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# **FROM PLANS TO ACTIONS:**

HOW CSOs SUPPORT THE  
OGP PROCESS IN KENYA

By Jessica Musila





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# Acknowledgements

Firstly, I am deeply indebted to the Local Development Research Institute (LDRI) co-founders Muchiri Nyaggah, Leonida Mutuku and Steve Nyumba who opened their organisation's doors to me, supported fundraising for this research idea and provided me a home to write from. Secondly, my deepest appreciation goes to Luminate who supported this research and gave me intellectual freedom to write about Kenya's civil society OGP experience. Thirdly, I thank all civil society partners who shared their views with me as I undertook this project. Fourthly, I would like to extend my sincere thanks to the County Government of Elgeyo Marakwet which gave me extensive interviews about their subnational OGP experience and thereafter partnered with us at LDRI for a workshop on co-creation and resilience. Last but not least, the compiling and writing of this research would not have been possible without the support of Natalie Obago, my Research Assistant at the LDRI. She was diligent and feisty in research, writing and editing, keeping me in check to meet our set deadlines and milestones. Any errors in this report are mine.

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# Foreword

We at the Local Development Research Institute (LDRI) are happy to have been one of Kenya's civil society representatives on the National OGP Steering Committee overseeing the actualization of the 3rd action plan. Though as an organisation we are relatively young, I am honoured as both a technologist, data for development advocate and civil society practitioner to witness the growth the Kenyan OGP process has gone through from its start in 2011.

The OGP platform has catalysed partnerships between civil society and government reformers to find, learn and support each other to advance transparency, citizen engagement, anti-corruption and the adoption of new technologies to deliver on better governance. With support from Luminate and in partnership with Jessica Musila, a fellow civil society practitioner, it's our pleasure to unveil the findings of the research on how various CSOs joined the process, organized and worked to align commitments with existing frameworks.

While Kenya's civil society will bring the aforementioned lessons to the co-creation of the 4th action plan, a lot needs to be done to ensure the government can find and implement its own lessons in order to enrich this journey as well. Looking back on public sector engagement on OGP, with few exceptions, it can seem to be an individual commitment rather than an institutionally mandated affair. This has created challenges for resiliency especially across political transitions. Creating opportunities for government implementers to sensitize their leadership and convene their peers to contribute to the co-creation and implementation of the commitments could help transition the efforts from individual to institutionally led. This may be how we begin to see a whole-of-government approach to OGP in Kenya.

The county government of Elgeyo Marakwet provides a good benchmark the national and other county governments can work towards. The Governor, H.E. Alex Tolgos is visible and present in the county's open government initiative with senior ministry officials leading on the implementation of the commitments. Not only are lead implementing institutions represented by senior officials, those ministries whose mandates are cross-cutting have a visible presence as well, bringing their domain expertise around youth engagement, women's rights and innovation to the co-creation and implementation of the plan. Elgeyo Marakwet has demonstrated over the last four years what a whole-of-government approach to OGP could look like.

While we work together in civil society to organize ourselves and contribute to the substance of the next plan and its implementation, my hope is that government will do the same across ministries, departments and agencies to ensure smart commitments are made, actions are implemented, results are delivered and true leadership in open government is demonstrated for other countries to learn from.

**Muchiri Nyaggah**

**Executive Director**

**Local Development Research Institute (LDRI)**

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# Preface

A random search for government data to strengthen - mzalendo.com - a technology based governance project I was helping revitalize connected me to the Kenya Open Data Initiative in 2011 and consequently the Open Government Partnership (OGP) space. Little did I realize that what had started as a happenstance was a turning point in my career that would see me delve into the world of evidence-informed policymaking for 8 years leveraging on data and technology.

The OGP space brought together unlikely reformers, government officials - both political and career civil servants-, techies, data enthusiasts and civil society. We were in uncharted waters redefining relationships with one another and figuring out how to collaborate to build a better Kenya that serves all. Our hardest times came with political transitions following the 2013 and 2017 General Elections. However, all was not lost as Kenya's civil society helped OGP navigate the rough terrain adeptly.

As Elizabeth Edwards once stated "Resilience is accepting your new reality, even if it's less good than the one you had before. You can fight it, you can do nothing but scream about what you've lost, or you can accept that and try to put together something that's good." This quote aptly describes Kenya's civil society's engagement in OGP. It has been a pleasure to work alongside them as we supported reformers within government to keep the initiative alive. Together with the team at LDRI, we unveil this story over the next few chapters with a view to strengthen the resilience of OGP in Kenya.

In the end, I am happy to report that my happenstance entanglement with OGP has been worthwhile as the initiative has birthed transformative achievements for the country and helped to redefine the relationship between government and civil society.

I look forward to hearing from you your initial thoughts.

Happy reading.

**Jessica Musila**

**Open Governance Fellow**

**LDRI**

# Table of Contents

Executive Summary	1
Introduction	3
Kenyan Civil Society Sustains OGP	4
Research Justification, Methodology and Objectives	4
Context	6
Leveraging on the Right to Information (RTI) for Influence on Accountability	6
Keeping conversations with the Government alive despite challenges	6
How Kenyan Civil Society is organised & its limitations on their OGP participation	8
Civil Society Involvement in the OGP	9
Multi-Stakeholder Forum (MSF)	10
How do CSOs get involved in OGP?	11
Drivers of Civil Society Involvement in OGP	11
Gaps Noted in OGP Civil Society Engagement	12
Civil Society Influence on the Action Plans	13
Case Study: Elgeyo Marakwet Co-creation with a Whole-of-Government Approach	15
Civil Society Influence during Implementation	17
Gaps during implementation	17
Recommendations for Resilience	19
For the Government:	19
For Civil Society:	21
For both the government and civil society:	21
Bibliography	22
Appendix I: Kenya's OGP Milestones (2011 - 2020)	24
Appendix II: Networks	25
Appendix III: Civil Society organizations that have engaged in OGP	26
Appendix IV: OGP CSO Champions	27
Appendix V: OGP Government Champions	28
Appendix VI: Government Institutions that have engaged in OGP	29

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# Executive Summary

Since its global launch in 2011, Open Government Partnership (OGP) has provided an atypical opportunity for both government and civil society actors to meaningfully engage on country-specific issues. While the initiative envisioned equal participation from these two groups of stakeholders, the Kenyan civil society has stepped up to steer the OGP process in times of political headwinds linked to General Elections and related transitions.

Although initially civil society engagement on the platform was tenuous and fragile, this has improved over time alongside their contribution to the process. This study narrates Kenya's OGP journey from a CSO perspective; spotlights challenges facing both CSOs and government and makes recommendations to strengthen the process in Kenya.

From 1990, civil society has been part and parcel of Kenya's reform journey which culminated in the promulgation of the Constitution of Kenya 2010. Nevertheless, the process was punctuated by squabbles over the weak attempts by the government to check corruption, unwillingness to address historical injustices and the handling of the cases at the International Criminal Court (ICC) linked to the 2007/8 Post Election Violence (PEV).

Consequently, civil society engagement on OGP offered the sector an opportunity to proactively engage government on policy issues and thereby rebuild trust. Further, civil society leveraged the Right to Information for influence on Accountability as the government had showcased its willingness to share previously inaccessible data. Nonetheless, the fragmentation of civil society into many networks that are hardly co-ordinated has kept the number of civil society organisations (CSOs) engaging on the platform low.

Awareness about OGP remains low both within Government and civil society. At the national level, whole-of-government-buy-in has not been attained however good examples of what is possible exist at county level. CSOs engaging on the platform have been largely those that: are partners of the OGP global secretariat; and local groups whose programmatic focuses are aligned. Other organisations participate to keep momentum on Kenya's reform journey on issues related to transparency and accountability. Government officials and institutions engaging on OGP see the platform as an opportunity to gain international, regional and local social capital as drivers of transformative change.

