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CIVIL SOCIETY PARTICIPATION IN THE OPEN GOVERNMENT PARTNERSHIP (OGP)

Terence Corrigan

Steven Gruzd

APRIL 2018

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Contractor:

Democracy International, Inc.
7600 Wisconsin Avenue, Suite 1010
Bethesda, MD 20814
Tel: 301-961-1660
www.democracyinternational.com



Sub-contractor:

The South African Institute of International Affairs
Head Office, University of the Witwatersrand
Johannesburg, South Africa
Tel: +27 (0)11 339 2021
www.saiia.org.za

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ACRONYMS

APRM	African Peer Review Mechanism
CDWs	Community Development Workers
CSO	Civil Society Organization
DIRCO	Department of International Relations and Cooperation (South Africa)
DPSA	Department of Public Services and Administration (South Africa)
EITI	Extractive Industries Transparency Initiative
EIU	Economist Intelligence Unit
IRM	Independent Reporting Mechanism
Moj	Ministry of Justice (Georgia)
MSI	Multi-Stakeholder Initiative
NAP	National Action Plan
NGC	National Governing Council
NGO	Non-Governmental Organization
ODAC	Open Democracy Advice Centre
OGP	Open Government Partnership
SANGOCO	South African Non-Governmental Organization Coalition
WSIS	World Summit on the Information Society

EXECUTIVE SUMMARY

Active citizen participation is an important component of democracy. Multi-Stakeholder Initiatives (MSIs) attempt to enhance civic participation as a means of improving governance through cooperation by governments, civil society organizations (CSOs), and businesses to engage in commonly defined goals.

This report evaluates the experiences of civil society participation on such MSI – the Open Government Partnership (OGP) – in Georgia, South Africa, and Indonesia. A global initiative with 70 countries and 15 sub-national governments as current members, the OGP seeks to enhance government transparency, and support civic participation in governance. MSIs seek to involve civil society, but governments have more resources and tend to dominate these initiatives, making the phenomenon of “open-washing” – the tokenistic show by OGP partner governments of enlisting CSOs – a concern.

Georgia is an OGP success story, demonstrating the importance of political commitment between stakeholders, but participation in Georgia’s Open Government Forum still tends to be dominated by professionalized civil society groups based in larger cities and needs broadening. In terms of substantive outcomes, Georgia has fully or substantially completed 25 out of 41 OGP commitments. The culture of co-creation was entrenched in Georgia’s OGP process. This early progress and strong institutional structure will be helpful in the long-term, but it must guard against complacency and maintain focus.

South Africa, a founding member of the OGP, has been criticized for failing to garner the support of government for this MSI and achieve its potential. Civil society groups were involved in its first National Action Plan (NAP), but their influence was limited; government played a visibly dominant role. The second NAP failed to introduce a formal mechanism for the monitoring of implementation. Of South Africa’s 15 NAP commitments, only one is listed as complete, three are “substantially complete,” six have “limited progress,” and five commitments have been withdrawn. South Africa’s OGP process was not prioritized by the government and displays obvious elements of tokenism.

In Indonesia, an OGP founding member with an active civil society, OGP consultations in its first NAP were of mixed quality. CSOs took initiative and arranged their own consultations, in addition to government-arranged meetings. During Indonesia’s second NAP, the consultation process did not conform to OGP guidelines for civil society involvement and the NAP was altered without input from civil society. Of the 46 Indonesian NAP commitments evaluated, 24 were “fully/substantially” completed, 18 registered limited progress, two had not been started and two had been withdrawn. For civil society, Indonesia’s experience with the OGP is best described as both worthwhile and visibly flawed.

While MSIs present an opportunity for civil society to influence policy, their participation depends on context, including geographic, demographic, and physical infrastructure factors. Civil society can be proactive and agitate for their inclusion in MSIs and should have solid planning, signal interest, form coalitions, and adopt a long-term perspective. Government should accept the principle of partnership and development partners can wield influence by providing CSOs with funding, aligning the support they provide with MSI activities, and helping to defend civic space.

INTRODUCTION

Multi-Stakeholder Initiatives (MSIs) afford opportunities for collaboration between businesses, civil society, and other stakeholders that seek to address issues of mutual concern ... work[ing] to facilitate dialogue across stakeholder groups, foster cross-sector engagement, or develop and apply standards for corporate or government conduct.”¹ This study examines the engagement of civil society with MSIs. Civil society is defined as “the arena, outside of the family, the state and the market, which is created by individual and collective actions, organizations, and institutions to advance shared interests.”² Civil society encompasses formalized organizations and informal or less formalized groups and individuals.

The Open Government Partnership (OGP), a global endeavor founded in 2011, is the primary focus of this study. From eight founding countries – Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom, and the United States of America – membership now extends to 75 countries.³ The OGP requires members to develop and implement National Action Plans (NAPs), where they co-create, with civil society, specific commitments to improve openness in relation to five “grand challenges”: improving public services, increasing public integrity, more effectively managing public resources, creating safer communities, and increasing corporate accountability.⁴ They may include pre-existing initiatives but must commit to accelerate their pace.

This report analyzes the ways in which civil society has engaged with MSIs, focusing on the OGP in three diverse countries: Georgia, South Africa, and Indonesia; what civil society might have achieved; and what challenges or obstacles civil society has encountered. Insights are drawn from the experience of other MSIs including the African Peer Review Mechanism (APRM) and the Extractive Industries Transparency Initiative (EITI). Have MSIs helped civil society to organize, participate, and ultimately influence governance in these three countries? The report will address this question. Research for this report combined desk work and interviews. Resources precluded original data collection through fieldwork.

CIVIL SOCIETY PARTICIPATION IN MSIS⁵

MSIs differ greatly in scope and objectives. The Better Cotton Initiative links farmers, manufacturers, and retailers and focuses on ensuring the sustainability of the cotton industry.⁶ The Equitable Food Initiative brings together various contributors to the food value chain in pursuit of a “safer, more equitable food system.”⁷ The APRM tackles all aspects of governance in its member countries.⁸ All MSIs are designed to facilitate cooperation between different interest groups on a given issue or a broader set of governance challenges. Each group brings its unique perspectives and capabilities to be applied to achieving the envisaged goals.

¹ “What are MSIs? Facts and background,” Institute for Multi-Stakeholder Initiative Integrity, undated, accessed March 30, 2018, <http://www.msi-integrity.org/what-are-msis/>.

² VanDyck CK, “Concept and Definition of Civil Society Sustainability,” Centre for International and Strategic Studies, June 30, 2017, accessed March 30, 2018, <https://www.csis.org/analysis/concept-and-definition-civil-society-sustainability>.

³ “About OGP: What is the Open Government Partnership,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/about/about-ogp>.

⁴ “Open Government Partnership: Articles of Governance,” Open Government Partnership, April 2015, 17.

⁵ This section draws on Corrigan T, “Democratic devolution: structuring citizen participation in sub-national governance,” South African Institute of International Affairs, June 2017.

⁶ “Frequently Asked Questions,” Better Cotton Initiative, undated, accessed March 30, 2018, <https://bettercotton.org/about-better-cotton/frequently-asked-questions/>.

⁷ “Equitable Food Initiative,” Equitable Food Initiative, undated, accessed March 30, 2018, www.equitablefood.org/.

⁸ Herbert R and S Gruzd, *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: South African Institute of International Affairs, 2007, 12-35.

