

Independent Reporting Mechanism (IRM): Canada Design Report 2018–2020

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Executive Summary: Canada

Canada's fourth action plan is the country's first plan to be developed in partnership with a multi-stakeholder forum (MSF). Structured under the pillars of inclusion, participation and impact, it expands upon commitments from previous action plans and includes a strong focus on advancing gender equality. In moving forward, priority should be given to earmarking resources for implementing OGP commitments and for ensuring that the issues tackled resonate better with priorities identified by stakeholders. Future plans could consider adopting a results- or performance-based approach to plan design and implementation.

The Open Government Partnership (OGP) a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Canada joined OGP in 2011. Since then, Canada has implemented three action plans. This report evaluates the design of its fourth action plan.

General overview of action plan

The co-creation and early implementation of Canada's fourth action plan coincides with a period during which the country assumed the role of lead government chair of the OGP Steering Committee alongside the civil society chair, Nathaniel Heller.

The co-creation of this action plan involved the gathering of information using a host of on- and off-line platforms. In total, some 10,000 participants contributed approximately 5,000 comments, ideas, suggestions. The Multi-stakeholder Forum (MSF) was launched after the bulk of these inputs had been gathered and analysis of their content had commenced. After its inception, dialogue between civil society and government members of the MSF was ongoing, albeit to vary degrees, with the civil members involved in drafting and informing many aspects of the action plan.

The key lesson learned from forum's work centres on the extent to which the combination of government budgetary cycles, departmental and agency schedules, and political will determine the art of the possible when it comes to implementing ambitious commitments within the OGP's two-year program cycles. In the absence of both alignment between the latter considerations and budgetary allocations earmarked for OGP commitments, moving forward with ambitious ideas and suggestions offered up during the co-creation process is exceedingly challenging.

Table 1. At a glance

Participating since: 2011
Action plan under review: 2018-2020
Report type: Design Report
Number of commitments: 10

Action plan development

Is there a Multistakeholder forum: Yes
Level of public influence: Involve
Acted contrary to OGP process: No

Action plan design

| | |
|------------------------------------|----------|
| Commitments relevant to OGP values | 10(100%) |
| Transformative commitments | 0 |
| Potentially starred: | 0 |

Action plan implementation

Starred commitments: N/A
Completed commitments: N/A
Commitments with Major DIOG*: N/A
Commitments with Outstanding DIOG*: N/A

*DIOG: Did it Open Government



The commitments set out in this fourth action plan reflect the three priorities the Government of Canada and the civil society chair set out for their respective co-chairship mandates: Inclusion, Participation, and Impact. Particularly notable in this regard, is the inclusion in the plan of a commitment focusing exclusively on Feminist and Inclusive dialogue, and its having been subject to a feminist and GBA+ review by external expert consultants prior to its publication.

The next action plan would benefit from being narrower in scope, and by having more issue-centred targeted commitments that bring open government and open data to bear more directly on challenges, issues, and problems that resonate with Canadians' daily lives and well-being.

Table 2. Noteworthy commitments

| Commitment description | Moving forward | Status at the end of implementation cycle. |
|---|---|--|
| Commitment 3: Corporate Transparency Work with provincial and territorial governments to require federal corporations to hold beneficial ownership information | The transformative potential of this commitment hinges upon continuing coordination across federal, provincial, and territorial governments, and extending the right to access beneficial ownership records to the public | <i>To be assessed at the end of action plan cycle.</i> |
| Commitment 7: Access to Information Undertake a review of Access to Information Act, and improve both the tools for requesting government information, and transparency about personal information held by the government | The review process could be oriented to generating access to information legislation that adheres to best international practice with regard to right to information law. This includes further expanding the authority of the Information Commissioner to make binding orders to government institutions, and revoking current exclusions from ATIP requests of ministerial offices and the Prime Minister's Office, as well as ministerial advice and cabinet confidences | <i>To be assessed at the end of action plan cycle.</i> |
| Commitment 8: Feminist and Inclusive Dialogue Support greater inclusion and diversity in the federal government's public engagement activities including applying an intersectional lens to open government activities | Demonstrating the impact of this commitment hinges on specifying benchmarks and metrics for determining whether and/or the extent to which the expected outcomes are being realized. These tools are equally important for identifying what works and what does not. It will also be important to work directly with equity-seeking communities to identify the most relevant and pressing issues to tackle | <i>To be assessed at the end of action plan cycle.</i> |

Recommendations

The IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan.

Table 3. Five KEY IRM Recommendations

| | |
|---|---|
| 1 | Adopt a challenge/issue/problem-based approach to drafting future commitments and develop clear milestones built around specific economic, environmental, political, and/or social problems |
| 2 | Delineate between short- and longer-term commitment co-creation and implementation timelines |
| 3 | Consolidate the MSF's role, and expand its reach directly into lead departments agencies |
| 4 | Earmark specific resources for the implementation of OGP commitments |
| 5 | Implement a results-based approach to action plan design and implementation |

About the IRM

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 (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.



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I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Canada joined OGP in 2011. This report covers the development and design of Canada's fourth action plan for 2018-2020.

The Independent Reporting Mechanism of OGP has partnered with Daniel J. Paré of the Department of Communication, and the Institute for Science, Society and Policy (ISSP) at the University of Ottawa, who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

II. Open Government Context in Canada

This fourth national action plan incorporates the same global priorities Canada set out for the partnership as Steering Committee co-chair: inclusion, participation and impact, with an onus placed on advancing gender equity and better governance at both domestic and international levels. While this plan carries forward, and updates, a number of initiatives present in the 2016-2018 action plan, its commitments continue to lack clarity on expected results which limits the ability to understand its ambition, especially in the areas of access to information and beneficial ownership.

As noted in previous Canada-specific IRM reports, the political division of powers/responsibilities in Canada, limits the federal government's ability to unilaterally affect pan-Canadian change, making such change reliant on inter-governmental cooperation.¹ In Canada, governmental authority is divided among eleven jurisdictions: the federal Crown, and ten provincial Crowns. The division of legislative powers between the federal and provincial governments is set out in the Constitution Acts, 1867 to 1982.² Sections 92, 92(A), and 93 of the Act specify that the exclusive powers of provincial legislatures concern local matters including: Direct Taxation within Province, Management/Sale of Public Lands belonging to Province, Prisons, Hospitals, Municipalities, Formalization of Marriage, Property and Civil Rights, Administration of Civil/Criminal Justice, Education, Incorporation of Companies, Natural Resources, Matters of a merely local or private nature.³ The governmental authority of Canada's three territories – Northwest Territories, Nunavut, and Yukon – is delegated by the federal government. At present, the powers devolved to the Northwest Territories⁴ and Yukon⁵ legislatures are roughly in line with those the Constitution sets out for the provinces.⁶ In Nunavut, however, power/responsibility for land and resource management is currently held by Crown-Indigenous Relations and Northern Affairs Canada.⁷

Canada has been participating in OGP in an official capacity since September 2011, and formally joined the partnership in April 2012. Its first⁸ and second⁹ action plans focused on four main areas: open data; open information; open dialogue; and strengthening the foundation for open government reforms. Canada's third action plan¹⁰ was structured around four domains: open by default; fiscal transparency; innovation, prosperity, and sustainable development. The activities set out in its fourth action plan¹¹ complement a number of initiatives from earlier action plans, and are oriented around three priorities: inclusion, participation, and impact. Together, the four action plans have set out some 56 commitments.

On October 1, 2017, Canada became a member of the OGP Steering Committee.¹² One year later it assumed the role of lead government chair (October 1, 2018 – September 30, 2019), alongside Nathaniel Heller, lead civil society chair (October 1, 2018 – September 30, 2019).¹³ The Government of Canada (GoC) and Nathaniel Heller set out three priorities for their co-chairship mandate: Inclusion, Participation, and Impact.¹⁴ A central element of these priorities is an onus placed on advancing gender equity and better governance at both domestic and international levels through an International Development Research Centre (IDRC) flagship initiative titled Feminist Open Government (FOGO).¹⁵ An online public tracking tool that is updated on a monthly basis has also been created, enabling interested parties to monitor progress in actualizing some fourteen objectives corresponding with the three priority areas.¹⁶ In May 2019, Canada hosted the Global Open Government Summit which brought together some 2600 participants from around the world to discuss and share knowledge about open government practices.¹⁷

Internationally, the Open Data Barometer notes a steady increase in open data initiatives in Canada since 2013 and ranks the country alongside the United Kingdom, Australia, South Korea, and France as a global leader in the prevalence of such initiatives.¹⁸ The International Budget Partnership's 2017 Open Budget Survey places Canada well above the global average in terms of budget transparency, reporting that the country provides the public with substantial comprehensive and useful budget information.¹⁹ It notes, however, that there are few opportunities for the public to engage in the budget process and recommends the developing of a citizen's budget. In the five years between 2013 and 2018, Canada has been ranked amongst the top countries with more freedom available to journalists, according to the Reporters Without Border's World Press Freedom Index, fluctuating between 8th and 22nd. The index ranked Canada 18th out of 180 countries in 2018.²⁰ Between 2014 and 2018 Freedom House's Freedom

on the Net Report has consistently rated the country's online environment as 'free'.²¹ Canada has likewise consistently ranked among the top-ten countries perceived as least corrupt between 2012 and 2018, according to Transparency International's 2018 Corruption Perceptions Index.²²

Canada also ranks close to the 100th percentile on such indicators as Voice and Accountability, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption in the World Bank's Governance Indicators of 2019.²³ It is ranked third overall in the 2019 International Civil Service Effectiveness (InCiSE) Index, scoring top for HR management and inclusiveness, and second for integrity.²⁴ Indeed, Canada ranks in the top-5 for each of the twelve attributes assessed by InCiSE except for openness where it is ranked 8th. According to the Index's authors, Canada's relatively lower ranking for openness is largely due to it obtaining lower scores for the right to information theme.²⁵ On the Centre for Law and Democracy's Global Right to Information Index scale, Canada's Access to Information Act overall score has had minimal change in the past three years although its position, as compared to other countries, has dropped from 49th (in 2017) to 57th. As explained in their report, the decline in Canada's position is linked to a combination of progress that other countries have made in this domain, and the fact that Canada's Access to Information Act of 1983 had, until June 2019, not been significantly updated in the intervening years.²⁶

The Basel AML Index which draws on data from 15 available sources including the Financial Action Task Force (FATF), Transparency International, the World Bank, and the World Economic Forum to measure the risk of money laundering and terrorist financing, reports that these activities have been modestly increasing in Canada between 2016 and 2019.²⁷ According to a recent report commissioned by the government of British Columbia,²⁸ the province accounted for some 16 percent of the estimated CDN\$46.7 billion laundered through the Canadian economy in 2018,²⁹ with the province's booming real-estate market serving as a hot spot for much of this activity.³⁰

Scope of Action Plan in Relation to National Context

Broadly speaking, the 2018-2020 action plan engages with the bulk of the themes identified by stakeholders during the consultations.³¹ The Treasury Board Secretariat's analysis of input gathered throughout the autumn of 2017 identified three thematic priorities that marked a shift from those of past action plan consultations:

1. a conflation of digital and open government that combines notions of user experience, web architecture, and findability with the need for incorporating a human element by providing "*more contextual information about open data, including a direct line to data owners*";³²
2. a need for the provision of more real-time data, and Application Programming Interfaces (APIs); and
3. viewing open government as a counterbalance to democratic decline both at home and abroad. The idea here being that the transparency to which open government aspires can foster trust in public institutions and, in turn, strengthen democracy

The first of the 'new' themes are evident in Commitments 1 – *User-friendly Open Government*, and 4 – *Digital Government Services*. Both are domains within which Canada has already made progress and for which shifting priorities offer opportunities for continued improvement. Leveraging open government as a tool for countering democratic decline is the focus of Commitment 6 – *Healthy Democracy*. The remaining commitments reflect ideas and concerns that emerged around ten themes that were pre-identified by the government and used to guide consultation discussions.³³ For instance, Commitment 8 – *Feminist and Inclusive Open Dialogue*, which coincides with the priority the GoC places on inclusion, emerged from ideas advanced during on- and off-line public discussions about who gets to participate in open government and other public policy domains, and the power dynamics at play in such discussions. The key message being that, open government – and other public policy – processes that claim to be gender blind are not *ipso facto* gender neutral.

It merits noting that although the first two priorities listed above clearly are important to ensuring data ease-of-use and increased functionality, they differ from, and are subordinate to, the fundamental basis of open data and open governance for First Nations. As pointed out by a leader in First Nations data governance, from a First Nations perspective the first priority is the exercise and recognition of inherent

and constitutionally protected First Nations rights to govern their resources, including information resources.

Overall, there are three notable aspects of the 2018-2020 action plan.

1. It seeks to address a broad range of issues and places the onus on inclusive engagement reflecting “the needs and expectations of under-represented communities, including equity-seeking groups like women, girls, LGBTQ2 people, racialized communities, persons with disabilities, young Canadians, low-income Canadians, and others.”³⁴
2. Individual commitments as well as milestones are set out in a broad and imprecise manner. This shortcoming has been identified and reported on in each of the three previous action plans and affects the ability of the IRM to assess the ambition of commitments.
3. With the exception of Commitment 8 – *Feminist and Inclusive Open Dialogue*, the action plan commitments are largely oriented toward achieving broad brush open government and open data centered outcomes, as opposed to treating open government and open data as mechanisms for tackling particular cultural, economic, social, and/or technological problems. Put simply, there’s a propensity to present open government as an end rather than a means.

Canada stands as a global leader in open government as can be evidenced by its position in multiple global rankings. However, a number of the concerns reported in the IRM’s *Canada Progress Report 2016-2017*³⁵ and *End-of-Term Report 2016-2018*³⁶ continue to resonate among civil society stakeholders, leaders in First Nations data governance, and other interested parties interviewed for this report. Contending perspectives regarding government action on the beneficial ownership front, Canada’s recently updated Access to Information Act, and Commitment 7 – *Access to Information* in the current action plan, are exemplary in this regard. They draw attention directly to whether, and the extent to which, the reforms being undertaken in this domain live up to the expectations of open government stakeholders. This points to a possible disconnect between what non-governmental actors demand and what the federal government can deliver through OGP action plans. For the construction of future plans, the co-creation process could address this issue for a better understanding of the importance of capacity-building commitments to enable open government reforms as well as the demand of ambitious results.

¹ See, Francoli, Mary (2015). *Independent Reporting Mechanism (IRM): Canada Progress Report 2014-2015*. https://www.opengovpartnership.org/wp-content/uploads/2017/05/1.Canada14-15_English_Final_0_0.pdf

² *Constitution Acts, 1867 to 1982*. See, <http://laws-lois.justice.gc.ca/eng/const/>. Unlike the provinces whose power and authority comes from the Constitution Act, 1867, it is the Parliament of Canada that delegates power to the territorial governments of the Yukon, Northwest Territories, and Nunavut.

³ Government of Canada (2017). The constitutional distribution of legislative powers. <https://www.canada.ca/en/intergovernmental-affairs/services/federation/distribution-legislative-powers.html>

⁴ Authority for over land and resource management responsibilities was devolved to the Northwest Territories on April 1, 2014. See, Northwest Territories Devolution. <https://www.rcaanc-cirnac.gc.ca/eng/1352398433161/1539625360223>

⁵ Authority for over land and resource management responsibilities was devolved to Yukon on April 1, 2003. See, Yukon Devolution. <https://www.rcaanc-cirnac.gc.ca/eng/1352470994098/1535467403471>

⁶ See, *Territorial Government in Canada*. The Canadian Encyclopedia. <https://www.thecanadianencyclopedia.ca/en/article/territorial-government>

⁷ See, Nunavut Devolution, <https://www.canada.ca/en/crown-indigenous-relations-northern-affairs/news/2019/08/nunavut-devolution.html>

⁸ See, Canada’s Action Plan on Open Government 2012-2014 <https://open.canada.ca/en/canadas-action-plan-open-government>

⁹ See, Canada’s Action Plan on Open Government 2014-16 <https://open.canada.ca/en/content/canadas-action-plan-open-government-2014-16>

¹⁰ See, Third Biennial Plan to the Open Government Partnership <https://open.canada.ca/en/content/third-biennial-plan-open-government-partnership>

¹¹ See, Canada’s 2018-2020 National Action Plan on Open Government <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government>

- ¹² Open Government Partnership (2017, March 7). Canada, Italy, South Africa, and South Korea Elected to Lead the Open Government Partnership. <https://www.opengovpartnership.org/about/news-and-events/canada-italy-south-africa-and-south-korea-elected-lead-open-government>
- ¹³ Open Government Partnership (2018, October 1). Canada begins its year of leading the international Open Government Partnership. <https://www.opengovpartnership.org/about/news-and-events/canada-begins-its-year-of-leading-international-open-government-partnership>. See also, Open Government Partnership Support Unit (2018, October 17). OGP Announces Government of Canada and Nathaniel Heller as Lead Co-Chairs for 2018-19. <https://www.opengovpartnership.org/news/ogp-announces-government-of-canada-and-nathaniel-heller-as-lead-co-chairs-for-2018-19/>
- ¹⁴ The three priorities are also manifest in Canada's 2018-2020 National Action Plan on Open Government, and most explicitly in Commitments 8 and 10. Government of Canada and Nathaniel Heller (n.d.) Co-Chair Vision for Open Government Partnership (10/2018 – 9/2019). https://www.opengovpartnership.org/sites/default/files/GovCan_Heller_Co-Chair-Vision_20190928_EN.PDF
- ¹⁵ International Development Research Centre (2018, July 18). New Feminist Open Government Initiative. <https://www.idrc.ca/en/news/new-feminist-open-government-initiative>
- ¹⁶ See, 2018-19 Co-Chair Vision for the Open Government Partnership - Tracking Tool. <https://docs.google.com/document/d/1GGVigWUKnNs14SyC53My6PMgqbNKhrlk5Gnl0U91jGM/edit>
- ¹⁷ See, <https://ogpsummit.org/en/>
- ¹⁸ World Wide Web Foundation (2018). Open Data Barometer - Leaders Edition. Washington DC: World Wide Web Foundation. <https://opendatabarometer.org/doc/leadersEdition/ODB-leadersEdition-Report.pdf>
- ¹⁹ International Budget Partnership, <https://www.internationalbudget.org/open-budget-survey/results-by-country/country-info/?country=ca#transparency>
- ²⁰ Reporters Without Borders, <https://rsf.org/en/canada>
- ²¹ Freedom House, Freedom on the Net, <https://freedomhouse.org/report/freedom-net/2018/canada>. Citing 2017 figures from the Canadian Radio-television and Telecommunications Commission (CRTC), the report notes that although Canada boasts an 89.8% internet penetration rate, an “urban-rural gap for higher-speed internet access remains pronounced” with internet access prices being higher in rural than urban areas. See also, CBC News (2019, August 13). High cost of internet access leaving low-income families behind, report finds <https://www.cbc.ca/news/canada/toronto/barriers-to-digital-equity-acorn-canada-report-low-income-families-1.5244339>
- ²² Canada's ranking recorded a modest decline from 7th to 9th place between 2016 and 2018. See, <https://www.transparency.org/cpi2018>.
- ²³ World Bank, Worldwide Governance Indicators, <https://info.worldbank.org/governance/wgi/Home/Reports>
- ²⁴ International Civil Service Effectiveness (InCiSE) Index, <https://www.bsg.ox.ac.uk/sites/default/files/2019-04/InCiSE%202019%20Results%20Report.pdf>
- ²⁵ The openness indicator has five themes: degree and quality of consultation with society; existence and quality of complaint mechanisms; government data availability and accessibility; government data impact; right to information; and publication of laws.
- ²⁶ See, <https://www.rti-rating.org/historical/>.
- ²⁷ International Centre for Asset Recovery (2019, August). Basel AML Index 2019: A country ranking and review of money laundering and terrorist financing risks around the world. Basel Institute on Governance. <https://www.baselgovernance.org/sites/default/files/2019-08/Basel%20AML%20Index%202019.pdf>. Between 2016 and 2019 Canada's ranking per year were as follows:

| Year | Canada's Rank | Composite Score | # of Countries Ranked | Basel AML Index Report |
|------|---------------|-----------------|-----------------------|---|
| 2016 | 106 | 5.26 | 152 | https://www.caribbeanderisking.com/sites/default/files/Basel%20AML%20Index%20Report%202016.pdf |
| 2017 | 103 | 5.00 | 149 | https://www.adgm.com/-/media/project/adgm/operating-in-adgm/financial-crime-prevention-unit/useful-links/basel_aml_index_report_2017.pdf |
| 2018 | 86 | 4.92 | 203 | https://www.baselgovernance.org/sites/default/files/2019-02/basel_aml_index_10_09_2018.pdf |
| 2019 | 19 | 4.92 | 125 | https://www.baselgovernance.org/sites/default/files/2019-10/Basel%20AML%20Index%208%20edition.pdf |

