



Relevance & Resilience

This is one of four issue papers, each focused on an aspect of strategic importance arising from OPM's evaluation of OGP, 2019–2021, to contribute to the OGP Support Unit (SU) and Independent Reporting Mechanism's (IRM) strategic thinking. The research conducted as part of the evaluation focused on seven locations – five national members (Colombia, Kenya, Nigeria, Philippines and Ukraine) and two local government members (Elgeyo-Marakwet in Kenya and South Cotabato in the Philippines); and on three themes (Open Contracting (OC), Beneficial Ownership (BO) and Civic Engagement (CE)). A developmental evaluation approach was adopted, and OPM engaged with the SU and IRM on a regular basis concerning findings, insights and their implications.

Overview / Summary

Openness and collaboration between governments and non-government actors is a fundamental premise of OGP, but closing civic space and broader democratic unravelling in some countries puts this under threat. This paper looks at the OGP's relevance for different actors in this context, as well as ways forwards in building resilience. Different kinds of shocks are identified: those hard for OGP and partners to get traction on, those that could be more subject to OGP influence, including ways in which crisis has also been made into opportunity, and possibilities for mitigating the risk of key actors transitioning away from close engagement in OGP. The value of institutionalising OGP is explored – looking at more informal as opposed to formal approaches, as well as those rooted in specifically OGP mechanisms and processes as opposed to those oriented more to broad OG principles and values.

Introduction

OGP is premised on the value of government openness and collaboration with non-state actors. With the rise of populist governments, closing of civic space and broader democratic unravelling, this is under threat. Such 'external' developments threaten open governance (OG) reforms and OGP processes. The platform also faces ongoing 'internal' shocks, such as when high-ranking political champions or committed reform-minded civil servants leave office, creating risks but also opportunities. Overall, these external and internal challenges raise questions about the relevance of the

OGP platform, its resilience to stresses, and what measures might foster the resilience of both OG and OGP. More specifically, they raise concerns about the relevance of the OGP platform in different contexts, and whether and how country stakeholders use it to resolve the challenges they face. Discussions with country stakeholders highlighted diverse ways of thinking about resilience, with frequent references to institutionalisation; alongside distinctions between institutionalising OGP processes and securing OG values and principles.

This paper distils the main insights on relevance and resilience, and outlines some of the considerations for the SU and IRM in developing its strategic direction. It uses the lens of OGP processes as a route to resilience, rather than OG reforms themselves.

Key Insights

Relevance

Across the sampled locations, many government and civil society stakeholders articulated the strong relevance of the OGP platform in their ongoing work to make progress on OG. Key to this is the OGP international domain and networks, which are widely valued for offering inspiration, peer learning and opportunities to gain international prestige. In all locations they are also valued for helping to bring on board new political leaders and promoting new OG agendas. OGP country platforms inevitably vary, but OGP action plans were appreciated for providing definite mechanisms to move intent towards action, for building inter-agency collaboration and for helping to secure partner support to advance reforms. Across all locations, there was also a general sense of OGP country platforms shaping spaces



for more collaborative engagement between participating government agencies and civil society, and nurturing government reformers' belief in the value of this engagement was specifically mentioned in Kenya, Elgeyo-Marakwet and Nigeria. In the Philippines, stakeholders noted the value of creating 'safe spaces' for dialogue in the face of wider closures of civic space. There was also evidence that the relevance of the platform supports its resilience, with examples of country-level actors drawing on SU support to intervene in the challenges of political transitions.

Risks and Shocks

The research also surfaced examples of **vulnerability**, as shifting contexts have diverged from the 'pre-conditions' for OG work outlined in OGP's theory of change. These pre-conditions are the existence of enough political and civic space for accountability actors to operate freely, and demonstrated government commitment to advance the OG agenda. The shocks which arose in the study locations fell into different categories, all posing frequent risks to the resilience of OG and to OGP processes.

