

INDEPENDENT REPORTING MECHANISM:

SOUTH AFRICA PROGRESS REPORT 2013–2014



Second Progress Report



INDEPENDENT REPORTING MECHANISM: SOUTH AFRICA

PROGRESS REPORT 2013-2014



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EXECUTIVE SUMMARY

INDEPENDENT REPORTING MECHANISM (IRM): SOUTH AFRICA PROGRESS REPORT 2013-2014

South Africa's action plan focused mainly on improving service delivery and access to environmental information. While these represent areas for improvement in the country, implementation of the commitments was lacking. Civil society organisations (CSOs) interviewed decried their lack of involvement in helping shape and implement the action plan. Moving forward, government can improve implementation by establishing a permanent consultation mechanism with expert and non-expert civil society.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country.

South Africa officially began participating in OGP in September 2011, when President Jacob Zuma launched the initiative along with other heads of state in New York.

The Department of Public Service and Administration (DPSA) has the responsibility for coordination of OGP in the country. Responsibility for implementation of the various commitments is dispersed across the relevant lead department or agency. Policy coordination between the national, provincial, and local spheres of government remains a key challenge in the country.

OGP PROCESS

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

The South African Government carried out consultation through in-person information sessions that were advertised in the newspaper. Stakeholders interviewed stated that these sessions provided limited opportunity for meaningful engagement regarding the content of the action plan.

DPSA stated it conducted OGP engagement related activities and advocacy across a range of government platform. DPSA also noted challenges related to implementation of OGP commitments across different spheres of government. At this time, organized civil society participation during implementation of the action plan has not been formalized.

The self-assessment report was released belatedly in June 2015. The Government gave stakeholders 10 calendar days to comment on the draft report.

AT A GLANCE

MEMBER SINCE: 2012
NUMBER OF COMMITMENTS: 7

LEVEL OF COMPLETION

COMPLETED: 0 of 7
SUBSTANTIAL: 2 of 7
LIMITED: 4 of 7
NOT STARTED: 0 of 7
UNCLEAR: 1 of 7

TIMING

ON SCHEDULE: 3 of 7

COMMITMENT EMPHASIS

ACCESS TO INFORMATION: 5 of 7
CIVIC PARTICIPATION: 4 of 7
ACCOUNTABILITY: 4 of 7
TECH & INNOVATION FOR TRANSPARENCY & ACCOUNTABILITY: 2 of 7

NUMBER OF COMMITMENTS THAT WERE:

CLEARLY RELEVANT TO AN OGP VALUE: 6 of 7
OF TRANSFORMATIVE POTENTIAL IMPACT: 0 of 7
SUBSTANTIALLY OR COMPLETELY IMPLEMENTED: 2 of 7

ALL THREE (★): 0 of 7

COMMITMENT IMPLEMENTATION

As part of OGP, countries are required to make commitments in a two-year action plan. The South African action plan contains seven commitments. The following tables summarise for each commitment the level of completion, potential impact, whether it falls within South Africa's planned schedule, and the key next steps for the commitment in future OGP action plans.

The IRM methodology includes starred commitments. These commitments are measurable, clearly relevant to OGP values as written, of transformative potential impact, and substantially or completely implemented. Note that the IRM updated the star criteria in early 2015 to raise the bar for model OGP commitments. In addition to the criteria listed above, the old criteria included commitments that have moderate potential impact. South Africa would have received one star for commitment four under the old criteria. See <http://www.opengovpartnership.org/node/5919> for more information.

Table 1 | Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
1. Accountability/Consequences Management Framework: Develop and implement an Accountability/Consequences Management Framework for public servants.									Behind schedule
2. Service Delivery Improvement Forums: Implement and formalise partnerships with CSOs in all nine provinces to establish Service Delivery Improvement Forums.									Behind schedule
3. Mainstream Citizen Participation in the Public Sector: Ensure that every public sector department across all spheres has a functional, well-staffed citizen engagement unit with resources to engage civil society regularly and proactively.									Behind schedule
4. Portal of Environmental Management Information: Develop an integrated and publically available portal of environmental management information.									On schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
5. Data on Conservation Areas: Develop an online crowd-sourcing tool that will allow the public to submit data on protected areas and conservation areas.									On schedule
6. School Connectivity: The Government has embarked on a schools connectivity rollout project with telecom operators to take place in two phases. Phase One will entail the connectivity of 1,650 schools, and telecom operators will roll out Phase Two.					Unable to tell from government and civil society responses				Unclear
7. Service Rights and Responsibilities Campaign: Enhance the capacity and capabilities of communities through a public outreach campaign on Know Your Rights and Responsibilities to inform citizens about their service rights, responsibilities, and legal mechanisms available to hold government accountable.									On schedule

Table 2 | Summary of Progress by Commitment

NAME OF COMMITMENT	SUMMARY OF RESULTS
<p>1. Accountability/Consequences Management Framework for Public Servants</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited 	<p>The Cabinet (executive branch of government) approved the Accountability/Consequences Management Framework in 2013. The framework's purpose is to "strengthen measures for managing unethical conduct and to promote integrity in the public service." The IRM could not find any demonstrable record of implementation of the framework. The Office of the Public Protector, in charge of "investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in state affairs," reported it led 35,000 cases in 2013-2014. The Government should work to implement the framework and include independent oversight as a key component. In addition, the Government should extend the reach of the framework to include appointed political office bearers.</p>
<p>2. Service Delivery Improvement Forums (SDIF)</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited 	<p>In 2013, the Department of Performance Monitoring and Evaluation published a Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery. The period under review corresponds with the pilot implementation phase of the framework. The conclusion period of this commitment falls beyond the period under review. According to an article in the African Statistical Journal, the scope and quality of service delivery across the country is uneven, and this commitment has the potential to change that. The IRM recommends that the Government clearly conceptualise the scope of the SDIF, provide an implementation plan, as well as encourage participation from civil society through implementing a greater awareness programme surrounding nature and intended purpose of the SDIFs.</p>

NAME OF COMMITMENT	SUMMARY OF RESULTS
<p>3. Mainstream Citizen Participation in the Public Sector</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited 	<p>The Cabinet approved a Citizens Participation Guide in 2013 and the Government conducted training of Community Development Workers in five provinces. Civil society stakeholders interviewed by the IRM lamented the fact that the guide was not developed in a participatory way. Improving public participation of citizens in government decisions could be a step in closing the information gap and trust deficit that lead to social protests in the country. Moving forward, the IRM recommends that the Government improve the specificity concerning the intended outcome, in addition to including civil society in the methodology and approach of this commitment.</p>
<p>4. Portal of Environmental Management Information</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial 	<p>The environmental portal is now publically accessible. It is populated with a variety of datasets, with more to be added until March 2017. Transparency and oversight of environmental management practices in South Africa has been a challenge in the country, and a single portal for environmental information is a welcome improvement to openness and accountability of environmental information. Moving forward, the Government should make sure to engage civil society experts in next steps regarding implementation of this commitment.</p>
<p>5. Data on Conservation Areas</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited 	<p>The protected areas crowd-sourcing tool was deployed and is available online. The tool allows citizens to input information on national protected and conservation inventory. The Department of Environmental Affairs will use this information to assess applications for commercial development. While this is laudable, the tool is geared towards expert users, not the general public, due to the complexity of the information that will be inputted. The Government should consider the creation of a public engagement strategy to ensure uptake of the tool by the target audience. In addition, the Government should consider integrating this portal with the environmental portal in commitment four.</p>
<p>6. School Connectivity</p> <ul style="list-style-type: none"> • OGP value relevance: Unclear • Potential impact: Moderate • Completion: Unable to tell 	<p>The Government committed to connect 1,650 schools to the internet as well as to provide ICT training to teachers and learners. The IRM was unable to obtain information regarding the level of implementation of this commitment. Overall, it is unclear how this commitment fits within OGP values of access to information, civil participation, and public accountability. If this commitment is included in future action, the Government will need to make this relationship clearer or to consider other commitments related to education, such as procurement reform, that fit more squarely within the OGP context.</p>
<p>7. Service Rights and Responsibilities Campaign</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial 	<p>The Government trained Community Development Workers across five provinces in how to educate communities concerning their service rights and responsibilities. This commitment is important in South Africa given socio-economic inequality and the fact that there are about 16 million grant recipients in the country. It is key for the implementation of this commitment to continue to ensure that citizens know exactly where to report nonfulfillment of their rights by public officials.</p>

RECOMMENDATIONS

South Africa has a large, organised civil society. While government has made efforts to engage ordinary citizens on OGP issues, engagement with civil society has been lacking. Coordination of OGP activities between the three spheres of government also has been challenging. Based on the challenges and findings identified in this report, this section presents the principal recommendations.

TOP FIVE 'SMART' RECOMMENDATIONS

1. **Develop a multi-stakeholder dialogue mechanism.** Improve the horizontal and vertical co-ordination of the national action plan in processes within government on an inter-departmental, as well as inter-sphere level. This can be achieved by creating an inter-sphere steering committee, with representation from civil society that meets regularly to co-ordinate, monitor, and evaluate the national action plan development and implementation;
2. **"Walking the OGP talk."** Instil and demonstrate OGP public participation principles from the outset by involving civil society and community based groups in the development and implementation of national action plan commitments;
3. **Give adequate opportunity and time for quality engagement by:**
 - i. Increasing the number of annual forums held to at least one every six months (four per action plan);
 - ii. Giving at least two weeks' notice to participants concerning upcoming events and/or consultation windows; and,
 - iii. Documenting and making the engagements and generated content accessible on the OGP country portal.
4. **The Government's lead department on OGP should set minimum criteria concerning the level of commitment detail expected in the national action plan and self-assessment report. This criteria should include:**
 - i. Clearly defined commitments vis-à-vis relevance to OGP;
 - ii. Specific, time-bound milestones;
 - iii. Expected, measurable outcomes and impact; and,
 - iv. Internal, department-specific related commitments as milestones within the broader commitment, i.e. training of staff, improvement of internal systems, etc.
5. **Adopt at least one new stretch commitment** in every national action plan, in consultation with civil society, and define a clearly stated, anticipated, targeted outcome.

ELIGIBILITY REQUIREMENTS

To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions. For more information, see section IX: Eligibility Requirements at the end of this report or visit <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>.



Open
Government
Partnership

INDEPENDENT
REPORTING MECHANISM

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

John Filitz led preparation of this report, Ralph Mathekgwa contributed.

I | NATIONAL PARTICIPATION IN OGP

HISTORY OF OGP PARTICIPATION

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In pursuit of these goals, OGP provides an international forum for dialogue and sharing among governments, civil society organisations, and the private sector, all of which contribute to a common pursuit of open government. OGP stakeholders include participating governments as well as civil society and private sector entities that support the principles and mission of OGP.

South Africa began its formal participation in 2011, as one of eight founding member countries, with President Jacob Zuma declaring South Africa's commitment to the OGP mandate:

- Transparent and open government;
- Supporting civic participation;
- Increasing professional integrity across the administration; and,
- Introducing new systems and technologies to improve openness and accountability.

To participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of (minimum) performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. Objective, third-party indicators are used to determine the extent of country progress on each of the dimensions. See Section IX on eligibility requirements for more details.

All OGP participating governments are required to develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments should begin their OGP country action

plans by sharing existing efforts related to their chosen grand challenge(s) (see Section IV), including specific open government strategies and on-going programmes. Action plans should define a government's OGP commitments, which move government practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

South Africa finalised and launched its second national action plan in August 2013. The action plan was effective immediately after it was formally endorsed at an event referred to as "Open Government Thousand Voices" held on 18 October 2013, in Johannesburg, South Africa. Members of civil society, the media, and government-employed Community Development Workers were present at the meeting. The implementation of the action plan runs until the end of December 2015.

The Government published its midterm self-assessment report in May 2015, which illustrates the progress in developing and implementing national action plan commitments thus far. To date, the Government has not approved the OGP national action plan as government policy, and as a result, the self-assessment report is unofficial. This Independent Reporting Mechanism (IRM) report is intended to assess the development and implementation of South Africa's OGP action plan and the country's progress in fulfilling open government principles.

BASIC INSTITUTIONAL CONTEXT

The South African Government's administrative system is comprised of three spheres of government; namely, the national, the provincial, and the local sphere. Each of these spheres can be defined as relatively autonomous in the sense that each sphere holds executive and legislative powers independently from each other and is not positioned in an official hierarchy. However, all of the spheres are subordinated to the constitution and the laws emanating from the national legislature. There is also a parallel traditional system

or tribal authority's system of governance that exists alongside the modern democratic system in South Africa. This system of governance, formalised under the apartheid era, is confined to the former apartheid era Bantustan's or homelands, where tribal chiefs are the custodians of customary law regarding right to tenure and marriage, in addition to acting as arbitrators in resolving disputes.

In this sense, national departments can be perceived as powerful entities in their own right, as a result of being an extension of the executive arm of government, and often of being at the forefront of national legislative and policy development. However, it is only national law, including the supreme law of the constitution, which requires adherence and implementation by all three spheres of government. Without legislative backing from the national assembly or government support in the form of a cabinet memorandum, national policy directives legally cannot be enforced by any national department. No national department can enforce national directives that fall beyond the scope of the constitution. However, this does not preclude national departments from playing a guiding, co-ordinating, or facilitating role concerning the implementation and synchronisation of policy within and across the spheres. The constitution defines the relationship between the three spheres as "distinctive, interdependent and interrelated."

In terms of the Public Service Act (1994), Department of Public Service and Administration (DPSA) are responsible for setting norms and standards relating to:

- "The functions of the public service;
- Organisational structures and establishments of departments and other organisational and governance arrangements in the public service;
- Labour relations, conditions of service and other employment practices for employees;
- The health and wellness of employees; information management;
- Electronic government in the public service;
- Integrity, ethics, conduct and anti-corruption; and
- Transformation, reform, innovation and any other matter to improve the effectiveness and efficiency of the public service and its service delivery to the public."¹

The DPSA is the lead department responsible for co-ordination of the OGP. Depending on the nature of the OGP commitments, responsibility for implementation is dispersed accordingly across the three spheres to the relevant lead department or agency.

Policy coordination and implementing OGP between the national, provincial, and local spheres of government remains a key challenge in South Africa. OGP commitments affected other spheres of government but they were championed by national government rather than being proposed or co-implemented by provincial or local spheres of government in the second National Action Plan. The DPSA acknowledges that there needs to be better forms of co-ordination regarding implementation of the OGP across different spheres of government, particularly with regard to local government.²

It is the IRM's observation that South Africa's implementation of the OGP is encountering challenges in the development and implementation of national action plan commitments. While there has been growing coordination between DPSA and the Cabinet, improvement is needed for the horizontal and vertical government co-ordination of the national action plan, as well as for civil society and community group representation. To avoid the ownership of OGP being viewed as a national departmental prerogative, DPSA can enhance efforts to collaborate with subnational government

METHODOLOGICAL NOTE

This report is a progress review on South Africa's second national action plan covering the period from August 2013 to December 30, 2014. The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP-participating government. The South Africa IRM report was prepared under the supervision of the International Experts Panel (see Section VIII) by John Filitz, with key contributions from Ralph Mathekga. The report relies on the midterm self-assessment report, the second national action plan, and publicly available information acquired through research, as well as interviews with a range of civil society stakeholders, national action plan designates, and Community Development Workers.³

John Filitz carried out qualitative research through a combination of telephone and email interviews with the following: Democracy Works; the Department of Performance Monitoring and Evaluation, the DPSA, the Endangered Wildlife Trust, the Federation for a Sustainable Environment, the Open Democracy Advice Centre, the Public Service Accountability Monitor, and the South African NGO Coalition.