- ²⁸ Maloney, Maureen., Somerville, Tsur., & Unger, Brigitte. (2019, March 31). Combatting Money Laundering in BC Real Estate. Expert Panel on Money Laundering in BC Real Estate. https://news.gov.bc.ca/files/Combatting_Money_Laundering_Report.pdf
- ²⁹ The U.S. Department of State's 2019 International Narcotics Control Strategy Report defines Canada as one of its 'Major Money Laundering Jurisdictions in 2018.' The U.S. government's Foreign Assistance Act of 1961 defines a 'major money laundering country' as one “whose financial institutions engage in currency transactions involving significant amounts of proceeds

from international narcotics trafficking” (FAA § 481(e)(7)). See, United States Department of State (2019). International Narcotics Control Strategy Report. Volume II. Money Laundering. Bureau of International Narcotics and Law Enforcement Affairs. March. <https://www.state.gov/wp-content/uploads/2019/03/INCSR-Vol-1-INCSR-Vol-2-pdf.pdf>

- ³⁰ MacDonald, Alistair., Vieira, Paul., & Monga, Vipal. (2018, August 08). The money laundering hub on the U.S. border? *Wall Street Journal (Online)* Retrieved from <https://www.wsj.com/articles/canada-comes-under-fire-for-money-laundering-lapses-1533729600>. See also, Comeau, Kevin (2019). Why We Fail to Catch Money Launderers 99.9 percent of the Time. C.D. Howe Institute, E-Brief, Financial Services and Regulation. May, 7. https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Final%20for%20release%20e-brief_291_web%20%28003%29.pdf; St. Denis, Jen (2019, May 6). Canada missing 99.9 per cent of money laundering because of weak rules, expert estimates. *The Star*. <https://www.thestar.com/news/canada/2019/05/06/canada-missing-999-per-cent-of-money-laundering-because-of-weak-rules-expert-estimates.html>; Oved, Marco Chown, (2019, March 21). Dirty money is driving up Toronto real estate prices, report says. *The Star*. <https://www.thestar.com/news/canada/2019/03/21/dirty-money-is-driving-up-toronto-real-estate-prices-report-says.html>
- ³¹ Treasury Board of Canada Secretariat (2019). What We Heard – Summary Report. <https://open.canada.ca/en/content/what-we-heard-summary-report-0>
- ³² Ibid.,
- ³³ These ten themes were: open dialogue and policy; open data; user-centric thinking; financial transparency; open information; governance and resourcing; open science; service; reconciliation; and social innovation. See, Treasury Board of Canada Secretariat (2019). What We Heard – Summary Report. <https://open.canada.ca/en/content/what-we-heard-summary-report-0>
- ³⁴ See, Treasury Board of Canada Secretariat (2019). What We Heard – Summary Report. <https://open.canada.ca/en/content/what-we-heard-summary-report-0>
- ³⁵ See, https://www.opengovpartnership.org/wp-content/uploads/2018/03/Canada_MidTerm-Report_2016-2018_EN_for-public-comment.pdf
- ³⁶ See, https://www.opengovpartnership.org/wp-content/uploads/2019/03/Canada_End-Term_Report_2016-2018_EN.pdf

III. Leadership and Multi-stakeholder Process

The Multi-stakeholder Forum (MSF) was formally launched in January 2018. Its first year is best characterized as having been a period of ‘learning by doing’ and trust building among members. Two key areas of learning involved coming to grips with: (i) how internal government decision-making processes function, and (ii) the degree to which the acceptance and implementation of ambitious open government initiatives is contingent upon the joint timing of action plan co-creation processes, government budgetary cycles, and departmental operating schedules. The maintaining of open dialogue and the fostering of trust between government and civil society members of the MSF was vital for addressing a number of challenges faced during the action plan development process.

3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in Canada.

Canada’s commitment to the OGP is not anchored in a legally binding mandate. It is instead rooted in a September 2011 letter of intent to the then U.S. Secretary of State, Hillary Rodham Clinton, thanking the United States for inviting Canada to join the Open Government Partnership and confirming both the government’s commitment to open government and its intention to participate in the OGP.¹ Since the launch of Canada’s first action plan (2012-2014) at the OGP’s 2012 Annual Meeting in Brasilia, the GoC’s participation in the Open Government Partnership (OGP) has been led by the Treasury Board Secretariat (TBS).²

Canada’s participation as co-chair of the OGP’s Steering Committee (2018-2019) is evidence of the government’s interest in open government domestically and internationally. In terms of the co-ordination of federal-level open government activities there has been little change to what was outlined in the IRM’s *Canada Progress Report 2016-2017*:³

- The Open Government Director Generals’ Committee continues to provide “*support and advice for advancing OG efforts across the Government of Canada*” including developing and implementing the Canadian government’s OGP Action Plans. Its members are director general-level staff with responsibility for open government-related activities within their respective departments and agencies;⁴
- The Canada Open Government Working Group “*promotes the implementation of open data, open information and public engagement principles*” at federal, provincial and municipal jurisdictions and contributes to setting “*strategic direction in support of pan-Canadian open government*” including Canada’s OGP activities and the Canadian Open Data Summit. Membership of this working group consists of Director-level staff from the multiple levels of government in Canada;⁵ and
- The Open Government Resource Development Working Group that is comprised of federal public servants responsible for open government implementation who develop tools and resources that departments and agencies across the federal government can use to facilitate their open government work.

As with Canada’s previous action plans, this fourth plan has required coordination across several government bodies. Some 18 government departments and agencies were, and are, involved in its development and implementation including:

- | | |
|--|---|
| ➤ Canada School of Public Service (CSPS) | ➤ Library and Archives Canada (LAC) |
| ➤ Canadian Heritage (PCH) | ➤ National Research Council Canada (NRC) |
| ➤ Crown-Indigenous Relations and Northern Affairs Canada (CIRNA) | ➤ Natural Resources Canada (NRCan)’s Federal Geospatial Program (FGP) |
| ➤ Department of Finance Canada (FIN) | ➤ Office of the Chief Science Advisor |
| ➤ Employment and Social Development Canada (ESDC) | ➤ Privy Council Office (PCO) |

- Environment and Climate Change Canada (ECCC)
- Global Affairs Canada (GAC)
- Innovation Science and Economic Development Canada (ISED)
- International Development Research Centre (IDRC) through Open Data for Development (OD4D)
- Public Services and Procurement Canada (PSPC)
- Statistics Canada (StatCan)
- Status of Women Canada (SWC)
- Treasury Board of Canada Secretariat (TBS)

In its 2016 federal budget, the Canadian government increased the Treasury Board Secretariat's budget for open government activities writ large by allocating CDN\$11.5 million for the period spanning 2016 to 2021.⁶ The annual budget for enhancing access to information and expanding open data initiatives was CDN\$5 million and CDN\$6 million in the fiscal years 2016-17 and 2017-18 respectively.⁷ This said, it must be noted that there are no OGP-specific budgetary allocations for implementing OGP action plan commitments. Despite open government activities being a central feature of the core mandates of government departments, delivering on OGP action plan commitments is not formally part of these mandates.⁸ Instead, departments and agencies who have agreed with the TBS to carry-out OGP action plan activities are expected to do so in accordance with their respective annual departmental/agency budgets. Put simply, no 'new' monies are made available to facilitate delivery of OGP action plan commitments and/or milestones.

Within the TBS, the on-the-ground leadership did not change between Canada's third and fourth action plans, with Jaimie Boyd serving as Director of Open Government,⁹ and Mélanie Robert serving as Executive Director, Open Government and Services. The number of full-time employees at the TBS fluctuates. During the action plan design and co-creation process there were 28 full-time employees, of which approximately 18 were involved in open government related work across the government.¹⁰ For these individuals, engaging in OGP-related activities comprises one subset of their duties. In the words of Jaimie Boyd, "There is no ring fencing of OGP-related work within the TBS."

There are three inter-related factors that, together, serve to constrain the designing of ambitious action plans and commitments. First, although responsibility for the oversight and implementation of Canada's OGP action plans fall under the remit of the TBS's open government team, it is individual federal departments and agencies – sometimes in collaboration with the TBS – that are responsible for actually delivering on the commitments and milestones. As such, the open government team's principal function is one of co-ordinator and facilitator. Within the context of designing and implementing the action plan, the open government team ostensibly serves as an intermediary between civil society members of the MSF and the senior managers of the departments and agencies responsible for the successful implementation of respective commitments and milestones. A central component of this intermediary role involves getting department leaders and staff to understand how issues of consideration in action plans fit into both their respective departmental briefs and the OGP process.

Second, and as noted above, actions specified within commitments are designed and implemented in accord with the lead departments' and agencies' existing annual budgets and operating schedules. Participating lead departments and agencies do not have budget lines specifically dedicated to delivering on OGP Action Plan commitments and milestones; OGP activities are not part of their core mandates. This serves to orient thinking about action plan and commitment content toward deliverables that fit in with existing departmental initiatives, and that can be successfully achieved within the combined constraints of existing budgets, operating schedules, and the two-year time frame of OGP action plan cycles.

The third, and most notable factor, is the time required to secure the financing and approvals required to implement ambitious initiatives (See Box 1).¹¹ According to almost all of the civil society members of the MSF, this marked one of their most eye-opening learning experiences as a forum member.

Commenting on this observation, one government member of the MSF noted,

Transparency takes time. But you don't necessarily know that coming in. There's overhead to being open. And, you need to ensure that you're being transparent.

Successfully navigating the approval process generally takes some 8 to 18 months, and it is only after it has been successfully completed that the ‘new’ ambitious idea can be presented as a ‘formal’ commitment in an action plan. In other words, the implementation of ambitious or transformative OGP reforms is contingent, in part, on the presence of an approximately one-year gap between the idea generation phase of the co-creation process and the securing of the requisite approvals for an ambitious commitment to be included in the national action plan.

In the context of the OGP’s two-year action plan cycle, it is government scheduling that largely drives the art of the possible. A lack of congruence between the time at which ‘new’ ideas emerge, the government’s budget cycle, and departmental operating schedules can directly mitigate against the

Box 1: Government Decision-Making Process

Incorporating a new idea into an action plan in the form of a commitment requires going through four levels of approval, excluding the obviously necessary inter-departmental and agency discussions.

1. **Funding Approval:** Involves submitting a budget proposal for the ‘new’ ambitious commitment to the Department of Finance on behalf of the lead department or agency. If the commitment is approved, it is announced in the annual federal budget.
2. **Policy Approval:** Once the commitment is in the budget, the lead department is required to submit a memorandum to cabinet (MC) to seek approval for it. If the commitment is approved by Cabinet, the Minister of the department is deemed as having policy authority.
3. **Program Approval:** With funding and policy authority in place, the lead department then needs to obtain program authority from the Treasury Board. Doing so, requires submitting a Treasury Board submission that sets out the parameters of program design, objectives, delivery, and expected outcomes of the commitment. If Treasury Board approval is obtained, the lead department can begin implementing the new commitment.
4. **Parliamentary Approval:** Actual funding for the new idea does not start until Parliament grants its approval of the funding appropriations.

designing and implementing of ambitious action plans and commitments.

3.2 Multi-stakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP’s Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Canada did not act contrary to OGP process.¹²

Please see Annex I for an overview of Canada’s performance implementing the Co-Creation and Participation Standards throughout the action plan development.

Table [3.2]: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.¹³ This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

| Level of public influence | | During development of action plan |
|---------------------------|---|-----------------------------------|
| Empower | The government handed decision-making power to members of the public. | |
| Collaborate | There was iterative dialogue AND the public helped set the agenda. | |
| Involve | The government gave feedback on how public inputs were considered. | ✓ |
| Consult | The public could give inputs. | |
| Inform | The government provided the public with information on the action plan. | |
| No Consultation | No consultation | |

Multi-stakeholder forum

On January 24, 2018, Canada's Multi-stakeholder forum (MSF) was formally launched. It is meant to serve as a mechanism to facilitate ongoing dialogue between government and civil society, and for providing guidance and oversight about open government issues. The MSF is not established via a legal mandate, operating instead on the basis of a jointly developed Terms of Reference document.¹⁴ It is a consultative body that emerged from some two years of work by the now defunct Canadian Open Government Civil Society Network (COGCSN).¹⁵ During consultations for Canada's third action plan, COGCSN drafted and submitted a letter of intent,¹⁶ signed by a host of civil society organizations, supporting the idea of creating a dialogue mechanism for the GoC to "co-develop commitments for its action plan with civil society representatives, and later co-implement those commitments and then co-assess its performance."¹⁷ This proposal went on to form the basis of the commitment 19 in the third action plan.

| Civil Society Members | Government Representatives |
|---|---|
| <ol style="list-style-type: none"> 1. <i>Civil Society Co-Chair</i>: Rob Davidson, Principal Consultant and Founder, Veracify; Lead, Open Data Institute-Ottawa 2. Cara F. Zwibel, Director, Fundamental Freedoms Program, Canadian Civil Liberties Association (CCLA) 3. Jean-Noé Landry, Executive Director, Open North 4. Lindsey Marchessault, Director, Open Contracting Partnership (OCP) 5. Michael Lenczner, Director, Powered by Data 6. Pamela Robinson, Associate Dean and Associate Professor, Ryerson University 7. Dr. Tracey Lauriault, Assistant Professor, Carleton University 8. Claire Woodside, Director, Publish What You Pay-Canada (PWYP-Canada) | <ol style="list-style-type: none"> 1. <i>Government Co-Chair</i>: Mélanie Robert, Executive Director, Open Government and Services, Treasury Board Secretariat 2. Jaimie Boyd, Director, Open Government, Treasury Board Secretariat 3. Laura Wesley, Executive Director, Consultations and Citizens Engagement, Privy Council Office 4. Sandy Kyriakatos, Chief Data officer, Employment and Social Development Canada |

In mid-2017 the COGCSN launched a call for applications¹⁸ to identify and select individuals willing to serve as civil society members of the MSF. Twenty-one applications/nominations were received, of which eight individuals were selected¹⁹ to work alongside four representatives of the GoC in constituting a MSF with a mandate "to provide input and advice on the Government of Canada's commitments on open government, identify new areas of focus, and build the open government community across Canada."²⁰ These individuals were elected for two year renewable terms, with the initial members having staggered terms.

The first year of the MSF's existence is best described as having been a period of 'learning by doing.' Civil society and government members were unanimous in reporting a continuing lack of clarity as to what exactly is the forum's role and mandate; whether advisory, decision-making, or oversight. Other areas of uncertainty pertain to whether the civil society members are meant to serve in an expert advisory or expert consultation role versus playing a more direct legitimating role in advancing the government's OGP-related open government undertakings. There is a range of views among civil society members as to whose interests they actually represent, and how. Whereas some maintain that they represent the views of the civil society interests within their established professional networks, others do not see themselves as representing civil society or as having a constituency, but rather as individuals who are seeking to leverage their expertise to work in the public interest. Drawing from discussions with each of the civil society MSF members, the IRM researcher concludes that their role throughout the first year is best summarised as having served in a quasi-advisory soft-supporting role to government.

As per its Terms of Reference,²¹ the MSF is meant to meet every two months, and/or more frequently if needed with meetings taking place in Ottawa or via teleconference. Officially, the MSF met six times throughout 2018; five times in-person in Ottawa, and once via teleconference. Five of these meetings took place between January and May 2018. Minutes for four of the six meetings are available online.²² Additional exchanges between MSF members also took place online in the form of providing commentary on selected documents using google docs.²³ From approximately March 2018 onward the civil society Chair and the government Chair began to maintain regular informal communications about open government related matters. This informal dialogue has had the benefit of serving as a trust building mechanism for both sides.

Stakeholders, and other potentially interested parties outside of the MSF had no direct means of observing the forum's interactions or of directly informing or influencing action plan themes and commitments unless they were part of the individual members' professional and social networks. Throughout 2018 the MSF did not formally convene with other civil society representatives,²⁴ nor does it have a budget for doing so.²⁵ In coming years, facilitating spaces for broader civil society and government stakeholders to directly engage with the MSF could mitigate any potential risk of the forum operating as a closed entity.

Participation and engagement throughout action plan development

As explained in the GoC's *What We Heard* report,²⁶ the development of the fourth action plan consisted of five phases: planning, shaping, drafting, reviewing and finalizing.²⁷ From September 2017 to December 2018, the open government team at the TBS led the development of the action plan through the first two phases on the basis of ten pre-identified 'starting point' themes that were used to guide the solicitation of ideas to inform the plan.

The general Canadian public, civil society organizations, businesses, academia, government agencies and other sectors had the opportunity to be involved throughout the first four phases of the process, mainly by providing input, suggestions and comments through multiple on- and off-line events. In total, some 8,214 people responded to a 19 question Get Involved Questionnaire that was available via the open.canada.ca platform from October 2017 to January 2018, and/or provided comments and shared ideas in online discussions between January 2018 and March 2018. These inputs contributed to establishing the broad priorities of the action plan.²⁸ An additional 1,384 people participated in one of 49 online and in-person events²⁹ (e.g., workshops, webinars, conference sessions, kiosks at community events, meetings, and teleconferences) across the country, and some 1,414 people participated in sharing ideas and commenting online via open.canada.ca, Twitter, and Reddit. In the course of the consultation, over 5,000 ideas and comments were received from across the country.³⁰ The comments gathered by the TBS were published in XLSX and CSV datasets and organized by comment source, event type, date, etc.³¹ As with previous action plans, it was members of the federal government who continue to account for the greatest portion of respondents, comprising one quarter of the total participants.³²

As noted above, the MSF was not formally launched until January 2018; almost five months into the engagement cycle. By this time the open government team had already begun organizing and analyzing the information received to identify common threads, and to begin the commitment drafting phase. It also had established a schedule for completing the drafting of the action plan.

At the first meeting, the civil society members were informed that the TBS was aiming to have a completed draft of the action plan within three months. However, the information the TBS had collected during the planning phase was not shared with the MSF's civil society members. Together, these actions contributed to what all the MSF members identified as a well-intentioned though shaky start for the forum insofar as it inadvertently served to seemingly pit the civil society MSF member's engagement in drafting an action plan against a perceived need to adhere to a pre-established schedule in the absence of adequate information. This said, it is important to note, as Tracey Lauriault, a civil society member of the MSF, points out that this had

Nothing to do with ill will or secrecy. We just didn't know how to do it. We didn't know how to ask, and they didn't know they could give it to us.

At the second meeting, in February, the civil society members set out their expectations and pushed back on the proposed timeline. According to Rob Davidson, Co-Chair of the MSF, the message delivered was, *"how can we have a plan before looking at the data?"* By this time, some civil society MSF members were starting to become disillusioned, questioning whether the MSF was being used foremost to legitimize the government's intentions. The apprehension then, and which continues to be a point of cautiousness for some civil society MSF members is that *"if the OGP and MSF process doesn't create policy dialogue, it risks becoming window dressing."* These concerns were set out in a 12 March 2018 letter from the civil society MSF members to their government counterparts lamenting the lack of time allocated to the engagement process, a perceived lack of involvement of senior government policy experts and subject matter experts in evaluating and refining government commitments, and the seeming absence of *"a clear path from the engagement phase to the development of impactful commitments."*³³ The letter called on the government to undertake a second round of engagement activities *"consisting of small, thematic roundtables with domestic and international subject matter experts and journalists who have the knowledge and subject matter expertise to synthesize the initial round of engagement results into strong, ambitious commitments."*³⁴

Shortly thereafter, and in response to the concerns expressed in the letter, a number of MSF-based working groups were established to examine 15 thematic areas and to plan engagement activities around them.³⁵ However, and as noted by a number of MSF civil society members in their discussions with the IRM researcher, the working groups never really worked out, and the envisioned engagement activities never really *'got off the ground.'* This was due, in part, to a number of perceived time, resource, and other organizational constraints with which MSF members had to contend. Nonetheless, by May 10, ongoing dialogue among the MSF members and the TBS – much of it via google docs – had contributed to the emergence of a draft list of 16 potential commitments and corresponding milestones though not all of which corresponded with the prior list of 15 thematic areas.³⁶

Over the course of the next two months discussions between the TBS and relevant government departments and agencies, and to a lesser extent between the TBS and the MSF, resulted in the generation of a list of ten draft commitments. These draft commitments were released for public comment via google docs³⁷ during a three-week period in July and August 2018.³⁸ During this comment period the TBS responded to some of the comments received in google docs from members of both the public and the MSF. A review of these documents suggests that such responses were more the exception than the rule. Citizens could also send comments through the website's comment function; some of which received responses from TBS staff about how they intended to move forward with the citizen's input. At the end of the comment period, the responses received were shared with the departments and agencies leading the individual commitments. Considered within a broader global context, this combined use of on- and off-line channels for soliciting public input and feedback during the co-creation process, as well as maintaining an open line of dialogue with the MSF, is noteworthy insofar as it is not common among OGP members.