A shared drawback faced by both government and civil society engaged in OGP is lack of funding for co-creation and implementation of identified solutions. On several occasions, commitments made on the platform were not aligned to the budget cycle. Small local CSOs have struggled to fundraise for their work especially when the prevailing rhetoric about the sector was negative. On the other hand, donors funding OGP work at the global level did not support the local process even when they had local partnerships with the government.

During the commitment co-creation, CSOs shared their expertise and best practices from the sector. They also ensured solutions targeting special interest groups were mainstreamed across the action plans.

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In the implementation phase: CSOs used the opportunity to sensitize more government and CSO actors interested in various issues about OGP. The joint leadership of clusters and the partnership in reporting contributed to better synergy and trust building between government and CSOs.

For greater ownership of OGP within the Government, this research recommends awareness building to the various Ministries, Departments and Agencies; alignment of the process with the budget cycle for better financing; mainstreaming open governance to the access to information training offered at the Kenya School of Government (KSG) and the creation of National and County OGP Forum to share learnings. On the other hand, CSOs can: institutionalize their OGP engagement from individuals to institutional; create consortiums to fundraise together and establish partnerships between national CSOs and county based organisations engaging on OGP for capacity building and sharing of learnings.



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# Introduction

The Open Government Partnership (OGP) is a multilateral platform launched in 2011 as a space for reformers to develop and implement transformative governance initiatives to make their governments more open, accountable, and responsive to citizens. In each member country, the OGP commitments are drafted and implemented through a collaborative process involving reformers from both government and civil society. Right from the start, the platform has organised around issues such as access to information; legislative openness; open data; fiscal openness; and leveraged on technology and innovation.

Kenya was among the earliest countries from Sub-Saharan Africa to join the platform and has over the last 10 years been celebrated as a country of many firsts.

For instance, by launching the Kenya Open Data Initiative (KODI) in July 2011, Kenya became the first Sub-Saharan and second African country to launch such an initiative. KODI aimed to make government-held datasets freely accessible to members of the public.

In 2013, Kenya hosted the first OGP Regional Summit for Africa in Mombasa. During this summit, the need for a collaboration between New Partnership for Africa's Development/African Peer Review Mechanism (NEPAD/APRM) and OGP Secretariat was mooted given that they had similar objectives. This collaboration was formalized by a Memorandum of Understanding, brokered by Kenya during the OGP Ottawa Summit in May 2019.

Moreover, at the county level, in 2016, Kenya's Elgeyo-Marakwet became one of the 15 pioneer subnational governments to join the OGP Subnational Government Pilot Program. Two years later, the county hosted the first African OGP Convention which saw three other local governments from Nigeria, Tanzania and Ghana meet in the county for a peer-learning workshop.

Additionally, Nandi, Makueni and Nairobi Counties are among those recently selected for the 2021 OGP Subnational Program. These three Kenyan counties will collaborate with their civil society partners to implement their agreed OGP action plans.

Like any growing child, OGP has evolved over the years in its structure, funding and operations. This evolution has informed the development of the platform in member countries as they continue to write their commitments around issues specific to their context and needs. Over the time, Kenya's involvement on OGP developed in a similar way with differing levels of ownership and emphasis among the stakeholders. For more on Kenya's achievements under OGP see Appendix I.

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KODI was supported by the Kenya Transparency and Communications and Infrastructure Project (KTICIP) funded by the World Bank.

Leonida Mutuku and Christine Mahihu, 'Open Data In Developing Countries: Understanding the Impacts of Kenya Open Data Applications and Services.' (2014) <<http://webfoundation.org/docs/2017/09/Kenya-ODDC-Report-iHub.pdf>> accessed 23 October 2020.

Timothy Kiprono, 'Why Citizen Ownership Matters – Elgeyo Marakwet County' (Open Government Partnership, 2020)

<<https://www.opengovpartnership.org/stories/why-citizen-ownership-matters-elgeyo-marakwet-county/>> accessed 23 October 2020.

Vincent Bartoo, 'Kenya's Elgeyo Marakwet County Hosts Africa OGP Convention.' (Open Government Partnership, 2018)

<<https://www.opengovpartnership.org/stories/kenyas-elgeyo-marakwet-county-hosts-africa-ogp-convention/>> accessed 23 October 2020.

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## ***Kenyan Civil Society Sustains OGP***

Unlike other multilateral platforms, OGP is uniquely organised as a platform that catalyses and strengthens government and civil society collaboration through a locally organised multi stakeholder mechanism that oversees the development and implementation of the agreed priorities. Countries that voluntarily sign on to OGP commit to protect civic space and provide an enabling environment for civil society to operate. In Kenya, this rationale has been quite useful when the government and civil society relationship has been strained or adversarial and as an organising mechanism in times of political upheavals. Historically, Kenya's Civil Society Organisations have been pivotal to governance reforms in the country, more so since 1990 in the clamour for multi-party politics and the push for a new constitution.

Civil society members involved on the OGP platform either as individuals or in institutions have been crucial to the success of OGP in Kenya. During tumultuous and uncertain times in the country -such as during the election years and the years preceding them- civil society has borne the burden, at times in its entirety, of keeping the OGP process alive. The election period in Kenya is characterized by a lull in government activities. Due to this reduced engagement on the part of the government -including technocrats not vying for electoral seats- the implementation of OGP commitments is often slow or to some extent non-existent. For example, many a time, government officials required to sign off on OGP-related activities are not available during this period. As a result of this, coordination at both national and subnational level is often difficult and some nonprofits like the Centre for Innovations in Open Governance (CIOG) returned donor money because they failed to complete projects within the set timelines. Ideally, the government should continue performing its functions notwithstanding the political headwinds of the day, however, in the absence of this, civil society becomes the anchor of the OGP process in Kenya.

## ***Research Justification, Methodology and Objectives***

Even though civil society involvement is key to the success of the OGP globally, literature review of articles and publications revealed not much has been written about CSOs engagement and contribution to the process. The Open Institute Kenya wrote a seminal piece focused on the shape CSOs collaboration with the government has taken during the co-creation and implementation processes with a bid to establish best practices. The piece focused on the experience of countries from the EU, Eastern Europe, Asia and Africa. A key finding of the research was that CSOs relationships with governments remain tenuous and fragile and this limits their contribution to the process. This was the case with Kenyan civil society engagement during the National Action Plan (NAP) I.

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Phoebe Jeruto, 'Nandi County Joins the Elite Group of Open Government Partnership (OGP) 2021' (County Government of Nandi, 2020)

<<https://nandicounty.go.ke/news/nandi-county-joins-the-elite-group-of-open-government-partnership-ogp-2021/>> accessed 23 October 2020.

'Join OGP Local 2020 (Concluded) - Open Government Partnership' (Open Government Partnership, 2020)

<<https://www.opengovpartnership.org/documents/join-ogp-local-call-for-expressions-of-interest-may-2020/>> accessed 19 November 2020.

Interview with Al Kags, 9 October 2020, Executive Director Open Institute, Nairobi County.

Interview with Timothy Kiprono, 24 September 2020, Executive Director, Open Governance Institute, Uasin Gishu County.

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Nonetheless, Kenya's CSO engagement in OGP took a dramatic shift in the lead up to the co-creation of NAP II and its current strength is largely credited to a strong and proactive civil society. This qualitative research presents the journey of Kenyan CSOs engaging on the OGP Platform with a view to understand their contribution to its success. The research takes an Outcome Mapping approach to assess Kenya's civil society's influence on the OGP co-creation and implementation given the prevailing context and its impact on relationship with government institutions and the resulting action. The information was gathered from civil society representatives via a survey and targeted interviews with key informants including government officials participating in OGP.