Ralph Mathekga interviewed Community Development Workers in the Limpopo Province, nongovernmental organisations Corruption Watch, Section 27, a public interest law centre, South African National Civic Organisation, the Right2Know Campaign, and Imraan Baccus. A meeting also was held between Ralph Mathekga and staff from DPSA to clarify statements in the self-assessment report and to provide the necessary documentation. OGP staff and a panel of experts reviewed the report. Four out of eight officials responsible for individual commitments also provided additional responses.

This report follows an earlier review of OGP performance, "South Africa Progress Report 2011-2013," which covered the development of the first action plan as well as implementation from September 2011 to December 2012.

¹ "About the DPSA," Department of Public Service Administration, <http://www.dpsa.gov.za/about.php?id=16>

² Department of Public Service and Administration, email correspondence with the IRM, 3 August 2015.

³ Community Development Workers are local, municipal-level government employees tasked with improving service delivery for communities by providing access to information. <http://www.gov.za/about-government/government-system/public-administration>

II | PROCESS: ACTION PLAN DEVELOPMENT

The South African Government carried out consultations through a combination of channels, including through Community Development Workers (CDWs), in-person information sessions, and national organs of the Africa Peer Review Mechanism. While the reach of this consultation was laudable, it is not clear how inputs shaped the final version of the action plan. Further, significant improvements can be made to capture both individual citizen input and the expertise of organised civil society.

Countries participating in OGP follow a set process for consultation during development of their OGP national action plans. According to the OGP Articles of Governance, countries must:

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation;
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views; and make a summary of the public consultation and all individual written comment submissions available online;
- Undertake OGP awareness-raising activities to enhance public participation in the consultation; and
- Consult the population with sufficient forewarning and through a variety of mechanisms—including

online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is discussed in Section III on consultation during implementation:

- A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is discussed in Section III on consultation during implementation:

This is dealt with in the next section, but evidence for consultation both before and during implementation is included here and in Table 1 for ease of reference.

PHASE OF ACTION PLAN	OGP PROCESS REQUIREMENT (ARTICLES OF GOVERNANCE SECTION)	DID THE GOVERNMENT MEET THIS REQUIREMENT?
During Development	Were timeline and process available prior to consultation?	No
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Was there advance notice of the consultation?	Yes
	How many days of advance notice were provided?	3
	Was this notice adequate?	No
	Did the government carry out awareness-raising activities?	Unable to determine
	Were consultations held online?	No

PHASE OF ACTION PLAN	OGP PROCESS REQUIREMENT (ARTICLES OF GOVERNANCE SECTION)	DID THE GOVERNMENT MEET THIS REQUIREMENT?
	Were in-person consultations held?	Yes
	Was a summary of comments provided?	No
	Were consultations open or by invitation only?	Open
	Place the consultations on the IAP2 spectrum. ¹	Inform
During Implementation	Was there a regular forum for consultation during implementation?	No
	Were consultations open or invitation-only?	N/A
	Place the consultations on the IAP2 spectrum.	N/A

ADVANCE NOTICE AND AWARENESS-RAISING

The DPSA, the OGP lead department in South Africa, stated that during the course of national action plan development, it had rolled-out an “an intensive advocacy and awareness campaign.”

This awareness campaign, according to the DPSA, started in February 2013 and ran until December 2013. It consisted of the following:

- Community radio programmes on OGP;
- Public/commercial radio on OGP interviews;
- Public television broadcasting campaigns on OGP;
- Print and internet media campaigns on OGP;
- The OGP house-to-house campaign by CDWs; and
- OGP roundtable dialogues.

The IRM investigation found no documentation of these OGP awareness-raising initiatives outside of the initial consultations. The IRM found no evidence that the OGP timeline and process for development of the action plan were made available prior to the advance notice of public consultation mentioned below (See below for note on other potential evidence).

Advance notice of public consultation on the second national action plan was placed on the websites of the Government Communication and Information

System department, as well as the website of the DPSA. Consultation was done in a select number of targeted provinces. Notice was in the Independent and Sowetan newspapers, with a readership of 9,940,030. Usually three or fewer days’ notice was given before the event.

Generally speaking, many of the events for the OGP consultation lacked prior documentation (such as a draft action plan) and adequate time to prepare for the meetings. The advertisement for the Northern Cape consultative meeting, which was circulated in the newspaper was placed on the website on 10 April 2013. The actual event took place on the 12 April 2013. The advertisement for the Western Cape consultative meeting is dated 15 April 2013, and the event took place on 16 April 2013. Further, the advertisement for Free State province was dated 10 July 2013, and the event took place on 16 July 2013. The consultation that took place in Johannesburg was advertised on the 16 October 2013, and the event took place on 18 October 2013. This indicates inadequate time for potential participants to respond to the OGP events. At least two weeks’ notice would have been considered adequate time to advertise for participants to attend the OGP events.

This was an improvement over the first action plan, which lacked consultation and awareness-raising activities, but the process still needs advanced, open invitations and adequate documentation to ensure meaningful participation.

DEPTH AND BREADTH OF CONSULTATION

The consultation process for OGP lacked a collaborative, iterative policy development between government and civil society. While some of the consultations showed innovation in culturally appropriate communications, they did not necessarily function as dialogue and discussion sessions in the spirit of OGP.

Although there were multiple registers referenced in the DPSA-IRM dialogue, the IRM was able to obtain only two registers for meetings from the DPSA. One register is titled the "African Peer Review Consultative Conference" from 12 February 2013 for an event held in the Free State Province, and the other is "1,000 Voices Campaign" from 18 of October 2013. Integrating OGP themes into the African Peer Review Mechanism (APRM) and 1,000 Voices can help to develop important synergies between other governance and development processes. However, it is not clear that either of these events, as formatted, provided space for genuine deliberation on the contents of the OGP action plan, and there is no record of how these events influenced the contents of the plan.

Officers from the Open Democracy Advice Centre, the country's Civil Society Organisation (CSO) for the OGP, who participated in one consultation, stated that there was insufficient time and limited opportunity for any meaningful deliberation or engagement by civil society. It described the engagement more as a "briefing session."

According to the Government's self-assessment report, the process of developing the national action plan relied on consultation and implementation of a survey with CDWs and a number of CSOs. The self-assessment report states that 3,368 questionnaires were administered by CDWs in three "randomly selected" provinces: North West Province, Limpopo Province, and Mpumalanga Province. However, no findings from the survey other than the age distribution of the sample are shared in the self-assessment report, despite the fact that the self-assessment report states the household survey included "an extensive OGP awareness" survey tool. The IRM received a copy of the survey tool from DPSA.

The survey tool consists of four sections. Section one is on age and demographic information. Section two asked 15 detailed questions concerning the importance of open government and access to information and accountability

based on a Likert scale (e.g. One=Not important at all; Two=Not important; Three=Neutral; Four=Important; and Five= Very important). For example, it asked, "How important is it that government departments and officials are held accountable for mismanagement of funds." The third section of the questionnaire asked fifteen detailed questions about citizen satisfaction with citizen participation and involvement in government processes, as well as government accountability. For example, it asked, "How satisfied are you with the level of citizen involvement by government in the development and implementation of policies, programs & other government initiatives?" The final section consisted of the following open-ended question: "Lastly, what do you suggest government should do to improve service delivery?"

CDWs interviewed by the IRM stated only that they attended a single event of the OGP, where the second national action plan was formally adopted. SANCO officials informed the IRM, "Generally, consultation is poor in South Africa, and consultation around the OGP is no exception." Civil society stakeholders shared these sentiments and generally viewed the OGP consultation process as weak to non-existent. SANCO stated further that a single stakeholder forum is necessary to facilitate consultation, including on matters relating to the OGP. According to SANCO, the current situation is that too many forums are not well coordinated. While CDWs maintain direct contact with communities, the involvement of formal nongovernmental organisations and community-based organisations would strengthen the consultation process.

OGP participating governments are required to post a summary or recording of input received during the consultation. During the course of the IRM report preparation, the government uploaded the recording of many of these engagements. At the time of publication (October 2015), there were no transcripts of these engagements. Transcripts would allow for better web searchability and accessibility of public comments. A simple summary of public comments could be more effective and would allow for greater feedback and accountability.

Moving forward, the South African Government will need to bring both individual citizens and organised civil society into OGP. This will require balancing the need to use existing participatory practices (such as

Imbizos), and other grassroots approaches with expert-focused approaches. In particular, while grassroots approaches may help to prioritise sectors (e.g. health, housing, or public safety) or identify public perception, the process of generating solutions needs to include subject area experts. This should not be limited to “governance” CSOs working on freedom of information or accountability; it also can include organisations willing to use an open government approach to solving sector-specific problems.

In addition, the method for developing the third action plan will need to be more robust, accountable, and deliberative. Specifically, it will:

- Prepare a multi-stage dialogue with CSOs and individuals who have expressed interest in open government in the past; incorporate a clear means of nomination and rotation into formal roles;
- Carry out regular, open meetings and listening sessions of the dialogue mechanism to hear priorities from grassroots and sectoral NGOs;
- Develop an early draft of the action plan to share for further discussion and public deliberation;
- Provide regular online minutes, procedures, and meeting notes for remote participants;
- Keep and publish records of civil society input, and, ideally, respond to major categories of input, as well as how and where they are or are not reflected in the final action plan;
- If combining OGP and APRM forums to minimize duplication, the government will need to clarify when and where public input is being solicited for which process because the scope, timing, review, and civil society input processes for both initiatives differ significantly.

Furthermore, organized civil society can help deepen and broaden participation by taking the following steps:

- Helping set agendas;
- Helping ensure participation of underrepresented groups;
- Co-chairing or hosting engagement forums;
- Having clear advocacy and policy proposals;
- Using OGP guidance to help ensure the highest quality participation in South Africa.

The UK government’s time as co-chair of the OGP was also used as a lever by a number of CSOs to persuade the government to seek more ambitious targets. In the media, the Guardian newspaper also covered the launch of the draft second NAP via its Public Leaders Network. The paper also asked for readers’ comments on the proposals, although none were registered.¹⁶

¹ “IAP2 Spectrum of Political Participation,” International Association for Public Participation, <http://bit.ly/1kMmlYC>

² Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.

³ Open Democracy Advice Centre, interview with the IRM, 21 September 2015.

⁴ Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.

⁵ Community Development Workers, interviews with the IRM, April–June 2015.

⁶ South African National Civic Organisation, interview with the IRM, 14 July 2015.

⁷ Public Service Accountability Monitor, interview with the IRM, 18 September 2015;

⁸ South African NGO Coalition, interview with the IRM, 21 September 2015; Open Democracy Advice Centre, interview with the IRM, 21 September 2015.

⁹ South African National Civic Organisation, interview with the IRM, 14 July 2015.

III | PROCESS: ACTION PLAN IMPLEMENTATION

The DPSA noted challenges related to implementation of OGP commitments across the different spheres of government. The Government will need to prioritise co-ordination across departments and a formal mechanism for civil society participation during implementation of the next action plan.

REGULAR MULTI-STAKEHOLDER CONSULTATION

The DPSA, in correspondence, noted that the general challenge with implementing the OGP across government “is the lack of understanding of the OGP initiative which results in a perception that OGP seeks to bring about additional administrative and reporting burdens for departments.”¹ The DPSA noted an additional challenge of implementing the second national action plan concerned the fact that it mainly consisted of national departments as the implementing departments. As a result, there has been “minimum OGP activity in other spheres of government.” DPSA made assurances that the next national action plan will include participation with the provincial and local government spheres. Furthermore the DPSA notes that implementation has been slow due to “bureaucratic processes” and that consultation amongst the departments has not been as frequent as planned due to competing commitments.²

The DPSA states that multiple OGP engagement related activities and advocacy in the period under review were undertaken through the Deputy Ministers office. This was evident across a range of government platforms:

- Briefing the Provincial Executive Councils;
- Presentations to the President’s Coordinating Council (consisting of the President and Deputy President, Cabinet Ministers and the Premiers of the nine provincial governments);
- Provincial roundtables; and,
- Briefing of the South African Local Government Association Chairperson.³

The Provincial Executive Council endorsed the OGP national action plan, as in the formation of the action plan. But, as with other consultation processes, the degree to which there was meaningful deliberation or a chance to influence implementation is unclear.

The DPSA notes that OGP stakeholder consultation is further supported through internal department communication mechanisms, such as the Inter-departmental Task Team, established in November 2013, and an OGP Interdepartmental Steering Committee, which at this stage have yet to include provincial or local government. Current membership of the Steering Committee consists of the Presidency, Treasury, Cooperative Governance, Public Service and Administration, Performance Monitoring and Evaluation, Government Communications and Information Services. At this stage, civil society participation has not been formalised. The nature of work in these structures primarily concerns several OGP-related work streams: communications and media, digital platforms, OGP and APRM public participation/engagements, advocacy, research, analysis, international coordination, and stakeholder engagement. It is plausible that the combination of the Steering Committee’s responsibilities with the APRM could explain why it is difficult to find evidence of OGP-branded and exclusive engagements.⁴

The DPSA stated to the IRM that the OGP undertook a Community Development Workers training programme on “their role as [OGP] agents to disseminate information to stakeholders in their local communities” in KwaZulu-Natal, Mpumalanga, Gauteng, Northern Cape, and the Free State.⁵ A

total of 1,349 out of 3,201 community development workers participated in training workshops.⁶

¹ Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.
² Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.
³ Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.
⁴ Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.
⁵ Department of Public Service and Administration, email correspondence with the IRM, 25 September 2015.
⁶ Department of Public Service and Administration, email correspondence with the IRM, 28 September 2015.

IV | ANALYSIS OF ACTION PLAN CONTENTS

All OGP-participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to open government, including specific strategies and on-going programmes. Action plans then set out OGP commitments, which stretch the government practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

Commitments should be appropriate to each country's unique circumstances and policy interests. OGP commitments also should be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core open government values:

ACCESS TO INFORMATION

Commitments around access to information:

- Pertain to government-held information, as opposed to only information on government activities. For example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;
- Are not restricted to data but pertain to all information. For example, releasing individual construction contracts and releasing data on a large set of construction contracts;
- May include information disclosures in open data and the systems that underpin the public disclosure of data;
- May cover both proactive and/or reactive releases of information;
- May cover both making data more available and/or improving the technological readability of information;

- May pertain to mechanisms to strengthen the right to information (such as ombudsman offices or information tribunals);
- Must provide open access to information (it should not be privileged or internal only to government);
- Should promote transparency of government decision making and carrying out of basic functions;
- May seek to lower cost of obtaining information;
- Should strive to meet the Five Star for Open Data design (<http://5stardata.info/>).

CIVIC PARTICIPATION

Commitments around civic participation may pertain to formal public participation or to broader civic participation. They generally should seek to "consult," "involve," "collaborate," or "empower," as explained by the International Association for Public Participation's Public Participation Spectrum (<http://bit.ly/1kMmlYC>).

Commitments addressing public participation:

- Must open decision making to all interested members of the public; such forums are usually "top-down" in that they are created by government (or actors empowered by government) to inform decision making throughout the policy cycle;
- Can include elements of access to information to ensure meaningful input of interested members of the public into decisions; and,
- Often include the right to have your voice heard, but do not necessarily include the right to be a formal part of a decision making process.