Democratic unravelling is a threat to OG and to the relevance of OGP, though these trends pre-date the start of OGP. Closing civic space tends to delegitimise civil society – which may indeed be the intention – putting at risk the value of multi-stakeholder initiatives. Institutional incentives have changed for some civil servants, who are now working with a more restricted

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'Government responds to OGP's call. I attribute this to OGP's ability to engage at the highest level and the influence of OGP international. But OGP is not mainstreamed in government. We need to move towards open governance as a norm, with an institutional framework to operate.' (Reformer, Nigeria)

sense of what is possible. Across Colombia, Nigeria, the Philippines and Ukraine, some civil society organisations (CSOs) voiced frustration – including that OGP is currently a ‘technical/ innovation space’, which has limited traction on more egregious challenges such as civic space closure, human rights infringements, and corruption scandals. This, alongside an unwillingness to collaborate with political administrations they oppose, has led to the withdrawal of some CSOs from engagement in OGP. Some reformers also felt that their OGP country platform is now more focused on process than on the essence of OG, and some CSOs in the Philippines suggested the co-creation of theories of change for particular reforms, so they can locate short-term measures within a longer-term vision of more fundamental change. Even so, CSOs and reformers in such contexts also saw value in maintaining the OGP platform for the benefits it currently offers, whilst hoping for change at the next elections.

Expectations of how OGP can most productively respond to such challenges need to be carefully managed. In both Nigeria and the Philippines, some CSOs had expected OGP to take a stand against anti-OG practices. OGP has two formal mechanisms: the rapid response protocol designed for emergency use, and the response mechanism for use with the most fundamental abuses. However, the SU is cautious about applying either, partly because of the prevalence of civic space closures among members and hence the need to reserve action for the most egregious cases, and partly because of a sense that OGP may contribute more behind the scenes, keeping the potential lines of communication open between the disputing parties. In Colombia in 2019, the SU worked successfully with the MSF and partners to link NAP co-creation to the national dialogue on the issues underpinning social unrest. Similar efforts were made to engage Nigerian government leaders on the #EndSARS protests about police brutality, though the outcomes of SU engagement in the latter case are as yet uncertain.

Crises as opportunity for OG: Some forms of external risk may be more open to OGP influence, and there were examples of the SU supporting country stakeholders to draw on the platform at such times. The COVID-19 response was a prime example, and framing it as an opportunity to further OG was helpful. In Nigeria, for example, the SU encouraged the government to weave OG principles into the COVID recovery stimulus package. In Kenya, the SU and MSF supported open justice CSOs during the NAP co-creation process to raise the long-term issue of police brutality, which had come to a head with the way COVID-19 lockdowns were being enforced. Given the ongoing possibility of such shocks and emergencies, from extreme weather or climate-related catastrophes to migration-related crises, there could be value in the SU crafting guidance on how to respond to crises in a way which opens rather than further closes government.

Transitions as a risk for OGP processes: While political and personnel transitions can be opportunities, the research found more examples of these presenting risks to the implementation and resilience of OG reforms and for the OGP process. Political transitions sometimes create vulnerability for continued OGP membership, as does the transfer of government Points of Contact (POC), who drive local OGP processes (Box 1). Similarly, changes among leaders of implementing agencies creates challenges for commitment implementation.

Box 1 - POC Transition in South Cotabato: Vulnerability and Response

The former South Cotabato POC significantly progressed implementation of action plan commitments, through regular monitoring and technical support to implementing departments. She was motivated by participation in OGP international events, which fostered pride, status and exposure. However, her departure from the province in early 2021 exposed fragility in OGP's institutional rooting. Her replacement had not been involved in OGP and felt that the province lacked the resources required for OGP processes and reforms. He thus favoured the province's withdrawal from OGP. The POC transition also exposed other weaknesses: very few local stakeholders beyond the POC had engaged in OGP international forums, and there were no systems for cascading the knowledge gained in such spaces.