The research captures how Kenyan civil society navigated the difficult moments, the resources they leveraged, lessons learned, and how the information can guide the resilience of actors in OGP facing similar challenges. The Local Development Research Institute (LDRI) commissioned this research as part of the implementation of Commitment 6 under Kenya's NAP III geared at building resilience of Kenya's OGP to withstand political shocks and change of administrations.

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Al Kags, 'Players or Spectators? Observations On CSO Participation In The Open Government Partnership' (Open Institute & OpenTheGovernment.org, 2014)

<<https://openinstitute.com/players-and-spectators/>> accessed 23 November 2020.

'Are You New to Outcome Mapping?' (Outcomemapping.ca) <<https://www.outcomemapping.ca/resource/start-here>> accessed 23 November 2020.



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## Context

Kenya has been on a reform journey since the advent of multiparty politics in 1990. In 2008, the country launched Vision 2030, its long-term blueprint for development which contained Kenyans aspirations for a better society.

Two years later, Kenya passed the 2010 Constitution. The promulgation of this Constitution has been pivotal in this reform journey because of its human-rights approach. When read as a whole the Constitution -among other functions- not only amplifies the aspirations of the Kenyan people but also holds various arms of government accountable. Notably, the aspirations of the Kenyan people as seen in the national values and principles under Article 10 of the Constitution align with the OGP values. Like the OGP values, these national values bind all state actors to -among other things- promote democracy, public participation, social justice, sustainable development, inclusiveness, equality, non-discrimination, protection of the marginalised, good governance, integrity, transparency and accountability.

After the promulgation of the Constitution, the government was more amenable to promoting rights that they would have previously been reluctant to enforce. One of these rights is the right to information under article 35, which was put to the test by the roll-out of KODI under NAP I. The government became more willing to give citizens access to the information they held. By leveraging on this constitutional right, Kenyans could demand for various data sets which allowed them to make informed decisions. However, despite this increased willingness to make information available, there were still challenges because of the deeply rooted culture of secrecy within government.

### ***Leveraging on the Right to Information (RTI) for Influence on Accountability***

The guarantee of this right under the Constitution presented a window for civil society actors to agitate for the government to enact an Access to Information Law (ATI Law) as part of its National Action Plan II commitments. Since 1996, Kenyan civil society had pushed for this law and the lack of it hindered the realization of other vital rights and principles such as media freedom, social justice, transparency and accountability especially anti-corruption. The push for this law was spearheaded by Article 19 Eastern Africa (Article 19), and International Commission of Jurists Kenya (ICJ Kenya). Article 19 provided the model law and ICJ Kenya leveraged on their relationship with Hon. Priscilla Nyokabi - Nyeri County Woman Member of Parliament (2013 - 2017)- to have her sponsor the ATI Bill as a private member's bill. The Access to Information Act was finally passed in 2016. The enactment of this law was one of Kenya's greatest achievements under NAP II.

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## *Keeping conversations with the Government alive despite challenges*

At the beginning of the Kibaki regime, the relationship between the government and CSOs was cordial. This is because President Mwai Kibaki came into power after many years in opposition where he cooperated with civil society to push for change. His government co-opted many civil society leading figures into government. This camaraderie took a turn for the worse with the unveiling of the Anglo-Leasing Corruption Scandal in 2004. Despite this change in the broader relationship, President Kibaki did not attempt to constrain civic space. The government's response to CSOs during this regime was harmless as it was mostly government officials hurling insults at civil society during their public speeches. In fact a lot of civil society organisations enjoyed a good rapport with the government and subsequently offered their technical support. For example, civil society organizations such as Africa Centre for Open Governance (AfriCOG), Ushahidi and Transparency International Kenya (TI Kenya) helped in establishing the KODI. The civil society sector could withstand the Kibaki regime. Interestingly, before leaving office, President Mwai Kibaki passed the Public Benefit Organizations Act, 2013 (PBO Act) which sought to allow civil society to self-regulate.

However, after the 2007-2008 Post Election Violence (PEV) in Kenya and the 2013 elections, the relationship became acrimonious as civil society was seen to be supporting the International Criminal Court's (ICC) investigations in Kenya. This relationship was further aggravated by civil society's role in ensuring that the newly promulgated Constitution was not weakened as was the case with the previous constitution of Kenya. As civil society continued to play this watchdog role, the government of the day - the Jubilee administration began to restrict the civil society space through several obstacles including transferring the coordination role from the Cabinet Secretary of Devolution and Planning to the Cabinet Secretary of Interior, a move that was perceived as intimidation. Secondly, they attempted to legally interfere with CSO funding. Thirdly, the government appointed an unqualified CEO to the NGO Coordination Board.

The 2013 PBO Act did not have a commencement date and as such has not been operationalized to date. On 30th October 2013, the Attorney-General published the Statute Law (Miscellaneous Amendments) Bill, 2013 which attempted to amend the PBO Act by restricting PBOs from receiving more than fifteen percent of their total funding from external donors. This contributed to further straining the relationship between CSOs and the administration. In the courts, two High Court judges made orders against the 2016 Cabinet Secretary for Devolution and Planning and the 2017 Cabinet Secretary of Interior to operationalize the Act. After the ruling in 2016, the Cabinet Secretary for Devolution and Planning gave notice of the commencement of the Act, however, there were no further developments to effectively operationalize the Act. In 2017 when members of civil society instituted legal proceedings, the respondents including the then Cabinet Secretary of Interior delayed the proceedings. The above attempts by the Jubilee administration to undermine civil society demonstrated a lack of goodwill to create an enabling environment for civil society.

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Interview with Steph Muchai, 10 October 2020, Hivos Country Engagement Developer for Kenya and Tanzania, Nairobi County.

In October 2013, the Attorney General submitted the Miscellaneous Amendment Bill to the National Assembly, which was adopted by Parliament in November. The bill included 13 amendments to the PBO Act, among them was one that sought to cap the amount of funds Kenyan NGOs can receive from foreign sources to 15% of their budget.

<https://www.devex.com/news/legal-limbo-leaves-kenya-civil-society-vulnerable-to-targeting-91059>

'KHRC - Open Letter on Amendments to the PBO Act' (Khrc.or.ke, 2013) <<https://www.khrc.or.ke/2015-03-04-10-37-01/press-releases/397-open-letter-on-amendments-to-the-pbo-act.html>> accessed 27 October 2020.

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## *How Kenyan Civil Society is organised & its limitations on their OGP participation*

Schisms emerged within civil society after the grand corruption allegations in 2004, the 2005 Referendum -which saw the faith-based and secular civil societies take different sides- and the 2007 - 2008 PEV, and the subsequent ICC cases. Further, within the secular civil society space new networks formed organised around interests in specific issues and sectors like human rights, election oversight, parliamentary engagement, tax justice, education, water, agriculture, oil and gas management, children, youth and women. See Appendix II for a list of networks surfaced in this research. These networks rarely interact even though their interests often overlap and this has meant that organisations have to be members of several networks.

During the implementation of NAP I, new civil society organizations -such as Ushahidi, InfoNET Africa, Open Institute and Mzalendo Trust - which focused on transparency, accountability and leveraged on data came to the fore to engage on OGP. With change of government following the 2013 General Election, a number of CSOs which had initially engaged with the Kibaki administration on the OGP platform ceased to do so as they were of the opinion they could not trust the Jubilee government to bring meaningful change in governance.