Alternately, commitments may address the broader operating environment that enables participation in civic space. Examples include, but are not limited to:

- Reforms increasing freedoms of assembly, expression, petition, press, or association;
- Reforms on association including trade union laws or NGO laws; and,

- Reforms improving the transparency and process of formal democratic processes such as citizen proposals, elections, or petitions.

The following commitments are examples of commitments that would not be marked as clearly relevant to the broader term, civic participation:

- Commitments that assume participation will increase due to publication of information without specifying the mechanism for such participation (although this commitment would be marked as “access to information”);
- Commitments on decentralisation that do not specify the mechanisms for enhanced public participation;
- Commitments that define participation as inter-agency co-operation without a mechanism for public participation.

Commitments that may be marked of “unclear relevance” also include mechanisms where participation is limited to government-selected organisations.

PUBLIC ACCOUNTABILITY

Commitments improving accountability can include:

- Rules, regulations, and mechanisms that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments.

Consistent with the core goal of open government, to be counted as “clearly relevant,” such commitments must include a public-facing element, meaning that they are not purely internal systems of accountability. While such commitments may be laudable and may meet an OGP grand challenge, they do not, as articulated, meet the test of “clear relevance” due to their lack of openness. When such internal-facing mechanisms are a key part of government strategy, it is recommended that governments include a public-facing element such as:

- Disclosure of non-sensitive metadata on institutional activities (following maximum disclosure principles);
- Citizen audits of performance;
- Citizen-initiated appeals processes in cases of non-performance or abuse.

Strong commitments around accountability ascribe rights, duties, or consequences for actions of officials or institutions. Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress. Examples of strong commitments include the following:

- Improving or establishing appeals processes for denial of access to information;
- Improving access to justice by making justice mechanisms cheaper, faster, or easier to use;
- Improving public scrutiny of justice mechanisms; and,
- Creating public tracking systems for public complaints processes (such as case tracking software for police or anti-corruption hotlines).

A commitment that claims to improve accountability, but assumes that providing information or data without explaining what mechanism or intervention will translate that information into consequences or change, would not qualify as an accountability commitment. See <http://bit.ly/1oWPXdl> for further information.

TECHNOLOGY AND INNOVATION FOR OPENNESS AND ACCOUNTABILITY

OGP aims to enhance the use of technology and innovation to enable public involvement in government. Specifically, commitments that use technology and innovation should enhance openness and accountability by:

- Promoting new technologies that offer opportunities for information-sharing, public participation, and collaboration.
- Making more information public in ways that enable people to understand what their governments do and to influence decisions.
- Working to reduce costs of using these technologies.

Additionally, commitments that will be marked as technology and innovation:

- May commit to a process of engaging civil society and the business community to identify effective practices and innovative approaches for leveraging new technologies to empower people and promote transparency in government;

- May commit to supporting the ability of governments and citizens to use technology for openness and accountability; and,
- May support the use of technology by government employees and citizens alike.

Not all e-government reforms improve openness of government. When an e-government commitment is made, it needs to articulate how it enhances at least one of the following: access to information, public participation, or public accountability.

Recognising that achieving open government commitments often involves a multi-year process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible. This report details each of the commitments that South Africa included in its action plan, and analyses them for the first year of implementation.

While most indicators used to evaluate each commitment are self-explanatory, a number deserve further explanation.

1. Specificity: The IRM first assesses the level of specificity and measurability with which each commitment or action was framed. The options are:
 - High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)
 - Medium (Commitment language describes activity that is objectively verifiable, but does not contain clearly measurable milestones or deliverables)
 - Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)
 - None (Commitment language contains no verifiable deliverables or milestones)
2. Relevance: The IRM evaluated each commitment for its relevance to OGP values and OGP grand challenges.
 - OGP values: To identify OGP commitments with unclear relationships to OGP values, the IRM made a judgment from a close reading of the commitment's text. This judgment reveals commitments that can articulate better a clear link to fundamental issues of openness.

3. Potential impact: The IRM evaluated each commitment for how ambitious commitments were with respect to new or pre-existing activities that stretch government practice beyond an existing baseline.
 - To contribute to a broad definition of ambition, the IRM judged how potentially transformative each commitment might be in the policy area. This is based on the IRM's findings and experience as a public policy expert. To assess potential impact, the IRM identifies identified the policy problem, establishes established a baseline performance level at the outset of the action plan and assesses assessed the degree to which the commitment, if implemented, would impact performance and tackle the policy problem.

All the indicators and the method used in the IRM research can be found in the IRM Procedures Manual, available at <http://www.opengovpartnership.org/about/about-irm>. Finally, one indicator is of particular interest to readers and is useful for encouraging a race to the top between OGP-participating countries: the starred commitment. Starred commitments are considered to be exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

1. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have medium or high specificity.
2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of access to information, civic participation, or public accountability.
3. The commitment would have a transformative potential impact if completely implemented.
4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of substantial or complete implementation.

Note that the IRM updated the star criteria in early 2015 to raise the bar for model OGP commitments. Under the old criteria, a commitment received a star if it was measurable, clearly relevant to OGP values as written, had moderate or transformative impact, and was substantially or completely implemented. Based on these

old criteria, the South African action plan would have received one starred commitment for commitment four: Portal on Environmental Management Information.

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its reporting process. For the full dataset for South Africa, and all OGP-participating countries, see the OGP Explorer.¹

GENERAL OVERVIEW OF THE COMMITMENTS

Five of the seven commitments that comprise South Africa's second national action plan were carried over from the first national action plan. One commitment is new; commitment six: Online School Connectivity.

Commitment four, Environmental Information Portal, is a carryover of a commitment that was in the first national action plan. This commitment was originally stated, "Carrying out a Feasibility Study on Environmental Portal." The IRM recommendation regarding this commitment in the first national action plan was that a feasibility study would be required prior to the roll-out of this commitment because it would inform the decision making process as to the best practice approach on conceptualising and implementing an environmental information portal. This recommendation was not followed.

The remaining commitments were carried over from the first national action plan, either as a result of non-implementation or non-completion. However, this should not necessarily be viewed negatively because it could be as a result of the realities of time lag in the implementation of such initiatives. Carrying the commitments over from the previous national action plan also serves as an opportunity to recapture the outstanding commitments from the previous action plan. Nevertheless, one must caution against a scenario of continuous carryover to curtail the risk associated with the non-implementation of commitments.

The main challenge identified in the first national action plan was the perceived weakness of public participation in the OGP process, which can also be interpreted as a reflection of poor civil society and public engagement on the part of government. The lack of new commitments

shows on-going difficulty with deliberation. If DPSA had hosted more collaborative deliberation with civil society, there may have been considerably more new commitments in the action plan.

¹ The OGP Explorer provides the OGP community—civil society, academics, governments, and journalists—with easy access to the wealth of data that OGP has collected. It is available at <http://www.opengovpartnership.org/explorer/landing>.

1 | Accountability/Consequences Management Framework for Public Servants

Develop and implement an Accountability/Consequences Management Framework for Public Servants.

OVERVIEW

[...] Accountability will be enhanced in that this framework will concretise “Batho Pele” (“People First”) principles and ensure that public servants are held accountable to the public and the communities they serve.[...]

Editorial note: The language of the commitment has been abridged for formatting reasons. For the full text of the commitment, please visit <http://bit.ly/1H8GisA>.

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
			X				X				X			X		

WHAT HAPPENED?

The South African government committed to developing and implementing an Accountability/Consequences Management Framework for Public Servants prior to becoming a signatory of the OGP.¹ In 2013, the Cabinet approved and published the Public Service Integrity Management Framework (the Framework).²

The stated purpose of this Framework is to “strengthen measures for managing unethical conduct and [to] promote integrity in the Public Service.”

The Framework also references “new proposals” for managing potential conflicts of interest such as the “financial interests, gifts, hospitality and other benefits, post-public employment and remunerative work outside the public service.”³

The self-assessment report notes “substantial progress” regarding implementation of this commitment. However, IRM research could not substantiate a demonstrable record of implementation. It appears by all accounts that implementation of the policy, including holding government employees

accountable for misconduct, remains a key binding constraint in the public service.

Advocate Thuli Madonsela leads the Office of the Public Protector,⁴ which is mandated to “strengthen constitutional democracy by investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in state affairs.”⁵ At any moment, the Public Protector has approximately 13,000 cases open, with 35,000 cases led and 24,000 concluded in 2013-2014.

According to an interview with the Public Service Accountability Monitor (PSAM), a South African civil society monitor, corruption and the lack of accountability are endemic and evident across the government spheres.⁶ PSAM argue that the DPSA, the lead department for this initiative, does not carry sufficient influence within the executive branch to make the necessary changes in the public sector. Key issues concern gross financial misadministration, fraud, political interference in the recruitment of public sector staff, fraudulent representations by executive

staff of their qualifications, as well as supply-chain and procurement irregularities.

The worst affected entities seem to be the state-owned enterprises and special investigative units such as the Directorate for Priority Crime Investigation and the Independent Police Investigative Directorate. They routinely are plunged into crisis because of unfit and ethically compromised individuals in key executive positions who act without due process.⁷ This facilitated the rise of what has been termed the “golden handshake” culture in South Africa: vast sums of money are paid to remove compromised public officials and people who have fallen out of favour with the ruling elite.⁸

The slow pace of disciplinary process and terminating suspended public officials shows the lack of accountability and consequences within the public sector. Arbitration processes remain pending for extended periods, sometimes for years, while suspended staff continue earning salaries. For example, a chief director of a department suspended for a period of 44 months received a monthly salary of R82,346. In the 2013-2014 financial year the Government paid R65 million to suspended public officials. Between January 2014 and March 2015, 772 public officials were on suspension.⁹

DID IT MATTER?

If fully implemented, the Framework could have a moderate impact in reducing corruption levels in the country at best. The DPSA's mandate, based in the constitution and the Public Service Act, limits DPSA to oversight of the civil service. However, there is evidence of ethics issues at the political (elected and appointed) level of government, including the preceding and continued public disregard displayed by senior public officials, including South Africa's President Jacob Zuma,¹⁰ to the country's Chapter Nine Institution for Public Accountability, the Office of the Public Protector.¹¹

The DPSA Framework in its current mandate would not address these high-level ethics concerns.

The country's self-assessment report characterised implementation of the Framework as “substantial.” PSAM stated, “It is a battle to connect the [self-

assessment] report findings with reality on the ground in South Africa, regarding the lack of accountability and the high level of public sector corruption.” PSAM stated that the public sector in South Africa is in a state of crisis, with corruption embedded in the fabric of the state, citing malfeasance from the executive level to the local government level.¹²

In 2011, the Special Investigative Unit stated that between R25billion and R35billion was lost in government procurement as a result of fraud.¹³ Public officials in South Africa are not seen as accountable to the communities they serve at any government level, including the Office of the President.¹⁴ While recent legislation (Public Administration Management Act – December 2014) would prevent public servants from doing business with the state there remain perceived notions of senior managers in public service having a with conflicts of interests.¹⁵ The most recent Afrobarometer Survey (2011) indicates a clear trend of decreasing confidence and trust by citizens in the public service.¹⁶ This discontent is most visible at local government level, and acknowledged by government, with allegations of maladministration and nepotism by public officials cited amongst other reasons, as part of the underlying cause for protests.¹⁷

Community Development Workers interviewed have a vague idea regarding the existence of the Framework; however, they are aware of the transparency and accountability challenges it aims to address. CSO Corruption Watch raised concern about capacity to implement the Framework across the departments and also at local government level.¹⁸ The Open Democracy Advice Centre's report on the government's midterm self-assessment report states that details are lacking regarding progress in implementing this commitment.¹⁹

MOVING FORWARD

The establishment and approval of the Accountability and Consequences Management Framework for Public Servants is a step in the right direction. However, given the current context and climate with reference to oversight and accountability of the public sector, stakeholders interviewed doubt that this initiative will result in meaningful change.

Full implementation of the commitment, including the demonstration of transparency and accountability by the executive, is the key challenge.²⁰

Independent oversight would be an essential component to the realisation of this commitment. Civil society-based oversight mechanisms should be built into the implementation Framework. That would allow for unhindered access to information and transparency about processes regarding matters deemed in the public interest. According to the Public Protector, the process of rooting out corruption “needs to be fought not just by those in the affected organisations themselves, but also by the media and by society in general.” Failure to act allows corruption “to eat away at the soul of the nation.”²¹

¹ See The World Bank, *Accountability in Public Service in South Africa: Selected Issues*, by the World Bank (Report, Washington, D.C., March 2011), <http://bit.ly/1McbKZJ>.

² Department of Public Service and Administration Integrity Management Framework, Republic of South Africa, <http://bit.ly/1LwPtH7>.

³ Department of Public Service and Administration Integrity Management Framework, Republic of South Africa, <http://bit.ly/1LwPtH7>.

⁴ Office of the Public Protector [<http://www.publicprotector.org/>]

⁵ See for more on this Chapter Nine of the Republic of South Africa's 1996 Constitution institution: [<http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-09.pdf>]

⁶ Alexis Okeowo, “Can Thulisile Madonsela Save South Africa from Itself?,” *NY Times*, 21 June 2015, <http://nyti.ms/1FSBbly>; Chris Sanders, “Thuli Madonsela—Integrity Award Winner 2014,” *Transparency International*, 15 October 2014, <http://bit.ly/1vD927O>; Sapa, “Madonsela Finds SABC’s Motsoeneng Unlawfully Hiked Salary,” *Mail & Guardian*, 17 February 2014, <http://bit.ly/1FSBbly>; Rebecca Davis, “Derailed: Will the Public Protector’s Recommendations on Prasa Fall on Deaf Ears?,” *Daily Maverick*, 26 August 2015, <http://bit.ly/1MXW6PZ>.

⁶ “Vision and Mission,” *Public Service Accountability Monitor*, <http://www.psam.org.za/vision-and-mission.htm>

⁷ “Parastatals in the Grip of Graft,” *Corruption Watch*, 4 July 2013, <http://bit.ly/1LwZGDv>; On corruption and political interference in the Hawks: “Hawks Saga – Feathers Continue to Fly,” *Corruption Watch*, 15 January 2015, <http://bit.ly/1VDSyoy>; “Fixing the Hawks Bill,” *Corruption Watch*, 5 April 2012, <http://bit.ly/1FVSDSb>.

⁸ Nivashni Nair and Graeme Hosken, “South Africa Land of the ‘Golden Handshake,’” *Rand Daily Mail*, 8 May 2015, <http://bit.ly/1jN8RDv>; Thulani Gqirana, “Govt [sic] Pays Out Millions in Golden Handshakes,” 6th July, 2015, *Mail and Guardian*, <http://bit.ly/1LhfpQD>.

⁹ Laura Grant, “Suspended Officials Are Bleeding SA Dry,” *Mail and Guardian*, 31 July 2015, <http://bit.ly/1VCDRkj>; Rahima Essop, “SAPS Defends Number of Cops Suspended with Full Pay,” *Eye Witness News*, 17 September 2015, <http://bit.ly/1N188G3>.