Active citizen participation in governance is an important feature of a modern democratic state, but citizen participation can be organized to be more apparent than substantive. In the 1960s, academic and activist Sherry Arnstein argued that citizen participation can be represented as a “ladder of participation,” with each rung denoting better opportunities for citizen influence. She describes a progression through eight “rungs” on three levels. The first level, “non-participation,” encompasses manipulation and therapy. The second, “tokenism,” includes informing, consultation and placation. The third, “citizen power,” includes partnership, delegated power and citizen control.⁹ MSIs – and the OGP in particular – aspire for the third level, creating structures in which civil society can have a meaningful voice and exert robust influence on governance. MSIs seek to achieve partnership – a relationship allowing citizens to “negotiate and engage in trade-offs with traditional powerholders.”¹⁰ It is in the very name of the OGP.

MSIs attempt to give stakeholders outside the government an opportunity to meaningfully participate without being overshadowed by the government. Although commitments to civil society participation may be strongly formulated in an MSI's design, governments will invariably retain an advantage over the other stakeholders. Governments hold more resources, staff, and information, and are the primary subject of governance scrutiny. An important concern is “open-washing,”¹¹ the abuse of such initiatives by governments by making a tokenistic show of partnering with (usually government-aligned) CSO as “evidence” of a commitment to transparency and open governance.

CIVIL SOCIETY IN THE OGP

The OGP *Open Government Declaration* says: “People all around the world are demanding more openness in government. They are calling for greater civic participation in public affairs, and seeking ways to make their governments more transparent, responsive, accountable, and effective.”¹² The OGP's four key focus include: increasing the availability of information about governmental activities; supporting civic participation in governance; implementing high standards of professional integrity throughout participants' states; and increasing access to new technologies for transparency and accountability.¹³ A prospective member's degree of openness is evaluated according to four criteria: fiscal transparency, access to information, public officials' asset disclosure, and citizen engagement. A threshold of 75% across these criteria must be achieved to join the OGP.¹⁴

The OGP's *Articles of Governance* make clear the importance of broad participation, stating that governments must draw up their NAP “with the active engagement of citizens and civil society.”¹⁵ The global OGP process is overseen by a Steering Committee, half of whose members are to be drawn from civil society; it can suspend errant governments.¹⁶

Learning from experience, the OGP developed a “co-creation” methodology, which describes a mutually supportive relationship between stakeholders to manage the OGP at country level, codified in the 2017 *OGP*

⁹ Arnstein, S.R. 1969. “A Ladder of Citizen Participation.” *Journal of the American Institute of Planners* 35 (4): 216–24.

¹⁰ *Ibid.*

¹¹ “From Transparency to Accountability,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/stories/transparency-accountability>.

¹² “Open Government Declaration,” Open Government Partnership, September 2011, accessed March 30, 2018, <https://www.opengovpartnership.org/open-government-declaration>.

¹³ *Ibid.*

¹⁴ “Eligibility criteria,” Open Government Partnership, Undated, accessed March 30, 2018, <https://www.opengovpartnership.org/eligibility-criteria>.

¹⁵ “Open Government Partnership: Articles of Governance,” Open Government Partnership 2015,” Open Government Partnership, 2015, accessed March 30, 2018, https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf.

¹⁶ *Ibid.*

*Participation and Co-Creation Standards.*¹⁷ It calls for dissemination of information, provision of spaces for dialogue and co-creation, and co-ownership and decision-making throughout the OGP process. Each member should post relevant documentation online, provide OGP contact details, appoint a lead agency within government, establish a permanent multi-stakeholder forum for in-depth interaction between stakeholders, and conduct outreach to the general population on OGP matters.

Through the OGP's Independent Reporting Mechanism (IRM), members' self-assessments of NAP implementation are complemented by an independent evaluation to promote integrity and reduce "open-washing." The autonomy of the IRM is paramount. The international OGP Support Unit provides member states with a list of independent researchers; governments cannot veto the entire list.¹⁸ The IRM report is peer-reviewed by an International Experts Panel. Government reviews and comments on the report and the final version are then made publicly available.

CASE STUDIES

This report analyses civil society participation in three countries to reflect the diversity of the OGP's membership and similarities in how the process unfolded. These countries are geographically distant and culturally dissimilar from one another. Georgia, population 3.9 million, is a small country; South Africa, population 56.5 million, is medium-sized; and Indonesia, population 264 million, is large.¹⁹ All are developing countries (albeit at different levels of development) with a formal commitment to democracy – a precondition for OGP membership. Indonesia and South Africa are countries in which legitimate democratic contestation wrestles with notable failings. In Indonesia, there are weaknesses with respect to political participation and political culture.²⁰ South Africa performs well in a number of areas, including political participation and civil liberties, but poorly in terms of political culture.²¹ In Georgia, democracy coexists with strong elements of authoritarianism: good electoral processes stand alongside difficulties in government functioning, political participation, political culture, and civil liberties.²² Indonesia is an electoral democracy, but faces a restrictive political environment for civil society organizations and has lately introduced legislation obstructing freedom of expression.²³

Civicus, a global alliance of CSOs and activists that is dedicated to strengthening citizen action and civil society, monitors "civic space" across the world. It examines the environment within which civil society can operate and exert influence on political and social processes with five rankings: "open," "narrowed," "obstructed," "repressed," and "closed." Civic space in South Africa²⁴ and Georgia²⁵ is regarded as "narrowed" – meaning that while the rights of civil society to organize and the ability of the media to disseminate information exist in both law and practice, occasional harassment and pressure continue to undermine full openness. Indonesia

¹⁷ "OGP Participation and Co-Creation Standards," Open Government Partnership, 2017, accessed March 30, 2018, http://www.opengovpartnership.org/sites/default/files/OGP_Participation-Cocreation-Standards20170207.pdf.

¹⁸ Carothers, T, and S Brechenmacher, *Accountability, Transparency, Participation and Inclusion: A New Development Consensus*, Washington, DC: Carnegie Endowment for International Peace, 2014, 22.

¹⁹ Population statistics are the estimates by the Population Reference Bureau for mid-2017, <http://www.worldpopdata.org/table>.

²⁰ *Democracy Index 2017: free speech under attack*, London, New York and Hong Kong: Economist Intelligence Unit, 2018, 26.

²¹ *Ibid.*, 33.

²² *Ibid.*, 29.

²³ *Ibid.*, 27.

²⁴ "South Africa," Civicus Monitor, August 11, 2018, accessed March 30, 2018, <https://monitor.civicus.org/country/south-africa/>.

²⁵ Georgia," Civicus Monitor, January 8, 2017, accessed March 30, 2018, <https://monitor.civicus.org/country/georgia/>.

is regarded as “obstructed.”²⁶ This denotes a situation in which civil society and the media may operate, but under heavy scrutiny and harassment, both legal and illegal.

How have each of these countries dealt with civil society? To what extent has there been co-creation in their OGP processes? To answer these questions, each case study looks at the procedural side of civil society involvement in OGP processes (relying primarily on IRM reports and interviews); the outcomes of the countries’ processes and expansion of civic space; and the opportunities and challenges for future civil society involvement. Not meant to be “blow-by-blow” accounts of the OGP process, the case studies seek to provide assessments of the role of civil society, trends and broader implications.

GEORGIA

Georgia was an early adopter of the OGP, joining in 2011. It had been a constituent republic of the Soviet Union until April 1991, leaving the latter shortly before its dissolution. It has undergone the difficult process of establishing the institutions and architecture of liberal democracy, compounded by Russia’s 2008 invasion.²⁷

Georgia’s civil society landscape is fairly unencumbered and open to mobilization and advocacy.²⁸ However, the introductory comments to one of its NAPs concede, “on its path to full-fledged democracy, Georgia has number of challenges yet to overcome.”²⁹

Zurab Sanikidze, director of the Analytical Department of the Ministry of Justice (a body charged with leading the OGP process) says, “Transparency, accountability and innovation (with special emphasis on public service delivery) have been among the [Georgian] government’s top priorities. Therefore, we saw the OGP as a tool to challenge ourselves even more, learn from others and share our best practices.”³⁰

Georgia has been recognized as an OGP success story,³¹ showing the importance of political commitment and trust between stakeholders, learning from experience and noting where more work is needed, and gradually expanding inclusion.