South Cotabato's decision to continue with OGP was influenced by a letter from the Chair of the national MSF (a senior political leader), which was promoted by the SU. It reiterated the value of the platform to South Cotabato and its exemplary progress with OG. Reflecting on how to strengthen the resilience of the local OGP platform, stakeholders suggested stronger links to the national platform. While they appreciate the value of Local's independence, they felt that connection to the national platform would promote strategic alignment in similar reforms at both levels, access to partnerships and funding opportunities, and promote OGP as a wider national initiative while providing an important political lever. The link was envisaged as a formal connection between the POCs and MSFs.

Across the locations, the SU played a key role in supporting country stakeholders to adapt and respond to transitions. Effective strategies included engaging new political actors in international OGP events, supporting local stakeholders to map influencers and craft resonant messages, and strategic engagement from the SU, OGP ambassadors or envoys. Beyond scheduled elections, political transitions were often unexpected, and SU support to manage their effects required quick action and trade-offs with planned work. While the timing and effects of transitions can be unexpected, their ongoing nature means they are more predictable than other forms of shock. In some cases, the research indicated that vulnerability was created by the small number of implementing agency staff directly engaging in OGP systems and events, and a lack of systems for sharing the knowledge more widely.

Country stakeholders frequently proposed the institutionalisation of OGP as a route to resilience – meaning formal government authorisation as the basis for allocating funds, personnel and time for the work, and to strengthen the potential of the platform. The reasons were context-specific but had similarities across locations. In Ukraine, for example, without OGP having the status of an international agreement ratified by government, there is no basis for allocating public funds to OGP. In the Philippines, the OGP secretariat contends with bureaucratic hierarchies, such as agency queries about the basis for requiring them to do certain tasks, and requests to see the legal and policy basis. Here too, agencies engaging with OGP are simply those willing to do so: there is no government-wide mandate, so agencies cannot be required to take responsibility for a NAP commitment.

On the whole, the two sampled subnational members saw benefits in an institutionalised linkage to the national OGP platform. Specifically, government and civil society stakeholders in both South Cotabato and Elgeyo-Marakwet saw value in greater integration to facilitate political support, additional partnerships and funding, alongside the benefits of the

interoperability of the national and local open contracting platforms. Some stakeholders, however, see more value in maintaining independence from OGP national dynamics.

Implications

SU discussion on the findings highlighted the need to find appropriate balance between efforts to institutionalise OGP processes and rules, versus attention to promoting and sustaining OG values and principles. Both may be achieved through either formal approaches (such as legal frameworks) or informal approaches (such as those driven by champions and norms). The diagram below illustrates options for the SU's discussions in relation to resilience and institutionalisation.