CSOs from various networks were invited and attended the first co-creation meeting for NAP II, however, a number of them did not take part in subsequent discussions because issues of interest to them did not make it to Kenya's list of OGP commitments. Several did not trust the government of the day too. Many have argued that this could be the major reason why very few CSOs engage on the OGP platform. Nonetheless, since NAP II the number of CSOs on the OGP platform substantially increased. The forum has attracted civil society organizations focused on access to information, legislative openness, budget transparency, transparency in public procurement, anti-corruption, natural resource management, development of technology and innovation tools, enhancing public participation and citizen engagement and promoting inclusion of vulnerable groups.

Despite these initial strides by the government, the OGP process faced headwinds as general elections were held; political transitions followed and the operationalization of the Constitution was at its peak. There was a change of guard at the Ministry of ICT and the ICT Authority-which hosted the process during NAP I- and a general poor handover of the process within government. Consequently, there was poor government buy-in by the new administration; further, a delay in finding a new appropriate Ministerial home for the process and thus the writing of NAP II was delayed. Nevertheless, civil society remained fully engaged and aligned with the OGP Global Secretariat and in international and regional conversations.

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<sup>1</sup>'KENYA: Last Warning From the Court to Implement the PBO Act 2013 Within 30 Days' (icj-kenya.org, 2017)

<<https://icj-kenya.org/news/latest-news/102-kenya-last-warning-from-the-court-to-implement-the-pbo-act-2013-within-30-days>> accessed 27 October 2020.

ibid.



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# Civil Society Involvement in the OGP

## *Multi-Stakeholder Forum (MSF)*

Ideally, the Multi-Stakeholder Forum (MSF) , provides a unique opportunity for various actors to engage on matters OGP. Here in Kenya, the MSF is commonly referred to as the Open Government Steering Committee. Under the OGP 2019 Handbook, the OGP Government Point of Contact (POC) oversees the development and management of the MSF. In each country the structure of the MSF reflects the local realities and priorities.

The co-creation of NAP I was done by a loose group of reformers drawn from both government and civil society. This particular group was never formalized. For the creation of the NAP II and III, the MSF was created at the end of the co-creation process. It had representation from both government and civil society leading on the implementation of various commitments. While a few private sector actors were co-opted into the MSF, they were not active.

In Kenya, civil society has been a key part of the MSF during co-creation and implementation of NAP II and NAP III. The civil society organizations involved in NAP II Steering Committee included: Article 19, TI Kenya and ICJ Kenya. In NAP III, representatives of the following civil society organizations were part of the national Steering Committee: Mzalendo Trust, KICTANet, Article 19 Eastern Africa, Hivos and LDRI. For list of CSOs that have engaged on OGP during co-creation and implementation see Appendix III.

Until 2018, there was lack of specific funding for the formation of the MSF, its convenings and the co-creation process. From mid-2013 to the end of 2017, international civil society organisations with local chapters in Kenya facilitated most of the OGP convenings by leveraging their own programmatic funding. Small CSOs struggled to raise funding due to the negative prevailing government rhetoric regarding civil society funding. Additionally, the government did not have financing for the co-creation and implementation of the OGP commitments.

Ahead of the NAP III co-creation in 2018, the Kenya OGP Steering Committee benefited from the introduction of the World Bank backed Multi-Stakeholder Trust Fund (Trust Fund) introduced by the Global OGP Secretariat. Article 19 was awarded a grant from the Trust Fund to facilitate the co-creation process of NAP III. In the same year, at the county level, Kerio Centre received a similar grant to lead the co-creation process of Elgeyo Marakwet second Local Action Plan (LAP II).

***Ad Hoc Task Force on Open Government:*** i) Philip Thigo, InfoNet, ii) Maureen Kariuki, AfriCOG, iii) Al Kags, Kenya ICT Board, iv) Linet Kwamboka, ICT Board, v) Daudi Were, Ushahidi vi) Paul Kukubo, ICT Board vii) Samuel Kimeu, TI Kenya viii) Muchiri Nyaggah, Semacraft, ix) Kaburo Kobia, ICT Board x) Gladwell Otieno, AfriCOG xi) Mendi Njonjo, Hivos East Africa

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<sup>1</sup>'Designing and Managing an OGP Multi-Stakeholder Forum: A Practical Handbook with Guidance and Ideas'

<<https://www.opengovpartnership.org/wp-content/uploads/2016/09/Multistakeholder-Forum-Executive-Summary.pdf>> accessed 24 November 2020.

'OGP Handbook Rules + Guidance For Participants' (2019)

<[https://www.opengovpartnership.org/wp-content/uploads/2019/03/OGP\\_Handbook-Rules-Guidance-for-Participants\\_20190313.pdf](https://www.opengovpartnership.org/wp-content/uploads/2019/03/OGP_Handbook-Rules-Guidance-for-Participants_20190313.pdf)> accessed 23 November 2020.

ibid.

Kenya OGP Steering Committee, 'The Republic of Kenya Open Government Partnership National Action Plan III' (2018).

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**Steering Committee NAP II:** i) Hon. John Sakaja, MP National Assembly, ii) C. T. Muchiri, MBS, Ag. Director Administration, State Department of Planning and Statistics, iii) Amb. Eliphaz Barine, Director, Liaison & Parliamentary Affairs, Ministry of Foreign Affairs and International Trade, iv) Ms. Wanjiku Wakogi, Attorney General Chambers, v) Lynn Nyongesa, OGW, Deputy Director of ICT, Ministry of Mining, vi) Josephine Otieno, Kenya Private Sector Alliance (KEPSA), vii) Elijah Ambasa, Programme Manager, Transparency International, Kenya, viii) Sandra Musoga, Senior Programmes Officer, Access to Information, Article 19, Eastern Africa & Anne Nderi, Programme Manager, International Commission of Jurists, Kenya.

**Steering Committee NAP III:** i) Hon. Dr. William Samoei Ruto, Deputy President of Kenya, ii) Hon. Alex Tanui Tolgos, Governor, Elgeyo Marakwet County, iii) Hon. Kivutha Kibwana, Governor, Makueni County, iv) Hon. Wilbur Ottichilo, Governor, Vihiga County, v) Hon. Jessica Mbalu, MP Kibwezi East, National Assembly, vi) Dr. Fatuma Dullo, Isiolo Senator, Deputy Leader of Majority, vii) The Senate, Dr. Korir Singoei, Legal Advisor, Executive Office of the Deputy President, viii) Daniel Nyakundi Osiemo, OGW, Chief Executive Officer, NEPAD/APRM Kenya Secretariat, ix) Jessica Musila, Executive Director, Mzalendo Trust, x) Grace Githaiga, Co-Convener, KICTANet, xi) Henry Maina, Regional Director, Article 19 Eastern Africa, xii) Nemaisha Kiereini, Chief Executive Officer, Nairobi Chapter, Kenya National Chamber of Commerce and Industries (KNCCI), xiii) Mendi Njonjo, Regional Director, Hivos East Africa and Muchiri Nyaggah, Executive Director, Local Development Research Institute (LDRI)

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## ***How do CSOs get involved in OGP?***

OGP envisions that the POC in each country maps out the potential stakeholders including civil society and invites them to an awareness creation meeting. However, here in Kenya, our research reveals that civil societies get onto the platform in various other ways including:

- i. by being invited to the MSF e.g. Article 19*
- ii. through partnerships at the global OGP Secretariat level e.g. Hivos;*
- iii. by attending regional and global meetings e.g. CRECO;*
- iv. for the implementation of programmatic focuses e.g. Mzalendo Trust*
- v. during implementation of the action plans e.g. TISA;*
- vi. through sponsorship by their county government e.g. Mobilization Agency for Paralegal Communities in Africa (MAPACA)*

## ***Drivers of Civil Society Involvement in OGP***

***Implementation of the 2010 Constitution*** - The OGP platform allowed CSOs to push for the realization of the constitutional rights such as the right to information and the right to non-discrimination . Additionally, OGP helped to mainstream key constitutional principles such as public participation and the strengthening of the public finance sector . Notably, legal reforms premised on the Constitution were realized in the passing of consequential laws listed under the Fifth Schedule of the Constitution. Considering that OGP commitments should be realized in short timeframes, CSOs used the platform to push for the enactment of laws within the deadlines stipulated in the Fifth Schedule of the Constitution.