¹⁰ “Nkandla, Hlaudi & the SCA: When the future of accountability hangs in the balance,” 4th June, 2015 [<http://www.dailymaverick.co.za/article/2015-06-04-nkandla-hlaudi-the-sca-when-the-future-of-accountability-hangs-in-the-balance/#.VgDOqPIViko>] “Zuma Challenges Public Protector Powers” 12th September, 2014, *Legal Brief* [<http://legalbrief.co.za/diary/legalbrief-today/story/zuma-challenges-public-protector-powers/pdf/>] “Zuma sympathisers gun for the public protector,” 9th October, 2014, *Independent News Papers* [<http://www.iol.co.za/news/politics/zuma-sympathisers-gun-for-public-protector-1.1762915#.VgDN3PIViko>] “ANC MP warns Madonsela about political posturing,” 7th July, 2014, *Business Day* [<http://www.bdlive.co.za/national/politics/2014/07/07/anc-mp-warns-madonsela-about-political-posturing>]

¹¹ Office of the Public Protector [<http://www.publicprotector.org/>] See for more on this Chapter Nine of the Republic of South Africa's 1996 Constitution institution: [<http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-09.pdf>]

¹² Interview with Public Service Accountability Monitor, 18 September, 2015

¹³ “A Can of Worms,” *Economist*, 29 October 2011, <http://www.economist.com/node/21533410>.

¹⁴ Institute of Security Studies, “Why Is Corruption Getting Worse in South Africa?,” *Crime Hub*, 13 December 2013, <http://bit.ly/1jN9uwH>.

¹⁵ Lebogang Seale, “Battle to Beat Corruption,” *Independent Newspapers*, 9 November 2014, <http://bit.ly/1N18OeN>.

¹⁶ “The Online Data Analysis Tool,” *Afrobarometer*, <http://bit.ly/1VCEh0t>; Soko, Mills, “South Africa Needs a Professional Civil Service,” 14 May 2015, <http://bit.ly/1QXQZ5>.

¹⁷ Department of Cooperative Governance and Traditional Affairs, *The State of Local Government* <http://www.cogta.gov.za/index.php/2014-04-29-10-00-08-reports-1/general-reports-1/934-state-of-local-government-report-2009-1/file>

¹⁸ *Corruption Watch*, interview with the IRM, 24 August 2015.

¹⁹ Republic of South Africa and the Open Government Partnership, *Mid-term Self-assessment Report*, ODAC, 9 April 2015.

²⁰ Craig Dodds, “Nkandla: DGs Take the Fall, Politicians Cleared,” *Sunday Independent*, 14 September 2014, <http://bit.ly/1VDYz8>.

²¹ Nikky Rehbock, “Thuli Madonsela: Corruption Eats Away at the Soul of the Nation,” *Transparency International*, 17 October 2014, <http://bit.ly/1ueXRMT>.

2 | Service Delivery Improvement Forums

The focus on this commitment is to implement and formalise partnerships with civil society organisations in all nine provinces to establish Service Delivery Improvement Forums (SDIFs) and to provide timely citizen report cards on service delivery. [...]

Possibilities/Emerging

Our focus going forward would be to establish functional SDIFs in the period new financial year based on the concept document and consultations with provinces. Part of the effort is to galvanize civil society organisations and partner with them in forging these forums.

Editorial note: The language of the commitment has been abridged for formatting reasons. For the full text of the commitment, please visit <http://bit.ly/1H8GisA>.

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
		X			X	X	X				X			X		

WHAT HAPPENED?

As noted in the government’s self-assessment report, the Service Delivery Improvement Forum (SDIF) commitment has been carried over from the first national action plan. The 2011-2013 IRM report noted the need to broaden participation with CSOs as a core component to realising this commitment. In August 2013, the Department of Performance Monitoring and Evaluation (DPME), in “consultation with a number of civil society and government actors,” published a Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery.¹ It explicitly aimed to provide the conceptual framework necessary for citizen-based monitoring of frontline service delivery.

The period under review coincides with the DPME’s pilot phase of implementation (October 2013 to mid-

2015) at select locations across the country. In an interview the IRM conducted with the DPME concerning implementation of the SDIFs, the SDIF’s pilot phase was unclear, if it existed or whether it had been started.² Yet IRM research indicates that the SDIFs have been a government commitment since a 2010 Cabinet resolution that required that the DPSA to undertake at least 10 public outreach programmes every year. During this same period, and preceding the OGP commitment, the Government stated that the SDIF initiative would be piloted and led by DPSA.³

According to Community Development Workers interviewed by the IRM, existing institutions such as ward committees and Integrated Development Planning meetings at local government level could be interpreted as SDIFs.⁴ However, Open Democracy Advice Centre (ODAC) stated that existing community engagement structures, and specifically ward

committees (which have elected ward councillors), would not be appropriate for the SDIF. ODAC stated that a clearly articulated development and implementation plan detailing the intended function of the SDIF and how it would be implemented is necessary. ODAC commented that they were not aware of SDIF commitment implementation and raised concern that, from the information available and presented in the national action plan and self-assessment report, the commitment appeared to be “conceptually weak” and poorly defined.⁵ The PSAM also stated that it was not aware of the SDIF initiative. Similarly, the Right2Know campaign had no knowledge of this commitment beyond what was stated in the OGP national action plan.⁶

As noted above, during the initial preparation of this report, the IRM was unable to determine the status on the DPME frontline service delivery satisfaction pilot project. However, during the review process, DPME published a report on the provincial-level pilots with the following key findings:

- Major field activities in the Citizen-Based Monitoring pilot concluded at the end of August 2015 – marking the conclusion of a two year process;
- Return visits would be conducted to all sites and findings reported at the end of March 2016;
- The pilot was supported by the United Kingdom Department of International Development (DFID) and is part of a three year funding partnership with the DPME;
- Pilot sites included participation by community members; youth, traditional and religious leaders, staff and managers from the local police offices, social security agency offices and the Department of Social Development;
- Focus was on developing a method for citizen-based monitoring at facility level;
- Pilot consisted of three steps:
 1. Collecting feedback from participants;
 2. Using feedback to develop a set of commitments and actions;
 3. Monitoring and evaluating actions agreed to achieve commitments.
- The pilot is being drafted into a toolkit aimed at

public sector officials and managers that would like to implement the programme in their facilities and departments;

- The South African Police Service will be among the first government agencies to roll out a Citizen-based monitoring programme.

As a result of the pilot concluding outside of the period under review (December 2014) the completion level has been coded as “limited.”

DID IT MATTER?

The improvement of service delivery in scale and in quality especially at local government level – as noted in the Department of Cooperative Government and Traditional Affairs’ State of Local Government Report – is essential to addressing the legacy of socio-economic inequality associated with apartheid, in addition to fulfilling the strong commitment to socio-economic rights as contained in the 1996 Constitution. Therefore this commitment has relevance to the South African context. Service delivery in South Africa still suffers from the legacy of apartheid. There remain significant discrepancies in the scope and quality of service delivery across the country. Middleclass, formerly white townships experience a significantly better service delivery compared to the formerly black townships.

The DPME correspondent referenced the legislative underpinnings of citizen participation in government, including the Promotion of Access to Information Act (2000), the Promotion of Administrative Justice Act (2000), the Municipal Systems Act (2000), and the South African Police Services Act (1995). The legislation requires public participation forums related to government lead departments, such as the Community Police Forums, the Community Safety Forums, Clinic Committees, Hospital Boards, and Ward Committees.

The establishment and implementation of SDIFs can thus be seen as a component in the broader attempt to accelerate the provision of services, while attempting to instil oversight in the delivery of services to respective communities. If the type or range of services the SDIF would target is clearly articulated, this commitment potentially could increase oversight

and transparency in the provision of public services to communities in South Africa.

MOVING FORWARD

CSOs pointed out in the first IRM consultative process (2011-2013) that the commitment has a potential to change the service delivery environment. If this commitment is carried over into the next national action plan, the following is recommended:

- Develop a clearly stated conceptualisation of what the SDIF attempts to achieve, detailing the following:
 - How the SDIF will be constituted;
 - The services it will cover;
 - The intended OGP function or target area.
- Develop the SDIF implementation plan in broad and transparent consultation with civil society, academia, and community members.
- Obtain multi-government (national, provincial and local) buy-in and support.
- Include civil society participation in the uniform code of conduct and governance structure.
- Have the auditor general (or a similar, appropriate body) audit or provide oversight, with annual reports or score cards published.

¹ Department of Planning Monitoring and Evaluation, Republic of South Africa, <http://bit.ly/1OX5oPk>.

² Department of Planning Monitoring and Evaluation, interview with the IRM, 21 September 2015.

³ Department of Public Service and Administration, Service Delivery Improvement Forums by Veronica Motalane (Presentation, 26 March 2013), <http://bit.ly/1Z9IDQL>; "Delivery Improvement Forum Launched," Archives, News24, 5 July 2010, <http://bit.ly/1VDVuRR>.

⁴ Community Development Workers, interview with the IRM, June 2015

⁵ Open Democracy Advice Centre, interview with the IRM, 21 September 2015

⁶ Right2Know, interview with the IRM, 2 September 2015 Public Service Accountability Monitor, interview with the IRM, 18 September 2015

⁷ Department of Cooperative Governance and Traditional Affairs, The State of Local Government <http://www.cogta.gov.za/index.php/2014-04-29-10-00-08/reports-1/general-reports-1/934-state-of-local-government-report-2009-1/file>

3 | Mainstream Citizen Participation in the Public Sector

Focus on mainstreaming citizen participation in the public sector. Inter-alia ensure that every public sector department across all spheres has a functional, resourced and well capacitated citizen engagement unit which regularly and proactively engages with civil society. [...]

Possibilities/Emerging

The DPSA is working with nine government departments (three per quarter) in the period 1 April 2013 to 31 March 2014, with the aim of institutionalising public participation in these departments. In collaboration with the Public Administration Leadership and Management Academy (PALAMA), the DPSA will provide training for officials in all departments to build internal capacity to successfully implement and sustain Public Participation activities in their respective departments.

Editorial note: The language of the commitment has been abridged for formatting reasons. For the full text of the commitment, please visit <http://bit.ly/1H8GisA>.

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
		X			X	X	X			X				X		

WHAT HAPPENED?

The nature and intent of this commitment was unclear, making assessment difficult. The language of the commitment suggests some policy development with significant training across all departments.

As implemented, however, there seems to be a difference in interpretation of the nature of the commitment. According to the government’s self-assessment report, substantial progress has been made in mainstreaming public participation in the public sector. The process of developing the guideline for citizen participation commenced during the first national action plan. The self-assessment report identifies a Citizens Participation Guide that was approved by cabinet and published in 2013.¹ The report states that academia was consulted in the drafting of the guide to “empower Community

Development Workers (CDWs) and stakeholders on how to effectively engage with citizens as well as educating citizens about their rights to service delivery and what responsibilities are expected of them when exercising their rights.”²

The self-assessment report states that training and capacity development workshops for CDWs were held in five of the nine country provinces with, on average, 65 stakeholders participating in each. Four more workshops were to be held in the remaining four provinces, with a total of 1,349 out of 3,201 CDWs participating in training workshops.³ In email correspondence with the IRM, the Department of Public Service and Administration (DPSA) stated:

DPSA in collaboration with the Department of Cooperative Governance and Traditional Affairs

*at provincial level, conducted workshops to empower, inform, refresh and guide community development workers and other field workers on how to use the guide as a resource document to facilitate effective citizen engagement.*⁴

However laudable, the training of Community Development Workers is not congruent with “all departments.” Therefore progress has been coded as “limited.”

A desktop survey reveals several government-commissioned public participation reports and frameworks. One of the frameworks is ten years old:⁵

- o Guide on Public Participation in the Public Service (published in 2014 by the DPSA);
- o Framework for Strengthening Citizen-Government Partnerships for the Monitoring of Frontline Service Delivery (published in 2013 by the Department of Performance, Monitoring and Evaluation);
- o Template for Developing Guidelines on Public Participation (published in 2010 by the Public Service Commission);
- o Western Cape Public Participation Guide (published in 2010 by the Provincial Government of the Western Cape);
- o Public Participation Workbook and Guide in Local Government (published in 2005 by the Department of Co-operative Governance and Traditional Affairs).

DID IT MATTER?

The IRM research showed that there was a lack of clarity around what was meant by “institutionalization.” Civil society members interviewed interpreted this to mean clearer guidance while government correspondence showed that this was largely a capacity-building exercise.

Indeed, there is significant guidance on public participation in South Africa. South Africa’s Constitution provides for public participation of citizens in the public sector. Section 195 of Constitution of the Republic of South Africa (1996) requires:

(d) Services must be provided impartially, fairly, equitably and without bias;

(e) People’s needs must be responded to, and the public must be encouraged to participate in policy making;

(f) Public administration must be accountable;

(g) Transparency to the public must be fostered through timely, accessible and accurate information.

This has been promulgated in a range of legislation: the Promotion of Access to Information Act (2000), the Promotion of Administrative Justice Act (2000), the Municipal Systems Act (2000), and the South African Police Services Act (1995).⁶ Public participation is a legislated requirement in the development of legislation and in the implementation of policy, involving national, provincial, and local government. In addition, improving participation between government and citizens could be a step in the right direction towards closing the information and trust deficit. It also could be a step towards addressing the failed expectations of communities, which routinely manifest as social protests at the local government level.⁷

In interviews the IRM conducted with representatives from Open Democracy Advice Centre (ODAC) and the Public Service Accountability Monitor (PSAM), they noted that the guide has limited resonance in broader civil society because it was not developed in a participatory and civil society-driven process. The South African NGO Coalition (SANGOCO) stated that it had not been consulted or orientated on how to use the guide to empower civil society, and SANGOCO received the guide via OGP partners.⁸ ODAC cautioned that training government officials should not be considered part of fulfilling OGP commitment objectives. ODAC believes the real focus should be civil society and communities within these specific commitments, specifically during the development and implementation phases.⁹

DPSA did not provide specific details in the national action plan or in the self-assessment report regarding how the provincial and local spheres of government would be involved in completing the commitment.

MOVING FORWARD

It is recommended that the Government considers the following:

- Clarify the intended purpose and outcome of this commitment, as well as revise the methodology and

approach undertaken in this important commitment to include civil society participation and direct community involvement in the development and implementation of community specific public participation frameworks;

- Ensure transparent involvement of NGOs, community-based organisations, interest groups, and Community Development Workers to ensure the process is legitimate for stakeholders and the general citizenry;
- Pilot and explore innovative, technology-centred approaches to involve community engagement with the public sector. For example, because South Africa boasts a significantly high level of cell phone penetration, with upwards of 90 per cent of the population owning a cellular device (89 per cent in 2011),¹⁰ communities and government departments cell phone trainings could serve as an accessible medium to disseminate important public notifications and to allow for dialogue.

¹ "Guide on Public Participation in the Public Service," Department of Public Service and Administration, <http://bit.ly/1VCIQI4>.

² "OGP South Africa," Open Government Partnership, <http://www.ogp.gov.za/?q=node/16>.

³ Department of Public Service and Administration, email correspondence with the IRM, 28 September 2015.

⁴ Department of Public Service and Administration, email correspondence with the IRM, 28 September 2015.

⁵ Public Service Commission, "Template for Developing Guidelines on Public Participation," Custodian of Good Governance, March 2010, <http://bit.ly/1OkoS0p>; Department: Performance Monitoring and Evaluation, "A Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery," Republic of South Africa, 11 June 2013, <http://bit.ly/1Kuczug>; "Western Cape Policy on Public Participation: Draft 2 Version 2," Provincial Government of the Western Cape, October 2010, <http://bit.ly/1FekZHI>

⁶ Department of Performance Monitoring and Evaluation, interview with the IRM, 21st September 2015.