Process

Georgia has evolved through its OGP process. In its first progress report, the IRM critiqued Georgia’s conduct, stating it “fell short of fulfilling the requirements of the OGP *Articles of Governance*.”³² In a technical sense, Georgia had attempted to facilitate input by launching a website and by holding consultations with a small number of CSOs. When CSOs criticized the draft NAP (reflecting existing initiatives) and requested revisions, Georgia was not forthcoming.³³

Transparency International Georgia suggested convening a civil society forum – which was done in April 2012 with the support of the Ministry of Justice. However, it proved ineffective in coordinating the implementation

²⁶ “Indonesia,” Civicus Monitor, January 31, 2018, accessed March 30, 2018, <https://monitor.civicus.org/country/indonesia/>.

²⁷ Rayfield D, “Georgia and Russia: the aftermath,” openDemocracy, November 20, 2008, accessed March 30, 2018, <https://www.opendemocracy.net/article/georgia-and-russia-the-aftermath>.

²⁸ Puig GP, *Situation Analysis of Civil Society in Georgia*, Tbilisi: Europe Foundation, 2016.

²⁹ Republic of Georgia, *Open Government Partnership Action Plan Georgia*, Washington, DC: Open Government Partnership, 2015, <https://www.opengovpartnership.org/sites/default/files/OGP%20AP%20GEORGIA.pdf>.

³⁰ Email communication from Zurab Sanikidze, director of the Analytical Department of the Ministry of Justice, Georgia, October 23, 2017.

³¹ Skype interview with Mukelani Dimba, October 16, 2017.

³² Gogidze L, *Independent Reporting Mechanism: Georgia Progress Report*, Washington, DC: Open Government Partnership, 2013, 10.

³³ *Ibid.*, 12.

of the NAP, lacked a proper charter or a chairperson, and officials used it as venue to report on progress. It was disbanded in October 2012.³⁴

Reflecting on this early period, Giorgi Kladiashvili, director of the Institute for Development of Freedom of Information in Georgia and member of the global OGP Steering Committee, notes that civil society in Georgia was enthusiastic about the potential OGP held as an advocacy tool for openness and transparency. Despite initial lack of clarity about where within the government the OGP's institutional home would be and an imperfect process, the government did exhibit goodwill towards civil society. "In the first action plan, we were learning," he states.³⁵

Georgia made a significant, widely recognized, advance in 2014, when it established the Open Government Georgia's Forum (sic), a permanent platform co-chaired by government and civil society representatives that brings stakeholders – from government, civil society, business, academia, and international partner organizations together to discuss and manage the Georgia's OGP process. This has been regarded as an impressive example of co-creation in action.³⁶ The forum has been used to conduct nationwide public consultations and feed CSO recommendations into Georgia's second and third NAPs and has been increasing membership for better representation.³⁷ George Topouria, senior analyst at Transparency International Georgia says, "Civil society has successfully been able to forge partnerships with each other to push common causes. Moreover, civil society plays an important part in the formulation, deliberation and monitoring of the Action Plan commitments."³⁸

The OGP was later given a firm legal personality through a government decree with responsibility for implementing NAP commitments with several agencies (including the Ministry of Justice, the Ministry of Finance and the State Procurement Agency) and oversight over government as a whole. The Analytical Department of the Ministry of Justice was assigned to coordinate NAP implementation.³⁹

Subsequent IRM reports confirm a deeper, more central role for civil society in OGP processes. The 2014-2015 *Progress Report* said the second NAP represented a significant improvement in terms of participation and consultation. The process was better organized, more inclusive, and more open to alternative perspectives.⁴⁰ The OGP has a reasonably solid degree of public recognition in Georgia.⁴¹

Critics still say it has in practice been dominated by "the usual suspects:" established, professionalized civil society groups, in the capital and large cities, and tended to focus on transparency and open data issues. The OGP in Georgia is still not a truly "popular" initiative.⁴² This pattern is not uncommon compared to other MSIs and other countries.⁴³

³⁴ *Ibid.*, 14

³⁵ Skype interview with Giorgi Kladiashvili, October 20, 2017.

³⁶ For example, it is listed as a case study in *Designing and Managing a Multi-stakeholder Forum: a Practical Handbook with Guidance and Ideas*, Open Government Partnership, 30.

³⁷ Email communication from Zurab Sanikidze, director of the Analytical Department of the Ministry of Justice, Georgia, October 23, 2017.

³⁸ Email communication from George Topouria, Senior Analyst at Transparency International Georgia, October 30, 2017.

³⁹ Gogidze L, *op.cit.*, p13.

⁴⁰ *Ibid.*, 18.

⁴¹ Skype interview with Giorgi Kladiashvili, October 20, 2017; Email communication from Zurab Sanikidze, director of the Analytical Department of the Ministry of Justice, Georgia, October 23, 2017.

⁴² Gogidze L, *Georgia 2014-2016: End of Term Report*, Washington, DC, Independent Reporting Mechanism, 2016, 3

⁴³ In connection with his work on the APRM for SAIIA, a general pattern exists in which sustained commitment to the process tails off rapidly as smaller and less well-resourced groups find themselves unable to continue. This leaves larger, better-funded (and often internationally connected groups) involved. A small exception to this might be groups that have carved a niche for themselves in the APRM space and devoted their efforts and resources accordingly.

Vako Natsvlshvili of the Open Society Georgia Foundation says OGP “needs to broaden its scope and transform itself into a platform that is more responsive to the needs of citizens, rather than being sidetracked by digital commitments.”⁴⁴ Natsvlshvili encourages local think tanks and watchdogs working in other areas such as environmental policy, labor rights, the judiciary, and healthcare to participate, and advocate for OGP commitments on these issues.

Outcomes

Georgia has 24 current commitments underway, plus 41 that have been reviewed.⁴⁵ The country boasts three “starred” commitments,⁴⁶ “exemplary reforms that have potentially a transformative impact on citizens in the country of implementation.”⁴⁷ These were transparency in party political funding,⁴⁸ making party political financial declarations available online in machine-readable format,⁴⁹ and proactive publishing of surveillance data.⁵⁰

Georgia’s commitments are clearly actionable and understandable. The OGP database indicates that Georgia’s commitments overwhelmingly rank “medium” to “high” on specificity – only four of the 41 are ranked “low.” Ten are considered “transformative,” an additional 14 have the potential for “moderate” change. A further 13 were viewed as having a minor potential impact and the remaining four as having no potential impact. Impacts are determined by the IRM researcher, in consultation with stakeholders. Overall, Georgia’s progress on completion of its NAPs is steady if unspectacular – 25 of the 41 commitments have been fully or substantially completed. The remainder have achieved limited progress (13) or have not been started (three). None had been withdrawn.

Despite progress, the *de facto* dominance of the government in the OGP has meant that commitments have not been pursued as aggressively as they might have been. The Ministry of Justice lacks political clout in government, resulting in non-ambitious commitments and slow implementation of ambitious commitments.⁵¹

For Georgia, the culture of co-creation has been solidified. Giorgi Kladiashvili says, “This can’t be dropped now. Civil society has been strong in using it to advocate... This is not the culture we had under the Soviet Union and the Russian Empire. This has been created under the OGP ... this is what distinguishes democracy from authoritarianism.”⁵²

Looking Forward

The OGP in Georgia has shown some success in elevating the participation and influence of civil society on governance matters. On the Arnstein ladder, Georgia moved up five rungs from placation, through

⁴⁴ Email communication from Varo Natsvlshvili Participatory Democracy Program Coordinator, Open Society Georgia Foundation, November 1, 2017.