***Unique opportunity for CSOs to engage the government proactively*** - While it is not entirely uncommon for civil society and government to cooperate on governance matters, OGP provides an opening for this kind of collaboration in a predictable and structured way which in turn builds trust and greater credibility for both parties. The results of such collaborations tend to be more responsive and impactful in the society.

***Helping CSOs achieve programmatic goals*** - The initiative helps organizations respond to emerging issues relevant to their different thematic areas. In practice, civil society monitors emerging issues in a context and nudges the government to adopt an appropriate response. The initial organizations that got onto OGP, did so due to the personal interest of their executive directors or program officers. During co-creation, they gave ideas to strengthen the process. The institutionalization of the engagement internally came with the inclusion of the process within their strategic plans and commitment to implement relevant milestones.

***Social capital for government officials*** - Traditionally, Kenya has positioned itself as one of Africa's policy anchor countries, consequently Kenya was one of the first countries on the continent to join OGP in 2011. Kenya's commitments have set the standard for other countries in the continent on both co-creation and implementation of OGP commitments.

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The Constitution of Kenya, 2010 art 35.

Ibid, art 27.

Ibid, art 10 (2) a.

Ibid, ch 12



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Subsequently, both Kenyan leaders and government institutions have gained international and regional recognition. At subnational level, Elgeyo Marakwet remains a trendsetter on matters of local governance with both national and continental influence.

*Tool for realizing government plans* - Due to its stringent short timelines, OGP is a tool that provides countries with the possibility of accelerating priority interventions in their Medium Term Plans (MTP) for significant progress. Country development plans, such as MTP, are usually informed by local, international and regional laws. The annual budget processes are aligned with the MTP and their openness is thus crucial to impactful growth. Through OGP, civil society commentary on the MTP helps to add rigour to the government's decision-making process.

### ***Gaps Noted in OGP Civil Society Engagement***

*Lack of Awareness creation among CSOs:* Critics argue that few CSOs get on the process, like most countries involved in OGP, Kenya is no exception to this phenomenon. As demonstrated above, CSOs in Kenya coalesce around issues relevant to their work. However, there was no targeted outreach to create awareness among the various civil society networks in the country who have convergent goals.

*Funding shortfalls among CSOs:* Civil society organizations that have engaged on OGP were early adopters who realized OGP's relevance in achieving their programmatic goals but funding for the work remained a challenge. Historically, the OGP space was first occupied by individuals who later on brought their institutions, if at all, to the platform. It was the executive directors or program officers, undertaking OGP-related work, who individually sourced for funding from local and international donors to attend the OGP summits and meetings.

*Donor propensities:* Donors with country offices in Kenya funded the OGP Global Secretariat but did not support local civil society groups through their local offices. Some of these donors had direct relationships with the government but did not seem to prioritize OGP even when it fit into their broader goals. This was further aggravated by the fact that the government did not make explicit budgetary allocations for the process. This hindered awareness creation, implementation and coordination in Kenya.

*Missed opportunity to leverage on the budget cycle:* Considering that Kenya, as per OGP requirements, developed NAP II and NAP III by 30th June, a glaring opportunity was missed to align the process with its budget cycle which starts in July. This weakened the implementation process.

“If you want me to show you what is important to you, show me your budget. What is not financed is not important.” - Timothy Kiprono, Executive Director, Open Governance Institute

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Al Kags, 'Players or Spectators? Observations On CSO Participation In The Open Government Partnership' (Open Institute & OpenTheGovernment.org, 2014)

<<https://openinstitute.com/players-and-spectators/>> accessed 23 November 2020.

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# Civil Society Influence on the Action Plans

Under OGP, co-creation can be defined as an interactive process where key stakeholders contribute ideas informed by their expertise to design solutions that are responsive to the needs of citizens. Traditionally, civil society is not part of the government's planning process yet they take into consideration citizen-lived realities and prioritize public interest. The OGP is an avenue for their voices to be brought into the process to help shape responses to emerging transparency and accountability issues.

The co-creation process for NAP I was mainly guided by the ICT Board domiciled within the Ministry of ICT because they were already the custodians of the KODI. However, because of the short deadline for the turnaround of the first action plan the commitments were mainly centred on data and only the technical officers involved in the data docket across the government were engaged in the co-creation. AfriCOG was the main civil society organization involved in this co-creation process. To broaden the civil society engagement in the process, during implementation AfriCOG created a mailing list and invited civil society groups to sensitization forums co-hosted with the World Bank. Among those invited were emerging CSOs leveraging on data for example Ushahidi, Open Institute and Mzalendo Trust.

Whereas the civil society voice and influence on NAP I was muted, the civil society ownership of the process during NAP II and III cannot be gainsaid. During NAP II, as the process transitioned from the Ministry of ICT to the Office of the Deputy President (ODP), the number of civil society organizations engaging on the platform increased and their ideas informed the process. Most were drawn to the platform due to their **programmatic focus and a commitment to keeping Kenya's reform agenda -as encapsulated in the Constitution- alive.**

For these organizations, their work was aligned to the prospective commitments. Key to this was the push for the Access to Information law and implementation of commitments made during the London International Anti-Corruption Summit in 2016. **They also brought expertise and best practices from their sector to the co-creation negotiation table.** Additionally, **civil society ensured that some milestones under the various commitments were geared towards solutions targeting special interest groups.**

Unfortunately, several commitments highlighted in the second action plan did not gain any traction within the government despite being premised on the Constitution. This is because the relevant mandate-holders did not participate in co-creation and commitments were made without them. The few government agencies in the room neither connected their commitments to the national budget process for funding nor did they establish substantive collaborations with CSOs for resource mobilization.

“ *If you're not at the table, you're on the menu. - Michael Enzi  
(United States Senator)* ”

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There was no earmarked funding for co-creation during NAP II. Inevitably, **the ODP and the local offices of the International Non-Governmental Organizations (INGO) engaging in OGP facilitated co-creation meetings on the sidelines of their other similar events.** These INGOs included TI Kenya, Article 19, Hivos and ICJ Kenya. The State Law Office in NAP II and III consistently led in the realization of anti-corruption related reforms to the Companies Act and the creation of the Beneficial Ownership Register and its requisite guidelines.

The introduction of the Trust Fund was most welcome as Kenya embarked on the NAP III co-creation process. After getting the grant, Article 19 could then **easily convene co-creation meetings for both government and civil society.** Civil society ensured anti-corruption commitments not fully realised during the second action plan transitioned into NAP III. To address procurement loopholes rife in the public procurement sector, with support from Hivos, Public Procurement Regulatory Authority undertook the development of the Public Procurement Information Portal based on Open Contracting Data Standards (OCDS). The Makueni County Government established a similar platform to make the county government's procurement information more accessible.

The government's contributions were mainly informed by its Big 4 Agenda covering the following issues: food security and nutrition; affordable housing; manufacturing and universal health coverage. For example, the third commitment on open geo-spatial data for development was indirectly informed by this agenda. The Kenya Space Agency (KSA) closely worked with LDRI and the County Government of Vihiga to implement this commitment. The public sector performance commitment is heavily tied to the Country Peer Review Mechanism (CPRM), a spin-off of the continental Africa Peer Review Mechanism (APRM) that focuses on counties. The NEPAD/APRM Secretariat cooperated with LDRI for the CPRM sensitization in some of the counties.

