

Independent Reporting Mechanism

Action Plan Review:
Kenya 2023–2027

Open
Government
Partnership



Independent
Reporting
Mechanism

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Section I. Overview

Kenyan reformers designed a fifth action plan that promises to strengthen government transparency, particularly around priority areas of climate action, data, procurement, public debt, and parliamentary activities. Commitments build on longstanding aims of Kenya’s OGP community and includes concrete reforms that can contribute to restoring trust between Kenyans and the state.

Kenya’s first four-year action plan largely continues efforts initiated under previous action plans to strengthen government transparency. It includes uncompleted and new activities to advance longstanding aims, such as increasing access to information. The action plan aligns with government policies such as the Digital Master Plan and Climate Change Policy. A commitment on digital governance introduces a new policy area and community of reformers into Kenya’s OGP process.

Six months into implementation, the youth-led #RejectFinanceBill2024 movement highlighted economic and governance frustrations.¹ In a letter to the Government of Kenya, the OGP Kenya civil society multistakeholder forum outlined reforms to restore trust between Kenyans and the government. These recommendations—which include strengthening fiscal transparency and public participation, protecting media and online freedom, strengthen access to information, justice and protect civil space—align with promising commitments in this report.²

Commitments 2 and 6 are highlighted for their potential to strengthen public participation and civic space. Commitment 2 seeks to strengthen digital governance, including online public participation channels and responsible and safe use of artificial intelligence. Commitment 6 aims to operationalise the Public Benefits Organisation Act and strengthen mechanisms for public engagement with parliament. While not an explicit aim, passage and implementation of the Public Participation Bill would significantly improve citizens’ ability to have a say in the laws that govern them.

Promising commitments also aim to increase access to information. Commitment 7 aims to fully implement the Access to Information Act through a national policy and county laws. Commitment 1 advances transparency around climate action, Commitment 3 on data for development, and

AT A GLANCE

Participating since 2011
Number of commitments: 9

Overview of commitments:
Commitments with an open government lens: 9 (100%)
Commitments with substantial potential for results: 2 (22%)
Promising commitments: 6

Policy areas:
Carried over from previous action plans:

- Open Climate Action
- Open Data
- Open Contracting
- Beneficial Ownership
- Legislative Openness
- Access to Information
- OGP Resilience
- Access to Justice

Emerging in this action plan:

- Digital Governance

Compliance with OGP minimum requirements for co-creation: No

Commitment 5 on public procurement. The action plan also includes activities to increase transparency around the priority areas of elections and public debt.

Kenya has a vibrant OGP community with both government and civil society champions. Co-creation included a series of workshops, including at the cluster level to refine commitments, and opportunities to comment on the draft action plan online. The action plan was formally launched by President William Ruto in September 2024.³ However, documentation and transparency of Kenya’s OGP efforts remain insufficient. The lack of an OGP website with the latest action plan means that Kenya currently does not meet the minimum requirements of the Participation and Co-Creation Standards.⁴

As a four-year plan, Kenya will be expected to conduct a refresh process at the midpoint.⁵ This is an opportunity for implementers to consider progress thus far and adapt or expand the action plan as appropriate. The IRM will reassess any new or significantly amended commitments in the refreshed action plan. For instance, reformers can amend Commitment 8 on access to justice to include an open government lens. Similarly, if Commitment 4 confirms the government’s intention to make beneficial ownership information public, the IRM will reassess its analysis.

¹ Meron Elias, “What is behind Kenya’s protest movement?” *Crisis Group*, 3 July 2024, <https://www.crisisgroup.org/africa/east-and-southern-africa/kenya/what-behind-kenyas-protest-movement>.

² “Statement by the Kenya OGP Civil Society Organizations Multistakeholder Forum on the #RejectFinanceBill2024 Protests,” *Mzalendo Trust*, 27 June 2024, <https://mzalendo.com/posts/statement-kenya-open-government-partnership-ogp-ci>.

³ William Ruto, “Launch of Kenya’s 5th Open Government Partnership Action Plan, Nairobi,” *X (formerly Twitter)*, 12 September 2024, https://x.com/williamsruto/status/1834105875612795071?t=8XqABEFamYP8Z5C_Eckd4A.

⁴ Kenya’s OGP website remains offline as of 1 October 2024, see: <https://opengovernment.ke>; and while OGP Kenya has social media sites, they do not currently meet the minimum requirements, see: “OGP Kenya,” *X (formerly Twitter)*, <https://twitter.com/ogpkenya>; “OGP Kenya,” *Facebook*, <https://www.facebook.com/OgpKenya>.

