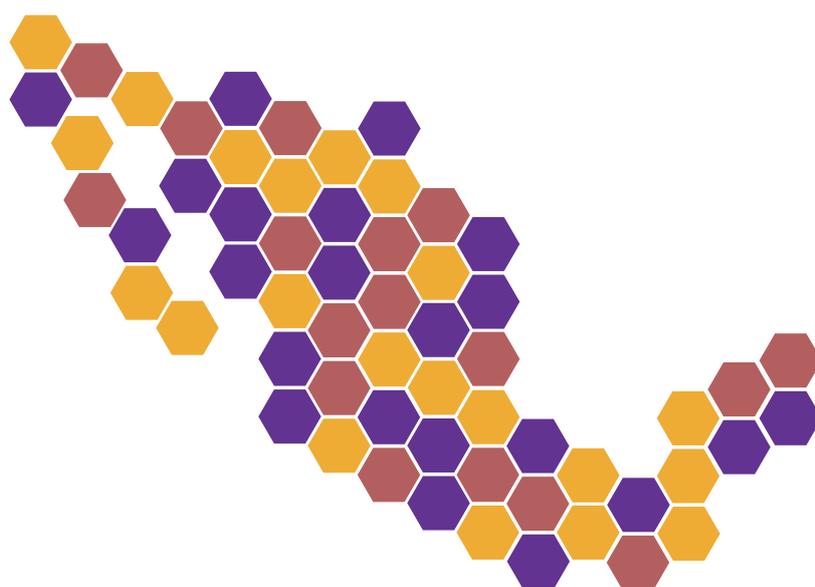
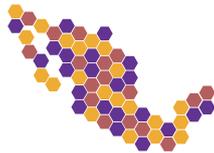


**Civil Society
Shadow Report
on the Third Mexican
Open Government
Action Plan
(2016 - 2018)**



November 2018

Núcleo de la
Sociedad Civil para
el Gobierno Abierto
en México



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Executive Summary

Mexico is a founding member of the Open Government Partnership, and has been part of its Steering Committee since 2014. At a national level, Mexico has co-created the following three Action Plans: 2012-2013¹, 2013-2015², and 2016-2018³. These were developed by the Open Government Partnership in Mexico which is represented by a *horizontal and permanent dialogue mechanism* called the Tripartite Technical Secretariat (TTS). The TTS is integrated by the Ministry of Public Administration (SFP in Spanish), the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI in Spanish), and the Civil Society Core Group. Specifically, **the Third Action Plan was co-created with over 400 participants, including members from national Civil Society, Academia, as well as Public Officials, and resulted in seven commitments that aim to address the country's public problems.**

The development process of the Third Action Plan was marked by two events that affected the Core Group's trust in the federal government, and which ultimately led to its exit from the TTS in May of 2017.⁴ The first event was related to the scope reductions implemented unilaterally by the federal government to the co-created commitments. The second, was the alarming evidence presented in 2017 of illegal digital surveillance carried out by the federal government towards Civil Society members, reporters, activists, and Human Rights' defenders⁵, some of whom had participated in the development of the Third Action Plan.

This report gathers the reflections of Civil Society Organizations that participated in the development of the Third Action Plan, and describes the **co-creation process** it underwent so as to contextualize several milestones that impacted further implementation. The report also delves into what each of the following seven specific commitments state: (1) **Health or Obesity**, (2) **Public Services or Water**, (3) **Fight Against Corruption**, (4) **Management of Natural Resources or Climate Change**, (5) **Poverty and Inequality**, (6) **Human Rights and Strengthening the rule of Law**, and (7) **Gender Equality**.