⁷ Peter Alexander and Peter Pfaffe, "Social Relationships to the Means and Ends of Protest in South Africa's Ongoing Rebellion of the Poor: The Balfour Insurrections," *Social Movement Studies: Journal of Social, Cultural and Political Protest*, Vol. 13, Issue 2 (2014), <http://bit.ly/1OJS3is>; Patrick Bond and Shauna Mottiar, "Movements, Protests and a Massacre in South Africa," *Journal of Contemporary African Studies*, Volume 31, Issue 2 (2013), <http://bit.ly/1Rt6px5>.

⁸ South African NGO Coalition, interview with the IRM, 28 September 2015

⁹ Public Service Accountability Monitor, interview with the IRM, 18 September 2015

Open Democracy Advice Centre, interview with the IRM, 21 September 2015

¹⁰ Department of Planning, Monitoring and Evaluation, "Twenty Year Review South Africa 1994-2014," Presidency, Republic of South Africa, 2014, <http://bit.ly/1iTCvqd>.

4 | Portal of Environmental Management Information

Develop an integrated and publicly accessible portal of environmental management information

OVERVIEW

This commitment has been modified and carried over in line with the stretch and ambition approach. While in the previous plan we focused on conducting a feasibility study now the focus is on developing the actual portal and integrating all existing portals and information.

Currently government has portals across different government departments on environmental information. A need has been identified to have an integrated portal that provides aggregated environmental information across sectors. The availability of such a portal would strengthen compliance with environmental regulation while at the same time providing citizens with access to comprehensive information on environment.

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
			X		X			X			X				X	

WHAT HAPPENED?

This continues a commitment contained in the first national action plan, which called for the implementation of a pilot study to test the viability of developing an environmental management information portal. No link to the portal was provided in either the national action plan or the self-assessment report. IRM research found the following link via a Google search: <http://egis.environment.gov.za/frontpage.aspx?m=27>

According to the Government’s self-assessment report, the first phase of the commitment was to be completed by April 2015, during the second year of implementing the national action plan. This step involved centralising and integrating environmental

spatial datasets through a singular, easily accessible portal hosted by the Department of Environmental Affairs. The portal is live and has been populated with datasets on land cover, conservation, protected areas, special data for environmental impact assessments for renewable energy project proposals, solar data, and distribution maps of mammals in South Africa. The final phase is expected to conclude at the end of March 2017 and will include marine and coastal datasets.¹

The self-assessment report states that the portal will map “environmentally sensitive areas at the national level.” This data would be made available to the public, improving openness and accountability of environmental information. It would be useful to

environmental practitioners, policy-makers, and the private sector to produce studies that enhance the richness of policy dialogue. Lastly, it is envisaged that the portal will be integrated with the “Co-ordinated and Integrated Permitting System,” allowing users to track commercial development throughout South Africa.²

Transparency and oversight of environmental management practices in South Africa is a long-standing and current challenge area.³ It is especially pronounced in the mining sector.⁴ For example, an audit recently revealed that 96 mines across South Africa were operating without a water license (which is required by the National Water Act 36 of 1998.)⁵ The issue is multifaceted and complex due to multiple regulation and oversight failures.⁶

Further clarity on the function and scope of the portal is necessary. For example, IRM research indicates the recent development and upcoming release of the first digital South African “water atlas,” under the auspices of the Water Research Commission (established by the Water Research Act 34 of 1971).⁷ The water atlas will map and assist in managing the extensive impact of mining and mining-related activities on South Africa’s water resources and systems. In addition to the fact that South Africa is a water-depressed country, the water atlas will help to formulate an appropriate policy response to the country’s acid mine drainage problem, which is threatening several large national water systems.⁸ Within this vein of poor oversight and regulation over a historically mature sector such as mining in South Africa, calls for developing shale gas deposits in South Africa’s Karoo⁹ area have received stern opposition from the environmental activist sector.¹⁰

DID IT MATTER?

A single portal for environmental information is a welcome and positive step towards improving government openness and accountability. The portal will make it easier to access environmental information for its intended target audience – comprising of environmental management and spatial planning practitioners rather than the general public.¹¹ If implemented across all relevant government spheres through a co-ordinated

approach, the portal has the potential to plug a critical gap in providing comprehensive and timely information to relevant stakeholders and policy-makers. In so doing, government decisions and policy positions would be informed by relevant and sound environmental data.

In an interview between the IRM and the Federation for a Sustainable Environment (FSE), an environmental rights NGO in South Africa, FSE stated they had no knowledge of the OGP national action plan commitments. The FSE is active in no less than 21 environment-related oversight committees, the majority of which are government driven, including the Department of Environmental Affairs’ Steering Committee on the National Environmental Impact Assessment and Management Framework.¹² The Endangered Wildlife Trust, an environmental conservation non-profit organisation at the forefront of conservation efforts vis-à-vis mining in South Africa, also had no knowledge of or participation in this commitment.¹³

The FSE cites the failures to co-ordinate between the various government departments and to enforce existing policy as key challenges with environmental compliance. Co-ordination and enforcement is needed especially in the allocation of prospecting and mining licenses because, currently, it appears that this takes place on “an ad hoc basis without the necessary consultations amongst the relevant government departments.”¹⁴

MOVING FORWARD

To ensure that this relevant commitment is realised, several safeguards should be incorporated. The following is recommended:

- Efforts should be made to improve dialogue, participatory processes, communication and engagement with civil society concerning the intended purpose and function of the portal;
- The portal should play a significant and leading role in improving oversight and accountability capacity in the environmental management sector;
- It should focus on key challenge areas within the public interest, such as mining and the related impact on the environment; and,

- It should integrate or co-ordinate with existing environmental portals such as the forthcoming mine water atlas.
- Provide greater detail concerning the implementation and relevance of this commitment to OGP. A roadmap should detail the implementation steps towards clearly defined milestones.

¹ "Spatial Information Portal," Department of Environmental Affairs, <http://egis.environment.gov.za/frontpage.aspx?m=27>.

² Republic of South Africa, "Mid-term Self-assessment Report: National Action Plan 2013-2015," Open Government Partnership, March 2015, <http://bit.ly/1MdWfRd>.

³ Centre for Environmental Rights, "Full Disclosure: The Truth about Corporate Environmental Compliance in South Africa," 2014, <http://cer.org.za/full-disclosure>.

⁴ Tracey Davies, "Mining - Coming to a Protected Area Near You," GroundUp, 6 July 2015, <http://bit.ly/1MczfX>.

⁵ Natalie Greve, "Ninety-six Mines Operating without Water Licences, Minister Reveals," Mining Weekly, 24 March 2015, <http://bit.ly/1OJUyBq>; Republic of South Africa, "National Water Act No. 36 of 1998," 2 September 2014, <http://cer.org.za/virtual-library/national-water-act-1998>.

⁶ Chantelle Kotze, "Centre for Environmental Rights Institutes Legal Action on Coal Mining Right," Mining Review, 18 September 2015, <http://bit.ly/1OXd6Jj>; Tracey Davies, "Mining - Coming to a Protected Area Near You," GroundUp, 6 July 2015, <http://bit.ly/1MczfX>.

⁷ Staff Writer, "Mine Water Atlas in 'Final Stages of Development,'" Business Day, 22 September 2015, <http://bit.ly/1MlqtMU>.

⁸ Sara E. Pratt, "All that Glitters ... Acid Mine Drainage: The Toxic Legacy of Gold Mining in South Africa," Earth Magazine, 23 September 2011, <http://bit.ly/1FSJfK>.

⁹ "Shale Development in South Africa," Vinsons & Elkin, <http://fracking.velaw.com/shale-development-south-africa/>

¹⁰ Todd Pitock, "In Arid South African Lands, Fracking Controversy Emerges," Environment360, 11 August 2011, <http://bit.ly/ZR8Xj7>.

¹¹ National Planning Commission, "National Development Plan 2030: Our Future – Make It Work," Republic of South Africa, 2014, <http://bit.ly/1DJuXQ1>.

¹² Federation for Sustainable Environment, interview with the IRM, 21 September 2015.

¹³ Endangered Wildlife Trust, interview with the IRM, 22 September 2015.

¹⁴ Federation for Sustainable Environment, interview with the IRM, 21 September 2015.

5 | Data on Conservation Areas

Development of an on-line crowd sourcing tool that will allow the public to submit data on protected areas and conservation areas.

OVERVIEW

Crowdsourcing is becoming a popular way to collaborate on projects. This portal will enable volunteers (general public) to submit information on protected areas and conservation areas to the department, and by so doing that will enable the department to improve its data on the conservation estate. The portal will go live early 2014.

High level outcomes are: Improved public access to information on the conservation estate in South Africa; Improved quality of data on the conservation estate in South Africa; and citizen participation.

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
		X				X	X		X		X				X	

WHAT HAPPENED?

According to the self-assessment report, the crowd-sourcing tool the "Protected Areas Database" (PAD) was deployed for testing in 2014. It is available at <http://www.padcollaboration.org>.

The self-assessment report states that the tool became fully operational in April 2015, outside the period of implementation assessed by this report. At the time of drafting the report, the IRM was unable to obtain an interview with the Government.

According to the commitment, the tool will allow citizens to assist the Department of Environmental Affairs (DEA) in identifying and closing gaps in the national protected and conservation inventory. It appears that the PAD tool is an auxiliary component to an existing repository of DEA spatial environmental information, such as the "Protected Areas Register" available at: <http://mapservice.environment.gov.za/PAR/map.aspx>.

By using the PAD tool to make submissions, it is envisaged that citizens will assist the DEA in defining the legislated minimum required "buffer zone," between commercial activity and existing protected or conservation areas. It also stated that the tool would assist the government and environmental impact practitioners in assessing applications for commercial development that carry a high inherent environment risk, such as mining and waste management.

DID IT MATTER?

This commitment has the potential to assist the government in the management of the environmental impact assessment and commercial permitting process, for example in the issuing of prospecting and mining licenses.

It is assumed that the intended target audience concerning the "public participation" component

of this commitment would be land surveyors or experienced Geographic Information Systems professionals and researchers. A crowd-sourcing expert interviewed by the IRM confirmed that the website is geared towards experts. The website requires the user to input information, such as the latitude and longitude, that would be too difficult for the average person to obtain. Thus, according to IRM research, the commitment is not targeted at the public in general, but rather, at a select target audience. However in feedback provided by the Government after the review, reiterated that the target audience would be the “public.”

If the information captured is reliable, (according to the Government this will be verified by the project team), it has the potential to serve as a database concerning land use, which, for example, can inform public policy positions on rural development, agriculture, mining, and environmental management. The commitment also could be of use to environmental NGO, interest groups, researchers, and academia. However, in interviews, the Endangered Wildlife Trust and the Federation for a Sustainable Environment – both of which are at the forefront in challenging the government on weak environmental oversight vis-à-vis mining – stated that they had no knowledge of this specific commitment.¹

MOVING FORWARD

If this commitment is to be carried over into the next action plan, the government should consider the following recommendations:

- Clarify the intended purpose of this commitment by providing a greater level of commitment detail;
 - Explore the opportunity to combine this commitment as a milestone towards commitment four on the Environmental Information Portal;

- Create a public engagement and implementation strategy to ensure participation and the success or usefulness of a crowd sourcing tool;
- To ensure that the tool will be of relevance in policy-making, the government should require implementation protocols in related policy (for example: environmental management) and should ensure the integrity of data captured.

¹Endangered Wildlife Trust, interview with the IRM, 22 September 2015, Federation for Sustainable Environment, interview with the IRM, 21 September 2015.

6 | School Connectivity

The issue of schools connectivity and broadband is central to the government's efforts to strengthen the quality of teaching and learning. Government has embarked on a schools connectivity rollout project with telecoms operators as part of the national ICT policy. This will be done in 2 phases; phase 1 will entail the connectivity to 1650 schools by savings achieved in the 2010 World Cup, and phase 2 will be rolled out by telecoms operators under their Universal Service Obligations (USO). [...]

	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
Overall		X			Unclear						X		Unable to tell from government and civil society responses			
1. Develop connectivity model		X			Unclear						X		Unable to tell from government and civil society responses			
2. Roll out model		X			Unclear						X		Unable to tell from government and civil society responses			

WHAT HAPPENED?

This commitment is situated with the broader government policy framework of developing a "knowledge economy," as mandated by the National Development Plan (2012) and the New Growth Path (2010). In 2013, the Government published the National Broadband Plan: South Africa Connect Policy, which underscores the conventional wisdom on the importance of ICT connectivity and improved socio-economic outcomes, including improved learner outcomes, health and economic development.¹

The Government's self-assessment report states the following:

Telkom SA is providing computer installations and equipment to the 1 650 identified schools

in the country. A private company, Intel South Africa is providing free teacher training on the provided equipment and SchoolNet, a NGO, has been selected as Intel's training partner.

IRM research indicates that these two projects, although both related to school connectivity, are distinct. Telkom SA's project connecting 1,650 schools with the Internet forms part of its corporate social investment. The project arises from revenue generated as a result of the 2010 Soccer World Cup in South Africa.² Intel South Africa and SchoolNet's project is an ICT training project for educators and learners. It began in 2003. A number of similar projects with the aim of providing schools with the necessary ICT infrastructure and internet connection are underway across South Africa at the provincial level.³ It is

not clear if or when this project will conclude.⁴ The government OGP representative for this commitment did not respond to follow-up questions sent by the IRM.

The Joint Parliamentary Committee on Telecommunications and Postal Services on 12 September 2014 noted several problems that arose in the parliamentary briefings. The problems concern the implementation of the Government's ICT connectivity strategy, primarily the need for greater harmonisation and less fragmentation between the respective government departments concerning policy implementation. In addition, they called for safeguards to ensure that the implementation and benefits of the policy occurs not only concentrated in urban nodes but also at schools in rural areas. This concern seems justified, given that the most urbanised of the nine provinces, Gauteng, has been the most active in emphasising school connectivity. The sustainability of the strategy also was queried given reports concerning inadequate use, theft, and high cost to maintain security for the equipment once it is installed.⁵

DID IT MATTER?

From the limited information presented in the national action plan and the self-assessment report, the IRM is unable to determine the relevance of this commitment to OGP. Hardware by itself is no guarantee of open or civic education without additional investment and a strategic approach.

Regardless of the relevance to OGP, the commitment itself may be admirable. What is less clear, however, is whether this should be the main priority in terms of open government and education. Open government approaches may rely less on technology and more on transparency and accountability measures to that assure that students' basic human needs are being met.