Two observations merit highlighting. First, civil society MSF members are included among those who provided comments and observations via google docs about the draft commitments. For them, this served as an additional channel through which to convey their views to the TBS. Second, between August and December 2018, changes were made to the contents of a number of draft commitments – including the addition of new milestones, the removal of draft milestones, and milestones becoming commitments – that were not reflective or otherwise indicative of the comments received during the July-August public comment period. In a number of instances, these changes appear to reflect foremost

the inclusion of departmental activities and initiatives that can be plausibly incorporated into commitments as opposed to changes principally informed by comments received from members of either the public or the MSF.

Equally noteworthy is the observation that the MSF was not convened at any point in the final commitment drafting and reviewing phase to refine, elevate, or otherwise vet the changes made to the draft commitments after the period of public comment had closed in August. Canada's fourth action plan was formally launched on December 17, 2018.³⁹

Among the civil society MSF members there is unanimous agreement that the final ten commitments are not particularly ambitious. Three factors appear to have been at play in this regard. The first was the lack of a clear and agreed upon sense of the MSF's role in the co-creation process. This, combined with the late-timing of its launch attenuated its influence in shaping the action plan. The second, has to do with the time needed for the MSF to begin working as a cohesive entity. Rob Davidson, civil society Chair of the MSF, summarised the situation as follows:

The action plan reflects, in part, the fact that the MSF really struggled to find its mojo, and by the time things were beginning to function more smoothly it was too late in both the action plan creation process and the budgetary policy cycle to effectuate real change – especially with an election on the horizon.

The third, and perhaps most instrumental factor, was a lack of understanding of how policy-making and decision-making takes place within government, and the pre-eminent role of budgetary cycles and departmental operating schedules in influencing what can be realistically achieved within a particular time-frame. Virtually every civil society MSF member with whom the IRM researcher spoke pointed to the need for future members be provided with some sort of training about these matters. In the words of Jean-Noé Landry,

when we were on-boarded we needed information in terms of how government policy works. We were at a disadvantage because we didn't understand the machine.

The key lesson learned in this regard is that, unless the introduction and promotion of civil society driven open government initiatives align with the government's budgetary cycles, and department schedules, the ability to catalyze moderate-to-transformative change within the context of the OGP's two-year program cycles is constrained. The other critical factor, not surprisingly, is the need for political will in government to champion transformative change; something that was perceived by the civil society MSF members as lacking in the case of this action plan.

Overall, and as explained above, the degree of public influence exerted throughout the action plan co-creation process varied. Interested non-governmental stakeholders nonetheless had multiple opportunities to provide input, and the establishment of the MSF created an additional space for ongoing dialogue between the TBS and civil society representatives. To this end, the planning, shaping, and drafting phases plan appear to have been largely informed by a collaborative spirit wherein government and civil society members of the MSF worked together in striving to achieve a common purpose. However, the actual decision-making authority about the commitments ultimately remained with the government as is evidenced by the lack of engagement with the MSF's civil society members during the reviewing and finalizing phases of the action plan. For this reason, the IRM researcher concludes that in accord with the IAP2 Spectrum of Public Participation the level of public influence in the development of Canada's action plan is best described as involve.

Co-creation and participation recommendations throughout development

Canada showed evidence of achievement and strong performance in areas of communication and outreach during the development of the action plan. Its efforts at engaging with Canadians through a diverse range of on- and off-line channels is commendable. The fact that some 10,000 people participated and some 5,000 comments, suggestions, ideas were received and analyzed is a testament to the efforts expended on this front.⁴⁰ This said, and paralleling past engagement activities, it is members of the federal public service who continue to account for the largest portion of respondents.

A second domain in which strong performance is evident pertains to the spirit of collegiality that has characterized the first year of the MSF's operations. Were it not for the shared sense of endeavor and purpose of its members, the forum may have turned into little more than a well-intentioned failed

experiment. Instead, it is now unanimously seen by its members as a vibrant organizational entity that is working through its growing pains.

Some areas where Canada can improve include: (i) engaging in more expansive efforts to reach out to civil society beyond technology, data, transparency, and federal public servant communities; (ii) establishing longer timelines and more feedback rounds in the co-creation of action plans; and (iii) clarifying and consolidating the mandate and role of the MSF.

In order to improve performance in these areas the IRM researcher suggests the following actions be taken:

Bolster the co-creation process by:

- Leveraging existing non-OGP centred relationships between federal departments and agencies, and their respective stakeholder communities. Encourage departments and agencies who are not already doing so, to:
 - Advertise and communicate their activities via OGP-related channels even when open government is not the focus of the event. Likewise, advertise and communicate OGP-related activities via their respective communication channels
 - Invite open government and open data experts to participate in the public activities of federal departments and agencies even when these events are not directly centered around matters of open government
- Establishing OGP action plan timeline and consultation processes that distinguish between engagement processes with the general public and those with subject matter experts
- Maximizing the appeal of open government for broader segments of civil society by connecting it with issues directly impinging upon peoples' daily lives and well-being, and about which they care (e.g., climate change, education, healthcare, inclusion and diversity, traffic safety).
- decoupling engagements with Indigenous Peoples about open government issues from the OGP framework until such time as a new shared vision(s) of open government has been agreed upon and the parties collaboratively decide on how best to realize the vision(s).

Bolster the operations of the MSF by:

- Clarifying and consolidating the mandate and role of the MSF. Some issues and questions in need of immediate attention include:
 - What is the core objective of the MSF? For whom is it meant to be advocating? Is the role of its civil society members to serve as a consultative body that presents its priorities to government, or to serve in an advisory role assisting the federal government in interpreting and prioritising the findings emerging from co-creation consultations with the broader Canadian public?
 - Finding a sustainable balance between:
 - the role of the MSF's civil society members as representatives of civil society interests on the one hand, and their role as subject matter experts on the other hand.
 - the demands of the MSF's work and the demands of the civil society members' daily jobs.
 - In the absence of adequate resources, how can the MSF's civil society members most effectively engage with civil society interests beyond these individuals' respective professional networks?
 - How best to ensure the MSF effectively represents a diversity of views and interests?
 - How can the MSF best work with federal departments and agencies so as to minimize action plan bloat – i.e., the incorporating into action plans commitments and milestones that do not align with OGP values and/or do not reflect public input.
- Determining what mechanisms and resources need to be in place so as to ensure the sustainability of the MSF over the longer-term.

- Providing training to new MSF members about government operations and scheduling.
- Establishing a list of experts from across Canada who, on short notice, could be called upon to serve in advisory – or even monitoring – capacities as and when needed. Creating this list has the added advantage as simultaneously serving as an outreach mechanism to civil society stakeholders.
- Expanding efforts to bring senior managers of federal departments and agencies into regular and direct contact with the MSF, ensuring that commitment and milestone leads need to meet with the MSF on a regular basis.

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- ¹ A copy of the letter is available at: Crystal, Eldora (2018, January 9). The Evolution of Open Government in Canada. <https://www.opengovpartnership.org/stories/the-evolution-of-open-government-in-canada/>
- ² The TBS oversees the operations of the federal government and the financial management functions of in government departments and agencies, makes recommendations to the Treasury Board committee of ministers, and serves as the general manager and employer of the federal Public Service. See, <https://www.canada.ca/en/treasury-board-secretariat.html>. See also, Canada's Year-1 self-assessment report at: <http://open.canada.ca/en/implementation-canadas-action-plan-open-government-year-1-self-assessment-report#toc4>.
- ³ See, https://www.opengovpartnership.org/wp-content/uploads/2018/03/Canada_MidTerm-Report_2016-2018_EN_for-public-comment.pdf
- ⁴ Open Government Director Generals' Committee - Terms of Reference. <https://open.canada.ca/ckan/en/dataset/4e3e916f-dbd0-57ba-9a3f-e932057622d5>
- ⁵ See, <https://open.canada.ca/ckan/en/dataset/2d75fa72-e9e0-53a5-ab3d-e13645572dce>
- ⁶ See, <https://www.budget.gc.ca/2016/docs/plan/toc-tdm-en.html>
- ⁷ Ibid.,
- ⁸ Departments must follow policies and directives that meet the requirements relating to open government as set out in the Policy on Communications and Federal Identity, the Directive on Open Government, and the Policy on Service and Digital as well as open government requirements specified in other instruments including, Digital Standards, Data Strategy Roadmap for the Federal Public Service, Digital Operations Strategic Plan: 2018-2022, Government of Canada Digital Playbook. The largest open government requirements come from the mandate letters from the PM to the Ministers which all include language around advancing open by default, as well as requirements under the Directive on Open Government.
- ⁹ Jaimie Boyd resigned from the Federal Public Service at the end of June 2019.
- ¹⁰ An additional eight positions were created on a temporary basis to assist the organization and of the OGP Summit 2019.
- ¹¹ Treasury Board of Canada Secretariat (2016, June). Memorandum to Cabinet and Treasury Board Submission – Why they are Major Tools for Government. <https://slideplayer.com/slide/10876382/>
- ¹² Acting Contrary to Process - Country did not meet (1) “involve” during the development or “inform” during implementation of the NAP (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.
- ¹³ “IAP2's Public Participation Spectrum,” IAP2, 2014. http://cymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf
- ¹⁴ See, Multi-stakeholder Forum Terms of Reference, <https://docs.google.com/document/d/1NHSHqGDOBEuY76d5VA3lcz-AtaMegyUa6C7XE9DKQv0/edit>
- ¹⁵ See, <http://www.opengovdialogue.ca/blog/2018/02/28/Call-To-Action.html>
- ¹⁶ See, <https://drive.google.com/file/d/0B7gRCWnl02hoOUpaMUdqd3ZJSVU/view>
- ¹⁷ See, <https://www.opengovdialogue.ca/en/about.html>
- ¹⁸ The campaign was led by the interim steering committee of the COGCSN. It's members were: Gail Davidson, Lawyers' Rights Watch Canada; David Fewer, Canadian Internet Policy and Public Interest Clinic; Jean-Noé Landry, Open North; Michael Lenczner, Powered by Data; James McKinney; Toby Mendel, Centre for Law and Democracy; Sukanya Pillay, Canadian Civil Liberties Association. See, <https://www.opengovdialogue.ca/en/about.html>
- ¹⁹ Information about how the selection process was conducted is available at: <http://www.opengovdialogue.ca/en/2017/members.html>. Documentation about the selection committee's internal processes is available at: <https://drive.google.com/drive/folders/1YI7IEH5OPfyNkAq1O6-ik67MQgtYnA7t>
- ²⁰ Open Canada website, Multi-stakeholder forum on Open Government. <https://open.canada.ca/en/multi-stakeholder-forum-open-government>
- ²¹ See, <https://docs.google.com/document/d/1NHSHqGDOBEuY76d5VA3lcz-AtaMegyUa6C7XE9DKQv0/edit#heading=h.bzp1ogn6hn43>
- ²² The in-person meetings took place on January 11, March 13, March 20, May 10, and December 2018. The teleconference took place on May 8. Minutes for four of the six meetings are available online at: <https://drive.google.com/drive/folders/1PRcfusRmdRhFKZ4T1kklUzbSLcaQaBWg>

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- ²³ The use of collaborative document editors such as google docs is specified in the MSF Terms of Reference as a means for maintaining timely and clear communication among forum members, and results from their need to have a collaborative platform to document and edit work. Despite its use having been initially mutually agreed upon by MSF members, during their consultations with the IRM researcher a number of civil society MSF members noted that the use of google docs in this context raises questions about the appropriateness of using this platform for governmental dialogue whether within and/or external to the forum.
- ²⁴ In April 2018 some civil society MSF members did participate in a meeting hosted by members of the Institute of Fiscal Studies and Democracy (IFSD) at the University of Ottawa to discuss themes relating to open government and public financial management.
- ²⁵ Some individual civil society members of the MSF were active in the design of, and did participate in, the Civil Society Day event at the 2019 OGP Global Summit in Ottawa. The GoC also offered funding to MSF members to attend all days of the Global Summit, including side events such as Civil Society Day.
<https://docs.google.com/document/d/1iukOSKB2EsLjXPvbyblzBBfQLvmwsw3cXfeDZQwE1Yk/edit>
- ²⁶ Treasury Board of Canada Secretariat (2019). What We Heard – Summary Report, <https://open.canada.ca/en/content/what-we-heard-summary-report-0>
- ²⁷ The report includes a final engagement phase during the implementation of the action plan which will be reviewed in the IRM's next Implementation Report for Canada.
- ²⁸ The questionnaire data description and results can be found here: <https://open.canada.ca/data/en/dataset/180b0e65-d289-4977-aaae-5faf82082d01>
- ²⁹ In-person events were held in 14 cities across Canada (Calgary, Edmonton, Fredericton, Halifax, Kitchener-Waterloo, Montréal, Ottawa, Québec City, Regina, Toronto, Vancouver, Victoria, Whitehorse, and Winnipeg)
- ³⁰ Open Government Consultation Data: 2017-18. <https://open.canada.ca/data/en/dataset/23ecac3f-2bcc-44fd-af82-cd405991cce2>
- ³¹ Datasets with comments, suggestions and ideas received can be found in reusable formats here: <https://open.canada.ca/data/en/dataset/23ecac3f-2bcc-44fd-af82-cd405991cce2>
- ³² Treasury Board of Canada Secretariat (2019). What We Heard – Summary Report, <https://open.canada.ca/en/content/what-we-heard-summary-report-0>
- ³³ See, <https://docs.google.com/document/d/1-Q8MGBUzzBmEud-WyIP2vwd4T09hoyIDvU7tUmRm3Dk/edit>
- ³⁴ Ibid.,
- ³⁵ See, https://docs.google.com/document/d/1z-3lIXAJMvTmXsnmvzZoX9enNLYgCJbgm_G1fpBv0zk/edit
- ³⁶ See, <https://docs.google.com/document/d/1oXWp6ycLowvjasHrAR4acKtSCyt6aYilqxELH5yXNRE/edit>
- ³⁷ Comments received via Google Docs about each of the ten commitments are publicly accessible at: <https://open.canada.ca/en/4plan/creating-canadas-4th-plan-open-government-2018-20>
- ³⁸ See, <https://open.canada.ca/en/4plan/creating-canadas-4th-plan-open-government-2018-20>. See also, <https://open.canada.ca/en/4plan/about-process-creating-canadas-4th-plan-open-government>
- ³⁹ Treasury Board Secretariat, "Canada launches national action plan on open government", December 17, 2018, <https://www.canada.ca/en/treasury-board-secretariat/news/2018/12/canada-launches-national-action-plan-on-open-government.html>
- ⁴⁰ This level of participation marks a dramatic increase from the 260 participants who engaged in the consultations informing the design of Canada's first Nation Action Plan. See, Francoli, Mary (2013). *Independent Reporting Mechanism: Canada Progress Report 2012-2013*. https://www.opengovpartnership.org/wp-content/uploads/2001/01/Canada_final_2012_Eng.pdf. This positive development also is indicative of the need for continued education about, and awareness raising for open government, especially with regard to what it may mean in peoples' daily lives.

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.¹ The indicators and method used in the IRM research can be found in the IRM Procedures Manual.² A summary of key indicators the IRM assesses is below:

- **Verifiability:**
 - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
 - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
 - **Access to Information:** Will the government disclose more information or improve the quality of the information disclosed to the public?
 - **Civic Participation:** Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
 - **Public Accountability:** Will the government create or improve public facing opportunities to hold officials answerable for their actions?
 - **Technology & Innovation for Transparency and Accountability:** Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the potential impact of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
 - Identify the social, economic, political, or environmental problem;
 - Establish the status quo at the outset of the action plan; and
 - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the IRM Implementation Report.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the IRM Implementation Report.

What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem? Rather than describing an administrative issue or tool (e.g., 'Misallocation of welfare funds' is more helpful than 'lacking a website.').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26 percent of judicial corruption complaints are not processed currently.")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")?

Starred commitments

One measure, the “starred commitment” (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment’s design should be verifiable, relevant to OGP values, and have transformative potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of Substantial or Complete implementation.

This variable is assessed at the end of the action plan cycle, in the Implementation IRM report.

General Overview of the Commitments

Canada’s 2018-2020 action plan expands upon a number of initiatives that got under way in its third national OGP Action Plan. It was developed on the basis of some 5,000 ideas, suggestions, and comments that were received online and in-person. This marks the largest number of public comments received of any of the action plans to date. The ten commitments set out in the current action plan engage with a diverse range of issues and broadly align with the three domains delineating both the Canadian government’s vision of open government and its priorities as co-chair of the OGP Steering Committee: inclusion, participation, and impact.

¹ “Open Government Partnership: Articles of Governance,” OGP, June 2012 (Updated March 2014 and April 2015), https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf

² “IRM Procedures Manual,” OGP, <https://www.opengovpartnership.org/documents/irm-procedures-manual>

I. User-friendly open government

The Government of Canada will provide opportunities for Canadians to learn about open government. We will also improve the openness of federal government data. We will:

- make improvements to open.canada.ca
- help Canadians learn more about Government of Canada work on open government
- improve the quality of open data available through open.canada.ca
- expand the Open by Default pilot project
- provide tools for government and citizens to work together
- develop open data privacy guidelines

Milestones

- I.1 Make improvements to open.canada.ca to make it easier for users to find what they're looking for and contribute to the open government community (Treasury Board of Canada Secretariat)
- I.2 Help Canadians learn about Canada's work on open government through learning materials, information sessions, and enhanced training for public servants (Canada School of Public Service/Treasury Board of Canada Secretariat)
- I.3 Improve the quality of open data available on open.canada.ca (Natural Resources Canada/ Statistics Canada/Treasury Board of Canada Secretariat)
- I.4 Expand the [Open by Default pilot](#) to make working documents from government officials open by default, subject to applicable restrictions associated with privacy, confidentiality, and security (Treasury Board of Canada Secretariat)
- I.5 Co-create a public, digital collaboration space where citizens and government employees can work together (Treasury Board of Canada Secretariat)
- I.6 Develop open data guidelines to protect the privacy of citizens, businesses, and institutions (Statistics Canada)
- I.7 Help Canadians understand the data and models used to design and study government programs (Employment and Social Development Canada)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | ✓ | | ✓ | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment focuses on educating Canadians about openness and the opportunities it affords, and at making it easier for citizens to find high quality data and information resources about government activities. The commitment sets out a series of broad measures to facilitate moving forward with openness on two fronts. First, to enhance existing, and foster new, opportunities for Canadians to learn about open government and to work with the federal government. Second, to continue building on advancements from the three previous action plans toward improving the quality of open data the GoC makes available. Seeking to educate Canadians about open government is a commendable objective. However, as written, Commitment I is solution-oriented and aspirational in scope. Neither the current state of affairs prior to its launch vis-à-vis Canadian's knowledge of open government nor the targeted change that is meant to emerge from its implementation are specified.

This commitment aligns with the OGP values of Access to Information, Civic Participation, and Technology and Innovation. However, the extent to which the milestones align with OGP values is mixed. Milestones 1.1, 1.3, 1.4, and 1.5 are directly relevant to the OGP values of Access to Information, Civic Participation, Technology and Innovation, or combinations thereof. The proposed improvements to open.canada.ca and the expanding of the [Open by Default pilot](#) contribute to improving access to information and facilitating civic participation insofar as they offer increased opportunities for providing user feedback, with government making increased levels of datum and documentation available to interested parties. Likewise, the proposed digital collaboration space – the [GCCollab](#)¹ and [GCmessage](#)² open software tools – offers opportunities for information sharing, public participation, and collaboration.³ Milestones 1.2, 1.6 and 1.7 pertain foremost to providing information and learning opportunities about government activities and the implementing of government guidelines. Based on the value definitions provided by in the *IRM Procedures Manual*, it is unclear how they align with any of the four OGP values.⁴ This said, the IRM researcher acknowledges that the educational opportunities afforded by these three milestones can potentially enable interested parties to engage with and monitor Canada's progress in moving toward open government.

For Commitment I, there is a link between the objective of educating Canadians about the work government does and its open government efforts, and the seven milestones set out for realizing this goal. Milestones 1.3, 1.4, 1.5, and 1.6 are easily verifiable (i.e., either the proposed activity or change has taken place, or it has not) whereas Milestones 1.1, 1.2, and 1.7 require some degree of interpretation with regard to their measurability. Likewise, the validity of success criteria for all the milestones is subject question (i.e., do they actually measure/reflect what they claim to measure?). This is due, in part, to the fact that the success criteria for Milestones 1.1, 1.2 and 1.7 offer no indication of the measures to be used to evaluate whether users of open.canada.ca actually find it easier to locate and uncover “*what they're looking for and contribute to the open government community*” and whether Canadians have learned about the country's work on open government or “*understand the data and models used to design and study government programs.*” The public comments received about the draft commitment identified specific issues whose resolution could have served to inform the creation of more precise indicators of success for milestones 1.1 and 1.2. For example, comments received from Jury Konga, Executive Director of the GO Open Data Association, and others, suggested that the chief improvement needed to make it easier for users to find what they are looking for at open.canada.ca is to have the platform indexed and fully searchable.⁵

In sum, Commitment I appears to be anchored in the notion that, the more Canadians learn about open government, the more they will use open government data and engage with government. Much weight is placed on delivering information, reports, analyses, making it easier for users to engage with open data and open government, as well as on government-led training. The impact of this commitment is tempered by this solution-centric orientation.⁶ Nonetheless, it does constitute an incremental, positive step in working toward providing opportunities for Canadians to learn about open government, and for improving the openness of federal government data. Hence, Commitment I is assessed as having a minor potential impact.