Interviews were conducted with specialists from the Civil Society Organizations that participated in the original co-created commitments, as well as the Organizations that were later approached by the SFP during the implementation process without clarifying neither the underlying context, nor the role they'd have to carry

1 Available at: <https://www.opengovpartnership.org/documents/mexico-first-national-action-plan-2012-13>
2 Available at: <https://www.opengovpartnership.org/documents/mexico-action-plan-2013-2015>
3 Available at: https://www.opengovpartnership.org/sites/default/files/Mexico_Plan-de-Accion-2016-2018.pdf
4 Available at: <https://gobiernoabierto.mx.org/blog/2017/05/23/boletin-de-prensa-salida-nucleo/>
5 Available at: <https://gobiernoabierto.mx.org/blog/2017/02/17/carta-al-stt-sobre-espionaje/>

out at this stage of the process. Documents reporting activities either on the Third Action Plan or on Open Government written by the federal government were also analyzed, these include:

- Responses to **public information requests** made to the corresponding authorities regarding the progress made on each commitment, which **in 2017** report activities that were in some cases not part of the Third Action Plan, and **in 2018** redirect to the digital results board developed by SFP.
- The **digital results board developed by SFP6** contains several documents that fail to prove the implementation of actions that comply with the original commitments, and instead can be interpreted as isolated activities to show some kind of progress.
- The **Midterm Self Assessment Report7** handed in by the federal government to OGP in December 2017 which elaborates on the importance of Open Government for Mexico as an inconsequential speech, rather than an accurate description of implemented activities regarding the Third Action Plan.
- Lastly, the **Sixth Government Report8** of the current administration which describes the state of a country that does not seem to be going through a crisis in its rule of law, and reports actions pertaining to Open Government that in fact do not uphold the principles of this concept.

The commitments underwent redactions made unilaterally by the federal government, thus this report compares the changes in these texts in 2016, 2017, and 2018. As a result of the former analysis, the commitments were grouped into three categories:

1. Commitments with redactions that reduced their scope of action, such as:

- The **Poverty and Inequality** commitment which originally sought a single repository of beneficiaries of social all development programs in order to be the guiding axis of the country's policy on this matter. *But, the end result9 of this commitment was a database of beneficiaries of only some federal and state social programs, which in turn was considered as an action without specific attributes.*
- On the **Human Rights and Strengthening the Rule of Law** commitment, the government considers the publication of the General Law on Forced

6 Available at: <http://aga.funcionpublica.gob.mx/aga/Home/Index>

7 Available at: <https://www.opengovpartnership.org/documents/mexico-mid-term-self-assessment-2016-2018>

8 Available at: <https://www.gob.mx/lobuenocuenta/>

9 Available at: <https://sisi.sedesol.gob.mx/>

Disappearances as part of the end results¹⁰, which was in fact not part of the original commitment. Also, what is shown as progress throughout the several reports and documents, are considered to be *isolated actions that are not linked to monitoring the implementation of the Search Protocol with participation from Civil Society and Victims of Forced Disappearance* as was originally agreed.

- The scope of the commitment on **Fight Against Corruption** was reduced from including citizen participation mechanisms on designations for the whole National Anticorruption System to only some designations within the system. But, at the beginning of the process the SFP unilaterally designated 43 heads of Internal Control Offices in some institutions of the federal public administration. *What is proposed as a final result of this commitment is no more than a data visualization website on information of public officials that serve as heads of Internal Control Offices*¹¹.

2. Commitments with **redactions that changed the core of the original proposal**, such as:

- The commitment on **Public Services or Water** resulted in isolated actions completely different to the original scope that arose from the co-creation process. The *main result* shown by the digital result board of the SFP is *a website*¹² that takes the user around from one document to another on what seems like a never ending list. The interviewed organizations expressed scepticism on the political will of the National Water Commission being able to fully carry out its lawful mandate on water management and protection. The deconstruction of this commitment allowed for suspicions of practices such as: lack of transparency on the purchase of meters that the Commission allegedly needed to comply with this commitment, as well as, an opportunity for water management through Public - Private Associations in Mexico.
- The commitment on **Health or Obesity** had significant changes that originally proposed to address strong deficiencies in the fight against conflicts of interest and a change in official Mexican standards¹³ pertaining to overweight prevention and control. While developing the conflict of interest guidelines¹⁴, comments from Civil Society regarding the lack of scientific support

