policy goals and bureaucratic practices has to be included in the partnership procedures.

Overall, OGP has allowed specific CSOs and the government to collaborate in a coordinated way with minimum conflict, that is, in a way that had not happened before. Yet in Mexico, OGP has not become a new form of governance or the preferred vehicle for policy-making, and certainly not the arena for debating wider institutional reform. Critical to the workings of OGP in Mexico have been actors' learning and legitimation, the iterative and short-term nature of the discussions, a sort of minimum consensus (maximin) strategizing in the crafting of commitments, and limiting the scope of the mechanism to prevent spillovers (see Box 1). The analysis shows that, with important caveats, OGP in Mexico is recognized as an effective tool for society-government communication and cooperation, both by involved CSOs and, as discussed below, at least some segments of the administration.

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<sup>1</sup> It is revealing that some CSOs were very critical of OGP throughout the 2015 Summit. Also, there were civil society protest outside the venue during the first day of activities, and some prominent civil society activists publicly questioned the practical impact of the action plans.

## V. Different Commitments, Different Outcomes

We have seen that the policy of open government is still far from becoming a new way of governance in Mexico. Rather, it has been subsumed into a trajectory of keeping up with commitments made in the framework of OGP, which is to say the restrictive structure of the action plans. This achievement should not be undermined: the fact that OGP became a space to allow cooperation and interaction between government and civil society – with all the caveats that have been mentioned – is a major step towards democratic maturity. However, the reality is that open government policy at the national level has mostly been understood as the “completion of commitments,” or the lack thereof. Furthermore, the benchmark for evaluating the success of open government practices has been implementation rather than actual results.

Aside from the virtues – or lack thereof – of an implementation and institutionalization mechanism such as the OGPs’ action-plans, what became apparent was that the advancement of commitments was far from homogenous across different sectors. Although all commitments had been met by the time of the OGP conference in Mexico City in October 2015, commitment implementation speed, willingness, cooperation level, and ultimately completion varied greatly between sectors. This happened for a number of reasons, as this section explores. Ultimately, heterogeneity in commitment completion can be seen as a window onto what may be the broader impediments to or facilitators of open government policy as a whole.

The country made 26 commitments in its second action plan. From these we have looked at two ends of the spectrum in terms of completion level, as things stood at the time this study was being planned (May 2015). By that point, at one end of the spectrum were the commitments under the authority of the Ministry of Communications and Transport (SCT). The advancement of these commitments is demonstrated by the fact that they were largely finished even before the third progress report in July 2015. The SCT commitments were:

- 1) “Infrastructure for everyone,” a geo-referenced data platform that allowed individuals to see the progress of a particular infrastructure project;
- 2) “Follow Public Works,” a digital system that would have indicators and information about the progress of public works development; and
- 3) “Highway Open Data,” which would drive use of the open data highway.

At the other end of the spectrum were the commitments made by the Attorney General’s Office (PGR), and the associated branches of government (most importantly the Ministry of Interior through the National Public Safety Executive Secretariat (SESNP). In July 2015 these were far from being completed. They were:

- 1) “Detained Persons Registry,” the creation of an open registry of people in police custody;
- 2) “Missing Persons Database,” the improvement of a missing persons database; and
- 3) “Data for a Peaceful Mexico,” the biannual publication of open data on the PGR’s functions, from how many case-files it opens and closes, to a map showing criminal activity around the country.

Overall, we identified six different factors that heavily influenced the extent to which commitments were adopted and implemented: constitutional limitations, the availability of data, cooperation with CSOs, the sensitivity of the issues at hand, budgetary constraints, and the political willingness to implement an open government agenda. Table 2 summarizes the ways in which the two agencies/sectors we analyze differ across these key variables. We will look in turn at each of these in detail.