⁴⁵ “Georgia,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/countries/georgia>.

⁴⁶ *Ibid.* Indonesia secured a single starred commitment and South Africa none.

⁴⁷ “Star Reforms in the Open Government Partnership,” Open Government Partnership, undated, accessed March 30, 2018, http://www.opengovpartnership.org/sites/default/files/attachments/Star%20Commitments_0.pdf.

⁴⁸ “Starred Commitments: 3.4. Transparent party financing,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/starred-commitments/34-transparent-party-financing>.

⁴⁹ “Starred Commitments: 15 Party political financial declarations,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/starred-commitments/15-political-party-financial-declarations>.

⁵⁰ “Starred Commitments: 17. Proactive publishing of surveillance data,” Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/starred-commitments/17-proactive-publishing-of-surveillance-data>. In an age of serious security threats and the need for intelligence to combat them, concerns about government abuse of citizens’ rights are legitimate. This commitment means the country’s Supreme Court would regularly publish statistics on surveillance orders granted, which would give activists some means of monitoring it.

⁵¹ Email communication from George Topouria, Senior Analyst at Transparency International Georgia, October 30, 2017.

⁵² Skype interview with Giorgi Kladiashvili, October 20, 2017.

consultation to one of genuine (if imperfect) delegated citizen partnership. In 2018, it co-chairs the global OGP Steering Committee and will host the 2018 OGP Global Summit. This does, however, present Georgia and its civil society with a potential challenge: having been so recognized, hubris or complacency could set in. The early progress in Georgia on its OGP plans and the strong institutional structure that buttresses it will likely help it survive in the long term.

SOUTH AFRICA

South Africa was a founding member of the OGP in 2011. The government saw its decision to join as essentially an extension of its domestic values “informed by government’s constitutional commitment to advance good governance locally and internationally” and “the imperative to share South Africa’s experiences gained over the past twenty years in establishing and consolidating democratic practices.”⁵³ The country should have been a natural champion of the OGP.

Although South Africa is committed to multi-stakeholder initiatives (and multilateralism) on principle, finding expression in both the African Peer Review Mechanism and OGP, in practice, its experience in both initiatives has been controversial. Similar dynamics have repeated themselves.

The South African government has taken on programs like the OGP as tools for both domestic and foreign policy. The country was also an early adopter of the APRM. For domestic implementation, both were originally housed within the Department of Public Service and Administration (DPSA). The APRM remains there; the OGP, however, was moved to the Department of International Relations and Cooperation (DIRCO) in July 2017, which was interpreted as a loss of interest in its applicability to domestic governance.⁵⁴

Ralph Mathekga, who conducted the first IRM review of South Africa, comments that the OGP was seen as a program to bolster the country’s diplomatic credentials and to give South Africa some international prestige as a leader in openness and transparency globally. For those in government who felt vulnerable at the prospect of scrutiny, it seemed like a “tick box approach in exchange for diplomatic leverage.”⁵⁵

Damaris Kiewiets, the Southern African regional representative for the OGP and long-time activist on the initiative comments, “Civil society saw the OGP as an opportunity to create awareness of issues and capacity to address them among CSOs.”⁵⁶

Process

The OGP in South Africa has been criticized for failing to adequately garner government support and thus to achieve its potential. Deficiencies in consultation were identified early, in relation to the first NAP. While some civil society groups had limited involvement in preparing the NAP, government had played a visibly dominant role. The IRM noted that the government attempted to involve civil society through an umbrella body, the South African Non-Governmental Organization (SANGOCO), but it did not represent all CSOs. Other groups such as the Open Democracy Advice Centre (ODAC) made their own submissions. The private sector was not included. The IRM noted, “South Africa’s OGP self-assessment report shows that the action plan was largely shaped by internal consultative processes within the government.”⁵⁷

Consultations around the implementation of the NAP appear to have had a broader reach, using the government’s network of Community Development Workers (CDWs), and through larger gatherings, termed

⁵³ “South Africa to Co-Chair the global Open Government Partnership,” South Africa Ministry for Public Service and Administration, August 8, 2014, accessed March 30, 2018, <http://www.dpsa.gov.za/article.php?id=304>.

⁵⁴ With new President Cyril Ramaphosa’s cabinet reshuffle in February 2018, the OGP is said to be moving back to the Department for Public Service and Administration.

⁵⁵ Telephone interview with Ralph Mathekga, February 13, 2018.

⁵⁶ Telephone interview with Damaris Kiewiets, February 9, 2018.

⁵⁷ Mathekga Ralph, *South Africa Progress Report*, Washington, DC: Independent Reporting Mechanism, 2011-2013, 9.

izimbizo (an isiZulu term for a consultative meeting). However, some participants criticized government dominance and said specific NAP action items were not really discussed at the *izimbizo*.⁵⁸

The government employs CDWs to maintain contact with communities in order to assist them with access to information and government services. South Africa deployed them in its APRM consultations in 2005-2006. In theory, they are suited to conducting consultations with and capturing the perspectives of citizens at the community level, especially in rural areas. In practice, this was poorly done. CDWs were not adequately trained to conduct surveys for the APRM. The questionnaires used were not standardized across the country and did not capture demographic information. The surveys captured responses in many languages – with few in English, the language used by most analysts – and there was no provision for professional translation. Consequently, the information was not processed, and remained, literally, in boxes.⁵⁹ Without vastly improved planning, training and preparation, it is difficult to see how CDWs can positively contribute to the OGP.

Mathekga argues that government did not understand the centrality of civil society to the OGP process. Consultations tended to rely on interactions with leadership figures in the South African National Civics Organization, an affiliate of the ruling party. Consultation events were in essence ordinary community meetings that tended merely to “sneak” a mention of the OGP onto their agendas. “I didn’t get the sense that they were doing it properly,” he says. There was considerable consternation about the IRM report he prepared, with officials questioning the report on “methodological” grounds.⁶⁰

Subsequent IRM reports reiterated these themes. The *Progress Report 2013-2014* stated it found little documented evidence to support the government’s claims of awareness-raising campaigns in 2013. Public consultations were not accorded sufficient prior notice.⁶¹ The report also noted complaints from civil society groups that consultation was shallow. The report stated: “While some ... consultations showed innovation in culturally appropriate communications, they did not necessarily function as dialogue and discussion sessions in the spirit of OGP.”⁶²

The *End of Term Report 2013-2015*, dealing with the second NAP, noted that the government had failed to introduce a formal mechanism for the government and civil society to monitor implementation.⁶³ ODAC, which attempted to remain engaged with the OGP more than any other single organization in South Africa, said consultations were “farcical.”⁶⁴ The South African OGP Twitter account and website have been underutilized and are both largely dormant.

In May 2016, while South Africa hosted the OGP regional summit, a group of CSOs wrote to the deputy minister of public service and administration to protest its failings – including the notable absence of a multi-stakeholder forum. It said government attempts at inclusion had been “ad hoc, tentative and not sufficiently inclusive to reach a broad range of civil society and the public.” This has undermined the principle of partnership, the notion of accountability, and ultimately the realization of the OGP in South Africa.⁶⁵ Kiewiets said while their concerns “caught the attention of the global structures” through this open letter, it ultimately changed nothing in the South African OGP process.⁶⁶ The IRM describes a deficient, tokenistic consultation process, where true partnership with civil society was not seriously sought. Mukelani Dimba, executive director

⁵⁸ *Ibid*, 11.