Next steps

Commitment I is illustrative of an important and necessary open government initiative. Educating Canadians about open government and improving the quality of openness are laudable ongoing processes. However, the link between the commitment, the milestones, and the proposed success

criteria – some of which appear to be milestones in their own right – is vague. Avoiding the pitfalls of data determinism requires being cautious not to overestimate citizens' desires and motivations for engaging with government data and with government itself. Opening government data is not a 'one size fits all' proposition. Different stakeholders have very different data and information needs, and very different motivations for engaging with such resources. The government-citizen dialogue at the core of this commitment needs to be operationalized as an ongoing iterative process that both complements and extends beyond Canada's OGP action plan.

The IRM researcher recommends that in moving forward lead departments and agencies strive to:

- identify and tackle specific challenges/issues/priorities that can be addressed by improving the openness and quality of federal government data as opposed to starting from a position of 'how can we provide opportunities for Canadians to learn about open government?';
- ensure the validity of the success indicators being used to assess/measure the success of the milestones, and the commitment more broadly;
- enhance opportunities for consulting and engaging directly with citizens and civil society interests about their respective user needs, educational and otherwise, with regard to open government; and
- establish and implement internal monitoring and evaluation practices to ensure the user feedback obtained is incorporated into the design, implementation, and outputs of the planned activities.

¹ GCcollab is an open software based collaborative and networking platform for federal employees as well as students and academics of select post-secondary institutions. See, <https://gccollab.ca/faq>

² GCmessage is an instant messaging application that enables users to connect with each other through a Web browser or mobile application ([iOS](#) and [Android](#)), with the ability to send direct messages and create private or public group-chats. It uses the same account service as GCcollab. See, What is GCmessage? <https://gccollab.gctools-outilsgc.ca/en/support/solutions/articles/2100037287-what-is-gcmessage->

³ As of October 1, 2019 GCcollab had some 62923 registered members, of which approximately one half were non-government actors and citizens. See, GCcollab Statistics, <https://gccollab.ca/stats>

⁴ The IRM Procedures Manual (2017) specifies that the value of Access to Information pertains to, "government-held information, as opposed to only information on government activities. As an example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;" See, https://www.opengovpartnership.org/wp-content/uploads/2017/09/IRM-Procedures-Manual-v4_Sept2017.docx

⁵ See, <https://docs.google.com/document/d/16TwaUIBcnKY4W93tkPaJVjsQUt5pfkAEPFGDcjun6ms/edit>

⁶ This view also as was expressed by in comments received from members of civil society when a draft of the commitment was posted online for public comment via Google Docs in July and August 2018. See, <https://docs.google.com/document/d/16TwaUIBcnKY4W93tkPaJVjsQUt5pfkAEPFGDcjun6ms/edit>

2. Financial transparency and accountability

The Government of Canada will continue to improve the transparency of its spending and its open contracting to make it easier for Canadians to understand federal budgets, track funding decisions, and examine government procurement and spending processes. We will:

- make government budget and spending information easier to find and understand
- publish an analysis of gender-based impacts for all Budget measures
- ensure Canadians have access to open data on Government of Canada procurement
- explore adoption of common contracting data standards across Canada

Milestones

- 2.1 Make government budget and spending information easier for Canadians to find and understand (Department of Finance Canada / Treasury Board of Canada Secretariat)
- 2.2 Publish the [Gender-based Analysis Plus \(GBA+\)](#) for all new announced budget expenditure and tax measures in future budgets (Department of Finance Canada)
- 2.3 Ensure Canadians have access to open data on Government of Canada procurement (Public Services and Procurement Canada / Treasury Board of Canada Secretariat)
- 2.4 Explore adoption of common contracting data standards across Canada (Public Services and Procurement Canada)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| 2. Overall | | ✓ | ✓ | | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment builds on Commitments 9 and 10 from Canada's third action plan.¹ Its aim is twofold. First, to make it easier for Canadians to find information about government spending, to understand federal budgets, to track funding decisions, and to examine government procurement processes. Second, to improve the transparency of government spending and open contracting. As written, the commitment offers no indication of the current state of affairs regarding the fiscal transparency and accountability of the Canadian government, the change that is meant to emerge from its implementation, or the target audience (e.g., journalists? researchers? academics? industry? average persons?) for these information resources.

This commitment aligns with the OGP value of Access to Information. However, the extent to which the milestones align with OGP values is mixed. Milestones 2.1, 2.2, and 2.3 and their accompanying

criteria for assessing success may contribute, in varying degrees, to improving financial transparency and accountability insofar as emphasis is placed on opening access to government-held information and data. The proposed expanding of the [GC InfoBase](#), the updating of [Guidelines on the Reporting of Grants and Contributions Awards](#) and [Guidelines on Proactive Disclosure of Contracts](#), the making available of information about the impacts of budget expenditures and tax measures on gender and diversity, the piloting and continued examination of open and common contracting data standards (OCDS) in procurement cycles, and continuing government exploration of common standards are all encouraging steps. Milestone 2.4 focuses on inter- and intra-governmental dialogue. Based on the value definitions provided in the *IRM Procedures Manual*, it is unclear how it aligns with any of the four OGP values.

Milestones 2.2² and 2.3³ are easily verifiable (i.e., either the proposed activity has taken place, or it has not). Milestones 2.1 is verifiable subject to exercising some degree of interpretation in terms of measurability. This is particularly so for some of the specified success indicators and is perhaps best summed up in the observation of an individual who submitted google docs comments about the July-August 2018 draft version of the commitment. In commenting to the success criterion – Parliamentarians and Canadians are engaged in reviewing the Government’s progress in improving the timeliness, completeness, and transparency of the Budget and Main Estimates – this individual simply wrote “*How do you plan to measure this?*”⁴ The point here is that even if each of the five success criteria for milestone 2.1 are realised, it is not clear how one can conclude that Canadians would henceforth find it easier to identify and understand government budget and spending information.

Milestone 2.4 comprises an activity that is both complementary to and necessary for improving government financial transparency. In this instance, the purpose of the milestone is ‘to explore’ and an indicator of success is ‘to have further explored.’ The vagueness of both the milestone and the proposed indicators of success renders its verifiability subject to exceedingly broad parameters of interpretation.

Overall, this commitment and its milestones reflect a continued recognition of the ever-increasing importance of public procurement transparency. It is, in the words of Lindsey Marchessault, a Director of the Open Contracting Partnership⁵ and civil society member of the MSF, “*a step in the right direction*” that “*reflects a series of compromises*” and which as a whole is “*not a particularly ambitious commitment.*” This view is echoed in comments received in google docs about the July-August 2018 draft commitment. As one anonymous contributor wrote,⁶

Futher [sic] explore - wouldn't it be better to see this rolled [adoption of common data standards across the procurement cycle] out at the end of our past-presidency for the OGP? That would be a huge win!

Bearing in mind this is the third consecutive action plan to include commitments aimed at enhancing the transparency of government budget spending and procurement, Commitment 2 and its milestones do nevertheless constitute another incremental, positive step in working toward enhancing financial transparency and accountability. As such, it is assessed as having a minor potential impact on open government in Canada.

Next steps

At the end of Canada’s third action plan the GoC was informed of the “*lack of meaningful progress on expanding the publication of planning and implementation information*” and was alerted to the importance “*of revamping the use of organisational identifiers*” and thereby “*improve[ing] the quality of data by standardising the way it is identified and tagged across departments.*”⁷ Milestone 2.3 seemingly commits the government to dealing with this issue insofar as it entails using pilot data to test the implementation of the Open Contracting Data Standard (OCDS), conducting workshops with private sector and civil society representatives to assess the results of the pilot, and publishing tender, award, and contract data aligned with the OCDS. Committing to rolling out the OCDS in this fourth action plan would have comprised a more ambitious and impact/result centred commitment than currently is the case. In moving forward, it is important to recognize:

- that the activities set out in this commitment comprise only one part of the answer to improving public procurement transparency. There is a concomitant need to invest in catalyzing stakeholder involvement in procurement processes; and

- the success of improving public procurement transparency and educating Canadians hinges on regular and prompt publication of government procurement information. Information that is not timely is of diminished value for accountability, commercial, educational, and journalistic purposes.

¹ Government of Canada. *Third Biennial Plan to the Open Government Partnership (2016-18)*.

http://www.opengovpartnership.org/sites/default/files/Canada_AP3.pdf

² There is need for caution in equating the publication of Gender-based Analysis Plus (GBA+) for all new announced budget expenditures and tax measures, and the release of open data about GoC procurement on the one hand, with Canadians being able to access and make use of such information on the other hand. Put simply, making data and information available does not ensure access or use. See, for example, Ruimy, Dan (2018). *Broadband Connectivity in Rural Canada: Overcoming the Digital Divide*. Report of the Standing Committee on Industry, Science and Technology. April.

<https://www.ourcommons.ca/Content/Committee/421/INDU/Reports/RP9711342/indurp11/indurp11-e.pdf>. See also,

Huynh, Annalise, and Malli, Nisa (2018). *Levelling Up: The quest for digital literacy*. Brookfield Institute. June

<https://brookfieldinstitute.ca/wp-content/uploads/Level-Up-report-FINAL-online.pdf>

³ Although milestone 2.3 is 'verifiable', it must be borne in mind that in verifying this milestone there is a difference between publishing a pilot test as a compliance exercise and which has very limited information about simple constraints versus publishing a pilot test that offers extensive coverage of various types of projects that is oriented toward generating lessons to inform future reforms.

⁴ See, https://docs.google.com/document/d/1dUNZxhW6--lbsY4lle_e7dFsw5QSgd0mz-bjVuTljXM/edit

⁵ See, <https://www.open-contracting.org/>

⁶ Ibid.,

⁷ Independent Reporting Mechanism (IRM): Canada End-of-Term Report 2016-2018. p. 31.

https://www.opengovpartnership.org/wp-content/uploads/2019/03/Canada_End-Term_Report_2016-2018_EN.pdf

3. Corporate Transparency

The Government of Canada will continue to work with provincial and territorial governments to implement the federal, provincial, and territorial finance ministers' December 2017 [Agreement to Strengthen Beneficial Ownership Transparency](#). We will:

- require federal corporations to hold beneficial ownership information
- engage with key stakeholders on possible options to improve timely access to beneficial ownership information

Milestones

- 3.1 Implement legislative amendments to require federal corporations to hold accurate and up to date beneficial ownership information, and eliminate use of bearer shares (Department of Finance Canada/Innovation Science and Economic Development Canada)
- 3.2 Work with provincial and territorial governments and key stakeholders representing various perspectives on possible options to improve timely access to beneficial ownership information, including retention and disclosure obligations relating to such information and the exploration of a public registry option (Department of Finance Canada/Innovation Science and Economic Development Canada)
- 3.3 Continue to work with provincial and territorial governments to support coordinated implementation of the Agreement to Strengthen Beneficial Ownership Transparency (Department of Finance Canada/Innovation Science and Economic Development Canada)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | Completion | | | | Did It Open Government? | | | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|------------|----------------|---|---------|-------------------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | | ✓ | | | | | ✓ | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This Commitment builds on commitment 12 from Canada's third action plan, and is in line with broader international efforts¹ at tackling money laundering, corruption, terrorist financing, and tax evasion by requiring federal corporations to retain and provide timely access to beneficial ownership information.² As written, the commitment sets out no information about the negative effects the concealing of corporate information is having in the Canadian context, or of the change that is meant to emerge from the commitment's implementation.

In Canada, responsibility for regulating corporations is divided between the federal government and the provinces and territories. Strengthening corporate law pertaining to beneficial ownership requires coordination across these differing levels of government. In accordance with milestone 3.1, legislative amendments to Canada Business Corporations Act (CBCA) were made in the October 2018 federal budget bill and received Royal Assent on December 13, 2018.³ These amendments, which apply only to federally incorporated private companies,⁴ came into effect on June 13, 2019. Prior to their enactment there was no corporate statute in Canada requiring corporations to maintain a record of beneficial ownership. Under the amendments, federal corporations are now required to actively collect and maintain information about both registered and beneficial shareholders having ‘significant’ control⁵ over the corporation. The information required to be held about those with significant control includes: name, date of birth, and address; jurisdiction of residence for tax purposes; day they became or ceased to have significant control; description of the interests and rights they have in shares of the corporation; and a description of how the corporation is keeping the registry up to date. The corporate records are to be available to tax authorities, law enforcement, and other regulators dealing with anti-money laundering and other criminal activities.⁶ In addition, extracts of the register may be accessed upon request by shareholders and creditors.⁷ In April 2019, the government of British Columbia became the first mover on this front by introducing legislation to create a public registry for beneficial ownership of real estate at the provincial level.⁸

The extent to which the Commitment’s three milestones align with OGP values is mixed. Milestone 3.2 aligns with the value of Civic Participation given its focus on consultations with a wide array of stakeholders. In the light of ongoing uncertainties about whether the public will eventually be granted access to the beneficial ownership records, at this time Milestones 3.1 cannot be deemed to be relevant to the OGP value of Access to Information. Milestone 3.3 focuses on inter- and intra-governmental dialogue. Based on the value definitions provided in the *IRM Procedures Manual*, it is unclear how it aligns with any of the four OGP values.

The milestones are sufficiently specific so as to be verifiable. Legislative amendments have been made to the CBCA, and by the end of the action plan cycle one will be able to ascertain whether the consultations which are meant to be indicators of success for milestone 3.2 have actually occurred. In terms of milestone 3.3 all elements of the [Agreement to Strengthen Beneficial Ownership Transparency](#) have been implemented by the federal government.⁹

The implementation of the milestones is set to contribute to improving corporate financial transparency, albeit not directly for the public just yet nor to the extent that public registries of beneficial ownership would enable.¹⁰ Commitment 3 is an incremental, positive step in working toward enhancing financial transparency in the private sector though it falls short of the desire for establishing public registries of beneficial ownership expressed by civil society MSF members and a number of individuals who offered comments via google docs on the July-August 2018 draft commitment. The commitment is deemed as likely having a moderate potential impact on open government in Canada. In other words, it is an important step forward in the relevant policy areas but remains limited in scale or scope.

Next steps

The opinions expressed during the IRM researcher’s discussions with civil society stakeholders suggest Commitment 3 is viewed as one of the three most important proposed areas of reform in the current action plan. While acknowledging the commitment as a positive step, they uniformly expressed disappointment about the inability to bring about publicly accessible registries of beneficial ownership. For these individuals, public registries are seen as central to the commitment having “*a real impact with teeth*.” This view was made clear by Tracey Lauriault, a civil society member of the MSF, during the opening ceremony of OGP Global Summit 2019. In her welcome addresses to the plenary she noted,

*we did not achieve beneficial ownership. And, if anybody is trying to buy property in Canada right now, now you will see why we really, really need beneficial ownership.*¹¹

The civil society MSF members consider that there has been a lack of progress on beneficial ownership and that it is directly linked to a combination of the disconnect between the timing of Canada’s OGP action plan creation cycle and the time required to bring about major policy changes and initiatives, a perceived lack of political will, and perceived resistance from Innovation, Science and Economic Development Canada.

Milestone 3.2 offers the opportunity for domestic and international stakeholders to continue engaging with federal, provincial, and territorial governments in working toward making beneficial ownership registries accessible to the public. Building on the experience from the United Kingdom, the IRM researcher recommends that beneficial ownership and public registries be recognized as important tools for tackling domestic and international corruption, money laundering, as well as other illicit activities, and that a problem-centered impact/results oriented variation of this commitment aimed at enabling public access to beneficial ownership records be carried forward into the next action plan.

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- ¹ For comparative information about the progress member states of the European Union are making implementing laws pertaining to public access of beneficial ownership information see, <https://www.transparencyregisterlaws.com/#>
- ² Canada Business Corporations Act (R.S.C., 1985, c. C-44) defines beneficial ownership as including “ownership through any trustee, legal representative, agent or mandatary, or other intermediary”. See, <https://laws-lois.justice.gc.ca/eng/acts/c-44/fulltext.html>.
- ³ See, <https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08123.html>
- ⁴ Businesses operating in Canada can elect to incorporate either at the federal or provincial level. The key difference between the two options pertains to issues of name selection and protection, business reach, annual filings and costs. See, *Provincial and Federal Incorporation: What is the Difference?* <https://www.lawdepot.ca/law-library/business-articles/provincial-and-federal-incorporation/?loc=CA#XTcf21B7IR0>
- ⁵ An individual own 25% or more of the voting rights attached to a corporation’s outstanding voting shares or 25% or more of the corporation’s outstanding shares measured by fair market value is deemed to have ‘significant control.’ Individuals acting “jointly or in concert” who meet the 25% threshold as a group and individuals with the ability to exert influence resulting in “control in fact” over a corporation are also considered individuals with ‘significant control’. See, Jagdeep S. Shergill and Andrew Kemp (January 30, 2019). *CBCA Corporations Required To Track Beneficial Ownership*, Business Law Blog. Lawson Lundell LLP. <https://www.lawsonlundell.com/the-business-law-blog/cbca-corporations-required-to-track-beneficial-ownership>
- ⁶ In the lead-up to the proposing of the legislative amendments pertaining beneficial ownership, the House of Commons Standing Committee on Finance supported the notion of creating a registry but recommended against making it publicly accessible, advocating for access to be constrained to “certain law enforcement authorities, the Canada Revenue Agency, Canadian Border Services Agency, FINTRAC, authorized reporting entities and other public authorities.” See, <https://www.ourcommons.ca/DocumentViewer/en/42-1/FINA/report-24/page-18>
- ⁷ See Section 21 of the Canada Business Corporations Act (R.S.C., 1985, c. C-44) at: <https://laws-lois.justice.gc.ca/eng/acts/c-44/FullText.html>
- ⁸ Stueck, Wendy (2019, April 2). B.C. unveils Canada’s first beneficial ownership registry. *Globe and Mail*. <https://www.theglobeandmail.com/canada/article-bc-unveils-canadas-first-beneficial-ownership-registry/>. See also, Hoekstra, Gordon (2019, June 27). Growing push on in Western world to make corporate ownership transparent, conference hears. *Vancouver Sun*. <https://vancouversun.com/business/local-business/growing-push-on-in-western-world-to-make-corporate-ownership-transparent-conference-hears>
- ⁹ See, National Action Plan Open Government Tracker, https://search.open.canada.ca/en/nap/?sort=score%20desc&page=1&search_text=&ap-commitment=C10%20-%20Open%20government%20community|C03%20-%20Corporate%20transparency
- ¹⁰ In March 2019 The U.S. Department of State designated Canada a “major money laundering country.” See, <https://www.state.gov/documents/organization/290502.pdf>
- ¹¹ See, The [#OGPCanada](#) Opening Ceremony (starting at 20:27) <https://www.youtube.com/watch?v=znADM9jqvZM>

4. Digital Government Services

The Government of Canada will apply the principles of openness to its digital services, allowing it to meet evolving user expectations while enhancing transparency and inclusion. We will:

- develop a Government of Canada digital policy and data strategy roadmap for the federal public service
- engage with Canadians on what digital and data transformation means for them
- create a performance dashboard to track service to Canadians
- publish analytics on Canada.ca website traffic
- prioritize open source code in developing digital solutions
- improve transparency and awareness of the Government's use of artificial intelligence (AI)

Milestones

- 4.1 Create a digital policy for the Government of Canada (Treasury Board of Canada Secretariat)
- 4.2 Develop a data strategy roadmap for the federal public service (Privy Council Office / Statistics Canada/Treasury Board of Canada Secretariat)
- 4.3 Engage with Canadians on what digital and data transformation means for business, civil society, and Canadians (Innovation Science and Economic Development Canada)
- 4.4 Create a performance dashboard to track service to Canadians (Treasury Board of Canada Secretariat)
- 4.5 Publish analytics on Canada.ca website traffic in a timely manner, in the spirit of sites like <http://analytics.usa.gov> (Employment and Social Development Canada)
- 4.6 Prioritize open source code in development and procurement of digital solutions (Library and Archives Canada/Treasury Board of Canada Secretariat)
- 4.7 Improve transparency and awareness of artificial intelligence (AI) supported public services (Canada School of Public Service/Innovation Science and Economic Development Canada/ Treasury Board of Canada Secretariat)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment builds on Commitment 6 from Canada's third action plan. It is anchored in the Treasury Board Secretariat's efforts to support the GoC's transition to digital government through the development of a digital policy, and to establish a single integrated set of guidelines and rules to support federal departments and agencies in how they manage service delivery, information and data, technology, and cybersecurity.¹ The commitment is built around a proposed course of action but does not provide any indication as to what exactly are the "evolving user expectations" that are meant to be addressed and the specific "benefits of digital government" it seeks to ensure "reach as many people as possible." Echoing views expressed by various contributors to the July-August google docs request for comments about the draft commitment,² one is left pondering:

What exactly is the problem here? Is it the "need to fundamentally change the way we [federal public servants] work" that is the perceived problem? Is it the need to ensure that principles of openness are applied and upheld to government digital services? Is the problem something else?