Within the context of poor physical infrastructure and security, it will be difficult to see an immediate benefit from connectivity. The first component of this concerns the overall standard of the school infrastructure.⁶ The second component is concerned with the quality of education and learner outcomes. The Government recently took positive steps to address the significant inequalities in school infrastructure by publishing the regulations, Minimum Uniform Norms and Standards for

Public School Infrastructure. However, the Government did this only after sustained advocacy and challenges in court from CSOs acting with, and/or on behalf of learners and parents. The regulations set minimum standards for public schools to attain, such as the provision of a basic physical infrastructure like access to toilets, drinking water, libraries, Internet, etc. Nevertheless, significant challenges manifest in meeting the minimum criteria. For purposes of assessment and to ensure compliance, the Government undertakes physical infrastructure audits, which produce data for the National Education Infrastructure Management System (NEIMS). In 2014, 10,721 of the 23,740 public schools (45 per cent), failed to comply with the minimum standards.⁷

Interventions such as the provision of basic infrastructure or hardware do not necessarily guarantee the improvement of learner outcomes. This is evidenced by the disproportionately high amount (\$1,225 per learner) that South Africa spends per child on primary education compared to the rest of the African continent. Yet South Africa achieves lower learner outcomes than Kenya, which spends \$258 per learner. Despite South Africa's above-average spending on education, six per cent of GDP,⁸ approximately 75 per cent of its public schools are classified as dysfunctional. South Africa also ranks poorly when compared to its peers in basic literacy and numeracy.⁹ The high dropout rate of eleventh and twelfth-grade learners also is concerning.¹⁰ Finally, management challenges range from failing to recruit and place teachers in vacant positions to supply chain challenges to irregularities as a consequence of corruption.¹¹

In the past, the Government has made similar commitments to implement ICT connectivity in schools with varying and uneven levels of success. This raised questions regarding the sustainability of such projects.¹² An example is the Gauteng Online Schools program, which was suspended due to procurement irregularities.¹³ The Parliamentary Committee on "broadband for schools" noted that implementation of ICT policy at the school level was not satisfactory. Inter-governmental co-ordination was cited as one of the core challenges.¹⁴

MOVING FORWARD

If this commitment is to be included in the new

national action plan, relevance to OGP and advancing open government needs to be articulated. The IRM recommends the following:

- If it proves to be relevant, OGP relevance should be clearly articulated, including a detailed implementation plan and targeted, measurable outcomes.
- The DPSA, upon determining that education commitments are a priority, should work with relevant government spheres, agencies, and organisations to identify critical open government reforms, such as procurement reform, civic education, publication of physical infrastructure data, and school performance data.

¹ "Electronic Communications Act: South Africa Connect: Creating Opportunity, Ensuring Inclusion South Africa's Broadband Policy," Republic of South Africa, 6 December 2013, <http://bit.ly/1PhydoX>.

² Ike Kunene, "Telkom Presentation to Portfolio Committee on Communication (DTPS)," Telkom Business, 8 October 2013, <http://bit.ly/1FW3mvT>.

³ "South Africa's Western Cape Invests in E-Learning," SouthAfrica.Info, 23 February 2015, <http://bit.ly/1MdCnsB>; Victoria John, "Education MEC Promises to Take Gauteng Classrooms into the Future," Mail and Guardian, 20 May 2015, <http://bit.ly/1IR46kS>.

⁴ SchoolNet, Intel Education Initiative, <http://bit.ly/1OKsway>.

⁵ "Government and Telecommunication Companies on Broadband Connectivity for Schools," Parliamentary Monitoring Group, 12 September 2014, <https://pmg.org.za/committee-meeting/17536/>.

⁶ Republic of South Africa, "South African Schools Act 84 of 1996: Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure," 26 November 2013, <http://bit.ly/1j6gSTb>.

⁷ Department of Basic Education, "NEIMS Standard Reports October 2014," Republic of South Africa, 23 October 2014, <http://bit.ly/1LxfGoY>. Detailed findings from the 2014 NEIMS audit report include:

* 1,131 schools do not have electricity, while another 2,773 schools have an unreliable electricity source;

* 604 schools have no water supply, while another 4,681 schools have an unreliable water supply;

* 474 do not have any ablution facilities, while 11,033 schools are still using pit latrine toilets;

* 18,301 schools do not have libraries;

* 20,463 schools do not have any laboratory facilities, while 3,277 schools have stocked laboratories;

* 1,578 schools have no fencing; and,

* 16,146 schools do not have a computer centre, whilst 7,593 have computers.

⁸ "Government Expenditure on Education, Total (% of GDP)," World Bank, <http://bit.ly/1tJjc8>.

⁹ South African pupils ranked tenth out of fourteen education systems for reading and eighth for mathematics. This was behind poorer countries such as Tanzania, Kenya, and Swaziland.

Nicholas Spaull, "South Africa's Education Crisis: The Quality of Education in South Africa 1994-2011," Centre for Development and Enterprise, October 2013, <http://bit.ly/1Gvyxt2>.

¹⁰ "Spot Check: South Africa's Matric Pass Rate Obscures Dropout Rate," Africa Check, <http://bit.ly/1LhHRBQ>.

¹¹ Victoria John, "Leaked Report Reveals Rampant Cronyism and Teacher Hiring," Mail and Guardian, 15 April 2015, <http://bit.ly/1aT11Dn>; "On the Trail of South Africa's Missing Textbooks," BBC, 3 October 2012, <http://bbc.in/1Lxgv16>.

¹² T. Mhlongwa, "Policy Brief: Information and Communication Technology (ICT) as a Means of Enhancing Education in Schools in South Africa," Africa Institute of South Africa, Briefing 80, August 2012; Tabela Timse, "Controversial Gauteng Online Tender Called Off," Mail and Guardian, 19 March 2013, <http://bit.ly/1Lxgl4e>; Batlile Phaladi, "Schools Tablet Theft Shock," Citizen, 15 May 2015, <http://bit.ly/1jNibas>.

¹³ Tabela Timse, "Controversial Gauteng Online Tender Called Off," Mail and Guardian, 19 March 2013, <http://bit.ly/1Lxgl4e>.

¹⁴ "Government and Telecommunication Companies on Broadband Connectivity for Schools," Parliamentary Monitoring Group, 12 September 2014, <https://pmg.org.za/committee-meeting/17536/>.

7 | Service Rights and Responsibilities Campaign

The purpose of this commitment was/is to enhance the capacity and capabilities of communities to access and claim their socioeconomic rights through the roll-out of national public education campaigns, specifically a public outreach campaign on Know Your Service Rights and Responsibilities (KYSR&R) to inform citizens about their service rights, responsibilities, and legal mechanisms available to hold government accountable.[...]

POSSIBILITIES/EMERGING

More work that focuses on educating citizens on their responsibilities to the state needs to be undertaken.

Editorial note: The language of the commitment has been abridged for formatting reasons. For the full text of the commitment, please visit <http://bit.ly/1H8GisA>.

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
		X			X	X	X			X					X	

WHAT HAPPENED?

The KYSR&R commitment was carried over from the first national action plan. Originally a pre-OGP initiative launched in 2009, it originated under the Integrated Criminal Justice Cluster and Batho Pele initiative led by the Department of Public Service and Administration (DPSA). Civil society groups such as the South Africa civil society organisation, and the Open Democracy Advice Centre assisted in the drafting of a KYSR&R booklet. The aim of the commitment is to ensure that citizens are aware of their constitutionally enshrined service rights and responsibilities in holding government accountable.¹

Community Development Workers (CDWs) are at the face of communication between government and communities regarding rights knowledge and awareness. Therefore, the capacity and competence of the CDWs is extremely important.

The issues range from household to household. For example, certain households need assistance in obtaining indigent classification and access to free or subsidised basic services, others need help in obtaining school books, or pensioners need assistance in registering for social grants.²

The Government's self-assessment report states that CDWs in five of the nine provinces have been trained in how to educate communities about their rights and responsibilities. Further training workshops were to be carried out in the remaining four provinces in the second year of implementation of the national action plan. In an interview the IRM conducted, DPSA stated that 11 workshops across the nine provinces were held from 2013 to 2015, and a total of 1,349 out of 3,201 CDWs participated in the training workshops.³ This may indicate that the second year of training in the remaining provinces has been completed.

Accessing service rights in South Africa does not take place uniformly, nor does it occur within a vacuum. For example, children's access to education is affected by a multitude of social and economic factors that manifest at the micro level, such as poverty, income inequality, low literacy, and low levels of education within families, in addition to macro factors such as school location, quality of school infrastructure, teacher competence, and the accountability of local government officials in the management of schools, among others.⁴

Thus, service rights awareness-raising campaigns such as the KYSR&R take place in a complex, socio-politically charged terrain, where the expectations and outcomes vary significantly within and between communities. This is due to disparaging levels of socio-economic inequality in South Africa.

DID IT MATTER?

The effectiveness or success of a rights-awareness campaign cannot be determined by how many CDWs were trained, nor by how public officials engaged or visited citizens in a given period. The Public Service Accountability Monitor believes the KYSR&R is a good, but challenge-ridden and somewhat conflicted initiative. Key challenges include the lack of transparency and the high degree of corruption at local government level, which often result in the failure to deliver the most basic of services to communities.⁵ According to the South African NGO Coalition (SANGOCO), civil society was excluded in the development and implementation of this commitment. SANGOCO stated that the KYSR&R exists "just on paper but nothing concrete has come out of this action plan [commitment]."⁶

Nevertheless, this commitment has the potential to improve citizen participation and to improve accountability at provincial and local government level. CDWs interviewed by the IRM expressed general satisfaction with the level of knowledge about rights and responsibilities among communities targeted by

the campaign, but they believe there is always room for improvement.⁷

MOVING FORWARD

Awareness-raising campaigns such as the KYSR&R should continue to ensure that citizens know exactly where to go to report non-fulfilment of their constitutionally and legally enshrined rights by public officials. In addition to completing the training for CDWs throughout the country, as stated in the self-assessment report, the IRM recommends:

- To ensure the uniform and strategic implementation of the KYSR&R by CDWs, the commitment should include the development of a KYSR&R national campaign implementation strategy with targeted milestones and measurable outcomes;
- The Government should consider appointing an independent monitoring and evaluation service provider to gather baseline data and to track perceptions "on the ground" relating to the relevance and applicability of such a campaign for the target communities.

¹ Interview with Open Democracy Advice Centre, 21 September 2015

² Interview with Community Development workers April-June 2015

³ Community Development Workers, interview with the IRM, April-June 2015.

⁴ Department of Public Service and Administration, email correspondence with the IRM, 28 September 2015.

⁵ South African Human Rights Commission, Charter of Children's Basic Education Rights, 2012, <http://bit.ly/1Nlqiro>.

⁶ Public Service Accountability Monitor, interview with the IRM, 18 September 2015.

⁷ South African NGO Coalition, interview with the IRM, 28 September 2015.

⁸ Community Development Workers, interview with the IRM, April-June 2015.

V | PROCESS: SELF-ASSESSMENT

Table 2: Self-Assessment Checklist

Was annual progress report published?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Was it done according to schedule? (Due 30 Sept. for most governments, 30 March for Cohort 1.)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the report available in the administrative language(s)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the report available in English?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did the government provide a two-week public comment period on draft self-assessment reports?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Were any public comments received?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the report deposited in the OGP portal?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did the self-assessment report include review of consultation efforts during action plan development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did the self-assessment report include review of consultation efforts during action plan implementation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did the report cover all of the commitments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did the report respond to the IRM key recommendations (2015+ only)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

ADDITIONAL INFORMATION

The self-assessment report was due to be released on 1 April 2015. However, this was released in June 2015. During the interim period, the IRM relied on a draft version of the report. A civil society stakeholder interviewed reported that stakeholders were given ten calendar days to comment on the draft report (from 1 April to 10 April 2015).

The detail about commitment completion in the self-assessment report is weak and vague. For instance,

in some areas, the self-assessment report mentions substantive completion of a commitment without providing details in a way that is verifiable. This made it difficult for the IRM to obtain an accurate sense of commitments' completion. Questions were submitted to each of the designated government commitment representatives, with four responses received out of eight requests sent.

VI | COUNTRY CONTEXT

South Africa has a well established, organised civil society. The country has the potential for significant development and can build on a legacy of a strong constitution and institutions. It faces the risk of eroding democratic gains due to major controversies around corruption, misuse of power, and a mixed record on service delivery.

It has been twenty-one years since South Africa's landmark transition to democracy from apartheid in April 1994. Categorized as a middle-income country, South Africa has made significant strides since 1994, specifically in addressing many of the social ills that constitute the legacy of apartheid. Social grant beneficiaries increased from 2.7 million people in 1994 to more than 16 million people. Voter turnout in the 2014 national election was 73.5 per cent – although this is a notable decline from the high of 86.9 per cent and 89.3 per cent in 1994 and 1999 elections, respectively¹ – with the ruling African National Congress (ANC) party winning 62 per cent of the national vote.² Nevertheless, key structural challenges remain, specifically concerning the racial character of poverty, inequality,³ and high unemployment.⁴

The biggest gains have been witnessed in the provision of basic housing to 2.8 million poor families. Basic services such as piped water increased from 60 per cent in 1994 to 95 per cent from 2011-2012, and electricity connections increased from 50 per cent in 1994 to 86 per cent in 2012-2013.

Similarly, advances have been made, for example, in improving access to higher education. South Africa met the Millennium Development Goal of having 20 per cent of twelfth grader with access to tertiary education.⁵ However, the South African education system has a chronic problem of high school learners dropping out before graduating, with as much as 50 per cent of learners failing to complete grades 11 and 12.⁶

Similarly advances have been made in the provision and access to healthcare facilities; however, the functionality of the healthcare system as a whole, including the quality of service provision, increasingly has come under criticism.⁷

On international metrics such as the Open Budget Index, South Africa ranks firmly above average compared to its peers, attaining a rank of first in 2010, second in 2012 and third in 2015.⁸ However, some

question whether after 20 years of freedom, South Africa is moving forward with its democratic gains. Perception is increasing that South Africa is regressing in accountability and transparency, as evidenced by South Africa dropping a total of 34 places since 2001 in the Corruption Perception Index (CPI). Currently, South Africa is ranked 72 out of 176 countries (2013).⁹

Similarly, 2013 marked the first year that South Africa slipped out of the top 50 countries for press freedom, ranking fifty-second. This decline was attributed to the perceived threats to free press contained in the pending Protection of State Information Bill. Early drafts of the bill threatened imprisoning whistle-blowers on the basis of disclosing "classified information."¹⁰ Although the bill is still in draft form and has not been signed into effect, civil society remains concerned at the striking similarities to apartheid-era legislation, which criminalised the disclosure of public interest information.¹¹

South Africa historically has boasted a rich and vibrant civil society epitomised by the United Democratic Front of the 1980s, a civil society collective of over 400 civic organisations, churches, unions, and schools. The United Democratic Front played a significant and leading role in the domestic fight and overthrow of apartheid.¹² However, a prominent cabinet minister recently referred to civil society as a "disease,"¹³ which activists consider an indication of the Government's growing hostility towards civil society. According to civil society activists, such statements demonstrate the broader political climate of an increasingly autocratic ruling culture in South Africa in part as a consequence of the ruling ANC finding its policy decisions under increasing scrutiny by civil society.¹⁴ According to a recent report on the status of state-civil society relations in South Africa, there has been a decisive shift in attitude by the ruling ANC party, viewing civil society as an "oppositional force that was using the rights in the Constitution to spearhead a strategic and tactical approach that was unnecessarily critical and

interfering with the governance 'mandate' of the ANC."¹⁵

The status quo regarding civil society's health, vibrancy, representation and ability to coalesce on key issues in South Africa is a contested subject: Concerns range from inadequate and unsustainable funding to the perception of civil society resigned and retreating from talking "truth to power."¹⁶ While other stakeholders feel that grassroots civil society activism, although not organised, is alive and well in South Africa, and is driven by the explicit aim of holding local government officials accountable for "the quality of post-apartheid democracy" vis-à-vis service delivery – evidenced by the significant number of protests held annually.¹⁷

Disputes between civil society and the government often play itself out within the three spheres of government. For example, at the provincial and local government level, citizens try to hold public officials accountable for providing basic services. Civil society also is concerned about corruption.¹⁸ Only 18 per cent of municipalities in South Africa received a clean audit in 2012.¹⁹ At the national level, disputes with civil society manifest over corruption and the lack of transparency and accountability associated with large-scale public expenditure and procurement (e.g. infrastructure and energy related projects).²⁰

The Government's response and strategy to public order management also has received significant attention. The first term of Jacob Zuma's presidency began in 2009. It coincided with a significant surge in major service delivery protests.²¹ Subsequently, according to critics, the Government shifted to heavy-handed tactics in responding to protests.²² According to critics, these tactics culminated in the Marikana tragedy in 2012, a catastrophic strike that resulted in the death of 44 mine workers at the hands of the police.²³

Furthermore, South Africa was affected by the global recession, losing over one million jobs between 2008 and 2010. Even before the recession, South Africa had a chronic unemployment crisis. To address the issue of poverty and inequality by 2030, the National Development Plan set an annual target of GDP growth at a rate of 5.5 per cent. Since 1995, South Africa's GDP has averaged 3.2 per cent. In 2014, South Africa grew at 1.4 per cent. Growth rate expected to recover to three per cent by 2017, well short of what is required.²⁴

The Nkandla matter, which concerns allegations of misspent money on upgrades at President Zuma's private residence, has come to define the President's tenure, and since the beginning of 2015 has tested the nation's system of checks and balances. Of concern are the jurisdiction of the Public Protector,²⁵ (South Africa's independent constitutionally mandated accountability institution²⁶) and the ability of National Assembly to exercise oversight of the executive. As of this report, the Executive has not taken direct responsibility for the affair, or repaid the public purse, as recommended by the Public Protector. The Executive has instead sought to challenge the Office of the Public Protector's powers in court.