10 Available at: <http://aga.funcionpublica.gob.mx/aga/Home/Documento?doc=1.%20Nota%20T%C3%A9cnica%20Programa%20Nacional%20de%20Exhumaciones.pdf>, <https://suii.segob.gob.mx/busqueda> y <https://aplicaciones.pgr.gob.mx/normatecasustantiva/Paginas/NSDetalle.aspx?IDItem=2334&st=2&term=protocolo%20homo&page=1&filter=&sort=>

11 Available at: <http://perfilestoic.funcionpublica.gob.mx/directorio/>

12 Available at: <https://app.conagua.gob.mx/gobiernoabierto/Contenido.aspx?n1=10>

13 Disclaimer of these results available at: <http://aga.funcionpublica.gob.mx/aga/AdmCompromiso/Documento?doc=Nota%20aclaratoria%20COFEPRIS.pdf>

14 Disclaimer of these results available at: http://aga.funcionpublica.gob.mx/aga/Home/Documento?doc=Nota%20Aclaratoria_%20compromiso%20Instancia%20tripartita%20Salud%203PA_VF.pdf

within the document was not taken into account by the authorities, ultimately leading the Federal Commission on Sanitary Risk Prevention to reassert the role of the Mexican Observatory of Non Communicable Chronic Diseases, an institution that's heavily influenced by private initiative.

3. Commitments with **redactions that favored a more stable course of action to comply with the objective**, such as:

- The commitment on **Natural Resource Management or Climate Change**, which although underwent changes made in its original description, these favored the implementation process and operative tasks to comply with the commitment. Nevertheless, the organization that was sought out by SFP to follow-up on this commitment, commented that their observations were not taken into account by the authorities, and that actions were implemented unilaterally to develop and publish a website¹⁵ with the collected information.
- The commitment on **Gender Equality** was an exceptional case, because the changes were done in consensus with Civil Society, which also stayed in contact with the National Women's Institute and the National Council to Prevent Discrimination to continue with the commitment's implementation outside the Open Government framework. *The last update on the digital results board is a commented index¹⁶ of the final document* that was sought out by this commitment. One of the Civil Society Organizations heard from the authorities that they had decided not publish the finished document in absence of Civil Society participation in the co-creation process of the public policy.

Lastly, this report concludes that:

- A year and a half after the departure of the Civil Society Core Group from the Third Action Plan, **the federal government hasn't addressed the reasons that triggered it**. This report is evidence of the redactions and scope reductions of the Third Action Plan, and as for the illegal digital surveillance, there has been no progress whatsoever on behalf of the Mexican government.
- Because the Open Government Partnership is an international commitment undertaken by the Mexican State, the government continued with the Open Government process to comply with co-created commitments of the Third Action Plan. Regrettably, the implementation of the commitments after the Core Group departed from the process, shows **a lack of political will to comply with an ample co-creation process, as well as the simulation of a co-creation process with other Civil Society organizations**.

¹⁵ Available at: <http://cambioclimatico.gob.mx/>

¹⁶ Available at: <http://aga.funcionpublica.gob.mx/aga/Home/Documento?doc=Guion%20comentado.pdf>

- **The co-creation and public scrutiny process was corrupted after the Core Group's departure.** The government sought to incorporate other Civil Society Organizations in an unclear and misleading manner so as to endorse the process without previous context and knowing what was at stake.
- The **Poverty and Inequality, Human Rights, and Fight Against Corruption** commitments underwent changes that were not only **different to their original proposals**, but also had **less impact than what was required to address the problems of the country**.
- As to the **Public Service or Water, and Health or Obesity** commitments, the redactions are worrisome, because **not only did the results not comply with the original objective, but could also have negative impacts in their respective agendas**.
- The commitments pertaining to **Gender Equality and Climate Change** did not deviate from what was originally proposed, but Civil Society participation was neither broad nor substantial. Nevertheless, these results show the need for political will as a requirement for Open Government processes.
- The **Third Action Plan's co-creation process sought to solve public problems in the Mexico**, and by not being addressed comprehensively by the current administration, the social needs of each commitment remain active, permeating periods of governmental responsibility.