Commitment 4 aligns with the OGP values of Access to Information and Civic Participation. The extent to which the milestones align with OGP values is mixed. Four of the seven milestones³ and their accompanying success indicators may contribute, in varying degrees, to altering the way federal public servants work while enhancing transparency and inclusion. This said, the many digital inequalities with which many Canadians must contend⁴ point to the need for caution in equating the implementation of new and evolving government digital technologies and services with the harnessing of the benefits they afford.

Milestones 4.1, 4.3, and 4.6 are deemed to be directly relevant to the OGP value of Civic Participation insofar as the activities and processes set out for each of these actions involve opening up decision making to interested members of the public. Milestones 4.4 and 4.5 are likewise deemed to be directly relevant to the OGP value of Access to Information because they pertain to releasing government-held information. Milestones 4.2 focuses on internal government activity and is based solely on consultations with government departments⁵ and agencies. Milestones 4.7 focuses foremost on diffusing information about artificial intelligence (AI) within the federal public service. Based on the value definitions provided in the *IRM Procedures Manual*, it is unclear how these two latter milestones align with any of the four OGP values.

Milestones 4.1, 4.2, 4.3, 4.4, and 4.5 are all easily verifiable (i.e., either the proposed activity has taken place, or it has not). However, and as noted in the public comments received via google docs regarding the July-August 2018 draft commitment, a number of the proposed indicators of success are of questionable merit given that they outline processes or activities to be completed rather than tools for measuring the extent to which an intended outcome has materialized. The verifiability of milestones 4.6 and 4.7 requires some degree of interpretation with regard to their measurability. Here too, the validity of the success criteria subject to question (i.e., do they actually measure/reflect what they claim to measure?) because it is activities to be completed that are specified rather than indicators for measuring whether these activities result in expected outcomes.

Nonetheless, Commitment 4 is an incremental positive step in working toward transforming existing rules governing the management of service delivery, information management, information technology, and cybersecurity that may complement the fostering of a culture of open government in the federal public service. Whether these changes ultimately contribute to enhancing transparency and inclusion will be subject to the digital policy itself, how it is implemented, and its acceptance by federal public servants. The Commitment is deemed as having a minor potential impact on open government in Canada.

Next steps

Commitment 4 is anchored in the notion of changing the way public servants and politicians do their work. Whereas milestones 4.4 and 4.5 deal with the creation of a performance dashboard and the delivery of performance analytics, the other five milestones are oriented toward developing and implementing administrative processes and procedures to further a cultural shift toward the internalizing of principles of transparency, accountability, and accessibility in the design, implementation, and delivery of government services.

Though its ambition is commendable, missing from the commitment is a clear articulation of, and a more precise focus on, the specific challenges and/or policy problems the application of “the principles of openness to its [government] digital services” is meant to redress. Throughout the consultations undertaken in preparing this report, civil society stakeholders acknowledged the political necessity and strategic utility of including a commitment oriented around public sector and service delivery reform in the action plan while simultaneously lamenting both the commitment’s breadth of scope and its perceived conflation of digital government with open government. Of particular concern in this regard, is the perceived risk of the momentum for open government losing ground to the notion of digital government; a concept that large swathes of the Canadian population encounter on a day-to-day basis. While digitalization and digital government complements and facilitates the implementation of open government, these concepts are by no means synonymous or otherwise equivalent.⁶

In moving forward with Commitment 4, it will be important to:

- ensure that internal and external government communications about OGP action plan initiatives clearly delineate between activities conducted under the auspices of digital government versus open government, and those where elements of both are at play;
- specify: (i) the government service delivery mechanisms that require modifying and why; (ii) which modifications will be implemented; and (iii) the indicators to be used to measure whether the modifications are resulting in the desired behavioural outputs and outcomes;
- for Milestones 4.4 and 4.5, to determine the types of data to be published, the target users of the data (e.g., average citizen, researchers, journalists, government departments), and the participating government departments and agencies.

Milestones 4.1, 4.2, and 4.3 are already well on track to be completed by the end of this action plan cycle. Work relating to Milestones 4.4 and 4.5 is ongoing and likely to require being carried forward into Canada’s 5th action plan. With regard to Milestones 4.6 and 4.7 the issue is not whether these commitments, or some variation thereof, should be carried forward. Rather, any decision about this matter should rest, in large part, on first identifying what are the specific policy challenges and/or national priorities with which the Canadian government must contend and for which prioritizing open source code and/or improving transparency and awareness of artificial intelligence (AI) are likely to contribute to ameliorating within the context of an OGP action plan.

¹ See, Benay, Alex (May 10 2018). *Our ongoing transition to digital government*, <https://open.canada.ca/en/blog/our-ongoing-transition-digital-government>; D’Andrea, Teresa (September 10, 2018). *Improving government services in the digital age*, <https://open.canada.ca/en/blog/improving-government-services-digital-age>; and Benay, Alex (November 7, 2018). *Update on Development of a New Digital Policy* <https://open.canada.ca/en/blog/update-development-new-digital-policy>. See also, Treasury Board Secretariat (November 7, 2018) *Digital Policy – Report on What We Heard – Phase 2 (High-Level Policy Requirements) – October 2018*, <https://www.canada.ca/en/treasury-board-secretariat/topics/information-technology-project-management/information-technology/report-what-we-heard-phase-2-high-level-policy-requirements-october-2018.html>

² See, https://docs.google.com/document/d/12m4FfPRHrbF-fkdFml2WmT3w5aLR2hXVoDEiaa_rwLc/edit#

³ Milestone 4.5 was originally presented as an indicator of success for the current Milestone 4.4 – *Creating a public dashboard* in the version of the draft commitment that was posted for comments on google docs in July and August 2018. It was transformed into a milestone after the online consultation period had finished. The incorporation of the phrase “roadmap for the federal public service” likewise was a change that occurred after the period of requests for comment. See, https://docs.google.com/document/d/12m4FfPRHrbF-fkdFml2WmT3w5aLR2hXVoDEiaa_rwLc/edit#

⁴ See, for example, Ruimy, Dan (2018). *Broadband Connectivity in Rural Canada: Overcoming the Digital Divide*. Report of the Standing Committee on Industry, Science and Technology. April. <https://www.ourcommons.ca/Content/Committee/421/INDU/Reports/RP9711342/indurp11/indurp11-e.pdf>. See also, Huynh, Annalise, and Malli, Nisa (2018). *Levelling Up: The quest for digital literacy*. Brookfield Institute. June <https://brookfieldinstitute.ca/wp-content/uploads/Level-Up-report-FINAL-online.pdf>

⁵ Government of Canada (2018). *Report to the Clerk of the Privy Council: A Data Strategy Roadmap for the Federal Public Service*. <https://www.canada.ca/en/privy-council/corporate/clerk/publications/data-strategy.html>

⁶ See, Clarke, Amanda (2019, January 28). Digital government doesn’t equal democratic government. *Policy Options*. <https://policyoptions.irpp.org/magazines/january-2019/digital-government-doesnt-equal-democratic-government/>

5. Open Science

The Government of Canada will make federal science, scientific data, and scientists more accessible. We will:

- develop a Canada Open Science Roadmap to provide a plan for greater openness in federal science and research activities
- provide a platform for Canadians to find and access open access publications from federal scientists
- raise public awareness of federal scientists' work and of open science
- promote open science and solicit feedback on stakeholder needs
- measure progress in implementing open science and the benefits it can provide

Milestones

5.1 Develop an Open Science Roadmap for the Government of Canada (Office of the Chief Science Advisor, with support from other science-based departments and agencies)

5.2 Pilot an open science portal to provide access to open access publications from federal scientists (National Research Council Canada, Office of the Chief Science Advisor, and Treasury Board of Canada Secretariat, with support from other science-based departments and agencies)

5.3 Launch a platform allowing Canadians to more easily:

- find National Research Council science professionals
- find and access publications and pre-prints they have published
- understand what they are working on
- connect with them via social media networks

(National Research Council Canada)

5.4 Promote open science and actively solicit feedback from stakeholders and federal scientists on their needs with respect to open data and open science (Environment and Climate Change Canada)

5.5 Measure the Government of Canada's progress in implementing open science, and the benefits open science can provide to Canadians (Environment and Climate Change Canada, with support from other science-based departments and agencies)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | | | ✓ | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

Commitments on open science have been present in Canada's last three action plans. The current commitment carries forward the open science initiatives of Commitment 14¹ from Canada's third action plan that marked a shift away from applying restrictive communication policies on federal government scientists.² As written, the commitment is built around a proposed course – making “*federal science, scientific data, and scientists more accessible*” – but offers no indication of the state of affairs prior to the commitment's launch or the targeted change that is meant to emerge from its implementation.

According to representatives from Environment and Climate Change Canada, Commitment 5 emerges from:

- (i) an observation that shifts in the conducting of national science were not well reflected across government, and that many of Canada's peers were ahead of it on this front; and
- (ii) a political drive to make science available to, and better communicated with, the Canadian public.

It must also be noted that the science the commitment speaks of making more accessible is that which is conducted within federal departments; it does not include science and research that is federally funded through Canada's three major research granting councils.³

The commitment aligns with the OGP values of Access to Information, and Technology and Innovation. The extent to which the five milestones align with OGP values, however, is mixed. Milestones 5.2 and 5.3 are relevant to the OGP values of Access to Information, and Technology and Innovation with both involving the creation of online platforms to facilitate the public release of information about federal scientists as well as their scientific publications. The extent to which the engagement mentioned in Milestone 5.4 pertains to augmenting civic participation is unclear. The wording used in both the milestone and its associated success criterion is ambiguous.

Milestone 5.1 was a late addition to the action plan. It was not included in the draft commitment on open science released for public comment in July-August 2018, nor was the MSF consulted about its addition to the commitment.⁴ The open science roadmap initiative was launched earlier in 2018 by the Office of the Chief Science Advisor. Working with senior leaders from federal science-based departments and agencies and with three funding councils, the aim is to create a guidelines for ensuring that government science is accessible to the public, reversing the effects of earlier government policies restricting the ability of government scientists to speak publicly about their research and science,⁵ and to assist Canadian researchers in keeping step with the global open science movement.⁶ The development of a reference tool to facilitate the role out of open science within the Government Canada is an important undertaking. However, given that it is a tool principally designed for internal government use, the extent to which the exercise set out in milestone 5.1 aligns to OGP values is less clear. The same conclusion applies to milestone 5.5. Although measuring the progress of the Government of Canada in implementing open science is both a worthwhile and necessary undertaking in terms of assessing the impact of the GoC's open science initiatives on the public good, it is unclear how measuring progress, as a stand-alone milestone, aligns with any of the four OGP values.

The milestones are all sufficiently specific so as to be easily verifiable insofar as either the proposed activities take place, or they do not.

The transformative step of opening science in Canada took place under the auspices of Commitment 14 in the third action plan. The current government's work in opening science marks a notable continuation of efforts aimed at changing the culture in which federal scientists operate. These efforts are making positive incremental step in this policy area. As such, Commitment 5 is deemed as having a minor potential impact on open government in Canada.

Next steps

The implementation of Commitment 5 will contribute to the GoC's ongoing efforts at making information about federal science activities and outputs, as well as federal scientists, more accessible to Canadians. What is unclear, and will likely remain so for some time, is the types of dividends arising from its implementation. Science is being made more accessible to Canadians but the matters of *which* Canadians, and the extent to which Canadians will avail themselves of emergent open science resources, is less clear. Equally ambiguous is how, and the degree to which, the existing commitment actually enables citizens to engage with government in terms of influencing decision-making in this domain.

In moving forward, three important facets of open science related decision-making requiring on-going consideration will include:

- (i) Determining who are the intended audiences for these resources because the demands and resource needs of intended beneficiaries vary significantly – e.g., the types of information and resources most useful to experts differ from those needed for non-experts. Resource demands and needs across scientific disciplines are likewise highly variable;
- (ii) Determining what is the optimal allocation of resources for ensuring open science is contributing to the public good in a context wherein the most effective mechanisms for moving forward with transparency, accountability, and citizen participation vary within and across the natural sciences and engineering, social sciences and humanities, and health sciences;
- (iii) Identifying the most effective mechanisms and channels for ensuring open science is having a demonstrable impact on the public good.
- (iv) Developing appropriate communication and messaging strategies for science-based departments as government science becomes more open. To date the GoC's approach to open science has been anchored in informing Canadians about what federal scientists know. However, and as noted by Scott Findlay, Professor in the Department of Biology at the University of Ottawa and Researcher in Residence at the federal Office of the Chief Science Advisor, if a principal objective of open science is to contribute to creating an informed citizenry, it is equally important for Canadians to understand what federal scientists do *not* know. This has direct implications for communicating knowledge gaps and enhancing science literacy.

The IRM researcher recommends carrying forward the open science commitment, albeit with a more challenge/issue/problem specific focus. This might, for example, involve a commitment focusing specifically on one or more of the challenges of climate change or microplastic pollution that brings to bare the tools and processes of open science and open data to assist both in tackling pre-identified knowledge gaps and in supporting policy-making relating to these multidimensional issues.

¹ Government of Canada. *Third Biennial Plan to the Open Government Partnership (2016-18)*.
http://www.opengovpartnership.org/sites/default/files/Canada_AP3.pdf

² See, Professional Institute of the Public Service of Canada (2013). *The Big Chill: Silencing Public Interest Science*. A survey, <http://www.pipsc.ca/portal/page/portal/website/issues/science/bigchill>; Magnuson-Ford, Karen, & Gibbs, Katie. (2014). *Can scientists speak?* https://evidencefordemocracy.ca/sites/default/files/reports/Can%20Scientists%20Speak_.pdf

³ Collectively known as the Tri-Councils, the three entities are: 1. Social Sciences and Humanities Research Council (SSHRC) < http://www.sshrc-crsh.gc.ca/about-au_sujet/index-eng.aspx>; 2. Natural Sciences and Engineering Research Council of Canada (NSERC) <http://www.nserc-crsg.gc.ca/index_eng.asp>; and 3. Canadian Institutes of Health Research (CIHR) <<http://www.cihr-irsc.gc.ca/e/193.html>>. In 2015, the three councils implemented the Tri-Agency Open Access Policy on Publications requiring that publications arising from research they have funded be made freely available within 12 months.

⁴ See, <https://docs.google.com/document/d/1F9DOYM2zd4rnUYuM7tEdD6opacSCR5gzZcVWmF0qZjig/edit#>

⁵ Professional Institute of the Public Service of Canada (2018). *Defrosting Public Science*
https://www.pipsc.ca/sites/default/files/comms/Defrosting-report-e_v4%202_1.pdf.

⁶ Office of the Chief Science Advisor of Canada (2018). *Annual Report of the Chief Science Advisor*. Ottawa.
https://www.ic.gc.ca/eic/site/063.nsf/eng/h_97756.html

6. Healthy Democracy

The Government of Canada will build the resilience of Canadian democratic institutions in the digital age, while respecting human rights and fundamental freedoms. We will:

- strengthen democratic institutions in Canada through modernized election laws
- strengthen international capacity to identify and respond to evolving threats to democracy
- support a healthy and reliable news ecosystem in Canada
- champion diversity of content, and quality and transparency of information online

Milestones

- 6.1 Strengthen democracy and democratic institutions in Canada, both in advance of and following the 2019 federal election (Privy Council Office)
- 6.2 Leverage the G7 Rapid Response Mechanism (RRM) to strengthen international capacity to identify and respond to a diversity of evolving threats to democracy, including through sharing information and analysis, and identifying opportunities for coordinated responses (Global Affairs Canada)
- 6.3 Leverage existing Canadian Heritage programs, including Youth Take Charge and Canada History Fund, to support a healthy democracy (Canadian Heritage)
- 6.4 Support a healthy and reliable news ecosystem (Canadian Heritage)
- 6.5 Champion international norms to support diversity of content, and quality and transparency of information online (Canadian Heritage)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment is anchored in ongoing domestic and international apprehensions about the decline of trust in public institutions and the implications thereof for the health of liberal-democracies. Of particular concern in this regard is the proliferation of disinformation and so-called fake news via social media platforms and its negative implications for the economic, political, and social well-being of nation-states.¹ To this end, the objective of Commitment 6 is twofold: (i) to ensure that “*Canadians to have the tools and information to think critically about public policy, so they can participate more effectively in democratic processes;*” and (ii) to “*build the resilience of Canadian democratic institutions in the digital age.*” A noteworthy feature of this objective is that information, here, pertains to information about government and public policy related matters circulating in the mediasphere; not government-held information. To

this end, the focus of Commitment 6 is principally on matters of digital governance as opposed to open government per se. The proposed means for realizing the commitment's aims is to minimize the opportunities for disinformation to threaten Canada's democracy² by implementing a series of domestic and international measures that will contribute to shaping the contours of the Canadian mediascape. As written, the commitment is built around a series of broad scope activities and offers no information about the current state of affairs prior to its launch nor the targeted change that is meant to emerge from its implementation.

Seeking to foster greater trust in government and striving to strengthen democratic institutions are praiseworthy objectives. However, the efficacy of this commitment is blunted by a lack of precision about the impacts it seeks to achieve and the means by which these impacts are meant to be measured. Several comments expressing similar concerns were received when the draft version of this commitment was released for public comment in July and August 2017.³ The ambiguous manner in which this commitment and its milestones are written make any substantive assessment of the extent to which they align with OGP values exceedingly difficult. This said, given that two of the eleven proposed indicators for success entail providing opportunities for a select group of stakeholders (i.e., media organizations and digital content and diversity experts) to engage with government in the implementation process, the IRM researcher is applying some interpretive flexibility to suggest that the commitment may be seen as very loosely aligning with the OGP value of civic participation.

Equally noteworthy, milestones 6.1, 6.3, 6.4, 6.5 are all late additions to the action plan. They were not included in the original draft commitment, and the civil society members of the MSF were not consulted about their late addition to the commitment. This said, it must be acknowledged that the 'new' milestone 6.1 is indicative of efforts to address critiques advanced about the commitment's draft iteration.

The milestones are sufficiently specific so as to be easily verifiable insofar as either the proposed activities take place, or they do not. The validity of the success criteria on the other hand is questionable because they principally refer to activities to be completed rather than indicators for measuring whether these activities result in expected outcomes. Specifically, it is unclear how the extent to which the proposed initiatives reinvigorate Canadians' trust in public institutions and/or substantively alter the diversity, quality, and transparency of information that they access online will be measured.

There is much to be applauded in the activities set out in this commitment insofar as they all mark positive steps in battling disinformation-based threats in Canada, and internationally. However, as written, Commitment 6 seemingly takes it as given that completing the milestones will necessarily correlate positively with reinvigorating Canadians' trust in public institutions. This is dubious proposition on two fronts. First, there is no direct causal relationship between the proposed measures and citizens' levels of trust in democratic institutions. Second, and despite being verifiable, the milestones do not specify how or why these actions would actually impact on Canadian citizens' levels of trust in democratic institutions. Despite these limitations Commitment 6 can nonetheless be seen as potentially marking an incremental step forward in opening government in Canada.

Next steps

Ensuring the vitality and health of democracy is a priority concern for the GoC and is a cornerstone of the OGP's *Open Government Declaration*.⁴ The quality and veracity of government-held information to which citizens have access is one of many factors contributing to the levels of trust they accord to democratic institutions. Another contributing factor, and the main focus of this commitment, is the quality and veracity information circulating in the mediasphere about government and public policy related matters.

Commitment 6 is certainly illustrative of efforts to tackle domestic and international disinformation-based threats to Canada. However meritorious its objectives, in the absence of more narrow precision, the proposed line of action for building resilient democratic institutions in the digital age can just as well be enacted outside the auspices of Canada's OGP action plan.

The IRM researcher suggests that a problem-centred approach toward tackling "*campaigns of false information and "fake news"*," that is more directly germane to the OGP and which builds on Canada's status as a global leader in open data, might focus, for example, on working in tandem with civil society

organizations and other stakeholders to pilot initiatives aimed at investigating the impact robust open government data initiatives and programs have on countering disinformation and so-called fake news.