This protracted accountability crisis has played out publicly in the National Assembly. It culminated in the forced removal of members of parliament, the Economic Freedom Fighters (EFF) party, by armed guards after they posed questions to the President during the 2015 State of the Nation Address on the Nkandla matter.²⁷ Recently launched, EFF is a populist pro-poor political party led by Mr. Julius Malema, a one-time ANC Youth League President and former Zuma supporter. He has tapped into the perceptions of discontent, especially among the youth, concerning the perceived culture of cronyism and corruption within the public sector. He also is popular among people who believe that the socio-economic conditions for the poor and marginalised are not being addressed with the urgency that they deserve.

It remains to be seen how due process will play out in the courts and the National Assembly and what effect this will have on perceptions of public integrity.

In this socio-political context and on the basis of perceptions of weak consultation on the OGP national action plan, civil society groups such as the Right2Know Campaign, Open Democracy Advice Centre (ODAC), Public Service Accountability Monitor (PSAM), South African NGO Coalition (SANGOCO), Democracy Works, and others question South Africa's commitment to the OGP initiative and to the core principles of open and transparent government.²⁸

STAKEHOLDER PRIORITIES

The priorities of CSOs interviewed by the IRM for this report emerged in two themes: (1) meaningful participation and partnership, and (2) coordination

and implementation. CSOs interviewed said less about the potential content for the third South African national action plan. It will be the responsibility of the government, in partnership with organised civil society and other government entities, to identify innovative initiatives to include in the next action plan.

Meaningful participation and partnership

The general sentiment from the civil society stakeholders interviewed by the IRM is that more needs to be done to improve the participation and engagement process between the government and civil society. Stakeholders felt that the government does not take the OGP initiative seriously, other than treating it as publicity or a marketing exercise. According to ODAC, excluding ordinary citizens from the development commitments, as well as from participating in the OGP forum, can be seen as a fundamental flaw in the methodology and the broader OGP country process.²⁹ SANGOCO similarly felt that the overall level of engagement between government and civil society had been poor to non-existent concerning the OGP initiative. SANGOCO stated that participation in the process was “frustrating,” and civil society involvement was to “rubber-stamp” government-conceived commitments. SANGOCO believe the commitments failed to include civil societies’ concerns and inputs.³⁰

According to a range of civil society stakeholders, this is emblematic of a deeper issue of civil society and government relations in South Africa. According to an interview the IRM, Democracy Works views civil society as an implementing partner of government policy, not as an independent check and balance on power and the implementation of policy.³¹ Democracy Works attributes the high degree of corruption and blurred lines of the ruling political party to the worsening climate of co-operation between civil society and government. Democracy Works feels that OGP has been a lost opportunity in South Africa. Democracy Works stated, “It’s a pity our Government is not in a position to see OGP as an opportunity, as a new platform for development improvements that we can work on collaboratively, next to and on top of the Government’s national development plan.”³²

The Federation for a Sustainable Environment (FSE) cautions that civil society participation in no way

guarantees that submissions made will be incorporated into the development of policy initiatives, stating:

Our comments are not implemented unless our submissions are in line with already decided upon decisions by the relevant organs of state. The public participation process is often merely tokenism.

For the FSE, a culture of public participation in local government processes is largely absent. According to the FSE, this is as a consequence of the legacy of apartheid.³³ Reversing this norm starts with empowering citizens by including them in the development and implementation of initiatives from the outset. According to Democracy Works:

Powerful elements within governing party structures [that] espouse a traditional communist view of citizens as subjects of the State’s often well-meaning policies and ‘largesse’ ... Yet other elements have a more elitist-democratic view of citizens, which differs in many ways from a traditionalist communist view but shares a limited role for citizens in society.³⁴

In recognising the shortcomings of government’s interaction with civil society, the IRM is however of the view that civil society needs to reassert its purpose in participation in a bid to assist in deepening and broadening participation, by taking the following steps:

- Helping set agendas;
- Helping ensure participation of underrepresented groups;
- Co-chairing or hosting engagement forums;
- Having clear advocacy and policy proposals;
- Using OGP guidance to help ensure the highest quality participation in South Africa.

Coordination and implementation

There was broad consensus among stakeholders interviewed by the IRM that the Government’s focus areas concerning the commitments generally were targeting relevant areas of interest; however, stakeholders believe that weak coordination between various spheres of government and with civil society was problematic. Stakeholders cited the

need to link and coordinate the OGP initiative on inter-, intra-national, provincial, and local government levels.³⁵ For example, stakeholders such as FSE stated that the Environmental Management Information Portal (commitment four) was relevant and addressed a serious accountability-related challenge. However, despite being active on the relevant department's Environmental Impact Assessment Steering Committee, FSE had never heard of the commitment.³⁶

Other significant concerns were the level of detail on commitments provided by the Government in the national action plan and the self-assessment report, as well as the lack of access to information and transparency regarding commitment implementation status. The dearth of information has resulted in disabling rigor in the dialogue between stakeholders. Stakeholders interviewed were not engaged in depth about specific commitments, other than stating, "I am aware [or not aware] of the commitment as stated in the published national action plan." None of the stakeholders interviewed had tangible insight on the actual implementation of the commitments.³⁷

SCOPE OF THE ACTION PLAN IN RELATION TO NATIONAL CONTEXT

Within the context of high perceptions of corruption, civil society organisations interviewed³⁸ believe the level of urgency necessitates a "business as unusual" approach to selecting and implementing OGP commitments. The IRM, in consultation with civil society stakeholders, believe that the OGP initiative can increase civic participation, address corruption at local government level, and improve service delivery. The national action plan could include new stretch commitments directly related to addressing corruption within provincial and local government in the following areas:

- Protection of whistle-blowers;
- Open Data;
- Transparency in public procurement and supply chains; and,
- Service delivery, for example in public housing;³⁹

In addition, it is critical that OGP be used

to improve public access to independent accountability mechanisms. A possible OGP commitment could be:

Augment and support the important function of the country's Public Protector's Office,⁴⁰ especially service delivery oversight and accountability at the local government level.

The Office of the Public Protector states it is receiving an unusually high and increasing number of requests at the local government level. The requests are to investigate alleged corruption in service delivery, which significantly impacts its constitutional mandate to serve "100,130 organs of state and government agencies operating on all three levels of government, as well as public institutions and bodies performing a public function." The Office works across nine provinces and serves 52 million people. The Public Protector states that complaints relating to public procurement conduct and service delivery failures on local government level are "often complex ... and tend to take longer and cost more to complete than complaints about the administrative conduct of state sector."⁴¹

The Public Protector is obligated to have a physical presence in every province. The Public Protector's Office is unable to deal with the ever-increasing scope of work, compounded by funding proposals for annual budgetary increases to increase capacity for its office routinely denied.⁴² With nearly 20,000 public consultation cases annually, it is "clearly not representative of the public need regarding the conduct and decisions of public authorities in the three spheres of government and nine provinces."⁴³ The implications of the Public Protector not being able to fulfil its Constitutional mandate due to limited capacity has implications for the socio-political stability of the country.⁴⁴

- ¹ Department of Planning, Monitoring and Evaluation, "Twenty Year Review South Africa 1994-2014," Presidency, Republic of South Africa, 2014, <http://bit.ly/1iTCvqd>.
- ² Independent Electoral Commission <http://www.elections.org.za/content/NPEPublicReports/291/Results%20Report/National.pdf>
- ³ Poverty and inequality are classified as the twin evils in South Africa, depending on the metric. At least 40 per cent of the population experiences some form of deprivation, and 20 per cent experience extreme deprivation, surviving on less than \$1.25 per day. Similarly, income inequality since the 1990s has remained within the 0.65-0.70 range of the Gini coefficient, resulting in South Africa being amongst the most unequal countries in the world. Department of Planning, Monitoring and Evaluation, "Twenty Year Review South Africa 1994-2014," Presidency, Republic of South Africa, 2014, <http://bit.ly/1iTCvqd>; International Bank for Reconstruction and Development, "South Africa: Economic Update, Focus on Inequality of Opportunity," World Bank, July 2012, <http://bit.ly/1OiwIRu>.
- ⁴ If one were to include discouraged workers who no longer actively seek work, the unemployment rate is estimated at 33.4 per cent. This is out of date. International Bank for Reconstruction and Development, "South Africa: Economic Update, Focus on Inequality of Opportunity," World Bank, July 2012, <http://bit.ly/1OiwIRu>.
- ⁵ "Country Report 2013," Republic of South Africa, <http://bit.ly/1L5z4nq>.
- ⁶ "On the 2014 Matric Results," Equal Education, 6 January 2015, <http://bit.ly/1PhAPTg>; Nicholas Spaull, "South Africa's Education Crisis: The Quality of Education in South Africa 1994-2011," Centre for Development and Enterprise, October 2013, <http://bit.ly/1Gvyxt2>.
- ⁷ City Press, "Exclusive: Inside the Hospitals Audit," News24, January 2 2014, <http://bit.ly/1Nlswa4>.
- ⁸ "Open Budget Initiative," International Budget Partnership, <http://bit.ly/1KkIRJa>.
- ⁹ "Corruption Perceptions Index 2013," Transparency International, <https://www.transparency.org/cpi2013/results>; "Why is Corruption Getting Worse in South Africa?," Institute of Security Studies, 13 December 2013, <http://bit.ly/1jN9uwH>.
- ¹⁰ "2013 World Press Freedom Index: Dashed Hopes after Spring," Reporters Without Borders, 2013, <http://en.rs.f.org/press-freedom-index-2013,1054.html>
- ¹¹ Verne Harris, "What Is Still Wrong with the Protection of State Information Bill?," Nelson Mandela Foundation, 10 October 2013, <http://bit.ly/1FSLy5a>.
- ¹² "A Struggle from the Ground Up: The Anti-apartheid Movement in South Africa," Tavaana, <http://bit.ly/1jySARt>.
- ¹³ Natasha Marrian, "SACP's Blade Nzimande Quashes Talk of Elections," Business Day, 9 July 2015, <http://bit.ly/1GvAuWh>.
- ¹⁴ Dale McKinley, 'Riding the transitional rollercoaster: the shifting relationship between civil society and the Constitution in post-apartheid South Africa', April 2015, http://www.saha.org.za/publications/riding_the_transitional_rollercoaster.htm
- ¹⁵ Dale McKinley, 'Riding the transitional rollercoaster: the shifting relationship between civil society and the Constitution in post-apartheid South Africa', April 2015, http://www.saha.org.za/publications/riding_the_transitional_rollercoaster.htm
- ¹⁶ Dale McKinley, 'Riding the transitional rollercoaster: the shifting relationship between civil society and the Constitution in post-apartheid South Africa', April 2015, http://www.saha.org.za/publications/riding_the_transitional_rollercoaster.htm David Lewis, "South Africans Need to Update Their Activism," Daily Maverick, 11 September 2015, <http://bit.ly/1RtdePi>; William Gumed, "Supporting NGOs is Key to the Future," Independent Newspapers, 16 August 2015, <http://bit.ly/1OkuNT6>.
- ¹⁷ Peter Alexander, Carin Runciman, and Trevor Ngwane, "Media Briefing: Community Protests 2004-2013: Some Research Findings," Social Change Research Unit, University of Johannesburg, 12 February 2013, <http://bit.ly/1OhUN14>. Julian Brown, "Activism is Alive and Well and Living in SA," Daily Maverick, 14 September 2015, <http://bit.ly/1NluQ0J>;
- ¹⁸ Judith February, "Opinion: The Buying and Selling Influence in SA," Eyewitness News, 16 September 2015, <http://bit.ly/1iifSju>.
- ¹⁹ Jackie Dugard and Kate Tissington, "Civil Society and Protest in South Africa: A View from 2012," 2013 State of Civil Society Report, CIVICUS, 2013, <http://socs.civics.org/?p=3875>; Corruption Watch, "Local Government the Weakest Link," Corruption Watch, 14 February 2013, <http://bit.ly/1PhCHMf>.
- ²⁰ Lisa Steyn, "South Africa: The Land Where the Corrupt Go Free," Mail and Guardian, 14 September 2015, <http://bit.ly/1NlvPOL>; Joe Brock, "South African Nuclear Power Plan Stirs Fears of Secrecy and Graft," Reuters, 14 August 2015, <http://reut.rs/1MYjsFj>; Loni Prinsloo, Stephan Hofstatter, Mzilikazi Wa Afrika, and Piet Rampedi, "Eskom's Tsotsi 'Bent Rules to Favour Gupta Mines," Times Live, 22 April 2015, <http://bit.ly/1yONY14>.
- ²¹ "Press Release: Municipal IQ's Municipal Hotspots Results," Municipal IQ, 16 January 2013, <http://bit.ly/1jcoHhO>.
- ²² Mandy de Waal, "Remembering Andries Tatane, Not Forgetting Police Brutality," Daily Maverick, 18 April 2011, <http://bit.ly/1OkvFHx>; Peter Alexander and Peter Pfaffe, "Social Relationships to the Means and Ends of Protest in South Africa's Ongoing Rebellion of the Poor: The Balfour Insurrections," Social Movement Studies: Journal of Social, Cultural and Political Protest, Vol. 13, Issue 2 (2014), <http://bit.ly/1OjS3is>; Patrick Bond and Shauna Mottiar, "Movements, Protests and a Massacre in South Africa," Journal of Contemporary African Studies, Volume 31, Issue 2 (2013), <http://bit.ly/1Rt6px5>.
- ²³ Tinyiko Maluleke, "Is This All that 44 Men's Lives Are Worth?," Mail and Guardian, 3 July 2015, <http://bit.ly/1LN4YcR>; Jonisayi Maromo, "Marikana Strategy 'Same as Sharville,'" Independent Newspapers, 26 March 2014, <http://bit.ly/1VCUHzo>; David Smith, "Marikana Mine Shootings Revive Bitter Days of Soweto and Sharpeville," Guardian, 7 September 2012, <http://bit.ly/1WM4WoF>.
- ²⁴ World Bank, "South Africa: Economic Update, Fiscal Policy and Redistribution in an Unequal Society" by the World Bank (Report, Washington, D.C., 2014), <http://bit.ly/11XptyS>.
- ²⁵ Office of the Public Protector, <http://www.publicprotector.org/>. See Republic of South Africa, 1996 Constitution, Chapter Nine, 1996, <http://bit.ly/1FSMWF3>.
- ²⁶ "Zuma Challenges Public Protector Powers," Legal Brief, 12 September 2014, <http://bit.ly/1Lh49bh>; Greg Nicolson, "Nkandla, Hlaudi & the SCA: When the Future of Accountability Hangs in the Balance," Daily Maverick, 4 June, 2015, <http://bit.ly/1Rtfd6i>
- ²⁷ This incident contravened the constitution and parliamentary rules of conduct regarding the prohibition of armed personnel from the chambers of parliament. According to many critics, it marked a watershed moment in the new South Africa. Richard Calland and Lawson Naidoo, "Nkandla, Anatomy of a Constitutional Crisis," Daily Maverick, 17 September 2014, <http://bit.ly/1Lh4kUa>; Aislinn Laing, "Violence in South African Parliament as Opposition Challenge President Zuma Over Corruption," Telegraph, 12 February 2015, <http://bit.ly/1KPNXww>.
- ²⁸ "Is the South African Government Open?" Open letter addressed to Deputy Minister Ayanda Dlodlo from Right 2 Know, Khulumani Support Group, Afesis-corplan, Public Service Accountability Monitor, 27 July 2015, <http://bit.ly/1VE4qXn>.
- ²⁹ Open Democracy Advice Centre, interview with the IRM, 21 September 2015.
- ³⁰ Right2Know, interview with the IRM, 2 September 2015; Public Service Accountability Monitor, interview with the IRM, 18 September 2015; South African NGO Coalition, interview with the IRM, 21 September 2015; Open Democracy Advice Centre, interview with the IRM, 21 September 2015; Federation for Sustainable Environment, interview with the IRM, 21 September 2015; Democracy Works, interview with the IRM, 26 September 2015.
- ³¹ Democracy Works, interview with the IRM, 26 September 2015.
- ³² Democracy Works, interview with the IRM, 26 September 2015.
- ³³ Federation for Sustainable Environment, interview with the IRM, 21 September 2015.
- ³⁴ Democracy Works, interview with the IRM, 26 September 2015.
- ³⁵ Public Service Accountability Monitor, interview with the IRM, 18 September 2015; South African NGO Coalition, interview with the IRM, 21 September 2015; Open Democracy Advice Centre, interview with the IRM, 21 September 2015; Federation for Sustainable Environment, interview with the IRM, 21 September 2015; Democracy Works, interview with the IRM, 26 September 2015.
- ³⁶ Federation for Sustainable Environment, interview with the IRM, 21 September 2015.
- ³⁷ Interview with Public Service Accountability Monitor, 18 September 2015; South African NGO Coalition, interview with the IRM, 21 September 2015; Open Democracy Advice Centre, interview with the IRM, 21 September 2015; Federation for Sustainable Environment, interview with the IRM, 21 September 2015; Democracy Works, interview with the IRM, 26 September 2015.
- ³⁸ Public Service Accountability Monitor, interview with the IRM, 18 September 2015; South African NGO Coalition, interview with the IRM, 21 September 2015; Open Democracy Advice Centre, interview with the IRM, 21 September 2015; Federation for Sustainable Environment, interview with the IRM, 21 September 2015; Democracy Works, interview with the IRM, 26 September 2015. Also see: "Is the South African Government Open?" Open letter addressed to Deputy Minister Ayanda Dlodlo from Right 2 Know, Khulumani Support Group, Afesis-corplan, Public Service Accountability Monitor, 27 July 2015, <http://bit.ly/1VE4qXn>.
- ³⁹ Open Democracy Advice Centre, interview with the IRM, 21 September 2015.
- ⁴⁰ Office of the Public Protector, <http://www.publicprotector.org/>. For more on this, see Republic of South Africa, 1996 Constitution, Chapter Nine, 1996, <http://bit.ly/1FSMWF3>.
- ⁴¹ At any moment the Public Protector has on average circa 13,000 cases open. It led 35,000 cases and 24,000 concluded in 2013-2014. Alexis Okeowo, "Can Thulisile Madonsela Save South Africa from Itself?," NY Times, 21 June 2015, <http://nyti.ms/1FSBbYl>. Adv Kevin Sifiso Malunga, "The Challenges Faced by the Office of the Public Protector" by Deputy Public Protector Republic of South Africa, (Address, South Africa, 13 March, 2013), <http://bit.ly/1LhYNZ5>.
- ⁴² The Office of the Public Protector receives funding from the Department of Justice and Constitutional Development. According to an ad hoc parliamentary committee reviewing Chapter Nine institutions in 2007, the location of the budget in government departments creates a false impression that they are accountable to their respective government departments, which "impacts negatively on the perceived independence of the institutions."
- ⁴³ Adv Kevin Sifiso Malunga, "The Challenges Faced by the Office of the Public Protector" by Deputy Public Protector Republic of South Africa, (Address, South Africa, 13 March, 2013), <http://bit.ly/1LhYNZ5>.
- ⁴⁴ Adv Kevin Sifiso Malunga, "The Challenges Faced by the Office of the Public Protector" by Deputy Public Protector Republic of South Africa, (Address, South Africa, 13 March, 2013), <http://bit.ly/1LhYNZ5>.