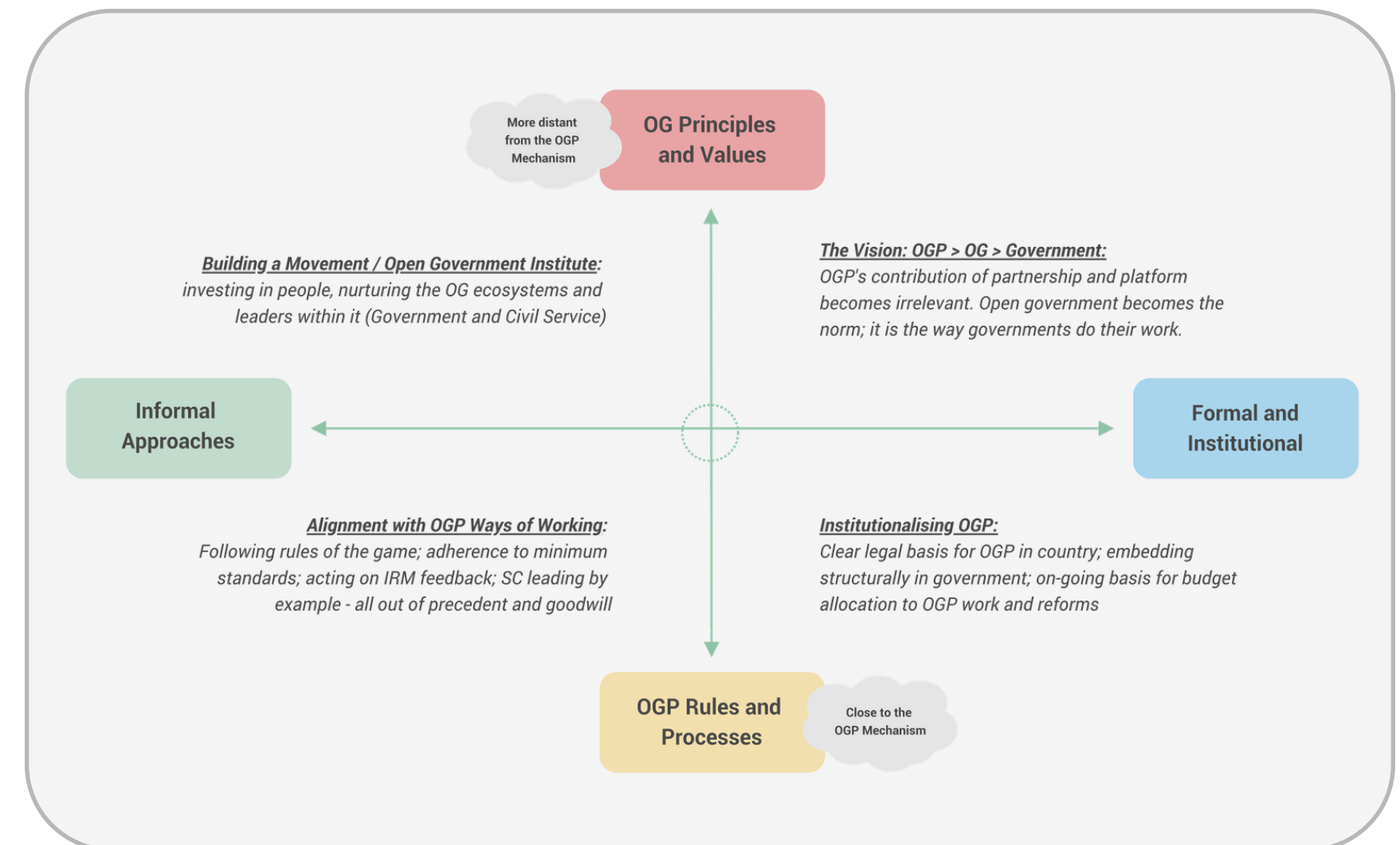
It is based on two axes, each running along a spectrum:

- Horizontally, from informal approaches to open government to formal and institutionalised approaches.
- Vertically, from OGP rules and processes and hence close to the OGP mechanism at one end, to more being focused on open government principles and values, further away from the existing mechanism.

This generates four quadrants, although the boundaries between them are porous. Each of the approaches described have merits and may be relevant to different contexts at different times, as well as to OGP work at different levels. Discussion with stakeholders suggests the objective is to

get to the Vision (top-right quadrant) - where the OGP platform facilitates sustained commitment to OG as simply how governments work. Hence the discussion centres on the merits of different approaches to get there.

Figure 1 - Routes Towards Resilience and Institutionalisation



Building a Movement / Open Government Institute (top-left quadrant) - this positions investing in people as the driver and bedrock of opening government, such as through nurturing OG leaders and ecosystems. A key objective would be to broaden the base in both government and civil society; and to build capacities for leadership to progress and sustain the OG agenda - what the SU sometimes refers to as a 'mechanism to movement' approach. SU suggestions included scaling up work to build coalitions and to nurture political champions; a more explicit focus on building civil society

capacities; and moving upstream in government engagements, such as working with schools of government to embed OG values in civil service training programmes. Box 2 provides a specific example drawing from OGP's work. A key point is to include the institutionalisation of civil society in the vision, including their own accountability mechanisms, and supporting civil society to drive change.