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- ¹ Public Policy Forum (2017). *The Shattered Mirror: News, Democracy and Trust in the Digital Age*. Ottawa. January. <https://shatteredmirror.ca/wp-content/uploads/theShatteredMirror.pdf>. See also, Vosoughi, Soroush, Roy, Deb, & Aral, Sinan (March 9, 2018). The spread of true and false news online. *Science*, 359(6380): 1146-1151 <https://science.sciencemag.org/content/359/6380/1146>
- ² A recent survey of some 2400 Canadians commissioned by the Canadian Journalism Foundation found that some forty percent of respondents reported finding it difficult to distinguish between truth and misinformation in the news. See, Canadian Journalism Foundation (2019). *News Consumption Survey*. Earncliffe Strategy Group April. <http://cjf-fjc.ca/sites/default/files/CJF%20News%20Consumption%20Survey.pdf>
- ³ See, <https://docs.google.com/document/d/10X9gP-LhVW8LtlZb8bm5zHiusLhUpZz0xX7-NgZRqjH4/edit#>
- ⁴ OGP (2011). *Open Government Declaration*. <https://www.opengovpartnership.org/process/joining-ogp/open-government-declaration/>

7. Access to Information

The Government of Canada will advance its commitment to more open and transparent government. We will:

- undertake a full review of the [Access to Information Act](#)
- improve tools available to people who request government information
- improve transparency about personal information that the government holds

Lead department(s)

Treasury Board of Canada Secretariat (TBS); other departments and agencies across the Government of Canada

Milestones

7.1 Undertake a broad review of the [Access to Information Act](#), including examining:

- the extent of coverage of the act, including the range of institutions that are subject to the act and who can make requests
- ways to improve the timeliness of responses to requests
- the regime of exemptions and exclusions
- appropriate protections for information relating to Indigenous peoples and governance
- how new technologies could be used to improve the functioning of the system and service to the user

All sectors of Canadian society, including Indigenous organizations and representatives, will be engaged through online consultations and in-person engagement on issue clusters (Treasury Board of Canada Secretariat)

7.2 Issue a plain language guide offering clear explanations of exemptions and exclusions under the [Access to Information Act](#) and the [Privacy Act](#) and their relationship to the work of federal institutions (Treasury Board of Canada Secretariat)

7.3 Increase the number of summaries of previously-released access to information requests posted to open.canada.ca and available through informal requests (Treasury Board of Canada Secretariat)

7.4 Make it easier for Canadians to access government information by improving the Access to Information and Privacy (ATIP) Online Request Service (Treasury Board of Canada Secretariat)

7.5 Enable government institutions to provide requesters with responses to access to information requests electronically, subject to any necessary limitations to protect privacy and security (Treasury Board of Canada Secretariat)

7.6 Improve online information about how to make an access to information or personal information request (Treasury Board of Canada Secretariat)

7.7 Improve transparency about the personal information held by government by making descriptions of Canadians' personal information holdings (known as personal information banks, or (PIBs)) available on open.canada.ca in a consolidated, searchable format (Treasury Board of Canada Secretariat)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | ✓ | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

The opinions expressed during the discussions with civil society stakeholders suggest that along with beneficial ownership and Feminist Open Government, Commitment 7 is viewed as one of the three most important proposed areas of reform in the current action plan. The principal reason for this, and the view most often articulated to the IRM researcher is perhaps best expressed by Cara Zwibel, Director – Fundamental Freedoms Program and civil society member of the MSF, who noted,

access to information is the most basic building block of open government. And, if you don't have a good access scheme the rest falls short.

Commitment 7 continues work started in previous action plans and, more recently, Commitment 1 of Canada's third action plan that aimed at improving Canada's *Access to Information Act*, 1983.¹ Prior to the recent passing of legislative amendments to the *Access to Information Act*, there had been no substantive revamping of the Act since it originally was passed into law in 1983. As a result, Canada has fallen behind other countries with regard to global standards for the right to information. In the period spanning from October 2017 to May 2019, Canada's standing in the Global Right to Information (RTI) rankings – a global comparative assessment of right to information laws – fell from 49th to 57th in the world.² When introduced in June 2017,³ Bill-C58, the package of suggested reforms to the Act, proposed dividing the Act into two parts; the first dealing with access to government records, and the second with the proactive publication of information.⁴ The initial changes were widely critiqued as a regression in rights to information and as failing to enhance government transparency.⁵ Subsequent amendments that were made as the Bill proceeded through the legislative process tempered, but did not diminish concerns about the proposed reforms and their implications.

In Standing Committee hearings about the Bill conducted in May 2019, Carolyn Maynard, the current Information Commissioner of Canada, countered such claims arguing that, “*the current version of the act [Bill C-58] is definitely a better bill than what we have currently. The act right now is 35 years old, and what is being proposed in the amendments has made it better.*”⁶ She further claimed that the concerns that led to the former Information Commissioner to characterize Bill C-58 as ‘regressive’⁷ had been addressed. Particularly noteworthy in this regard is: (i) the granting of new powers to the Information Commissioner, including the authority to order government institutions to take specific actions;⁸ and (ii) mandating the proactive disclosure of particular types of government information including: prime ministerial mandate letters to ministers, briefing packages for new ministers and deputy heads, briefing note titles, briefing materials for Parliamentary Committee appearances, and Question Period notes.⁹

Bill C-58 received Royal Assent in June 2019. The first part of the updated *Access to Information Act* deals with access to operational government records and the second with access to government-promoted records. The second part of the Act legislates the proactive publication of a broad range of government information by the Prime Minister's Office, ministers' offices, senators, members of Parliament and administrative institutions that support Parliament and the courts, government

departments and agencies, and Crown corporations, including information about the use of public funds, on a predictable schedule without the need to make a request.

While some stakeholders, including the government, viewed the Bill as an improvement over the status quo, information rights advocates were critical of this division seeing it as throwing the “*the very essence of the Access to Information Act under the bus*”¹⁰ not least because Bill C-58’s provisions were seen to “*result in the permanent exclusion of the prime minister and ministers’ offices and the House and Senate themselves from ever being subject to review under the Access to Information Act.*”¹¹

The implementation of Commitment 7 can be reasonably expected to contribute to facilitating access to certain types of information held by the government of Canada. However, the extent to which completing the milestones and the proposed success criterion will facilitate Canadians’ abilities to access and make use of government information is unclear; not least because the outcome of the pending review of the amended Access to Information Act is not, and cannot, be known at this time..

The commitment aligns with the OGP values of Access to Information and Civic Participation. Despite the presence of some public facing elements (e.g., disclosure of non-sensitive metadata on institutional activities), as written, Commitment 7 does not meet the requisite criteria specified in the *IRM Procedures Manual* to be assessed as aligning with the value of Public Accountability. As per the latter document,

Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress... A commitment that claims to improve accountability, but assumes that merely 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. (p. 27)

The extent to which the milestones align with Access to Information and Civic Participation values is mixed. Milestones 7.1 and 7.4 are relevant to the OGP value of Civic Participation insofar as they both involve consultations with a wide array of civil society stakeholders. Milestones 7.3 and 7.4 also align with the OGP value of Access to Information given that they pertain to releasing details about information requests, and to making it easier to use the ATIP online request service.

Milestones 7.2, 7.5, 7.6, and 7.7 specify improvements in client services to be implemented that involve providing new instructional resources, more efficient service delivery, and an expanding of the document formats that can be used to complete access to information requests. They are the ‘public face’ of the commitment, focusing on making the existing ATIP system more user-friendly and efficient. Based on the value definitions provided in the *IRM Procedures Manual*, it is unclear how these activities align with any of the four OGP values.

Milestones 7.1, 7.2, 7.3, and 7.5 are uniformly verifiable; either the proposed action takes place, or it does not. The verifiability of milestone 7.4 is contingent upon specifying the benchmark from which an increase in the number of summaries of previously-released access to information requests posted to open.canada.ca and available through informal requests is meant to be assessed. Verifying milestones 7.4, 7.6, and 7.7 likewise requires exercising a degree of interpretation with regard to measurement.

Milestone 7.1 has been carried forward from Commitment 1 (Milestone 1.3) of the Canada’s third action plan. It calls for a full review of the Access to Information Act one year after Bill C-58 receives Royal Assent. Its presence in the action plan is bittersweet for many information rights advocates, including civil society members of the MSF, insofar as it is perceived as reflecting the lack of substantive movement by the GoC on the access to information front. In his comments on the July-August 2018 draft commitment posted to google docs, Toby Mendel, Executive Director for the Centre for Law and Democracy (CLD), summarised the situation as follows:¹²

While it is welcome that the government has promised a “full review” of the Access to Information Act, at the same time simply promising a review represents a very weak commitment, especially given that the Third Action Plan already promised just this. The context for this is that Canadians have been debating the need for access to information reform for literally decades and that the nature of the reforms that are needed is very well known. Key stakeholders—including CLD, other access to information activists, successive Information Commissioners and even the Standing Committee on Access to Information, Privacy and Ethics—all agree on the main reform

needs, even if minor differences remain. As a result, while it is still important to have a consultation, there is certainly no need for very protracted consultations.

Recommendation: Instead of simply promising a review, which might lead to no further action, the government should go beyond that and promise an actual result, ideally tabling a bill in parliament but at least publishing a set of government endorsed reform proposals.

The other milestones are, for the most part, not directly affected by the new legislation. As noted above, they are mainly oriented toward improving service delivery to clients.

Commitment 7 and its milestones constitute continuing steps in revitalizing Canada's information access infrastructure. The civil society representatives consulted in preparing this review expressed disappointment across the board about the commitment's lack of ambition, suggesting that it marked yet another failed opportunity in the area of access to information, with the newly amended Act falling short of what was expected and hoped for. Bearing in mind the latter consideration, the uncertainty surrounding the outcome of the pending review of the Act, and that the proposed measures of success exemplify Goodhart's Law,¹³ Commitment 7 is assessed as having a minor potential impact on open government in Canada.

Next steps

In his report on Canada's progress in implementing its third action plan, the former IRM researcher for Canada, wrote: ¹⁴

Successive IRM reports, as well as opinions expressed at stakeholder consultations across the country, suggest that this commitment [enhancing access to information] is among the most important reform areas in the current action plan, if not the most important (pp.32-33)

Based on his discussions with stakeholders from across the country, the current IRM researcher affirms that that this observation is remains equally valid today.

Access to information is an issue that is firmly ensconced in the guiding legislation. Whether the new legislation exemplifies a shift toward enhanced open government remains subject to ongoing discussion and debate.¹⁵ The limitations of the latest incarnation of the Act are well known and addressing these, will in no small measure be contingent upon the political will to champion further legislative change in this domain. While recognizing the pledge to reviewing the legislation within one year of it having received Royal Assent (i.e., Milestone 7.1) as a positive step, the vast majority of interested parties with whom the IRM researcher consulted viewed Commitment 7 as underwhelming overall. This view is aptly summed up by the words of Professor Teresa Scassa, the Canada Research Chair in Information Law and Policy at the University of Ottawa and past member of the External Advisory Committee of the Office of the Privacy Commissioner of Canada, and of the Canadian Government Advisory Committee on Open Government,¹⁶ who in her comments on the July-August 2018 draft commitment averred,¹⁷

The Act has been well studied and its deficiencies well-documented. Another review is not much of a commitment.

The IRM researcher recommends that the upcoming review process be committed to moving beyond patchwork legislative reform, and oriented to generating access to information legislation that adheres to best international practices with regard to the right to information laws. For instance, the new powers assigned to Canada's Information Commissioner are a positive step, but they are limited when compared to those of her international counterparts. Likewise, exclusions to ministerial advice and cabinet confidences, and the continued exemption of ministerial offices and the Prime Minister's Office from ATIP requests remains a major point of contention. Regulations aimed at minimizing the time taken to complete ATIP requests that extend beyond current rules also need to be considered if Canadian access to information law is to be on par with global leaders in access to information law.

¹ Government of Canada. *Third Biennial Plan to the Open Government Partnership (2016-18)*.
http://www.opengovpartnership.org/sites/default/files/Canada_AP3.pdf

² See, <https://www.rti-rating.org/country-data/Canada/>

³ See, <https://www.parl.ca/LegisInfo/BillDetails.aspx?billId=9057528&Language=E>

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- ⁴ Forget, Chloé and Thibodeau, Maxime-Olivier (2017). Legislative Summary of Bill C-58: An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts. Publication No. 42-I-C58-E. https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/42IC58E
- ⁵ Legault, Suzanne (2017). *Failing to Strike the Right Balance for Transparency, Recommendations to improve Bill C-58: An Act to Amend the Access to Information Act and the Privacy Act and to Make Consequential Amendments to Other Acts*. Information Commissioner of Canada. Gatineau. [http://www.oic-ci.gc.ca/telechargements-downloads/userfiles/files/eng/reports-publications/Special-reports/OIC_SpecialReport2017_ENG_Online\(1\).pdf](http://www.oic-ci.gc.ca/telechargements-downloads/userfiles/files/eng/reports-publications/Special-reports/OIC_SpecialReport2017_ENG_Online(1).pdf). See also, Britneff, Beatrice (November 4, 2017). The access bill heads to finish line. Here's why people hate it. *iPolitics*. <https://ipolitics.ca/2017/11/04/the-access-bill-goes-to-committee-next-week-heres-why-people-hate-it/>
- ⁶ Maynard, Caroline (2019, May 14). Comments to Standing Committee on Access to Information, Privacy and Ethics. <https://www.ourcommons.ca/DocumentViewer/en/42-1/ETHI/meeting-149/evidence>
- ⁷ On September 28, 2017 then Information Commissioner of Canada, Suzanne Legault, tabled a special report to Parliament in which she "concluded that the proposed amendments to the Access to Information Act will not advance government transparency," that the "proposed Bill fails to deliver on the government's promises," and if passed, "would result in a regression of existing rights." See, Information Commissioner of Canada (2017). *Failing to Strike the Right Balance – Recommendations to Improve Bill C-58: An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other acts*. <https://www.oic-ci.gc.ca/en/resources/reports-publications/failing-strike-right-balance-transparency>
- ⁸ See, Information Commissioner's statement on the passage of Bill C-58 <https://www.oic-ci.gc.ca/en/resources/news-releases/information-commissioners-statement-passage-bill-c-58>, and New procedures in response to the passage of Bill C-58, <https://www.oic-ci.gc.ca/en/information-commissioners-guidance/new-procedures-response-passage-bill-c-58>
- ⁹ See, Government completes major improvements to the Access to Information Act <https://www.newswire.ca/news-releases/government-completes-major-improvements-to-the-access-to-information-act-885798005.html>
- ¹⁰ Rubin, Ken (April 1, 2019). Massive secrecy inroads and barriers to access near approval in the Senate. *The Hill Times*. <https://www.hilltimes.com/2019/04/01/massive-secrecy-inroads-and-barriers-to-access-near-approval-in-the-senate/194123>.
- ¹¹ Rubin, Ken (April 29, 2019). Judges win, Bill C-58 gets to top of Senate list for quick passage. *The Hill Times*. <https://www.hilltimes.com/2019/04/29/the-judges-win-bill-c-58-gets-to-the-top-of-the-senate-list-for-quick-passage/196625>. See also, Curry, Bill (April 29, 2019). Senators to send access-to-information bill back to Commons with major changes. *The Globe and Mail* <https://www.theglobeandmail.com/politics/article-senators-planning-to-send-back-access-bill-with-major-changes/>
- ¹² Mendel, Toby (2018, July). Statement on the Draft Access to Information Commitments of Canada's 2018-2020 National Action Plan on Open Government. Centre for Law and Democracy. <https://www.law-democracy.org/live/wp-content/uploads/2018/07/Canada.OGP-AP4.note-on-draft.Jul18.pdf>
- ¹³ Marilyn Strathern phrases Goodhart's law as "When a measure becomes a target, it ceases to be a good measure." (p. 308). See, Strathern, Marilyn. *Improving Ratings: Audit in the British University System*. *European Review*, 5(3): 305–321. See also, Muller, Jerry Z. (2018). *The Tyranny of Metrics*. Princeton University Press.
- ¹⁴ Karanicolas, Michael (2017). *Independent Reporting Mechanism (IRM): Canada Progress Report 2016-2017*. https://www.opengovpartnership.org/wp-content/uploads/2018/03/Canada_MidTerm-Report_2016-2018_EN_for-public-comment.pdf
- ¹⁵ Vigliotti, Marco (2019, June 20). Liberals' access to information bill to become law. *iPolitics*, <https://ipolitics.ca/2019/06/20/liberals-access-to-information-bill-to-become-law/>
- ¹⁶ In May 2019, Professor Scassa was appointed to Canada's Advisory Council on Artificial Intelligence. See, <https://www.canada.ca/en/innovation-science-economic-development/news/2019/05/government-of-canada-creates-advisory-council-on-artificial-intelligence.html>
- ¹⁷ See, <https://docs.google.com/document/d/18K2II0OIIGgyBxcRYAsVnlnVN6Y4clsXuiZml65EcNc/edit#>

8. Feminist and Inclusive Dialogue

The Government of Canada will support greater inclusion and diversity in its public engagement. We will apply an intersectional lens to open government activities and work to ensure that the voices and experiences of marginalized and under-represented communities are represented, considered, and included. In particular, we will:

- test ways to make government engagement and consultation processes more open to everyone
- implement Gender Based Analysis Plus (GBA+) in public engagements and consultations
- build capacity for government officials to design, facilitate, and support more open and inclusive dialogue
- engage Canadians on gender equality
- support initiatives that build the capacity and longer term viability of women's organizations
- increase access to gender and inclusion data
- put people with lived experiences of the consequences of public policy, including members of vulnerable communities such as persons who are homeless or in poverty, at the centre of Government of Canada policy design processes
- ensure our own National Action Plan on Open Government is as inclusive as possible by conducting a rigorous analysis of gender-based impacts of all commitments

Milestones

- 8.1 Test best practices for inclusive dialogue and engagement (Treasury Board of Canada Secretariat)
- 8.2 Promote development of skills and competencies required to design, facilitate, and support open and inclusive dialogue in policy development, with support materials and capacity building activities (Canada School of Public Service / Treasury Board of Canada Secretariat)
- 8.3 Implement Gender-Based Analysis Plus (GBA+) in public engagement and consultations (Status of Women Canada)
- 8.4 Engage Canadians on gender equality by hosting a national roundtable on GBA+, leading a national conversation on gender equality with young Canadians, and developing a strategy that engages men and boys as partners in advancing gender equality (Status of Women Canada)
- 8.5 Support initiatives that build the capacity and longer-term viability of women's organizations (Status of Women Canada)
- 8.6 Increase access to relevant and timely gender and inclusion data (Statistics Canada / Status of Women Canada)
- 8.7 Put people with lived experiences of the consequences of public policy, including members of vulnerable communities such as persons who are homeless or in poverty, at the centre of Government of Canada policy design processes (Employment and Social Development Canada)
- 8.8 Conduct GBA+ for all commitments in Canada's 2018-2020 National Action Plan on Open Government (Treasury Board of Canada Secretariat)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | ✓ | | | | | ✓ | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

The opinions expressed during the discussions with civil society and government stakeholders suggest that promoting feminist and inclusive dialogue is viewed as one of the three most important proposed areas of reform in the current action plan. In commenting on the inclusion of this commitment in the action plan, Pamela Robinson, associate dean and an associate professor in the School of Urban and Regional Planning at Ryerson University and civil society member of the MSF summed up the rationale as follows:

If we don't look at systemic barriers; if we don't probe structural barriers to openness, there's no point in talking about open government. We [the MSF] had the objective of flagging issues of exclusion that others don't have the privilege to articulate

This commitment grows out of Commitment 20 of Canada's third action plan which sought to “foster enhanced citizen participation through greater collaboration and co-creation with the public and stakeholders within and across government initiatives.”¹ In line with the OGP's call for members to “enhance women's participation and gender equality,”² the problem that Commitment 8 seeks to tackle is the under-representation of equity seeking groups in the Canadian federal government's public engagement activities. The proposed strategy for enhancing levels of inclusion and diversity in government decision-making involves undertaking a number of steps aimed at ensuring the voices and experiences of equity seeking communities are represented, heard, and considered.

Central to this undertaking is the Gender-based Analysis Plus (GBA+) tool that is used to “to assess how diverse groups of women, men and non-binary people may experience policies, programs and initiatives.”³ Canada committed to applying GBA at the fourth United Nations World Conference on Women in 1995 when it adopted the Beijing Declaration and Platform for Action and subsequently committed conducting GBA for future legislation, policies, and programs.⁴ However, it was not until 2015 when the then newly elected Liberal government came to power that a feminist policy agenda boosting the application of GBA+ to deal with the long-standing gender equity issues was prioritized. The 2015 Report of the Auditor General of Canada “Implementing Gender-based Analysis” led to the development of an action plan for the years 2016–2020, collaboratively developed with Status of Women Canada, the Privy Council Office and the Treasury Board Secretariat, to close gender gaps⁵. Further, the Canadian government's co-chairship of the OGP has provided it with an opportunity to advance the priority it places on promoting gender equity both domestically and internationally.