**Table 2: Differences in OG Commitments Across Two Sectors**

	<b>PGR (Attorney General's Office)</b>	<b>SCT (Ministry of Communications and Transport)</b>
<b>Constitutional limitations</b>	High. PGR could not account for the majority of detentions in the country, coordination with subnational and federal dependencies needed.	Low. No great need to coordinate with other actors.
<b>Cooperation with CSO</b>	Somewhat tense, high level of issue sensitivity and mistrust between CSO and agency.	Cordial, relations between CSO and dependency were productive and agreements were largely technical.
<b>Issue sensitivity</b>	High. The PGR deals with crime and human rights issues, themes of national interest that are in a somewhat critical condition in the country.	Low. Transportation is not a political issue.
<b>Political resolve and leadership</b>	Initially low. Dependency was under high scrutiny for major HR cases. New Attorney General more committed to OG.	High. Dependency engaged in an internal process to improve knowledge and awareness of the concept of OG.
<b>Data availability</b>	Difficult. Need to collect information on real-time (need subnational assistance).	High, most data was already available and open to the public.
<b>Budgetary and technical constraints</b>	Relevant for the "real-time registry," dependency would need to equip subnational and other federal law enforcement with communication devices.	Significant, no additional resources were made available to help ease the workload of mid-level officials.

### ***V.1 Constitutional Limitations at the Origin.***

Differences in outcomes were borne out after the commitments were created. The lack of technical expertise during negotiations mean there was no sensitivity to any legal obstacles that might arise down the line. The issue was not the consultation process, nor

the way in which decisions were made, but rather that in some cases legal boundaries were not considered when drafting commitments. These boundaries would become a great problem later on. An example of this was the “Detained Persons Database.” This commitment implied gathering data from crimes across the nation, irrespective of whether they fell under Federal or State jurisdiction:

The commitment projected the idea that the PGR was in fact responsible for detentions that happened at the state and local level. (interview, Dante Preisser, September 18, 2015)

However, in a Federal system of government, only Federal crimes can be brought under the PGR’s jurisdictional umbrella. PGR could not commit to a database of all detained people in the country because it did not have information about those under custody of municipal or state authorities, and OGP was not (and cannot be) the vehicle for the Federal government to gain this sort of authority.

This problem was not a factor in the SCT commitments, because the information requested was restricted to what was in the Federal government’s jurisdiction. This was done not necessarily because people were careful to avoid jurisdictional concerns. A more plausible explanation is that traditionally transportation and infrastructure development issues are seen as a national, not local-level issue. In any case, the fact that one set of commitments did not encounter this issue while another did show that legal boundaries matter and that obviating them can have grave repercussions for OGP’s success.

By ignoring these boundaries the PGR signed a commitment it could technically not fulfill. It is difficult to believe that both the CSOs and the PGR could have made this oversight, as questions of federal jurisdiction are essential to both groups. The sense we got from the interviews was that it did not happen deliberately, but was rather a by-product of the desire to co-create. However, the question is not whose fault it is, as both parties have important incentives to guarantee that they have made achievable commitments.<sup>2</sup> Rather, the issue is that if the OGP framework for consensus building does not take into account the entire country’s legal ecosystem then it will be hard for many commitments to become a reality, or have an impact.

Since the focus was on collaboration and creation, in this case, when the topic at hand was particularly sensitive, technical details were left to one side of consensus building. However, technical details of a legal nature must be at the heart of commitment design, for they are to a large extent the base upon which success can and will be achieved. Furthermore, if legal impossibilities arise, then commitments may have to be modified, as was the case in with the PGR commitment. There were further negotiations to see what a feasible commitment could look like. These modifications were later seen as an excuse for the government not to fulfill its commitments, generating further tensions and frictions, which in turn made cooperation more difficult. This is especially problematic

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<sup>2</sup> Interviewees were uncomfortable assigning blame for this mistake, despite being asked to explain how the PGR could have made a commitment to an activity that it could not legally implement.

when we consider that relationships between civil society and government may not necessarily be the best from the outset. Again, the case of the PGR's commitment story is revealing.