⁵⁹ Herbert R and S Gruzd, *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA, 2008, 282-185.

⁶⁰ Telephone interview with Ralph Mathekga, February 13, 2018.

⁶¹ *Progress Report 2013-2014*, Washington, DC: Independent Reporting Mechanism, 2014, 14

⁶² *Ibid*, 15.

⁶³ Adeleke F, *End of Term Report 2013-2015*, Washington, DC: Open Government Partnership, 2016, 2.

⁶⁴ “Why our consultation process is a joke, and other hilarities,” Open Government Monitoring, November 29, 2012, accessed March 30, 2018, <https://opengovernmentafrica.wordpress.com/2012/11/29/why-our-consultation-process-is-a-joke-and-other-hilarities/>.

⁶⁵ “Open Letter to the Special Envoy on Open Government Partnership,” Right 2 Know, May 4, 2016, accessed March 30, 2018, <http://www.r2k.org.za/wp-content/uploads/Final-OGP-Statement.pdf>.

⁶⁶ Telephone interview with Damaris Kiewiets, February 9, 2018.

of ODAC and co-chair of the OGP Steering Committee comments: “The OGP in South Africa was, at best, consultation – it was a long way from co-creation.”⁶⁷

Beyond these MSIs, while great emphasis has been placed on consultation in South Africa’s 1996 constitution and in the workings of South Africa’s provincial legislatures, this has in practice been widely criticized as cosmetic rather than substantial and for seeking to manipulate particular outcomes (validating pre-existing conclusions). Ordinary people are unfamiliar with consultation procedures and misunderstand what is possible when they interact with officials.⁶⁸

This echoes South Africa’s APRM experience between 2005 and 2007. The South African government attempted to exercise control over the process and to manage civil society involvement very carefully. For example, the government’s initial plans were unclear on how civil society representatives would be selected for the National Governing Council (NGC) to oversee the APRM.⁶⁹ The government downplayed the need for original research and said the review exercise would be based on the *Ten Year Review*, an official study of South Africa since the transition to democracy in 1994. While civil society protest led to an enhancement of their role in South Africa’s APRM process, the level of civil society inclusion did not improve much. Zanele Twala, then a SANGOCO participant on the NGC explains, “The NGC was very much government-led ... from how to collect the data, decisions around the way to systematically present it, the writing and editing, civil society representatives were not systematically involved. When problems were raised around the process, we had very little influence.”⁷⁰

Outcomes

South Africa has eight current commitments underway, in addition to 15 that have been reviewed. This is lower than most countries and implementation has been mediocre. The OGP’s online database evaluates only 15 of these, with nine ranked as being of “medium” or “high” specificity. Of the seven commitments evaluated for their impact, just one is “transformative” (‘Develop and implement an Accountability Consequences Management Framework for public servants’), three have “moderate” potential impact, and three have “minor” impact.

South Africa’s rate of completion is disappointing. Only one commitment is listed as “complete,” three are “substantially” complete, six show “limited” progress, and five were “withdrawn,” suggesting a retreat from open governance. Some programs withdrawn support this conclusion: “Enhance Involvement of Civil Society in the Budget Process,” “Accountability Consequences Management Framework,” and “Mainstream Citizen Participation in the Public Sector.” South Africa has no “starred” commitments, and the IRM has highlighted the repeated failure to complete commitments.⁷¹ The CSO Corruption Watch points out that the only commitment completed in two cycles – establishing an anti-corruption hotline and forum – was actually established in 2004, well before the OGP commenced.⁷²

Looking Forward

Rather than enhancing or opening governance, South Africa’s OGP is a low government priority. On the Arnstein ladder, it shows elements of non-participation and tokenism, “consultation” has at best been information sharing. Mukelani Dimba concludes that South African government officials are skeptical of the inevitable consequence of open government: diminished authority. The OGP has also not become a government-wide initiative and has not been mentioned in a single cabinet statement or State of the Nation

⁶⁷ Skype interview with Mukelani Dimba, October 16, 2017.

⁶⁸ See Corrigan T, *Democratic devolution: structuring citizen participation in sub-national governance*, Johannesburg: South African Institute of International Affairs, June 2017.

⁶⁹ The body that oversees APRM processes on national level.

⁷⁰ Herbert R and S Gruzd, 2008, *op.cit.*, p. 269.

⁷¹ Adeleke F, *End of Term Report 2013-2015*, Washington, DC: Open Government Partnership, 2016.

⁷² “SA falling short on OGP commitments,” Corruption Watch, January 13, 2017, accessed March 30, 2018, <http://www.corruptionwatch.org.za/sa-falling-short-ogp-commitments/>.

address.⁷³ Geopolitics is also at play – as it consolidates close ties with Russia and China, South Africa is reluctant to push an initiative associated with the US. For these reasons, the OGP has lacked a champion.⁷⁴ With government's lack of sincerity and failure to secure any clear wins, some strident activists argues that threats to media freedom and government corruption undermine the spirit of the OGP and that if it refuses to change tack, it should withdraw.⁷⁵ Mathekga said, "The degree to which government was worried about the criticism of the process said something" and that the conversation generated was important to developing a democratic culture."⁷⁶

INDONESIA

A founding member of the OGP in 2011, Indonesia has undergone an uneven process of democratization and opening up its civic space since the 1990s. It is a large, highly diverse country made up of thousands of islands, with considerable governance challenges.⁷⁷ A recent analysis warned of fragility and democratic regression due to "re-emergent strands of authoritarian populism from among Indonesia's old ruling caste, the rise of a xenophobic and sectarian brand of politics, and a sustained illiberal drift in the regulation of civil liberties."⁷⁸ The Economist Intelligence Unit's 2017 Democracy Index rated Indonesia as the world's worst performer, having fallen 20 places between 2016 and 2017. Blasphemy laws are often used to undermine freedom of expression.⁷⁹

Like Georgia and South Africa, the Indonesian government claims its commitment to the OGP arises from its domestic values. "Since 1998, the political reformation '*Reformasi*' has unleashed exponential public demand for transparency, accountability, and better government ... the Government of Indonesia is convinced that openness is a basic necessity for a modern government, and a key to unlocking Indonesia's potential in the economy and public service sector as well as driving an increase in innovation."⁸⁰

Indonesia's large, active civil society is constricted. A 2013 law requires organizations working on religious or civic issues to register with the government and report on activities. CSOs cannot advocate certain views (such as communism and atheism), foreigners wishing to start a CSO must invest US\$1 million of their personal funds and the government can dissolve non-compliant CSOs.⁸¹ Supporters of the legislation claimed it was necessary to "empower" local civil society and reduce foreign interference.⁸²

⁷³ The State of the Nation address is an annual address before Parliament by the South African president in which past developments are reviewed and the propeties for the coming years discussed.

⁷⁴ Skype interview with Mukelani Dimba, October 16, 2017.

⁷⁵ "Is the South African government open?," Right 2 Know, July 27, 2015, accessed March 30, 2018, <http://www.r2k.org.za/2015/07/27/is-the-sa-government-open/>.

⁷⁶ Telephone interview with Ralph Mathekga, February 13, 2018.

⁷⁷ Mietzner, Marcus. "Indonesia's Democratic Stagnation: Anti-Reformist Elites and Resilient Civil Society." *Democratization* 19, no. 2 (2012): 209–29.

⁷⁸ Warburton E and E Aspinall, "Indonesian democracy: from stagnation to regression," Australian Strategic Policy Institute, August 17, 2017, accessed March 30, 2018, <https://www.aspistrategist.org.au/indonesian-democracy-stagnation-regression/>.