Commitment 8 clearly is in line with the principles set out in the OGP's *Open Government Declaration*,⁶ and its implementation can be reasonably expected to contribute to supporting ongoing efforts at promoting the greater inclusion and diversity in the federal government's internal and public engagements.⁷ The commitment aligns with the OGP values of Access to Information and Civic Participation. However, the extent to which the milestones, as written, align with OGP values is mixed. Milestones 8.1, 8.3, and 8.7 constitute reforms aimed at enhancing the operating environment within which participation in civic spaces takes place. The reform here is not so much about increasing

transparency or augmenting participation of civil society organizations but rather about meaningfully including 'atypical' groups in government decision-making and service delivery. These milestones are relevant to the OGP value of Civic Participation. With its focus on increasing accessibility to gender- and inclusion-related data, Milestone 8.6 aligns with the OGP value of Access to Information. Milestones 8.2, 8.4, 8.5, and 8.8 are all laudable undertakings but it is unclear how they, as written, align with any of the four OGP values as defined in the *IRM Procedures Manual*.

Milestones 8.1, 8.3, 8.4, 8.6, 8.7, and 8.8 are uniformly verifiable; either the proposed action takes place, or it does not. However, the specified indicators of success for each of these offer no means of measuring whether and/or the extent to which the proposed activities foster greater inclusion and diversity in the GoC's public engagement processes. The verifiability of milestones 8.2 and 8.5 requires exercising a degree of interpretation with regard to measurement not least because in each instance the proposed action is very similar to the proposed indicator of success. In the absence of benchmarks and indicators to measure the extent to which completing the milestones is contributing to closing key gaps for diverse groups of women, men and non-binary people, the outcomes of these initiatives will remain unclear.

Despite these limitations of specificity, commitment 8 marks an important proactive step in tackling a targeted set of systemic barriers that negatively impact upon the participation of marginalized and under-represented communities in the Canadian federal government's public engagement and decision-making activities. If implemented fully, it could be considered a major step forward towards inclusion and enhancing participation of equity-seeking communities.

Next steps

Having member countries take concrete actions on gender actions, and more inclusive co-creation processes is an OGP priority.⁸ In its role as Co-Chair of the OGP steering committee, the GoC has been at the forefront of this effort. Commitment 8 marks an important step in addressing the structural biases facing women and other equity seeking groups.⁹ This view is aptly and concisely conveyed in a tweet from a participant at the 2019 OGP Global Summit in Ottawa who wrote:¹⁰

gender blind [#opengov](#) processes are not gender neutral...gender blind open gov privileges men.
We must correct this for true open gov impact [#BreaktheRoles](#)

Bearing this observation in mind, the IRM researcher's recommendations are twofold:

- as written, commitment 8 sets out a broad line of action that is lacking in precision and seemingly takes for granted that implementing the proposed activities and deliverables will *necessarily* contribute to improving the participation and engagement of equity seeking communities. In moving forward specifying benchmarks and metrics for determining whether, and the extent to which, the inclusion-centric reforms are fostering hoped-for outcomes is crucial given the ongoing need for information about what works, and what does not.
- that the development of future inclusion-oriented action plan commitments involve working directly with equity-seeking communities to identify the most relevant and pressing issues for consideration. One can envision that for some this might entail such actions as augmenting pay-related transparency as a means of reducing gender-based pay discrepancies, whereas for others it might entail, for example, augmenting the transparency of health-related information – subject to applicable restrictions associated with privacy and confidentiality – to identify biases in the delivery of healthcare services to LGBTQ2 people.

¹ Government of Canada. *Third Biennial Plan to the Open Government Partnership (2016-18)*. http://www.opengovpartnership.org/sites/default/files/Canada_AP3.pdf

² Pradhan, Sanjay (March 4, 2019). Why gender, why now. Open Government Partnership. <https://www.opengovpartnership.org/stories/why-gender-why-now>. See also, Actions for a more inclusive Open Government Partnership <https://www.opengovpartnership.org/actions-more-inclusive-open-government-partnership>

³ Government of Canada. What is GBA+. Status of Women Canada. <https://cfc-swc.gc.ca/gba-acis/index-en.html>. See also, Government of Canada. Introduction to GBA+. Status of Women Canada. https://cfc-swc.gc.ca/gba-acis/course-cours-eng/mod00/mod00_01_01.html; Government of Canada. Government of Canada's Approach. Status of Women Canada. <https://cfc-swc.gc.ca/gba-acis/approach-approche-en.html>

⁴ Beijing Declaration and Platform for Action, Strategic Objective G.2.; H. Institutional mechanisms for the advancement of women, page 84, https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

⁵ Status of Women Canada, Privy Council Office and Treasury Board of Canada Secretariat Action Plan (2016-2020), Audit of Gender-based Analysis, Fall 2015 Report of the Auditor General of Canada: <https://cfc-swc.gc.ca/gba-ac/plan-action-2016-en.PDF>

⁶ See, <https://www.opengovpartnership.org/open-government-declaration>

⁷ See, Government of Canada. *Action Plan on Gender-based Analysis (2016-2020)*. Status of Women Canada. <https://cfc-swc.gc.ca/gba-ac/plan-action-2016-en.html>

⁸ Pradhan, Sanjay (2019, March 4). Why Gender, Why Now? <https://www.opengovpartnership.org/stories/why-gender-why-now/>. See also, The Feminist Open Government Initiative, <https://www.opengovpartnership.org/the-feminist-open-government-initiative/>; Advancing OGP's Gender Strategy (2018, February 27) <https://www.opengovpartnership.org/stories/advancing-ogps-gender-strategy/>

⁹ See, Neuman, Laura, and Clancy, Katie (eds.) (2019). *Feminist Open Government: Addressing gender equity challenges in open government co-creation processes*. Ottawa: International Development Research Centre. <https://fogo.od4d.net/>

¹⁰ Echoing the views reflected in this tweet, it must be noted that the current IRM metrics are inadequate for evaluating both the gender sensitivity of national action plans, and advances/regressions in feminist open government. More specifically, the IRM's evaluation indicators are oriented toward outputs and outcomes of co-creation activities. They are not well-suited for acknowledging enablers of co-creation, and that women participate differently than men. This matter merits further attention lest the existing metrics ultimately have the adverse effect of mitigating against progress on inclusion and diversity in national action plans

9. Reconciliation and Open Government

Open government is a way to ensure that government decision-making processes represent and are informed by the voices of the people that will be affected by them. The Government of Canada will engage directly with First Nations, Inuit and Métis rights holders and stakeholders to explore an approach to reconciliation and open government, in the spirit of building relationships of trust and mutual respect.

This commitment has been purposely designed to allow for significant co-creation and co-implementation, encouraging First Nations, Inuit, and Métis rights holders and stakeholders to define their own approaches to engagement on open government issues. We recognize that, in contrast to other commitments, government cannot act alone to define an approach. Instead, we must work in partnership with First Nations, Inuit and Métis peoples.

The following is a non-exhaustive list of activities and engagement processes that we could explore in the coming years to allow us to continue our journey of reconciliation and relationship-building.

Milestones

- 9.1 Work with Indigenous peoples to advance open government (Treasury Board of Canada Secretariat)
- 9.2 Build capacity for Indigenous communities and organizations to use data and research for their own requirements and needs (Statistics Canada)
- 9.3 Work with Indigenous peoples to identify ways in which transparency around consultation and engagement activities can be enhanced (Crown-Indigenous Relations and Northern Affairs Canada)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | | ✓ | | | ✓ | | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment grows out of one of the 5 Key Recommendations advanced in the IRM's *Canada Progress Report 2016-2017*,¹ and the current government's commitment to reconciliation with Canada's Indigenous Peoples. In this instance, the absence of a pre-specified challenge/problem and benchmarks for the commitment and its milestones is methodologically appropriate precisely because the commitment is,

purposely designed to allow for significant co-creation and co-implementation, encouraging First Nations, Inuit, and Métis rights holders and stakeholders to define their own approaches to engagement on open government issues.

The strategy to exploring opportunities for reconciliation and open government set out in this commitment is built around three milestones that propose a number of activities and engagement processes. This non-exhaustive list of actions seeks to create spaces for dialogue and collaboration about open government and data governance, build capacity for Indigenous communities and organizations in the use of data, and to update systems supporting consultation and engagement to enhance transparency.

The three milestones and the respective government-identified criteria for assessing success align most closely with the OGP value of Civic Participation insofar as they are all oriented toward the GoC working in partnership with First Nations, Inuit and Métis peoples. This said, it is important to acknowledge that First Nations, Inuit, and Métis peoples do not consider themselves members of Canadian civil society as commonly understood within the OGP context, nor as stakeholders in the federal government's OGP-related activities.² As stated by a contributor to the July-August 2018 draft commitment,³

Our desire is to be functional, transparent effective governments again, ourselves. We are not just Indigenous peoples; we are citizens of Indigenous Nations.

When combined with the success criteria identified in the action plan, each of the three milestones are sufficiently specific so as to be verifiable by exercising a degree of interpretation in terms of measurability.

The cornerstone of meaningful dialogue that seeks to build "relationships of trust and mutual respect" within the context of reconciliation and open government is Nation-to-Nation engagement, "with Indigenous Nations setting the terms of the ownership and stewardship of their data as it best reflects the aspirations and needs of their peoples and communities."⁴ To this end, the issue of Indigenous data sovereignty has, and remains, central to the process of reconciliation and trust building.⁵ The scale and scope of Commitment 9 is limited precisely because it does not directly address or otherwise engage with this issue. As stated in Resolution 57/2016 passed at the 2016 Annual General Assembly of the Assembly of First Nations, the starting point on the journey of reconciliation and relationship-building with Indigenous Peoples with regard to open government is the need for the Government of Canada to commit itself⁶ to meaningful Nation-to-Nation dialogue about data sovereignty,⁷ and the repatriation of First Nations' data.⁸ The Inuit Tapiriit Kanatami's (2018: 32) National Inuit Strategy on Research likewise specifies that, "Ensuring Inuit access, ownership, and control over data and information gathered on our population, wildlife, and environment is a key pillar of achieving Inuit self-determination in research."⁹ Similar tenets are also evident in the OCAS Principles set out by the Manitoba Métis Federation.¹⁰

The opinions expressed during the discussions with leaders in First Nations' data governance, civil society representatives, and government stakeholders diverged about the need for, and the appropriateness of, including this commitment in the action plan. Some government representatives believed it to be important to include, at minimum, a non-comprehensive commitment oriented toward initiating dialogue about open government between the GoC and Indigenous Nations. Leaders in First Nations' data governance, and some members of civil society, on the other hand averred that Indigenous Nations are not stakeholders in Canada's OGP activities, and that inclusion of the commitment in the action plan should not have proceeded without prior agreement from Indigenous leaders and communities about its content. This view was aptly summed up by one of the leaders in First Nations' data governance who stated:

We should have set the bar; the indicator. Then, we would be holding Canada to account. Right now, what is the recourse if Canada lets us down?

Representatives of Indigenous Nations have long made it clear that in order to be meaningful, discussions about reconciliation and open government need to take place on a Nation-to-Nation basis working toward decolonizing of data. This entails engaging from the start with such issues as:

- Data sovereignty;
- The repatriation of Indigenous Nations' data;
- Navigating intersections between OCAP Principles, Inuit principles for ensuring Inuit access, ownership, and control over Inuit-specific data and information,¹¹ Métis OCAS Principles,¹² and Crown Law; and
- Navigating between culturally specific differences in the meaning of 'openness.'

In the absence of any direct engagement with the above concerns, it is unclear how the spaces for dialogue and exploration set out in Commitment 9 substantively differ from previous efforts of engagement between the GoC and Indigenous Nations regarding issues of data exchange and governance, and/or how they would directly contribute to changing the status quo. As such, the commitment is it deemed as having no potential impact.

Next steps

There are clear and necessary grounds for the GoC to engage in dialogue with First Nations, Inuit, and Métis Nations about open government especially if it wishes to ensure *"government decision-making processes represent and are informed by the voices of the people that will be affected by them."* The existing data governance relationship between Indigenous Nations and the GoC is not working nearly as well as it could and should. First Nations, Inuit, Métis, and Canada as a whole stand to benefit by changing the existing relationship.

Working to decolonize data within the Canadian context could fall within the auspices of an OGP action plan insofar as it entails the Canadian government making accessible information it holds about Indigenous Peoples and in so doing increasing its accountability to them. Such actions could be guided by Nation-to-Nation conversations resembling, but distinct from, the type of civil society–government dialogue championed by the OGP.

The co-development journey taken between 2016 and 2018 by officials from the Assembly of First Nations (AFN) and Indigenous Services (IS) to create a shared vision for a new fiscal relationship for First Nations and the GoC may offer some lessons for moving forward with reconciliation and open government. Of particular salience is the learning this journey offers about the creation of an advisory committee to provide further guidance on, in this instance, the development a new data governance relationship.¹³ With this in mind, the IRM researcher recommends that the GoC consider committing itself to engaging in Nation-to-Nation dialogue that is oriented toward articulating a new shared vision for a new data governance relationship. Once a shared vision has been agreed upon, the parties could then collaboratively decide how best to put it in practice.

¹ See, https://www.opengovpartnership.org/sites/default/files/Canada_MidTerm-Report_2016-2018_EN.pdf

² There are some 50 unique Nations and Indigenous languages spanning 630 First Nation communities across Canada with territories extending across provincial and territorial boundaries. There is approximately 65,000 Inuit living in Canada, many of whom live in 53 communities spanning the northern regions of Canada (Inuvialuit (NWT and Yukon); Nunavik (Northern Quebec); Nunatsiavut (Labrador); and Nunavut. Some 500,000 Canadian self-identify as Métis and reside throughout Canada's provinces and territories. See, Government of Canada (2017). Indigenous Peoples and Communities. <https://www.rcaanc-cirnac.gc.ca/eng/1100100013785/1529102490303>

³ See, https://docs.google.com/document/d/16FCclrCTk2zsNTYezOFrv_DbPCml8Gyt74P0liRv4oY/edit#heading=h.41ath4bzh210

⁴ Open North and the British Columbia First Nations Data Governance Initiative (BCFNDGI) (2017). Decolonizing Data: Indigenous Data Sovereignty Primer. https://www.bcfndgi.com/s/Decolonizing-Data-FN_DATA_SOVEREIGNTY_PAPER.docx

- ⁵ The First Nations Information Governance Centre (2019). First Nations data sovereignty in Canada, *Statistical Journal of the IAOS*, 35(1): 47-69.; First Nations Information Governance Centre (2016). 8 Pathways to First Nations' data and information sovereignty. In, Kukutai, Tahu, and John Taylor, (Eds.). *Indigenous Data Sovereignty: Toward An Agenda*. (Pp. 139-156). Canberra: Australian National University Press; Trevethan, Shelley (2019). *Strengthening the Availability of First Nations Data*. Report prepared for Indigenous Services Canada & The Assembly of First Nations. (January 30). https://www.afn.ca/wp-content/uploads/2019/05/NCR-11176060-v1-STRENGTHENING_THE_AVAILABILITY_OF_FIRST_NATIONS_DATA-MAR_25_2019-FINAL_E.pdf
- ⁶ The Nations present at the 2016 Annual General Assembly of the Assembly of First Nations passed Resolution 57/2016, recognizing "Indigenous data sovereignty as a cornerstone of nation rebuilding," calling upon the federal government to fund:
 - a. Engagement on data governance between First Nations leadership within each respective region.
 - b. The establishment of a First Nation data governance champion in each region, identified by First Nations regions themselves.
 - c. The development of fully functional regional First Nations information government centres.
 - d. Coordination of First Nations regions, data governance champions and national partners to establish a national First Nations data governance strategySee, Assembly of First Nations (2016). Resolution 57/2016. Annual General Meeting. Niagara Falls. https://www.afn.ca/uploads/files/2016_aga_resolutions_1-69_fe2.pdf.pdf
- ⁷ The concept of data sovereignty refers to Indigenous peoples' "right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as their right to maintain, control, protect and develop their intellectual property over these" (p.xxii). Kukutai, Tahu, and John Taylor, (Eds.) (2016). *Indigenous Data Sovereignty: Toward An Agenda*. (p. xxii) Canberra: Australian National University Press.
- ⁸ Nickerson, Marcia (2017, May). First Nations' Data Governance: Measuring the Nation-to-Nation Relationship. Discussion Paper Prepared for the British Columbia First Nations' Data Governance Initiative. https://www.bcfndgi.com/s/NATION-TO-NATION_FN_DATA_GOVERNANCE_-_FINAL_-_EN.DOCX
- ⁹ See, Inuit Tapiriit Kanatami (2018). National Inuit Strategy on Research. https://www.itk.ca/wp-content/uploads/2018/04/ITK_NISR-Report_English_low_res.pdf. The Manitoba Inuit Association is committed to Inuit Qaujimajatuqangit (IQ). As specified in the University of Manitoba Framework for Research Engagement with First Nation, Métis, and Inuit Peoples (p. 14), the latter is "an Inuktitut phrase that is often translated as "Inuit traditional knowledge", "Inuit traditional institutions" or even "Inuit traditional technology". It is often abbreviated as "IQ". It comes from the verb root "qaujima-" meaning "to know" and could be literally translated as "that which has long been known by Inuit", and used to mean the integration of traditional culture of the Inuit more into their modern governance structure in order to combat disempowerment." See, University of Manitoba. (2016). University of Manitoba Framework for Research Engagement with First Nation, Métis, and Inuit Peoples. https://umanitoba.ca/faculties/health_sciences/medicine/media/UofM_Framework_Report_web.pdf
- ¹⁰ OCAS is an acronym for Ownership, Control, Access and Stewardship. Ownership refers to the legal possession of something. Control refers to the power to make decisions about something and decide what should happen. Access refers to the right or opportunity to use something that will bring benefits. Stewardship speaks to issues of responsible planning and management of resources. See, University of Manitoba. (2016). University of Manitoba Framework for Research Engagement with First Nation, Métis, and Inuit Peoples. https://umanitoba.ca/faculties/health_sciences/medicine/media/UofM_Framework_Report_web.pdf
- ¹¹ See, Inuit Tapiriit Kanatami (2018). National Inuit Strategy on Research. https://www.itk.ca/wp-content/uploads/2018/04/ITK_NISR-Report_English_low_res.pdf.
- ¹² See, University of Manitoba. (2016). University of Manitoba Framework for Research Engagement with First Nation, Métis, and Inuit Peoples. https://umanitoba.ca/faculties/health_sciences/medicine/media/UofM_Framework_Report_web.pdf
- ¹³ See, Indigenous and Northern Affairs Canada (2018). A new approach: Co-development of a new fiscal relationship between Canada and First Nations. <https://www.aadnc-aandc.gc.ca/eng/1516389497863/1516389603336>. See also, <https://www.sac-isc.gc.ca/eng/1499805218096/1521125536314>.

10. Open Government Community

The Government of Canada will demonstrate leadership at home and abroad, working with partners in government, civil society, and the private sector to share lessons learned and support a collaborative approach to align and advance open government efforts. In particular, we will:

- launch an ambitious strategy as co-chair of the OGP Steering Committee, in partnership with its civil society co-chair, Nathaniel Heller of Results for Development
- help to advance the responsible release and use of open data in OGP countries
- support international events to drive peer learning and measure open government impact internationally
- build capacity for governments worldwide to design more inclusive open government initiatives
- strengthen collaboration with other governments in Canada through the Canada Open Government Working Group, and expand the working group to include representatives of national municipal organizations

Milestones

- 10.1 Demonstrate global leadership during Canada's term as lead government co-chair of the OGP Steering Committee (Treasury Board of Canada Secretariat)
- 10.2 Support the OGP Thematic Partnership on Open Data, helping to advance the responsible release and use of open data in OGP countries (International Development Research Centre)
- 10.3 Support international events to drive peer learning and measure open government and open data impact internationally (International Development Research Centre / Treasury Board of Canada Secretariat)
- 10.4 Build capacity for more feminist open government initiatives worldwide (International Development Research Centre)
- 10.5 Building on current collaboration between the Governments of Canada and Alberta, extend federated open data search pilot to additional provinces and onboard at least 2 municipalities (Treasury Board of Canada Secretariat)
- 10.6 Implement a pilot project to move toward cross-jurisdictional common data standards in line with the International Open Data Charter and other international standards (Treasury Board of Canada Secretariat)
- 10.7 Promote data literacy and management for public servants within all levels of government (Canada School of Public Service / Treasury Board of Canada Secretariat)

For more details about the commitment text, milestones, self-identified success criteria, and estimated completion dates see, <https://open.canada.ca/en/content/canadas-2018-2020-national-action-plan-open-government#toc3-4>

Start Date: August 2019

End Date: Varies according to milestone

| Commitment Overview | Verifiability | | OGP Value Relevance (as written) | | | | Potential Impact | | | | Completion | | | | Did It Open Government? | | | | |
|---------------------|--------------------------------------|----------------------------------|----------------------------------|---------------------|-----------------------|---|------------------|-------|----------|----------------|---|---------|-------------|-----------|---|----------------|----------|-------|-------------|
| | Not specific enough to be verifiable | Specific enough to be verifiable | Access to Information | Civic Participation | Public Accountability | Technology & Innovation for Transparency & Accountability | None | Minor | Moderate | Transformative | Not Started | Limited | Substantial | Completed | Worsened | Did Not Change | Marginal | Major | Outstanding |
| I. Overall | | ✓ | ✓ | | | | | ✓ | | | Assessed at the end of action plan cycle. | | | | Assessed at the end of action plan cycle. | | | | |

Context and Objectives

This commitment ostensibly is a continuation of Commitment 21 from Canada's third action plan and maintains much of that commitment's outward-facing orientation.¹ Emphasis is placed on promoting and supporting open government community- and capacity-building initiatives around the world and domestically. The activities presented in the self-identified success criteria align with the pledge specified in the Open Government Declaration to, "lead by example and contribute to advancing open government in other countries by sharing best practices and expertise."² However, no information is provided about the current state of affairs prior to the commitment's launch nor the targeted change that is meant to emerge from the commitment's implementation

As the lead government co-chair of the OGP, it is not unexpected that the GoC would include a commitment aimed at demonstrating its open government leadership. However, the efficacy of this commitment is tempered by a lack of precision about the impacts it seeks to achieve and the means by which the impacts will be measured. Similar concerns were received in comments posted on google docs about the July-August 2018 draft commitment. As one contributor put it:³

It would be good to have a definition of the problem - the words below describe process/solutions. What are the problems of not collaborating? A lack of shared standards which causes something bad? Waste/duplication? Delay? How much money is/will be wasted if we don't collaborate? Why did Canadians want the GC to show leadership? We tend to recycle things that are in process but if we have more precise questions, we can then assess if the commitment and plans are relevant.