## ***V.2 Collaboration between CSOs and the Government***

All of the CSOs that were part of the consultation process were open to working with the government, otherwise they would not have been a part of the OGP process. However, we must not treat civil society as one. Some organizations are much more distrustful of government agencies than others. The reasons for a lack of trust can be, and generally are, legitimate. It may, for example, be a result of years of stagnation in their agendas, or previous tensions with government officials over certain issues.

The organization Artículo 19 ([www.articulo19.org](http://www.articulo19.org)) was involved in monitoring progress with PGR. Their main focus is freedom of the press, transparency, and defense of journalists. An organization that documents systemic violence and sees the state's role in it will be very likely suspicious of the government. On the other hand, government officials who sit with CSOs may feel that they are a threat. Mistrust made relationships difficult from the start, even when there was an initial willingness to collaborate.

Officials from Artículo 19 expressed that public officials were upset from the outset over what was being discussed at the negotiating table. In fact, some of them even left the table upon realizing that they were about to be bound to a procedure in the nature of OGP. This tension only increased over time as the political climate worsened and impasses in the commitments became more evident. Officials from Artículo 19 also expressed that over time the slow progress towards commitment became a source of frustration. These conflicts made collaboration more complicated, which in turn made progress difficult to the point of it being nonexistent.

None of these problems existed in the case of the SCT and Centro de Investigación para el Desarrollo, AC (CIDAC). CIDAC ([www.cidac.org](http://www.cidac.org)) is first and foremost a technocratic organization, devoted to making evidence-based policy proposals. Although at times it has been a strong critic of the government, the type of issues it focuses on, as well as its institutional drive, does not put it in the same position of mistrust as Artículo 19. Furthermore, the SCT is also a technically-oriented agency. Made up of a great number of engineers and career public servants, it is very operational and not particularly political. This made a partnership between these bodies far easier to accomplish, and greatly increased the chances of that relationship being fruitful.

## ***V.3 Issue Sensitivity and Audience***

The most cited reason for lack of progress was the sensitivity, or lack thereof, of the issues at hand. Obviously there are a number of qualitative differences when dealing with issues of national security than with issues of transportation and infrastructure. The sensitivity of the former generates jealousy over the information, heightened scrutiny from

the public, cynicism when things don't progress (which in turn creates friction that hampers advancement), and hubris on both sides.

This raises the question of why issue sensitivity was not considered within OGP "follow up procedures." Partly this has to do with the degree of cooperation between government officials and CSOs that was mentioned in the preceding section. There was also an issue of accountability, although in reality, not complying with an OGP commitment would have had no repercussions for public officials' careers, meaning that there was no enforcement stick, only the carrot of applause.

The problem of issue sensitivity came to the fore as the context within which commitments operated shifted dramatically. Although violence was as much of a reality at the time of the commitments as it is now, the country has been shaken in the last year by a series of human rights abuse cases and corruption scandals. Most obvious among these was the participation of the state in the disappearance of 43 students from Ayotzinapa, which displayed the extent of the government's acquiescence and involvement with organized crime. Beyond this tragedy are the extra-judicial killings at Tlatlaya, the repeated murders of journalists, and the corruption scandals that struck the executive over the purchase of properties from a favored contractor at below-market prices and rates and with shady terms and conditions.

For a number of reasons this scenario complicated the advancement of PGR's commitments. First, it dropped OGP in the list of priorities for the government agency. The government now had to answer to calls for justice in two major profile cases that had attracted international attention. Second, it limited openness in an institution that was becoming more and more under siege, further complicating cooperation. Third, it politicized the commitments: they were no longer technical goals to improve policy-making, but in their incompleteness became other symbols of the failures of a broken institution. Finally, it radicalized civil society actors, not only because it empowered their claims vis-à-vis the government, but also because it legitimized their initial distrust towards the public entity. All in all this made commitment completion very complicated. The PGR doesn't see it as something important for its reputation in the hands of another agenda, and civil society is now much more concerned with making a call for justice than in OGP.