Unlike the national level, **civil society engaging at the county level played a major role in sensitizing their local governments on the OGP process and its potential to address their challenges.** Interestingly, both International Budget Partnership (IBP) and Hivos respectively briefed Elgeyo Marakwet and Makueni County Governments.

Our field research visit to Elgeyo Marakwet revealed this county government had succeeded in obtaining a-whole-government-buy-in for OGP which had improved their overall government responsiveness, a feat that the National government had not achieved. Moreover, their OGP commitments were informed by citizens. The impact of Elgeyo Marakwet sub-national action plan had attracted several of their peers -Makueni and Nandi counties- to benchmark with them regarding their own action plans. LDRI and the government of Elgeyo Marakwet organised a co-creation benchmarking meeting for part of the national MSF ahead of NAP IV. The case study of the Elgeyo Marakwet co-creation experience follows.

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Githu Muigai, 'Kenya Country Statement at the London Anti-Corruption Summit' (London, 2016)  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522719/Kenya.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522719/Kenya.pdf)> accessed 19 November 2020.



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# Case Study: Elgeyo Marakwet Co-creation with a Whole-of-Government Approach

As Kenya's first county in the OGP process, Elgeyo Marakwet has made significant strides to institutionalize OGP by embracing a whole-of-government approach. This is not to say that all the county's efforts to promote transparency and good governance can only be attributed to their involvement in OGP. When Governor Alex Tolgos assumed office in 2013 as the first Governor of Elgeyo-Marakwet, he adopted an atypical style of governance uncommon to most government officials. He quickly created a Governor's round table with CSOs working in the county that meets quarterly. While this forum gives civil society a platform to air their concerns, it also allowed the Governor to enjoy a good working relationship with the CSOs. Hence, when the call for subnational governments to join OGP was posted, it was easy for one of the CSOs working in the area to endorse the county for the program.

Right from the start of its term of office 2013, the Elgeyo Marakwet county government adopted a citizen-led and citizen-centric approach to dealing with the issues in the county. For instance, in 2014, they formalized their public participation and citizen engagement activities by passing the Public Participation Act. The enactment of this Act was set off by the government who saw the glaring gaps in how they engaged with their citizens. While the enactment of this legislation led to an increase in the number of citizens engaging with the government it failed to achieve the desired diversity in terms of participation of special interest groups, such as youth, women and disabled. Discussions were also not representative as they were dominated by those with least distance to travel. To address this lack of representation in participatory processes, the county government in their first OGP Local Action Plan (LAP) I committed to and drafted Public Participation Guidelines.

Secondly, Elgeyo Marakwet was one of the first in Kenya to recognize the need for equal and equitable allocation of resources between the wards and therefore enacted their County Equitable Development Act, 2015 to enhance service delivery within the county. This realization and subsequent enactment of Act was triggered by a Member of the County Assembly who complained that there were no development projects in his area.

For Elgeyo Marakwet joining the OGP platform was a natural next step. They realized they were already practising some OGP values in their governance model and recognized that the OGP platform presented them with a unique opportunity to learn from other subnational governments working towards the openness agenda.

Our interviews with both CSO and government representatives quickly revealed that there is a good rapport between the OGP leadership in the county. Notably, Elgeyo Marakwet's co-creation and implementation model saw a local CSO, Kerio Centre, adjust its programs to support the county's OGP commitments. This not only benefitted the county government but also the local CSO, which leveraged the OGP platform to advance their agenda in the county.

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<sup>1</sup>The Presidency | The Presidency' (President.go.ke) <<https://www.president.go.ke/>> accessed 23 November 2020

Interview with John Maritim, 25 September 2020, OGP POC for Elgeyo Marakwet County, Elgeyo Marakwet County.

<sup>2</sup>'Citizen Participation in Local Governance (ELG0001)' (Open Government Partnership) <<https://www.opengovpartnership.org/members/elgeyo-marakwet-kenya/commitments/ELG0001/>> accessed 29 October 2020.

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*“The new concept of co-creation introduced to us by OGP has provided an avenue for synergy building between civil society and government. Indeed, we have become stronger together through OGP,” - Timothy Kiprono, Executive Director, Open Governance Institute.*

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**Citizen Ownership of LAP II:** While the co-creation process for Elgeyo Marakwet’s first action plan involved wide consultations between both government and civil society actors, there were minimal contributions by citizens. This in turn affected the implementation of the four commitments under the LAP I as the citizens had no knowledge of the commitments and in turn did not take up ownership of the same.

Recognizing this shortfall of the co-creation process, the stakeholders in Elgeyo Marakwet’s OGP leadership decided to adopt a more participative approach in the co-creation of their second action plan. The county government worked with the Center for Innovations in Open Governance (CIOG) Kenya and Reboot, USA to formulate and execute this participative approach which mainly included listening tours. These community listening tours presented an opportune platform for them to air their concerns on service delivery within the county. Much to the government’s surprise, the citizens had a lot to say on issues affecting them. Additionally, these listening tours allowed the government to identify where they had failed to deliver on their promises and gauge the public’s perception of their openness.

Additionally, the public had an opportunity to share their views on the county government’s official website and other interactive government online channels. This citizen engagement during the co-creation helped ensure that Elgeyo Marakwet’s second action plan was more citizen-centric and refined.

**Riding on the UN’s Sustainable Development Goals (SDGs):** Elgeyo Marakwet deliberately aligned all five of their commitments in LAP II to some of the UN’s SDGs. This was done to strengthen service delivery by simultaneously achieving the goals set under both international reform platforms.

For example, their public participation activities revolved around the County’s Annual Budgeting Process. Elgeyo Marakwet county government departments also jointly fundraised with civil society organisations to fund implementation of the various commitments especially those that could be covered by their budget.

<sup>1</sup>How Fair Is the Elgeyo Marakwet County Equitable Development Act? (Internationalbudget.org)  
 <<https://www.internationalbudget.org/wp-content/uploads/ibpkenya-equity-week-2016-issue-5-county-equitable-development-act.pdf>> accessed 29 October 2020.  
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 Timothy Kiprono, ‘Why Citizen Ownership Matters – Elgeyo Marakwet County’ (Open Government Partnership, 2020)  
 <<https://www.opengovpartnership.org/stories/why-citizen-ownership-matters-elgeyo-marakwet-county/>> accessed 4 November 2020.  
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 Elgeyo Marakwet County, ‘Open Government Partnership: Local Action Plan II (2018 - 2020)’ (2018) 3.

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# Civil Society Influence during Implementation

While civil society was not heavily involved in co-creating NAP I, several CSOs benefited from the data sets released through the KODI as they used them for their programmatic work. Some of the work done by Ushahidi and Open Institute's Code4Kenya Project was informed by these data sets and it raised their profile and brands to reputable organizations. At the time, Mzalendo Blog -which had substantial traction- in Kenya's online space used data sets from KODI to fire up their transition into a full-fledged website and later a registered CSO driving evidence-informed policy making in the country's parliamentary space.

The NAP II implementation process coincided with the general election period and as such the government's participation was heavily seen in 2016 but waned in 2017. Thus civil society kept the OGP conversation alive in the midst of government downshift.

For ease in execution of the third action plan, a technical committee was formed to oversee the process. This committee comprised technical officers from civil society and government agencies and was representative of the organizations in the steering committee.