The IRM researcher also notes that milestone 10.4 was not included in the original draft commitment. It was added after the comment period closed, and in the absence of any comments/suggestions alluding to its scope and content. The milestone also was not vetted by the MSF's civil society members prior to its incorporation into the action plan.

The commitment broadly aligns with the OGP value of Access to Information insofar as two of the seven milestones – 10.4 and 10.5 – align with this value. Both involve making publicly available research results about the impact of gender equality in open government on public service delivery, and working to transparently map federal, provincial, and municipal open data systems into a federated database. Based on the value definitions provided in the *IRM Procedures Manual*, it is unclear how the other five milestones, as written, align with any of the four OGP values. Equally ambiguous, and as queried in comments posted to July-August 2018 draft commitment, is whether a connection is meant to, or should, be present between the "pilot project to move toward cross-jurisdictional common data standards" specified in milestone 10.6 the proposed "cross-jurisdictional work on spending data (under the Financial transparency commitment)?"⁴

Milestones 10.5 and 10.6 are both easily verifiable (i.e., either the proposed activity takes place, or it does not). Milestones 10.1, 10.2, 10.3, 10.4, and 10.7 require some degree of interpretation with regard to their measurability. The validity of the success criteria (i.e., do they actually measure/reflect what they

claim to measure?) specified for milestones 10.1, 10.2, 10.3, and 10.7 is dubious not least because in each instance the indicators of success refer to actions/activities whose completion offer no clear indication that the desired outcome has occurred. For example, the proposed action for milestone 10.2 is “to support the OGP Thematic Partnership on Open Data helping to advance the responsible release and use of open data in OGP countries” and each of the three indicators of success refer to initiatives to be supported.

In the absence of benchmarks and indicators the extent to which completing the milestones is contributing to supporting ongoing efforts at supporting open government community- and capacity-building will remain unclear. In addition, the apprehensions expressed in the IRM’s *Canada Progress Report 2016-2017*⁵ about the appropriateness of including externally-focused work in a national action plan remain unchanged:

there remains a question as to whether externally-focused work should be included in Canada’s action plan, since impact on open government in Canada will be negligible. This is an appropriate approach to Canada’s foreign aid planning, which should target external goals rather than prioritising projects which benefit Canadians. However, it is unclear whether this is the right approach for an open government action plan commitment (Pp. 86-87).

In the light of the evidence presented above, Commitment 10 is assessed as having a minor potential impact on open government in Canada.

Next steps

Domestic and international open government community- and capacity-building is central the OGP’s mission, not least because the mutual support and learning it offers to members. Identifying the most effective mechanisms and channels for ensuring such efforts are having a demonstrable impact on the public good is contingent upon having in place appropriate benchmarks and indicators for measuring success and failures. Paradoxically, the definitions provided in the *IRM Procedures Manual* regarding its evaluation indicators mitigate against assessing open government community-building efforts that reach beyond domestic borders as being relevant to OGP values. Therefore, within the context of Canada’s national action plan it would be optimal for its internationally-oriented community- and capacity-building initiatives to be constructed around clearly delineated challenges, issues, or problems with which Canadians also must contend or for which a connection to domestic considerations of transparency, accountability, and citizen engagement is present.

Recognising the seeming failure of those responsible for drafting this commitment to heed the recommendations advanced in previous Canada IRM reports regarding internationally focused work, the IRM researcher reiterates the recommendation of his predecessor regarding this matter. When participating in international engagements within the context of an OGP national action plan the intended returns of such obligations need to be clearly explained in precise detail and accompanied with pertinent indicators for measuring success.

¹ *Third Biennial Plan to the Open Government Partnership (2016-18).*

http://www.opengovpartnership.org/sites/default/files/Canada_AP3.pdf

² *Open Government Declaration*, <https://www.opengovpartnership.org/open-government-declaration>

³ See, <https://docs.google.com/document/d/16T0VvURCbSw8ioxwansjpPhXLWSxWlmlj9F414q2CI/edit#>

⁴ *Ibid.*,

⁵ See, https://www.opengovpartnership.org/sites/default/files/Canada_MidTerm-Report_2016-2018_EN.pdf

V. General Recommendations

This section aims to inform development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Recommendations

I. To improve commitment design and raise ambition:

- **Adopt a challenge/issue/problem-based approach when drafting future commitments**

The inclusion of a commitment on feminist and inclusive dialogue in this action plan is ground-breaking for many reasons, not the least of which is that it starts with an issue that directly affects people's daily lives (i.e., under-representation of equity-seeking communities in government policy- and decision-making) and brings to bear the tools of open government and open data on various facets of the challenges arising from not having one's voice heard. Here, open government and open data are employed as mechanisms for achieving particular social, economic, and cultural outcomes rather than being the outcomes. The same approach can just as easily and, indeed, should be applied to guide and advance action on other issues identified during the co-creation process including, climate change, micro plastic pollution, healthcare, education, the widening gap between wealthy and impoverished people, and traffic safety.

There is much to be gained by designing action plans that clearly delineate between issue-based and operationalization-based commitments. It also is fair to assume that Canadians are likely to be more interested in the former than the latter. Such a division brings openness to bear more clearly and directly on challenges, issues, and problems that resonate with peoples' daily lives and well-being. It also has the added advantage of tapping into a plethora of civil society stakeholders and other interested parties who might not otherwise pay much attention or give much heed to matters of open government and open data. In other words, adopting a challenge-, issue-, problem-based approach directly contributes to making open government relevant to Canadians in a tangible manner.

The IRM researcher recommends that, in co-creating problem-centred action plan commitments and milestones clear distinctions be drawn between issue-based and operationalization-based commitments, and that this matter be approached from the perspective of *having the problem-specific tail wagging the open government dog*.

- **Develop clear and specific milestones built around specific economic, environmental, political, and/or social problems**

The commitments and milestones in each of Canada's three previous action plans have been critiqued for lacking specificity. As written, many of the commitments in this fourth action plan also lack specificity. Indeed, they tend to be built around a series of broad scope activities, with milestones devoted to 'improve,' 'support,' 'explore,' 'make easier,' and no clear benchmarks provided to measure change. Likewise, many of pre-identified success indicators refer to actions/activities whose completion offer no clear basis for measuring or otherwise assessing whether the desired outcome has actually occurred or otherwise been impactful. This makes it difficult for interested stakeholders to discern the intentions of the commitments and to assess whether the objectives are being successfully realized. This call for greater specificity specifically focusses on the need for better coordination in the design and articulation of commitments, milestones, and success indicators in order to avoid overlaps and/or duplication, and ensuring that commitments are SMART (specific, measurable, accountable, relevant, and time-bound).

Quoting the IRM's *Canada Progress Report 2016-2017*¹ regarding this matter:

Specificity carries risks – namely an increased risk of failure if the action plan spells out its

deliverables in clear unequivocal terms. But this level of precision is also necessary for strong progress (p. 101)

With this in mind, the IRM researcher recommends that in drafting future action plans the MSF and the TBS's open government team work in closer collaboration with government departments and agencies who take the lead on commitments (perhaps even program officials from the TBS evaluation service) as well as civil society representatives and thematic experts in crafting specific, measurable, and verifiable problem-focused commitments and milestones.

2. Delineate between short- and longer-term commitment co-creation and implementation timelines

The lessons learned from the launching of the MSF serve to illuminate a number of issues that, to date, appear to have been largely taken for granted regarding the co-creation process; especially the supposed 'ease' with which commitments could be implemented in a timely manner. The experience of Canada's MSF demonstrates how a lack of alignment between the federal government's budget cycle, departmental and agency operating schedules, and the OGP's two-year program cycle can coalesce to impede the design, approval, and implementation of ambitious action plan commitments (and, this excludes the disruption that can be created by electoral changes in government).

A central take-away message from this review exercise is that effective design and development of the action plan process needs to account for the time required to secure requisite resources and approvals as well as the time needed for commitment implementation. Indeed, it seems plausible that within the Canadian context, at least, a longer program cycle could lead to more ambitious commitments. With this in mind, the IRM researcher recommends that in designing future action plans, the government and the MSF work together to develop a co-creation process that facilitates distinguishing between short-term commitments to be implemented within a two-year OGP program cycle and longer-term commitments that may be better suited to spanning across more than one program cycle.

3. Consolidate the MSF's role, and expand its reach directly into lead departments agencies

The action plan development period served as a steep learning curve for both civil society and government members of the MSF. Additional work is required in delineating and clarifying the MSF's role, and the work its members are meant to do. There also are more instrumental-level issues that need to be addressed with regard to ensuring its sustainability, especially with regard to the resource demands placed on the civil society members who volunteer to work on the OGP process (keeping in mind challenges to balance MSF committee demands with MSF members' day jobs).

A second facet of the MSF's work that has become evident is the need for its members to have more direct and regular contact with senior managers from the lead departments and agencies responsible for implementing action plan commitments. For the development of this action plan, there was an over-reliance on the TBS to 'open the door' to other departments and agencies. In moving forward, the IRM researcher recommends establishing mechanisms to catalyze direct dialogue between MSF civil society members and senior managers from lead departments and agencies. Doing so will facilitate having the two sides working together more effectively in co-creating and implementing action plan commitments.

4. Earmark specific resources for the implementation of OGP commitments

Successive IRM reports have recommended ensuring that adequate resources are in place to support the work of public servants responsible for implementing the action plan commitments. This remains a challenge, not least because there is no specific budget for OGP implementation. As noted in the IRM's *Canada Progress Report 2016-2017*²

In the absence of direct funding, government departments are forced to either craft their commitments in an overly vague manner to account for uncertainty as to their own level of resources they might be able to commit, or to develop the action plan commitments based on areas that they have already secured funding for, thereby negating the possibility of having any kind of substantive civil society consultations.

The most prescient comments about the importance and need to earmark specific resources for the implementation of OGP commitments come from the civil society members of the MSF, who in a March 2018 letter to their government counterparts wrote,³

*Finally, deep, meaningful and culturally transformative change in the public service and beyond related to the commitments, including those that may require infrastructure such as in open science, or the creation of business registries, or changes in processes such as a more transparent citizen and immigration process, or the creation of departmental spanning secretariats necessitate financial, human and technical resources. **The lack of a budget suggests that the government is not really committed to meeting the commitments nor to deep and transformative change.*** [emphasis added]

5. Implement a results-based approach to action plan design and implementation

This fourth action plan engages with a diverse range of issues. What is less clear is where the demand for the commitments is coming from, and whether the resources being allocated to their implementation are having a demonstrable impact on “*foster[ing] a global culture of open government that empowers and delivers for citizens.*” Being able to demonstrate tangible impacts on peoples’ daily lives and well-being is a crucial factor in expanding the relevance of open government beyond the relatively narrow confines of open data, information rights, and transparency advocates.

In moving forward with future action plans, the IRM researcher recommends adopting a results- or performance-based approach to action plan design and implementation. Such an approach should include:

- Selecting key performance indicators to assess outcomes through mechanisms involving citizens and/or civil society organizations, and the MSF in the development of appropriate metrics;
- Establishing and publicizing, in collaboration with the MSF and thematic experts, the baseline against which commitments and their respective milestones will be assessed;
- Designing mechanisms that ensure a prominent role of civil society and thematic experts in the drafting, vetting, and approving of commitment milestones;
- Ongoing monitoring of specific action plan commitments by civil society organizations and the MSF
- Assessing in collaboration with the MSF and mechanisms involving citizens and/or civil society organizations whether, or the extent to which, the intended outcomes were realized.

Table 5.1: Five Key Recommendations

| | |
|---|---|
| 1 | Adopt a challenge/issue/problem-based approach to drafting future commitments and develop clear milestones built around specific economic, environmental, political, and/or social problems |
| 2 | Delineate between short- and longer-term commitment co-creation and implementation timelines |
| 3 | Consolidate the MSF’s role, and expand its reach directly into lead departments agencies |
| 4 | Earmark specific resources for the implementation of OGP commitments |
| 5 | Implement a results-based approach to action plan design and implementation |

5.2 Response to Previous IRM Key Recommendations

Table 5.2: Previous IRM Report Key Recommendations

| | Recommendation | Responded to? | Integrated into Current Action Plan? |
|---|---|---------------|--------------------------------------|
| 1 | Improve consultations for the next action plan, including co-creation standards | ✓ | ✓ |
| 2 | Earmark specific resources for the implementation of OGP commitments | ✗ | ✗ |
| 3 | Work with Canada's First Nation to develop mutual commitments for improving openness, engagement and transparency | ✓ | ✓ |
| 4 | Pass robust reforms of the Access to Information Act | ✗ | ✗ |
| 5 | Harness Canada's existing open data expertise to boost the accessibility and usability of published information | ✗ | ✓ |

The 2017 mid-term IRM assessment included five main recommendations for the government going forward. Of these, only two were addressed in the government's 2016 end-of-term self-assessment: (i) Improving consultations for the next action plan, including co-creation standards; and (ii) overhauling work with Canada's First Nation to develop mutual commitments for improving openness, engagement and transparency.⁴ The government's actual record of integrating the recommendations was somewhat better, with three of the five recommendations having been addressed as part of this fourth action plan. It is worth noting that the relative impact of the suggested solutions varies. It also must be noted that the legislation guiding Access to Information has been amended, and that the government committed to reviewing the legislation one year after it received Royal Assent. While the government views the amendments and the promise of a review as 'robust,' this view is not widely shared among information rights advocates and other interested parties. The one recommendation not integrated into the fourth action plan and which preceding actions have consistently called for, is the securing proper resources for OGP commitments. Lack of adequate resourcing continues to be a major challenge and is reiterated as a recommendation in the current assessment.

¹ See, https://www.opengovpartnership.org/sites/default/files/Canada_MidTerm-Report_2016-2018_EN.pdf

² Ibid.,

³ See, <https://docs.google.com/document/d/1-Q8MGBUzzBmEud-WyIP2vwd4T09hoy1DvU7tUmRm3Dk/edit>

⁴ The self-assessment is available at: <https://open.canada.ca/en/content/end-term-self-assessment-report-canadas-third-biennial-plan-open-government-partnership>

VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control 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, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in Canada's OGP repository (or online tracker),¹ website, findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.²

Interviews and stakeholder input

The IRM researcher conducted 22 individual consultations – face-to-face and telephone-based – with government officials and civil society representatives, and leaders in First Nations Data Governance: 11 members of the MSF, 8 members of government departments and agencies (independent of the MSF), and 3 leaders in First Nations Data Governance members. All the discussions took place between June 25 and July 26 2019. In addition to the discussions, follow-up email exchanges and telephone calls with these respondents took place on an 'as needed' basis.

I. List of Individual consultations and meetings

| Name | Organization | Date | Type of meeting |
|----------------------|--|--------------|-----------------|
| Dr. Tracey Lauriault | MSF, Civil Society Assistant Professor, Carleton University | 25 June 2019 | In person |
| Dr. Pamela Robinson | MSF, Civil Society Associate Dean and Associate Professor, Ryerson University | 26 June 2019 | Skype |
| Anonymous | Leader in First Nations Data Governance | 3 July 2019 | In person |
| Anonymous | Leader in First Nations Data Governance | 3 July 2019 | In person |
| Mélanie Robert | MSF, Government (Co-Chair) Executive Director, Open Government and Services, Treasury Board Secretariat | 4 July 2019 | In person |
| Rob Davidson | MSF, Civil Society (Co-Chair) | 4 July 2019 | In person |

| Name | Organization | Date | Type of meeting |
|----------------------|--|--------------|------------------------|
| Jaimie Boyd | Principal Consultant and Founder, Veracify; Lead, Open Data Institute-Ottawa | 5 July 2019 | Telephone |
| Lindsey Marchessault | MSF, Government Director, Open Government, Treasury Board Secretariat (former) | 5 July 2019 | Telephone |
| Anonymous | MSF, Civil Society Director, Open Contracting Partnership (OCP) | 9 July 2019 | Telephone |
| Michael Lenczner | Leader in First Nations Data Governance | 10 July 2019 | Telephone |
| Rob Davidson | MSF, Civil Society Director, Powered by Data | 12 July 2019 | In person |
| Mélanie Robert | MSF, Civil Society (Co-Chair) Principal Consultant and Founder, Veracify; Lead, Open Data Institute-Ottawa | 15 July 2019 | In person |
| Laura Wesley | MSF, Government (Co-Chair) Executive Director, Open Government and Services, Treasury Board Secretariat | 16 July 2019 | In person |
| Cara F. Zwibel | MSF, Government Executive Director, Consultations and Citizens Engagement, Privy Council Office | 16 July 2019 | Telephone |
| Dr. C. Scott Finlay | MSF, Civil Society Director, Fundamental Freedoms Program,, Canadian Civil Liberties Association (CCLA) | 16 July 2019 | In person |
| Masha Cemna | Professor, Department of Biology, University of Ottawa; Researcher in Residence, Office of the Chief Science Advisor | 19 July 2019 | In person |
| Sandy Kyriakatos | Policy Advisor, Office of the Chief Science Advisor | 25 July 2019 | In person |
| Richard Akerman | MSF, Government Chief Data officer, Employment and Social Development Canada | 26 July 2019 | Telephone |
| David Houle | Senior Policy Analyst Environment and Climate Change Canada | 26 July 2019 | Telephone |

| | | | |
|-----------------|---|--------------|-----------|
| Claire Austin | Physical Science Senior Officer Environment and Climate Change Canada | 26 July 2019 | Telephone |
| Monica Granados | Policy Analyst Environment and Climate Change Canada | 26 July 2019 | Telephone |

| Name | Organization | Date | Type of meeting |
|-----------------|---|--------------|-----------------|
| Jean-Noé Landry | MSF, Civil Society Executive Director, Open North | 26 July 2019 | Telephone |

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M'Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

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

¹ Canada does not have one easily navigable OGP repository. A number of government-supported online resources were used in preparing this report including: Creating Canada's 4th Plan on Open Government 2018-20, <https://open.canada.ca/en/4plan/creating-canadas-4th-plan-open-government-2018-20>; National Action Plan on Open Government Tracker, https://search.open.canada.ca/en/nap/?sort=score%20desc&page=1&search_text=&ap-commitment=C05%20-%20Open%20science; and Open Government, <https://open.canada.ca/en>

² IRM Procedures Manual, V.3 : <https://www.opengovpartnership.org/documents/irm-procedures-manual>

Annex I. Overview of Canada's performance throughout action plan development

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

| Multi-stakeholder Forum | |
|--|--------|
| 1a. Forum established: There is a forum to oversee the OGP process | Green |
| 1b. Regularity: The forum meets at least every quarter, in person or remotely | Yellow |
| 1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure. | Green |
| 1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page. | Yellow |
| 2a. Multi-stakeholder: The forum includes both governmental and non-government representatives | Green |
| 2b. Parity: The forum includes an even balance of governmental and non-governmental representatives | Yellow |
| 2c. Transparent selection: Non-governmental members of the forum are selected through a fair and transparent process. | Green |
| 2d. High-level government representation: The forum includes high-level representatives with decision making authority from government | Yellow |
| 3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum | Yellow |
| 3e. Remote participation: There are opportunities for remote participation in at least some meetings and events | Green |
| 3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders | Yellow |

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

| Action Plan Development | |
|---|--------|
| 4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published. | Green |
| 4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process. | Yellow |
| 4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process. | Yellow |
| 4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity. | Yellow |
| 4e. Reasoned response: The government publishes its reasoning behind decisions and responds to major categories of public comment. | Green |
| 5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g links to databases, evidence of meetings, publications) | Green |

Editorial note: If a country “meets” the six standards in bold IRM will recognize the country’s process as a Starred Process.