The effect of this matter was apparent in the difference of tone between PGR and Artículo 19. When speaking about the progress, Artículo 19 was far more displeased with how things had progressed, and spoke of "pretense" on behalf of the government in accomplishing its goals. Meanwhile, although PGR recognized failures from the outset, they were far more convinced of the quality of the cooperation and reach of the OGP effort.

The issues mentioned above were true to a much lesser extent for the SCT commitments. Although there were scandals surrounding infrastructure projects, the issues were not as much in the eye of the hurricane as were human rights abuses.

Furthermore, the publication of data about road networks, or bridge building, was not adopted as a cause for those demanding accountability in that sector. In reality the information that was asked for was far more technical and less sensitive to national events. As representatives from CIDAC said:

The commitments we carried were successful [among other things] because they were not sensitive issues (interview, Verónica Baz Suárez and Ana María Petersen, September 21, 2015).

A related issue was that the subject matter at hand also meant that the target audience was different in each case (interview, Verónica Baz Suárez and Ana María Petersen, September 21, 2015). In the case of the PGR the information was to be used by journalists, CSOs, advocates, and other groups whose *raison d'être* is to keep the government accountable. Meanwhile, the users of the SCT information were far more diffuse, and included private parties, people interested in spatial data, and organizations devoted to infrastructure development. This group was more interested in using the information for profit and/or improvement of procedures than in using it as leverage to attain broader policy goals like justice and freedom. Another important point is that the actors interested in SCT changes had a financial interest in making them happen. All of this points to the fact that OGP was more likely to be leveraged to push technocratic issues or points, rather than to activate accountability reforms.

#### **V.4 Political Resolve and Leadership**

All the interviewees mentioned the importance of political leadership. Most were of the opinion that leadership within an institution and pressure from the Federal Government was more of a determining factor in advancing commitments than the relationship between CSOs and the government. We can think of leadership on two levels. One is the leadership of the president and his interest in the agenda. The other is the leadership exercised by the head of a particular agency who can ensure that the agenda becomes fundamental.

In looking at the way in which each action plan was developed and worked on we can see evidence of the president's leadership mattering. Under Felipe Calderón, over half of the commitments that were signed were not complied with. Meanwhile, under Enrique Peña, all of the commitments were finalized. The fact that Peña took this agenda under his wing was demonstrated by the fact that the leadership of the initiative was brought under direct control of the Office of the President through the Department for the National Digital Strategy, a technocratic office focused on media communications and open data, when originally it was headquartered at IFAI (later INAI). Why the president cared is not necessarily clear. The most frequent explanation given was because of Mexico holding the OGP Presidency, and the imminence of the OGP Global Summit. For those who hold this position, the summit is seen as an arena where the president can brag about having finalized commitments, and can therefore improve the country's image

internationally (interview, Paulina Gutiérrez and Almudena Ocejo, August 12, 2015). In fact, many of those interviewed (e.g. interviews, Juan Pardinás and Ricardo Corona, September 15, 2015 and Joel Salas, September 17, 2015) wondered whether the OGP's success would survive the summit, and feared that the willingness to fulfill commitments was part of an effort from the executive to put on a good show.

However, the story of presidential leadership cannot be the full picture because it does not account for the variance seen across sectors. This suggests that the pressure could also come from within. The story of events in PGR is illuminating.

Under the leadership of Attorney General Jesus Murillo, PGR was effectively at a stalemate for a year and half. In this time advancement was close to none. When Arely Gomez was appointed new Attorney General, she brought in a team dedicated to the task of OGP, and fulfilled the commitments within the first six months. This may be because Murillo did not believe or care about the agenda, or because the heat of the political scandals was too much to bear, or because Gomez's team that came in and took over the agenda already had experience in the field of transparency. After all, when Gomez served in the Senate she was one of the main backers of what later became the National Transparency Law, and was also one of the first representatives to talk about an Open Parliament. In any case, evidence suggests that there was a difference in urgency coming from the top of the agency in terms of OGP, and that this urgency expedited and made possible the commitments' completion.