VII | GENERAL RECOMMENDATIONS

1. Improve coordination and awareness
There is a need to implement a multi-stakeholder dialogue mechanism:
 - Improve the horizontal and vertical coordination in processes within the Government on an inter-department, as well as inter-sphere level. This can be achieved by creating an OGP inter-sphere steering committee;
 - Link the national commitments to implementing agencies and departments, especially at local government level, i.e. municipalities; and,
 - Engage in public awareness about the OGP among communities, CSOs, and within government.
2. Enhance consultation and meaningful participation
There is a need to improve the scale and quality of civil society engagement in the OGP process, by:
 - “Walking the OGP talk;” instilling and demonstrating public participation principles from the outset in the development and implementation of national action plan commitments;
 - o Involving civil society and community-based groups in action plan development and implementation;
 - Giving adequate opportunity and time;
 - o Increasing the number of annual forums to at least one every six months (four per action plan);
 - o Giving at least two weeks’ notice to participants concerning upcoming events and/or consultation windows;
 - Ensuring due process in following up with stakeholders post launch or engagement events;
 - Ensuring the capturing and dissemination of engagement minutes/input is available on the OGP country portal.
3. Improve commitment specificity and implementation detail
The lead OGP government department should ensure that the language of the commitments contained in the national action plan is SMART: Specific, Measurable, Answerable, Relevant, and Time-bound.
It is recommended that:
 - DPSA communicate to other departments co-ordinating OGP on the minimum criteria and best practices set by the OGP Support Unit on commitment detail expected in the national action plan and self-assessment report. This criteria should include:
 - o Clearly defined commitments vis-à-vis relevance to OGP;
 - o Specific time-bound milestones;
 - o Expected, measurable outcomes;
 - o Internal department-specific, related commitments as a milestone within a commitment, i.e. training of staff, improvement of internal systems, etc.;
4. Importance of Stretching
Ambitious targets or stretch commitments have the potential to drive progress and innovation, deepening public participation into new areas of government. In collaboration with civil society, it is recommended that the government adopt new stretch commitments in each national action plan – in addition to defining a clearly stated, anticipated, targeted outcome.

TOP FIVE "SMART" RECOMMENDATIONS

1. Develop a multi-stakeholder dialogue mechanism: Improve the horizontal and vertical coordination of the national action plan within government on an inter-department and inter-sphere level. This can be achieved by creating an inter-sphere steering committee, with representation from civil society, to coordinate, monitor and evaluate the national action plan development and implementation through regular meetings;

2. Walking the OGP talk: instilling and demonstrating OGP public participation principles from the outset by involving civil society and community-based groups in the development and implementation of national action plan commitments;

3. Giving adequate opportunity and time for quality engagement:

- i. Increasing the number of annual forums held to at least one every six months (four per action plan);
- ii. Giving at least two weeks' notice to participants concerning upcoming events and/or consultation windows;
- iii. Documenting and making the engagements and content generated accessible on the OGP country portal.

4. Minimum criteria are set by the OGP government lead department concerning the level of commitment detail expected in the national action plan and self-assessment report. This criteria should include the following:

- i. Clearly defined commitments vis-à-vis relevance to OGP;
- ii. Specific time-bound milestones;
- iii. Expected, measurable outcomes and impact;
- iv. Internal department-specific related commitments as a milestone towards a commitment, i.e. training of staff, improvement of internal systems, etc.;

5. In consultation with civil society, adopt at least one new stretch commitment in each national action plan and define a clearly stated, anticipated, targeted outcome.

VIII | METHODOLOGY AND SOURCES

As a complement to the Government’s self-assessment report, well-respected governance researchers, preferably from each OGP participating country, write an independent IRM assessment report.

Experts use a common OGP independent report questionnaire and guidelines,¹ based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the Government’s self-assessment report and any other assessments of progress by civil society, the private sector, or international organisations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore when possible, makes public the process of stakeholder engagement in research (detailed later in this section.) In national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

As a note, interviews for this report were conducted in a compressed time frame. However, strict adherence to OGP IRM procedure manual and the timeline for government and civil society review contained therein were followed.

INTERVIEWS AND FOCUS GROUPS

Each national researcher will carry out at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the “usual suspects” list of invitees already participating in existing processes. Supplementary means may be needed to gather the inputs of stakeholders in a more meaningful way (e.g. online surveys, written responses, follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment report or online.

Email based survey tool

Interviews were conducted with the following CSOs using a survey tool comprising of closed and open-ended questions sent to the participants via email:

- Public Service Accountability Monitor
 - Key informant interview with Jay Kruise on the state of open government in South Africa and on the OGP initiative;
- South African NGO Coalition
 - Key informant interview with Jimmy Gotyana on OGP;
- Open Democracy Advice Centre
 - Key informant interview with Alison Tilley and Kira-Leigh Kuhnert on OGP;
- Democracy Works
 - Key informant interview with Olmo von Meijenveldt on OGP;
- Federation for a Sustainable Environment
 - Key informant interview with Mariette Liefferink on OGP and commitments four and five;

- Endangered Wildlife Trust
 - Key informant interview with Yolán Friedmann on commitments four and five.

Interview requests including the survey tool were sent to commitment-specific designates in the government departments. Four responses received from the following:

- Department of Public Service and Administration (DPSA)
 - OGP process and commitments one, three, and seven
- Department of Performance Monitoring and Evaluation
 - Commitment two
- Department of Environmental Affairs
 - Commitments four and five
- Department of Communications
 - Commitment six

Telephone interviews

Interviews were carried out with CSOs and experts via telephone:

- Open Democracy Advice Centre
 - Key informant interview with Alison Tilley and Kira-Leigh Kuhnert on OGP
- Public Service Accountability Monitor
 - Key informant interview with Jay Kruise on the state of open government in South Africa and on the OGP initiative
- South African National Civic Organisation
 - Key informant interview with Thobekile Twala
- Section 27, a public interest law centre
- Right2Know
- Imraan Baccus

Focus group and one-on-one interviews

The IRM also interviewed Community Development Workers (CDWs) to assess the level of consultation during the adoption and implementation of the action plan. The IRM interviewed CDWs in Limpopo province, one of nine provinces in the country. Although the IRM

tried to convene a collective meeting, CDWs were not available. Instead, the IRM conducted one-on-one interviews with five Community Development Workers. Most of them stated that they were not comfortable discussing work-related matters that might end up in a publicly available report, as a result of their junior ranking. The IRM sought permission from a regional CDW coordinator, who facilitated dialogue, yet CDWs in the group still did not want certain statements attributed to them.

While CDWs are the most knowledgeable about the state of communities, they do not have a good relationship with the councils of the local governments. The main concerns CDWs have is that their units are not fully utilised, and they believe councillors do not cooperate. Some refused to comment, and others felt they were neglected as an institution.

Synopsis of interviews

The following CDWs were interviewed from April 2015 to June 2015:

M.S. Makobela (Ward 3), K.V. Maloka (Ward 3), K.F. Maripa, N.R. Madibana NR (Ward 6), M.J. Matsha (Ward 8), M.S. Makobela (Ward 9), NR. Phanyane (Ward 10), P.A. Mohotoane (Ward 11), S.B. Seromola (Ward 12), M.P. Mashaba (Ward 14), M.F. Maphelala (Ward 15), P.P. Mokwele PP (Ward 16); K.B. Masipa (Ward 17), S.G. Moletja (Ward 18), M.L. Hlahla (Ward 19), K.C. Raphukula (Ward 20), and B.S. Ratjomane (Ward 21).

The majority of CDWs interviewed by the IRM demonstrated a vast knowledge of community-level information. CDWs, mandated to enhance the quality of lives for community members, want to be more involved in delivering government services.

The CDWs interviewed by the IRM stated that they were present in the 2013 Consultative Forum that was held at the Emperor's Palace in Johannesburg. The event was part of the meeting to develop South Africa's second national action plan. All the CDWs interviewed by the IRM stated that since the 2013 Emperor's Palace event, they had not interacted or been consulted on the OGP initiative.

ABOUT THE INDEPENDENT REPORTING MECHANISM

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel is:

- Anuradha Joshi
- Debbie Budlender
- Ernesto Velasco-Sánchez
- Gerardo Munck
- Hazel Feigenblatt
- Hille Hinsberg
- Jonathan Fox
- Liliane Corrêa de Oliveira Klaus
- Rosemary McGee
- Yamini Aiyar

A small staff based in Washington, D.C. shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org.

¹ Full research guidance can be found in the IRM Procedures Manual, available at: <http://www.opengovpartnership.org/about/about-irm>.

IX | ELIGIBILITY REQUIREMENTS

In September 2012, OGP began strongly encouraging participating governments to adopt ambitious commitments in relation to their performance with respect to the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.¹ When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the section on country context.

	2011	Current	Change	Explanation
Budget transparency ²	4	4	No change	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information ³	4	4	No change	4 = Access to information (ATI) Law 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration ⁴	4	4	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (8.53) ⁵	4 (8.53) ⁶	No change	1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total/Possible (Percent)	16/16 (100%)	16/16 (100%)	No change	75% of possible points to be eligible

¹ For more information, see <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>

² For more information, see Table 1 in <http://internationalbudget.org/what-we-do/open-budget-survey/>. For up-to-date assessments, see <http://www.obstracker.org/>

³ The two databases used are Constitutional Provisions at <http://www.right2info.org/constitutional-protections> and Laws and draft laws <http://www.right2info.org/access-to-information-laws>

⁴ Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," (Tuck School of Business Working Paper 2009-60, 2009): <http://bit.ly/19nDEFK>; Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (OECD, 2009). <http://bit.ly/13vGtqS>; Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009). <http://bit.ly/1clo-kyf>; For more recent information, see <http://publicofficialsfinancialdisclosure.worldbank.org>. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and de facto public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at <http://bit.ly/1EjLJ4Y>

⁵ Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: <http://bit.ly/eLC1rE>

⁶ Economist Intelligence Unit, "Democracy Index 2014: Democracy and its Discontents" (London: Economist, 2014). Available at: <http://bit.ly/18kEzCt>



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