Another characteristic of NAP III, is the creation of thematic clusters headed by the government and CSO representatives leading on the implementation of a particular commitment. These clusters were not only **an opportunity for execution of the action plan but also provided an conduit to sensitize both government and CSO actors interested on the issue regarding OGP.** Moreover, the **joint leadership of clusters and the partnership in reporting led to better synergy and trust-building.** Cluster leads **took initiative to reach out to counties that had demonstrated potential on their particular thematic issues.** For instance, Hivos co-opted the Makueni County Government into OGP on the open contracting commitment.

## *Gaps during implementation*

**Lack of government ownership:** Some of the glaring shortcomings of Kenya's co-creation process came to light during implementation, more so, the lack of across-the-board government buy-in. Key institutions identified as lead implementers for specific commitments had not been sensitized about OGP and did not know about their responsibilities in the action plans. On realizing this, civil society organizations tried to salvage the process by undertaking portions of the milestones they could support operationalization of. For example, Mzalendo Trust built Dokeza, a bill annotation platform where Kenyans especially those online could engage in the lawmaking process. This was in response to calls by the public for better access to bills and legislative proposals tabled in Parliament. Through Dokeza, Mzalendo managed to make bills simpler and more accessible accompanied blog posts and commentaries by experts.

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Open Government Partnership, 'Draft National Action Plan for the Republic of Kenya' (2012).

This project eventually transitioned into an independent institution. <https://codeforkenya.org/who-we-are/>

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Through Dokeza, Mzalendo was also able to educate the public of all the opportunities available for them to give their opinions to the legislative drafters, Member of parliament, Parliamentary Committees and even to the President.

***Sensitization of government institutions:*** There was a general assumption among civil society groups that OGP's ministerial home and POC were mandated to sensitize and coordinate any relevant government agencies. As such many CSOs co-leading clusters around various commitments left the onboarding of their government counterparts to the POC. Nonetheless, as CSOs implemented portions of the milestones, interactions with the relevant government agencies happened organically and this included sensitization about OGP especially to the technical officers. Therefore, while there was traction among some technical officers, there was a need to cultivate institutional buy-in at the top for allocation of both financial and technical resources.

***Lack of finances:*** A key hindrance to Kenya's implementation process was lack of finances for both the government and civil society to actualize the milestones in NAP II and III. It was easier for the stakeholders to complete mutually beneficial milestones that required political goodwill and technical capacity and not heavy financial input. This was the case for the Access to information law that was passed in 2016.

***CSO Fundraising Challenges:*** Furthermore, it was difficult for local civil society to fundraise due to the prevailing negative public rhetoric by the political class. For example, even locally based bilateral development partners only gave project-focused funding to CSOs. The Dokeza bill-annotation platform by Mzalendo Trust is an example of such a project.

***Poorly defined commitments:*** According to the Independent Reporting Mechanism (IRM) research, another challenge facing implementation is the lack of clearly defined steps under commitments which was further aggravated by the lack of measurable outcomes.

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<sup>1</sup>'About Dokeza' (Mzalendo Dokeza) <<https://dokeza.mzalendo.com/about/>> accessed 5 November 2020.

Carol Othim, Open Government Partnership, 'Independent Reporting Mechanism (IRM): Kenya Progress Report 2016-2018' 63.

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# Recommendations for Resilience

The creation of NAP I heavily rested on the implementation of technological innovation which was a key pillar of Kenya's Vision 2030 and 2010 Constitution. The government owned and steered the OGP process alongside implementing the Kenya Open Data Initiative, which was a local project already underway, because the two efforts rode on each other's strengths. Additionally, Kenya did not want to be left out of the OGP process which had gained global traction and provided the country with opportunities to spur greater technological advancements in public service.

Despite the headwinds the OGP process has faced, there is still opportunity to strengthen government and civil society engagement on the platform and mainstream OGP values in the governance ecosystem.

Recognizing these resilience concerns and challenges in Kenya's OGP journey, this research recommends:

## ***For the Government:***

***I. Awareness on the OGP process should precede co-creation:*** There is a need for an effective awareness creation mechanism within both national and county governments. Given that co-creation and implementation are concurrent processes, sensitization should target elected government officials and senior civil servants for mainstreaming.

***II. Using the MTPs to determine the relevant government stakeholders:*** The POC should surface government plans from the MTP that could ride on OGP values and principles for implementation. This will ensure that the relevant government stakeholders recognize the value of OGP to meet their key performance indicators (KPI). In turn, government officials will be more proactively involved in co-creation, implementation and reporting.

***III. Create synergy between the national and subnational OGP co-creation process.*** There is an opportunity for greater cooperation between the national and subnational OGP processes.

a) This qualitative research has surfaced that there are lessons to be learnt at the subnational OGP members that could strengthen the national process.

b) There is room to induct counties with a unique trait relevant to transparency and accountability into the initiative at the national level.

c) Recognizing that both the national and subnational OGP members have autonomous MSFs, there is an opening to create a National Open Government Forum to support learning and cross-pollination between the two levels.



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**IV. Leveraging on APRM for greater government buy-in.** APRM enjoys whole government buy-in linked to the Presidential commitment at continental level and has converging goals with OGP. OGP can leverage APRM's governmental relationships to convene relevant ministries, departments and agencies for sensitization and onboarding to the platform. On the other hand, OGP offers APRM greater sustained engagement with civil society and a stronger focus on technology and innovation to support service delivery and citizen engagement. OGP provides APRM with a mechanism to accelerate time-sensitive commitments through a two-year timeline

**V. Selection of the appropriate Ministerial home and positioning of the POC:** With presidential support, OGP needs to be housed in a government ministry that enjoys political goodwill across the board. To easily navigate the bureaucratic nature of government, the POC should be a civil servant who enjoys a cordial relationship with civil society. Additionally, this will help strengthen the role of the POC and gain greater ownership from the government even across political transitions.

**VI. Using NEPAD/APRM's County Peer Review Mechanism to sensitize counties on OGP.** There is an overlap between NEPAD/APRM and OGP objectives. Whereas NEPAD/APRM reporting timelines are long, OGP's are shorter and can be used to incrementally achieve the former's deliverables. Given that NEPAD/APRM Secretariat is introducing CPRM, and there has been great success of OGP in Elgeyo Marakwet, there is an opportunity for them to leverage each other's success in terms of strategy and peer learning. The CPRM provides an entry point and actualization of the global Memorandum of Understanding between OGP and APRM.

**VII. Introduction of an open governance course at Kenya School of Government (KSG):** A culture of open governance would be best introduced to government officials through their onboarding processes but also continuous training that happens through the KSG. Developing such a curriculum for the KSG will help promote the realization of proactive disclosure under the access to information right and deal a blow to the entrenched culture of secrecy.

**VIII. Partner with Chapter 15 Independent Commissions and Offices:** These public offices provide natural homes for the initiative as the OGP values and principles can be mainstreamed into their oversight mandate.

**IX. Strengthen national and county laws aligned with OGP:** e.g. laws dealing with public procurement, public participation, geospatial data management and access to information.

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The OGP values are access to information; civic participation; public accountability; and technology and innovation for openness and accountability.

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## ***For Civil Society:***

***I. Awareness creation and on boarding of CSOs:*** There remains an opportunity to create more awareness about OGP and on board all relevant civil society networks onto the platform. This research revealed that many civil society networks in the country have programmatic deliverables aligned with OGP values and principles and could benefit from the rigour of the process to achieve them.

***II. Institutionalizing OGP engagement:*** Early adopters of OGP amongst civil society practitioners were driven by passion rather than institutional support. Engagement on OGP should move from individual passion to institutional buy-in through either programmatic or strategic planning.

***III. Consortium for Fundraising:*** Realizing that local organizations have struggled to fundraise for activities under the various commitments, they can form a consortium/s to fundraise together.