In six months, PGR achieved what had not been achieved in the previous year and a half. This speaks volumes about the importance of having strong, incentivized leadership at the helm of each of government agency. This of course would not have been possible without a team of devoted professionals who knew technically how to open data and had been working around the areas of open government for some time. However, the existence of that team also depends, at least partly, on a committed leadership.

Leadership from the top of the agency can ease coordination problems within. One thing that became apparent is that government agencies are far from monolithic. Besides coordination problems between agencies, there are tremendous problems of cooperation and coordination *within* government departments. In the case of the PGR, for example, the unit in charge of OGP was housed in the general citizen outreach department. This area had very little leverage and so could not force other affected departments (the one that oversaw detentions, for example) to take care of the OGP agenda. Because Gomez prioritized the OGP commitments from the top these internal disputes were resolved in favor of the team working on OGP.

The importance of political leadership was much more relevant in the PGR case than in the SCT one. SCT officials spoke about the fact that they were carrying out efforts to sensitize officials in the agency about open government. This means that they had mechanisms in place to institutionalize open government and that the responsibility for this

agenda therefore went beyond a lone leader to the agency as a whole. It is hard to say exactly why this agency was able to get there first. However, evidence suggests that a mix of low issue sensitivity, type of organization (more technical), and less exposure to political pressure all likely played a role.

### ***V.5 Access to Data***

One important reason for differences across sectors was whether or not data existed to begin with. One thing that became apparent from the evidence was that in many cases there was a false assumption of data being readily available. An example of this issue was the “Disappeared Persons Registry.” This database did not exist in a unitary form at the time the commitments were made. Though PGR in theory has this information, the creation of the database involves a multitude of actors in the security sector: the army, police, PGR, the Ministry of the Interior— all agencies which historically have been very closed and reluctant to outsiders looking in. Although technically the law ensured the coordination of these actors, the reality of improving a database generated by so many agencies imposed transaction costs that were unforeseen at the time of the commitment. These costs ultimately hampered commitment advancement.

Meanwhile, SCT had to publish information that it already had in open data formats. The Infrastructure for All and Follow Public Works commitments involved the publication of files that the Ministry had already summarised. This was not without its own technical and budgetary difficulties (interview, Carlos Patiño, August 20, 2015); however, SCT did not have to coordinate other agencies, or develop new ways of data generation. This in turn made the production of their deliverables much easier.

### ***V.6 Budgetary and Technical Capabilities***

Finally, the evidence also points to the importance of budget and technical capabilities. Even if both agencies had the necessary resources and did not have to collaborate with other actors, the composition inside their respective departments is very different. SCT has a very specialized and technical staff, and it employs a number of engineers who are used to working with data. Meanwhile, PGR is mainly made up of attorneys. This agency lacks expertise in the field of open data and technology development. This alone was responsible for some of the difficulties PGR faced. As mentioned before, OGP in Mexico has a strong emphasis on technology. This focus is the result of a mixture of things. Technology is perceived as sexy and useful, even if it may not be for the particular problem at hand. Apps and databases are also measurable and tangible, as opposed to, say, citizen participation. Those agencies with a technical deficit are therefore at a disadvantage. Even with the hiring of new teams, the only way for an agency to properly work in this field is with skilled staff who understand the technical aspects of open government.

Another issue is budget. As we have seen, one of the PGR's commitments was the Detained Persons Registry. Putting aside the legal impossibility of creating a nationwide system for all that happened at the local level, another problem was that there was a requirement to create a real-time registry. That is, the registration occurs at the moment of detention. The reality, however, is that the PGR did not actually have this information readily available. Rather, information only came when the person had been processed by the local authorities. To generate such a real-time (nationwide) collection system greatly exceeded PGR's budgetary capabilities – or, at the very least, that part of the budget that was intended for OGP-related activities. This is because a real-time system would necessitate potentially expensive software, and the sheer scale of equipping all police vehicles with this technology. In other words, releasing data costs money, and creating data costs more. For PGR, the requirement to create the kind of data CSOs proposed proved to be too onerous. It is not impossible, but the low position of open government policy in the budgetary process means that for now only commitments with coverable expenses will be funded, limiting the true reach that OGP can have.