⁷⁹ *Democracy Index 2017: Free Speech Under Attack*, London, New York and Hong Kong: Economist Intelligence Unit, 2018, 27.

⁸⁰ "Indonesia," Open Government Partnership, undated, accessed March 30, 2018, <https://www.opengovpartnership.org/countries/indonesia>.

⁸¹ "Indonesia profile," Freedom House, 2017, accessed March 30, 2018, <https://freedomhouse.org/report/freedom-world/2017/indonesia>.

⁸² Aritonang, MS. "Freedom under Grave Threat." *Jakarta Post*. July 3, 2013. www.thejakartapost.com/news/2013/07/03/freedom-under-grave-threat.html.

Process

Indonesia committed its first NAP to be “execution-oriented, people-oriented and have a snowball effect.”⁸³ To start the OGP process, a Core Team of government agencies was appointed, later adding four CSOs. Their appointment without consultation or participation by the broader CSO community raised concerns about transparency.⁸⁴

Tara Hidayat, from the Presidential Delivery Unit for Development Monitoring and Oversight (a government agency in the Core Team), commendably acknowledged the difficulties of starting such a process. “There are hundreds of CSOs in Indonesia. We wanted organizations with a proven track record, experience, and relevance in the field but no affiliation to any political party. We now know it should be done differently.”⁸⁵

Consultations with civil society for the first NAP were of mixed quality. The IRM complimented the Indonesian process for a meaningful degree of consultation and reaching a good cross-section of stakeholders. Although mostly targeted at groups based in the capital, Jakarta, groups attended from other parts of the country when word reached them.⁸⁶ In the implementation phase, in addition to the government’s efforts, CSOs took the initiative to arrange their own consultations with like-minded groups not involved in the OGP implementation phase.⁸⁷ The IRM recognized the practical difficulties inherent in attempting a consultative process in a country as large, fragmented and complex as Indonesia.

Subsequent IRM reports detail similar criticisms. Analysis of the second NAP states that “the consultation process did not conform to OGP guidelines.” Advance notice of events was inadequate and calls for comment on the draft NAP gave just a six-day deadline. Following the public consultation period, the government altered some NAP items in exclusive government-only meetings.⁸⁸ Mujtaba Hamdi, director of the CSO MediaLink, concurs, “Major decisions are still not made together ... implementing ministries/agencies often make ‘veto’ decisions to modify the Action Plan.”⁸⁹

The report on the third NAP noted that the Indonesian government was acting to dispel perceptions that the OGP was “too exclusive.”⁹⁰ Its efforts were still found wanting. A schedule of consultative activities was drawn up, but without providing precise dates.⁹¹ In respect to NAP implementation, the report states, “Core Team meetings served as the multi-stakeholder consultation forum. While Indonesian CSOs were consulted in the nomination of the seven Core Team civil society representatives, there was very little meaningful consultation and collaboration between government and wider civil society.”⁹² Journalist Arfi Bambani argues that the OGP remains little-known in Indonesia, especially outside of Jakarta, although a number of CSOs – such as the Alliance of Independent Journalists – have shown an interest in it.⁹³

⁸³ “Indonesian action plan issued as part of OGP process,” freedominfo.org, September 22, 2011, <http://www.freedominfo.org/2011/09/indonesian-action-plan-issued-as-part-of-ogp-process/>.

⁸⁴ “Background to the Open Government Partnership in Indonesia: The CSO Core Team,” Open Government Partnership, July 7, 2014, accessed March 30, 2018, <https://www.opengovpartnership.org/stories/background-open-government-partnership-indonesia-cso-core-team>.

⁸⁵ “Indonesia: time for more proactive engagement and better access to information,” Open Government Partnership, undated, accessed March 30, 2018, http://www.opengovpartnership.org/sites/default/files/working_groups/indonesia.pdf.

⁸⁶ RS Chitra, *Independent Reporting Mechanism: Indonesia Progress Report, 2011-2013*, Washington, DC: Open Government Partnership, 2014, 19.

⁸⁷ *Ibid.*, 21.

⁸⁸ Al’Afghani MM, *Indonesia: Special Accountability Report*, Washington, DC: Open Government Partnership, 2014, 1.

⁸⁹ Email communication from Mujtaba Hamdi, February 5, 2018.

⁹⁰ Al’Afghani MM and P Widiyatmoko, *Indonesia IRM Progress report, 2014-2015*, Washington, DC: Open Government Partnership, 2015, 19.

⁹¹ *Ibid.*, 22.

⁹² *Ibid.*, 23.

⁹³ Email communication from Afri Bambani, February 5, 2018.

Civil society groups on the Core Team rapidly became aware that limited resources and a lack of dedicated personnel were undermining their work on the OGP. They embarked on “self-restructuring.” Each appointed a focal point to sit on the Core Team and assigned specific roles to the CSOs based on their areas of focus (anti-corruption, environmental matters, public service, budget transparency, and legislative openness).⁹⁴ CSOs gained confidence about exerting influence in the second NAP,⁹⁵ and the third NAP enabled ordinary citizens to submit ideas for governance reforms (*Solusimu Ayo Berinovasi*, “Your solution! Let’s innovate!”).⁹⁶

Outcomes

Indonesia has 45 current OGP NAP commitments, in addition to 46 that have been reviewed.⁹⁷ Its fourth NAP sets out nearly as many commitments as the first three put together, suggesting some recognition of OGP as a means to carry out and brand reforms.

Indonesia’s reforms generally rank medium to high in terms of their specificity. They are also “moderately” impactful. Only one has been regarded as “transformative,” this being also the country’s only “starred” commitment, which pledged to formulate a plan and a tracking system for business investment licensing services in a number of provinces and cities. Indonesia’s completion rate is less encouraging. Of the 46 reviewed commitments, 24 were fully or substantially completed, 18 registered limited progress, two had not started and two were withdrawn.

The IRM’s *End of Term Report 2013-2015* said that the imaginative *Solusimu* initiative (encouraging reform ideas from the public and CSOs) influenced two commitments: improving the quality of openness in education services and improving public participation in development planning. Mujtaba Hamdi argues that despite some important progress, the limits of state capacity have proven a significant obstacle in Indonesia addressing citizens’ needs.⁹⁸

The IRM report on Indonesia for 2011-2013 (looking at the first NAP) pointed to two challenges relevant to many OGP countries: difficulty in resolving complex technical questions and defaulting to communication as an alternative for substantive action; and dealing with politically sensitive material. On the first challenge, the IRM says, “This strategy can reduce credibility among stakeholders on commitments where Indonesia did have real, significant, successful implementation, and can distract from the most effective next steps.”⁹⁹ On the second, progress was disappointing. The most serious example was commitment 11 (the OneMap Portal), where long-running political and economic issues related to forest resource management complicated the commitment. While Indonesia successfully created the tool for better practice *within* government, stakeholders called for it to improve accountability between government and *citizens*.

Looking Forward

For civil society, Indonesia’s experience with OGP was both worthwhile and flawed. It showed a commitment to civil society participation with a desire to retain ultimate government control, a vestige of the previous authoritarian culture, perhaps. Poor logistical management in this geographically complex state took its toll. Participation was at best a form of consultation, with elements of tokenism.

Indonesia’s Core Team brought government and civil society together but did not foster co-creation, focusing on logistical issues and raising awareness instead.¹⁰⁰ The Presidential Delivery Unit for Development Monitoring and Oversight (now disbanded) was the dominant force on the Core Team. One IRM researcher

⁹⁴ Email communication from Achmad Zulfikar, February 13, 2018.

⁹⁵ Al’Afghani MM, *op.cit.*, 2.