***IV. National and County CSOs collaboration for strengthening & capacity building:*** There's room to collaborate with CSOs in the counties to strengthen engagement under OGP and capacity building. E.g. IBP and Centre for Innovations in Open Governance (CIOG) in Elgeyo Marakwet; Hivos & MAPACA in Makueni county

***V. Donor sensitization:*** There are two sets of donors. On one hand, there are those working closely with the Kenyan government and engaging on OGP globally but do not support the initiative locally. On the other hand, there are those that fund work overlapping with OGP but are not on the platform at all. Therefore, there is an opportunity to sensitize donors on OGP work in Kenya and encourage them to consider the creation of a basket fund to finance the local process.

***VI. Deliberately streamlining the OGP process to the budget cycle*** to increase chances of receiving government funding for key deliverables.

## ***For both the government and civil society:***

***I.*** The President should consider a *quarterly roundtable* with CSOs like he does with Kenya's Private Sector.

***II. Improve OGP awareness creation among citizens.*** As seen from the Elgeyo Marakwet co-creation story, meaningful citizen involvement in the OGP process helps to sharpen the solutions arrived at co-creation. The achievements of OGP need to be disseminated to the public throughout the OGP cycle. Awareness is key to deepening engagement of stakeholders across the board including citizens. Awareness creation leads to the public realizing things they can demand of their public officials, which can subsequently inform their interest to join OGP.

***III. Joint fundraising efforts for implementation.*** Encourage collaborative fundraising between government and CSOs to cater for shortfalls in implementation funding.

***IV. Iterative learning:*** Document lessons from the journey based on impact of collaborations beyond a project's execution and unveiling to the public. It is essential to capture the various lessons from the interactions as part of clusters and overall self-reporting to benefit other key stakeholders.

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# Appendix I: Kenya's OGP Milestones (2011 - 2020) National Level

## *National Level*

One of the earliest Sub-Saharan Africa countries to join the platform.

Launch of Kenya Open Data Initiative (KODI) in July 2011.

Hosted the first OGP Regional Summit for Africa in Mombasa.

Parliament passed an Access to Information Law in 2016.

Launch of the Dokeza bill annotation platform in April 2017

Development of the PPIP platform using Open Contracting Data Standards (OCDS)

Open Contracting research with focus on disadvantaged groups (AGPO).

Memorandum of Understanding between NEPAD/APRM and OGP Secretariat

Creation of Civil Society Parliamentary Engagement Network (CSPEN)

Creation of the Beneficial Ownership Register in 2019/2020.

Clusters around commitments and a technical committee for oversight.

## *County Level*

Elgeyo-Marakwet was one of the 15 pioneer subnational governments to join the Subnational Government Pilot Program.

Elgeyo Marakwet hosted the first African OGP Convention for the subnational-level which saw representation from Nigeria, Tanzania and Ghana.

The National Government co-opted some county governments in the implementation of NAP III. For example Vihiga - Geospatial Data and Makueni - Open Contracting

Makueni, Nandi and Nairobi Counties are among those recently selected for the 2021 OGP Subnational Program.



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# Appendix II: Networks

## *National*

OGP Civil Society Group

Election Observation Group (ELOG)

Constitution and Reform Education Consortium (CRECO)

Parliamentary Initiatives Network (PIN), Kenya - defunct

Civil Society Parliamentary Engagement Network (CSPEN)

Civil Society Reference Group Kenya (CSRGKenya)

Elgeyo-Marakwet Civil Society Network

Freedom of Information Advocates Network (FOIANet)

International Aid Transparency Initiative - Kenya Chapter

Reporting on Good Governance Kenya (RoGGKenya)

Sustainable Development Goals (SDG) Kenya Forum

Transparency, Accountability, and Participation (TAP) Network - National SDG Accountability Resource

Police Reform Working Group – Kenya (PRWG-K)

Fight Inequality Alliance, Kenya

## *Regional & International*

Africa Open Data Network (AODN)

Tax Justice Network Africa (TJNA)

Civic Space Protection Platform Kenya (CSPP)

People-Powered

East Africa Procurement Forum

OGP Practice Group (Deliberation and Dialogue Practice Group)

UN Convention against Corruption (UNCAC) Coalition

World Movement for Democracy

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## **Appendix III: Civil Society organizations that have engaged in OGP**

Africa Centre for Open Governance (AfriCOG)

Article 19 Eastern Africa

Africa Open Data Network (AODN)

Constitution and Reform Education Consortium (CRECO)

Development Initiatives

Digital Earth

ESRI

Global Partnership for Sustainable Development Data (GPSDD)

Humanistic Institute for Cooperation with Developing Countries (Hivos) East Africa

International Budget Partnership (IBP)

International Commission of Jurists (ICJ) Kenya

Institute of Economic Affairs Kenya (IEA Kenya)

Institute of Certified Public Accountants of Kenya (ICPAK)

InfoNet Africa

Institute of Public Finance Kenya (IPF)

Katiba Institute

Kenya Alliance of Resident Associations (KARA)

Local Development Research Institute (LDRI)

Mzalendo Trust

Open Institute

Strathmore University

Transparency International Kenya (TI-Kenya)

Ushahidi

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## Appendix IV: OGP CSO Champions

Al Kags

Daudi Were

Gladwell Otieno

Muchiri Nyaggah

Mendi Njonjo

Samuel Kimeu

Sandra Musoga

Henry Maina

Stephanie Muchai

Churchill Ongere

Jessica Musila

Elijah Ambasa

Jason Lakin

John Kinuthia

Regina Opondo

Timothy Kiprono

Harriet Wachira

Declan Ottaro

Leonida Mutuku

Linet Juma

John Kipchumbah

Davies Adieno

Sheila Masinde

Zipporah Abaki

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## Appendix V: OGP Government Champions

Bitange Ndemo - PS ICT (2005 - 2013) and ICT Authority

Victor Kyalo, CEO, ICT Authority, PS ICT & Innovation

Paul Kukubo, CEO, ICT Authority

Linnet Kwamboka, Point of Contact, NAP I

Wanjiku Wakogi, State Law Office

Korir Singoei, Legal Advisor, Office of the Deputy President (ODP)

Philip Thigo, Point of Contact NAP II & III, Data and Innovation Lead, Office of the Deputy President

Patita Tingoi, Inter Government Relations, Office of the Deputy President

John Maritim - Point of Contact, Elgeyo Marakwet

Shighadi Mwakio - Beneficial Ownership Register, State Law Office

Hon. Priscilla Nyokabi - Vice Chairperson, Justice and Legal Affairs Committee (2013 -2017)

Hon. Alex Tolgos - Governor, Elgeyo Marakwet County

Hon. Kivutha Kibwana - Governor, Makueni County

Hon. Wilbur Ottichilo, Governor, Vihiga County

Kavata Musyoka, Gender and Democratic Governance Specialist, Senate

Peter Kimemia, Director, APRM/NEPAD Secretariat

Noah Asanga, Chief of Staff, Vihiga County

Mary Kimanzi, CEC Finance and Planning, Makueni County

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## **Appendix VI: Government Institutions that have engaged in OGP**

Ministry of ICT, Innovation and Youth Affairs

ICT Board (Name changed to ICT Authority)

Office of the Deputy President (ODP)

Kenya National Bureau of Statistics (KNBS)

Office of the Attorney General/State Law office

The National Treasury & Public Procurement Oversight Authority

Ministry of Defence, Kenya Space Agency (KSA)

The Senate

NEPAD/APRM Kenya

County Government of Elgeyo Marakwet

County Government of Vihiga

County Government of Makueni

Council of Governors

Ministry of Agriculture and Irrigation

Ministry of Foreign Affairs

Kenya National Archives





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