An obvious question that arises is why would the PGR agree to a commitment that was not feasible in the first place? The story from PGR is that there was a misunderstanding about the real-time nature of the registry. They point to the signed agreement, which makes no statement about whether or not the registry was supposed to be in real time. On the other hand, CSO representatives mention that having a real-time registry was the point of the commitment, to make sure there is a record at all times of when someone is in custody. There may be a cynical reading of what happened: that the government signed a document and then found a way to not do what it had orally agreed to. However, it could also be seen as a misunderstanding during the commitment drafting process. This type of drafting mistake often happens in many different contexts and leads to different expectations. Therefore, the oversight about the budgetary shortfalls for a real-time detained persons' registry commitment could be more the result of a misunderstanding than of manipulation.

## **VI. Thinking About Mexico's Open Government Journey**

In the face of urgent and complex problems, an open government policy holds potential as a way to improve governance and policy-making. In the case of OGP, it provides an opportunity for CSOs to join the decision-making process and to propose new ideas and solutions to persistent problems.

This study has examined Mexico's open government journey between 2011 and 2015 and paid special attention to the adoption and implementation of OGP. Here we discuss the main conclusions in the context of the three general causal mechanisms OGP was supposed to positively contribute to Mexican politics: empowering pro-reform leaders, providing further learning that improves actors' navigational skill, and strengthening open government coalitions in order to solve collective action problems.

### ***VI.1 Empowering Pro-Reform Leaders***

The Mexican OGP became a start-up platform, which gave specific CSOs a voice and an opportunity to incorporate some of their priorities into federal policy. While it is true that some CSOs had previously been able to exert pressure on the government and to advance their agendas, OGP offered a new outlet and a direct connection with high- and mid-level public officials. CSOs learned to leverage OGP to improve their bargaining position across a number of specific issues by speaking directly to policy operators. OGP also gave pro-reform government actors an additional forum in which to place their agendas and make change happen. Nevertheless, OGP is not yet institutionalized, nor a fully-fledged open government policy has been adopted in Mexico. Despite the existence of OGP, little has changed in terms of the broader institutional reform and involvement of civil society in federal policy-making.

### ***VI.2 Improving Navigational Skill***

The model of joint decision-making, in the Mexican case, allowed CSOs and government to collaborate in a way that had not happened before. OGP provided clear rules and a methodology for translating in-house agendas into concrete commitments. It also provided some accountability mechanisms that allowed CSOs to monitor implementation. However, OGP did not reduce antagonism or mistrust among partners. In fact, as we saw, key organizational characteristics of OGP in Mexico (e.g., the architecture of the TTS and the features of the negotiation methodology) revealed suspicion between CSOs and the government.

### ***VI.3 Solving Collective Action Problems***

OGP reduced coordination costs by creating opportunities to negotiate several issues with several CSOs within a single framework of collaboration. This is not directly about skill, but rather that OGP provided the opportunities for negotiations to occur.

Although OGP “joint decision-making” procedures improved coordination and increased commitment achievability between the first and second action plans, they also forced government and CSOs to limit the scope of their demands. In other words, both governments and CSOs still watered down the ambition of the commitments made. This happened because actors seemed to follow risk-averse strategies to try to minimize their worst-case scenarios. This means that groups were more concerned with making a feasible commitment than one that would actually lead to changes. An important reason for this outcome, besides the joint negotiation was that OGP locks actors into a two-year commitment. This meant that actors were set into short-term cycles of negotiation and implementation, thus offering few incentives for long-term commitments.

Two more points come out of this study that do not easily fit into the discussion of how OGP was supposed to work. First, not all commitments or sectors are made the same: some were more prone to open governance and commitments than others. This stresses the importance of looking into intra-governmental variables. Divergences between sectors may help establish what is attainable in terms of an open government agenda. Ultimately, understanding the failures and success of OGP at the organizational and sectorial level reveals important information for open government policy-making and evaluation.