Box 2 - Champions' Initiative

An example of civil service champions using their initiative to drive OG values beyond OGP spaces was seen in the Philippines. Here, reformers with long-term commitment to OG are using OGP language and concepts to strengthen the work of an interagency forum (the Participatory Governance Cluster, located in the Office of the Presidency). These reformers are doing so by creating standards to guide agencies, and identifying 'starred' programmes and levels of citizen participation - drawing on the International Association for Public Participation (IAP2) framework which the IRM uses.

This approach also has scaling challenges. It carries the **risk** of resilience being reliant on the motivation and capacities of individuals and raises questions about how to create incentives. Flexibility is the essence of combining informal approaches with adherence to broad values and principles of open government, which is an approach the OGP Local Team have adopted. A key **advantage** is that flexibility in OGP rules frees up actors to do what makes best sense in the space available to them; yet too much flexibility may have the unintended consequence of lowering the threshold of expectations of OGP engagement.

Alignment with OGP ways of working (bottom-left quadrant) - this focuses on informal approaches but within the structure of existing OGP rules and processes. It centres on iterative institutionalisation of OGP through adherence to its rules and processes over multiple NAP cycles, based on the goodwill of those engaged from government and civil society rather than on further formalisation. This is to a large extent the current approach, but could also be expanded. For example, the Kenyan NAP-4 resilience commitment takes a pragmatic approach to managing shocks by promoting broad engagement and identification of OGP/OG focal persons across government, including the parliament, judiciary and office of ombudsmen, and also promotes OG resilience at Africa regional level.

Institutionalising OGP (bottom-right quadrant): The value of institutionalised approaches is frequently the inverse of the current more informal approach, and the value of institutionalising OGP varies by context. The **advantages** may include a clear legal basis for maintaining OGP and action plan implementation through political transitions; and a potentially stronger basis for allocating public funds to OG reforms. It may also offer a stronger foundation for a 'whole of government' approach to OGP and a route to systematically sustaining a structured space for constructive dialogue between civil society and government. Intermediary approaches have been pursued in some countries.



For example, the Philippines has recently initiated an office order which lodges OGP coordination in the Budget Ministry, hence integrating it into formal government processes. For the SU, OGP institutionalisation may enable the repositioning of process support to country actors, thus freeing up SU time for support to reforms. The risks of a focus on OGP institutionalisation are that governments can, and do, ignore their own laws and regulations. Clearly rules are insufficient in themselves, they require committed individuals and effective oversight to ensure they are observed.

Any institutionalisation is currently country-driven, as the OGP platform has not mandated it. A consideration raised by the SU/IRM was the appropriate balance between supporting institutionalisation in response to demand, versus active promotion of broader requirements. There is also a potential tension between applying the OGP requirements regarding country processes and the flexibility required for institutionalisation that makes sense in a particular jurisdiction.



Recommendations to Strengthen Resilience and Relevance

The following summary points, based on the research observations and evaluation dialogues with the SU, are provided as contributions to the OGP planning and strategy review.

Straightforward and practical

- Support OGP members to consider vulnerability to shocks in their contexts and potential responses to build resilience, possibly based on the quadrant diagram.
- Facilitate demand-driven peer learning between countries expressing an interest in OGP institutionalisation, such as strengthening OGP's legal basis or embedding OGP in government structures.

Medium-term and strategic

- Consider how to invest in people and how to efficiently scale this approach at different levels, such as engaging with mid-level career civil servants - beyond the POC and their immediate department.
- Consider ways of fostering a broader approach/ecosystem, such as working with national schools of government or public administration; and developing different approaches to multi-stakeholder and citizen engagement beyond the MSF model.

- Consider what SU roles in countries could be performed by other stakeholders - such as domestic civil society or steering committee members with political leverage - to free up SU time to engage more in reforms and politically sensitive aspects of work which are particularly demanding at times of transition.
- Consider the value of developing generic guidance on open government response to crises, learning from COVID-19 and the Open Response + Open Recovery Campaign (OR+OR).

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