⁹⁶ Al’Afghani MM and P Widiyatmoko, *op.cit.*, 21.

⁹⁷ “Indonesia,” Open Government Partnership, accessed March 30, 2018, <https://www.opengovpartnership.org/countries/indonesia>.

⁹⁸ Email communication from Mujtaba Hamdi, February 5, 2018.

⁹⁹ Chitra RS, *op. cit.*, 51.

¹⁰⁰ Al’Afghani MM and P Widiyatmoko, *op. cit.*, 23.

recommended that a separate, multi-stakeholder consultation forum be formed, with provision to track NAP implementation.¹⁰¹

FINDINGS

The three case studies demonstrate the range of civil society experiences in engaging with the OGP, from relative success in Georgia and ambiguous benefits in Indonesia to a largely impotent attempt at engagement and influence in South Africa. A few factors emerge that enhance the prospects for civil society to participate in the OGP and other MSIs and have their voices heard.

MSIs like the OGP have ambitious agendas seldom matched by action. The OGP is described as a “platform” and an “accelerant.”¹⁰² While it can play a positive role in promoting governance reforms, it is unlikely to produce major changes, within a short period. Activities as meetings are often erroneously considered outcomes, and impact is difficult to attribute, especially among a myriad of similar processes.

A recent study of MSIs concluded that, “these initiatives facilitate new forms of collaboration and consensus building between government and civil society, and provide access to information that can empower national reformers... While it may be years before these MSIs can accurately assess their deeper impacts on the public sector, future progress is likely to depend on their capacity to overcome opposition by broadening and strengthening their national coalitions for reform.”¹⁰³

The OGP’s co-creation methodology gives civil society a role beyond participation to potentially drive governance reform. Georgia shows that this, rather than any given policy reform, may be the great dividend of MSIs. For all its shortcomings, the APRM has repeatedly been credited with opening spaces for dialogue and policy discussion, even on politically sensitive subjects.¹⁰⁴ A review of EITI in Côte d’Ivoire, Guinea, and Liberia found widespread agreement that one of the key benefits of the initiative was the dialogue, debate, and negotiation that could be directly attributed to it.¹⁰⁵ Civil society should appreciate the long and difficult road of changing governance culture – developing an ethic of inclusion and negotiation – as an incremental, hard to measure process.

CONTEXT MATTERS

Governments’ motivations for participation in MSIs, their willingness to cede and share authority are important. Whether or not governments intend accession to signal their democratic intent, or to discuss and adopt substantive improvements to governance, will influence the space afforded to civil society. Factors of geography, demography, and the physical and information infrastructure also have a role to play. A generally open environment for civil society will not necessarily translate into participatory or successfully conducted MSI processes.

South Africa, for example, has a vibrant civil society and advocacy culture. Its constitution mandates public consultation in legislation. Yet government showed little inclination to open up its OGP process. The APRM provides a useful comparison to examine contextual factors in MSIs. Unlike the OGP and EITI, there are no minimum standards to join the APRM – it aspires to universal (African) accession. Both open and authoritarian

¹⁰¹ *Ibid.*

¹⁰² Brockmyer B and J Fox, 2015, *op. cit.*, 34.

¹⁰³ *Ibid.*, 66.

¹⁰⁴ Gruzd S, “Ten Reasons to Keep Faith with Africa’s Peer Review Process,” Johannesburg: South African Institute of International Affairs, May 17, 2010, 4.

¹⁰⁵ Kluttz C, J Gbede, A Barry and T Nah, *Converting Natural Resources into Development: from Transparency to more Efficient Natural Resources Management*, Abuja: Open Society Initiative for West Africa, 2015.

societies have participated. Benin, a generally open society, gave CSOs the unprecedented opportunity to articulate governance issues.¹⁰⁶ In the more repressed environment of Ethiopia, by contrast, civil society had long found it difficult to operate (laws severely curtail the work of CSOs). An assessment characterized popular participation in Ethiopia's APRM process as "both belated and insufficient ... Civil society is still weak and it faces enormous ... blockages and constraints to engage in governance issues."¹⁰⁷ CSOs focus on "politically less sensitive issues (such as health) to the exclusion of governance and human rights. This narrow focus is a result of a lack of political space."¹⁰⁸

However, successes can emerge out of processes conducted in closed environments. Governments may see the value in using an MSI to promote or seek limited and controlled cooperation with civil society in pursuit of needed reforms. Observations of Rwanda's APRM process noted the timidity of civil society, and the lack of candor on sensitive political issues.¹⁰⁹ However, the Rwandan government did use the APRM as a platform for vastly improving its business environment, even if citizen participation was tokenistic.¹¹⁰

The role of civil society in a MSI therefore hinges on the extent to which strong institutions and proactive advocacy can open up a given process.

STRUCTURES

In the OGP, co-creation is the central aspiration. Properly implemented, this would enable civil society to exercise greater influence. How this is brought about depends on the institutional framework established. The OGP has developed its methodology and expectations over time, actively learning as it proceeds, fortifying the position of civil society within it.

To safeguard civic space, it produced a *Policy on Upholding the Values and Principles of OGP* in 2014. It allows concerned activists to appeal to the global OGP authorities where they felt concerned by the behavior of their own governments.¹¹¹ The 2016 *Strategic Refresh of the Open Government Partnership* again stressed the need for cooperation between the various stakeholders, the prime importance of civil society in the OGP's operations, and in the type of governance the OGP seeks to promote.¹¹² In 2017, the OGP's *Standard on co-creation* was published. Each has sought to enhance the effectiveness of reviews, to measure up in practice to what the OGP has envisaged. Other MSIs, particularly the APRM, could learn from the OGP's modern approaches, learning culture and community of practice.

At country level, the OGP needs an institutional "home" – a government entity that will set it in motion, manage its resource allocation, and assist with establishing the required structures. There is debate over which ministry is best, but there is a consensus on the need for proximity to decision-making (without being

¹⁰⁶ Badet G, *Benin and the African Peer Review Mechanism: Consolidating Democratic Achievements – A Critical Evaluation of the APRM Process in Benin*, Abuja: Africa Governance and Monitoring Project and the Open Society Initiative for West Africa, 2008, 22.

¹⁰⁷ Fisseha T and M Tadesse, *Ethiopia and the APRM: a Path to Nowhere? A Critical Assessment*, Johannesburg: Open Society Foundations, 2011, 16.

¹⁰⁸ *Ibid.*

¹⁰⁹ Jordaan, E. "Grist for the Sceptic's Mill: Rwanda and the African Peer Review Mechanism." *Journal of Contemporary African Studies* 25, no. 3 (2007): 331–53; Herbert R. and S. Gruzd, 2008, *op. cit.*, 215–241.

¹¹⁰ "Rwanda's Program of Action (PoA): Annual Implementation Progress Report – 2007," 2007, 55, accessed March 30, 2018, http://www.aprmtoolkit.saiia.org.za/en/component/docman/doc_view/85-atkt-rwanda-aprm-poa-implementation-2007-en.

¹¹¹ "Policy on Upholding the Values and Principles of OGP, as articulated in the Open Government Declaration," Open Government Partnership, September 2014, accessed March 30, 2018, <https://www.opengovpartnership.org/response-policy>.

¹¹² "Strategic refresh of the Open Government Partnership," Open Government Partnership, December 2016, accessed March 30, 2018, 1, http://www.opengovpartnership.org/sites/default/files/OGP_Strategic-Refresh_Dec2016.pdf.