Second, evidence shows that variation across sectors helps explain the feasibility of the open government commitments studied. We saw that sensitivity issues; issues where there is no data, or the data is hard or expensive to produce; suspicions between organizations; lack of internal political will; and placement of the legal ecosystem on the backburner rather than at the front and center of the negotiating table, will all make implementation harder and increase the risk of failure. Sectorial variation also highlights the importance of building up organizational capacity within the government and of making CSOs aware of the legal and technical limitations of (parts of) the public administration.

## **VII. Recommendations for Key Stakeholders**

### ***a) Civil Society Organizations***

While there were many tensions over competing agendas and interests, civil society organizations were able to make the best of the arrangement to achieve collective impact and keep the government engaged in the OGP process. One of the ways this was achieved was that each CSO was given the responsibility in turn of representing the nucleus. This horizontal structure limited potential fears of power-grabbing and jealousy over leadership, and also helped develop trust that may not have originally existed.

There are still problems of mistrust and cynicism. Many in civil society feel that there is a sense of protectiveness, or even jealousy, among certain public officials over the information under their control. Others go so far as to say that government uses OGP to legitimize itself, but that its actions go against open government ideals. In so far as CSO actors can be constant and aim to develop relations with the public officials they are working with, they will be better positioned to overcome these fears. It is therefore important not only to design procedures that create effective collective action but also to foster trust-building mechanisms between civil society and government representatives. Such mechanisms may include follow-up meetings, signaling and reciprocal commitment, information sharing, and mutual disclosure.

Another critique for CSOs was that personnel sometimes lacked technical and legal knowledge about how some sectors actually worked. This was most clearly demonstrated in the case of the Attorney General's office, where the CSOs' demands were outside the contours of the law. CSOs would therefore benefit from strengthening their technical knowledge (particularly their legal teams) when positioning themselves at the negotiating table.

### ***b) Donors***

The role of donors was particularly important in the early construction of the nucleus of CSOs that participated in OGP. Many of the organizations that had worked in the areas of transparency, accountability, good governance, and so on prior to OGP share donors and often attend social events organized by these foundations. Furthermore, the core group of CSOs was already active as a unit through the Hewlett Foundation's Transparency Breakfasts, which also helped strengthen the relation between CSOs and IFAI officials. This previous effort allowed for the consolidation of OGP. The fact that a group existed should not be read as meaning that there were not tensions among the members, only that it was relatively simple to find a network of actors who were interested, informed, and active in OGP efforts.

Even though donors did not meddle significantly in OGP Mexico, their interest in the initiative served as a strong incentive to some CSOs to get involved in the process. It

is important to note, however, that no CSOs were pressured to participate in OGP by donors. Organizations were not under outside pressure to produce results and could engage in the process freely. Thus, donors could strengthen OGP by providing (non-intrusive) incentives for (more) CSOs to join the initiative and by hosting meetings and discussion forums that allow for the socialization of information and ideas.

### ***c) Government***

The government managed to fulfill all of its OGP commitments made under the second action plan (2015). However, OGP is still far from becoming a way of “doing” public policy; rather, it is understood as a set of actions oriented towards making the government more responsive to (specific) CSO demands. Open government actions have been sidelined in many cases to issues of e-government and technological enhancement, rather than as ways of giving transparency, accountability, and citizen engagement a place in policy creation.

Open government and OGP are still far from institutionalized in government policy creation. That is, they are still not part of the make-up of what government agencies do, not even those that have been most involved in the process of OGP commitment creation. This lack of institutionalization has meant that the progress of the open government agenda is still dependent on strong leadership, both externally from the federal government and internally from the groups working on transparency within different government agencies. Leadership from the top levels of government helps make people care about OGP, while strong internal leadership helps ease internal frictions and decrease the transaction costs involved in OGP.

### ***d) OGP support unit***

The implementation of OGP in Mexico has been largely successful in terms of the procedural mechanisms that were developed for decision-making, for all parties involved have had a real say in what OGP commitments look like and how they are evaluated. An important part of the success was that not only have mechanisms to engage government and civil society worked, but also OGP has been able to bring in existing naturally aligned institutions, such as the National Institute of Access to Information (IFAI/INAI), and build upon of them.

However, none of the actors interviewed mentioned the OGP support unit without being prompted to. This omission speaks volumes. Some of those interviewed attested to the fact that they felt that most of the work was being done in-house, and that the role of OGP was to set the parameters for the conversation. There was of course also the important pressure on the executive because of Mexico’s presidency of OGP.

The collaboration mechanism still has plenty of room to grow. OGP has allowed for the creation of actionable commitments, which have given some civil society organizations an unprecedented foot in the government’s agenda-setting. However, as has been

mentioned, the scope of impact was narrowed to technical areas of public policy. Part of this may be attributed to the emphasis on all sides to produce commitments, as open government has become more a set of commitments and their completion than a platform from which to treat issues of great significance for the citizenry. Again, the commitments should not be undermined. They are real ways for civil society to get its say in the agenda. However, the structure makes it complicated for open government to extend beyond these commitments. In a sense, commitments have become a catch 22: if you don't have them then there's no way to evaluate progress; however, focusing on them seriously limits the actual impact that can be achieved.

This points to the fact that more work is needed to make the OGP framework a space for creating policies with a greater potential for impact. This could be achieved by explicitly making space for longer term commitments, or perhaps reserving some commitments to more open policies that would be harder to evaluate but that could still have significant impact.

The model of collaboration and cooperation has not meant that there are no longer any asymmetries between government and civil society. Nevertheless, many of those interviewed did consider that OGP put them on a level more equal with government – a change that should not be undervalued. However, the transformation into a fully horizontal culture still requires time and socialization. This could be done, for example, by more work internally at the government level of the importance of citizen engagement and collaboration.

Lastly, we cannot ignore that reform occurs in a context, not in a vacuum. Many political scandals, human rights abuses, and other events of national significance have changed the landscape over which the open government progress is drawn. Not only is it harder to prioritize open government actions when events like these occur, but these events also highlight the limitations of OGP. They show that OGP is still far from being an agent of deep change, and also, perhaps, how the ambitions of the open government movement have been beaten by an intransigent reality.

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## **Interviews**

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Interview with Carlos Patiño, Advisor to the SCT, Colegio de México campus, Mexico City, August 20, 2015.

Interview with Francisco R. Álvarez, Director-General in charge of Open Government and Transparency, and María José Montiel, Director in charge of Open Government, INAI Headquarters, Mexico City, September 3, 2015.

Interview with Haydeé Pérez, Executive Director, Fundar offices, Mexico City, September 2, 2015.

Interview with Ernesto Velasco, Director Civicus Consultants, Giornale Altavista restaurant, September 9, 2015.

Interview with Mauricio Merino, CIDE Professor, La buena tierra restaurant, Mexico City, September 2, 2015.

Interview with Ricardo Luévano, Head of Access to Information, Article 19 offices, Mexico City, September 4, 2015.

Interview with Juan Pardinas, Director-General; and Ricardo Corona, Institutional Attorney, IMCO offices, Mexico City, September 15, 2015.

Interview with Joel Salas, INAI Commissioner, INAI Headquarters, Mexico City, September 17, 2015.

Interview with Dante Preisser, Director-General of Open Government at the PGR, PGR Annex offices, Mexico City, September 18, 2015.

Interview with Verónica Baz Suárez, Director-General; and Ana María Petersen, Civil Society Coordinating Committee, CIDAC offices, Mexico City, September 21, 2015.

Interview with María Marván, Chair of the Board of Executives at Transparencia Mexicana, Instituto de Investigaciones Jurídicas, Mexico City, September 28, 2015.

Interview with Eduardo Bohórquez, Director, Transparencia Mexicana offices, Mexico City, October 2, 2015.