'captured'). MSIs risk being seen as add-ons to the main thrust of policy: programs that contribute to the optics of governance rather providing substantive input to national priorities. The lead agency needs authority to convene other government departments and power to hold them accountable.¹¹³

The “forum” is the primary body for engagement in OGP at national level. How this is to be constituted is left to each participating country.¹¹⁴

The nature of the forum is a major differentiator between Georgia on the one hand and South Africa and Indonesia on the other. Open Government Georgia's Forum is a permanent institution, meant to bring different stakeholders together to oversee both the design and implementation of NAPs. To avoid domination by the government, it operates on a lean budget sourced from donors. Civil society groups apply in writing for membership, explaining the work they do and their motivation for seeking membership. The forum rules on new applications.¹¹⁵ The forum is chaired jointly by representatives of the government and civil society, for the full two-year NAP implementation period. The forum's rules require that information relating to its functioning (such as dates and minutes of meetings) must be published online. These rules promote a voice for civil society, co-leadership, and transparency.

In contrast, the equivalent institution in Indonesia has been dominated by the government and activated on an ad hoc basis. In South Africa, no equivalent mechanism exists at all, with the government taking full stewardship of the process. Neither of these arrangements have been conducive to co-creation. Sustained civil society involvement has been a challenge, and those selected for involvement are often ideologically aligned to the government. This may also reflect sheer convenience (dealing with a CSO umbrella body, for instance). Government efforts to involve civil society were confined to designing NAPs but faded during the implementation phase.

This is consonant with the experience of other MSIs. The EITI over its lifetime has progressively defined civil society's inclusion. A protocol on civil society participation was included in its 2016 Standard.¹¹⁶ This demands not just perfunctory or tokenistic involvement, nor merely formal inclusion in EITI structures, but the existence of a range of civic freedoms to civil society to participate in the initiative and to monitor the extractives industry. Where these are violated, countries can be rendered inactive – this was done to Azerbaijan, which responded by withdrawing from the EITI in March 2017.¹¹⁷

HOW CAN CIVIL SOCIETY RESPOND?

The political environment may not be inherently welcoming or easily accessible to civil society, so CSOs need to weigh the costs and benefits of their involvement in MSIs. The OGP mandates the inclusion of civil society. Yet, our case studies reveal shortcomings in practice. The inclusion of CSOs may involve “the usual suspects” – the professionalized, comparatively well-resourced groups from large cities – groups which enjoy access that others do not. Interested groups will need to agitate for their inclusion, especially those not initially invited to participate. In Georgia's OGP, civil society groups signaled their interest and proposed a forum to coordinate it. They were fortunate to find a receptive government.

Several APRM country processes have had comparable experiences. Where African CSOs have recognized the potential of the APRM for pressing their interests but felt excluded, organizing coalitions to demand

¹¹³ Email communication from Mukelani Dimba, February 5, 2018.

¹¹⁴ “Designing and managing an OGP multi-stakeholder forum: a practical guidebook with guidance and ideas,” Open Government Partnership, undated, accessed March 30, 2018, 6, <http://www.opengovpartnership.org/sites/default/files/Multistakeholder%20Forum%20Handbook.pdf>.

¹¹⁵ Email communication from Giorgi Kladiashvili, October 30, 2017.

¹¹⁶ *EITI Standard 2016*, Oslo: the EITI International Secretariat, 2016, 42-45.

¹¹⁷ “Azerbaijan Leaves Transparency Group after Membership Suspended.” Reuters, March 11, 2018.

<https://www.reuters.com/article/us-azerbaijan-eiti/azerbaijan-leaves-transparency-group-after-membership-suspended-idUSKBN161007>.

inclusion has been an effective strategy as happened in South Africa.¹¹⁸ Ad hoc coalitions in various countries (Tanzania, Uganda, and Zambia) have produced written submissions for their national processes, and the All Africa Conference of Churches has encouraged its affiliated members to participate in country reviews.¹¹⁹

Effective participation requires resources – finances and staff. CSOs will need to factor this into their strategies and fundraising efforts. Attending meetings incurs direct and opportunity costs, as does producing substantive proposals (for example through Indonesia's *Solusimu* initiative, or by making a written submission to an APRM review).

It is important to see MSIs as platforms for long-term activism – shifting the governance mindset and driving societies' political cultures further up the Arnstein ladder. Albert Van Zyl of the Open Budget Partnership, which has worked with the OGP on fiscal transparency remarks, "CSOs should think about OGP on a long timeline, not a quick win, requiring the building of deep relationships and so on."¹²⁰

CONCLUSION

MSIs are valuable tools for civil society. If well-designed and well-implemented, they can offer activists a near-unprecedented opportunity to enter policy design and reform processes.

The three case studies each looked at the procedural elements for civil society participation in the OGP, the reported outcomes of these national endeavors, and future challenges and opportunities for CSOs. They have shown different degrees of meaningful civil society participation, which has been deeper and more substantive in Georgia, having learned from its early mistakes, more mixed and ad hoc in Indonesia, and South Africa's OGP process has only involved CSOs in a peripheral, tokenistic manner. It has proved disappointing as an OGP champion and the process has lost traction domestically.

What is clear is that governments have more resources and power in these processes and set the agenda. This is perhaps natural because, after all, governments need to govern. Civil society therefore needs to understand how the OGP works, the opportunities for influence it presents them, and fight for their space in these processes. The needs for a permanent OGP "forum" cannot be overstressed.

Context matters. CSOs need to adapt to local conditions, cultural, political, geographic, and demographic. Civil society groups need to have solid planning, signal interest, form coalitions, and adopt long-term perspectives. Changing to a culture of open government is incremental and takes time.

It is important to understand that MSIs are a tool for working towards the higher goal of better governance. The challenge is not only to make the MSI work effectively towards its own stated objectives, but to see these catalyze changes and meaningful reforms throughout society.

¹¹⁸ Herbert R. and S. Gruzd, 2008, *op.cit.*, 260.

¹¹⁹ All African Conference of Churches, *Introducing the African Peer Review Mechanism to the church and civil society*, Nairobi; All African Conference of Churches, 2006.

¹²⁰ Email communication from Albert Van Zyl, October 23, 2017.

RECOMMENDATIONS

The conclusions of the analysis of these case studies suggest the following recommendations for Civil Society Organizations, OGP partners, and donors.

CIVIL SOCIETY ORGANIZATIONS

1. CSOs should plan their MSI involvement, weighing costs and benefits. They need to know the rules and find where they can make the most strategic impact.
2. CSOs should signal interest early in the process before official structures and systems are set in stone.
3. CSOs should recognize the importance of coalitions. Working together can share burdens, amplify inputs and give civil society a stronger voice.
4. CSOs should approach participation with a long-term perspective in mind. Cultivating a new governance mindset and culture will take time.

GOVERNMENTS—OGP PARTNERS

5. Governments should strengthen civil society's involvement to lend legitimacy to the MSI process and create an enabling environment for civil society to participate and contribute.
6. Governments must accept the principle of genuine partnership in MSIs, overcoming mutual ideological discomfort or distrust with one another. This means approaching dialogue, with both domestic and international stakeholders, with an open mind and accepting that this implies the possibility of criticism or serious revisions to the government's plans.
7. Governments must create and support appropriate leadership and management structures. It may need to fund these institutions and demonstrate high-level political will for their effective functioning. People come and go from their jobs; institutions should endure.

DONORS

8. Donors could fund CSOs to participate more meaningfully. Some funds for MSIs can be earmarked for civil society groups, especially those outside big cities.
9. Donors should align support with MSIs activities, especially in resource-constrained environments. This would be a concrete expression of support for co-creation and participatory governance.
10. Donors could help defend civic space. MSIs create a unique space in which domestic and foreign actors can legitimately work together to oppose moves to restrict political environments.

U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523
Tel: (202) 712-0000
www.usaid.gov