⁵ “OGP National Handbook,” *Open Government Partnership*, April 2024, https://www.opengovpartnership.org/wp-content/uploads/2024/04/OGP-National-Handbook_2024.pdf.

Section II. Promising Commitments

The following review looks at the 6 commitments that the IRM identified as having the potential to realise the most promising results. Promising commitments address a policy area that is important to stakeholders or the national context. They must be verifiable, have a relevant open government lens, and have modest or substantial potential for results. This review also provides an analysis of challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

Table 1. Promising commitments

Promising Commitments
Commitment 1. Climate Action promises to increase transparency around Kenya’s climate mitigation and adaptation efforts.
Commitment 2. Digital Governance promises an inclusive digital transformation and protection of Kenyans’ rights in the context of artificial intelligence.
Commitment 3. Improving Availability of Data for Development aims to strengthen publication of government expenditure and geospatial data.
Commitment 5. Open Contracting promises to strengthen Kenya’s public procurement ecosystem through legal and technical reforms.
Commitment 6. Public Participation, Legislative, and Fiscal Openness promises to strengthen the operational environment for civil society and public participation channels with parliament.
Commitment 7. Access to Information promises to pursue full implementation of the Access to Information Law.

Commitment 1: Climate Action

[Office of the Climate Envoy, Executive Office of the President, Ministry of Environment, Climate Change and Forestry]

For a complete description, see Commitment 1 in [Kenya’s 2023–2027 Action Plan](#).

Context and objectives

Kenya is at the forefront of African nations in climate change adaptation and mitigation. Climate change actions are an important component of Kenya’s Vision 2030 and sustainable development goals.¹ Although a relatively low emitter of greenhouse gases, Kenya’s emissions have more than doubled since 1995 and it remains vulnerable to frequent climatic shocks that pose significant economic risks. Agriculture remains the dominant sector that provides the primary livelihoods of 60% of the population.² The Government of Kenya advocated for the inclusion of this commitment to increase transparency around climate actions.³ Civil society concurred with the need to address the climate crisis in an inclusive and transparent manner.

This commitment promises to increase transparency around Kenya’s climate mitigation and adaptation efforts, such as afforestation activities and carbon-credit markets. It also seeks to disseminate information on climate and weather risks and the impact of clean cooking technologies. This commitment’s potential lies in its promise to publish information that the public can use to engage in government decision making, public debate, and accountability processes. The commitment also aims to establish a Climate Action Working Group that will bring together government and nongovernment partners to advance climate initiatives.

Potential for results: Modest

Kenya is one of the first countries in Africa to enact a comprehensive law and policy to guide national and subnational climate action. The Climate Change Policy 2016, Climate Change Act 2016 and the corresponding Climate Change Amendment Act 2023, the National Climate Change Action Plan III 2023–2027, and the long-term Low Emissions Development Strategy 2022–2050 guide low-carbon and climate resilient development.⁴ Kenya has achieved climate aims under previous action plans including ratifying the Paris Agreement and constituting a multi-stakeholder National Climate Change Council and Climate Change Directorate in 2016.⁵

Kenya is highly vulnerable to climate change with a notable increase in climate-related disasters, such as droughts and floods. These events have been estimated to create an economic liability, as the economy is dependent on climate-sensitive sectors such as agriculture, water, energy, tourism, wildlife, and health. A multi-stakeholder Climate Action Working Group (Milestone 1) aims to collaboratively accelerate and monitor climate initiatives, information sharing, development of ideas, problem solving, and the finances needed to implement, scale up, and sustain climate-smart initiatives nationally.⁶

Kenya has identified carbon credit as a system to address the large financing gap for climate adaptation and mitigation plans.⁷ Carbon credit allows companies to off-set emissions by financing the prevention or capturing of carbon emissions elsewhere.⁸ Kenya is the leading African country in the carbon credit market. President William Ruto has spotlighted the carbon market as Kenya’s next significant export. Allegations of exploitation and misreporting have precipitated legal changes to strengthen the integrity of Kenya’s carbon market.⁹ Until now, there has been limited price transparency for bilateral agreements made.¹⁰ This commitment aims to design a tracking system for community payments, including those linked to carbon credit-based development projects (Milestone 2). Data would be collected and accessible to track financial flow, ensure equal distribution of funds, and inform decision-making. Kenya’s Climate Change Carbon Markets Regulations provide for the development of a national carbon registry and procedures for developing carbon offset projects.¹¹ Moreover, as of July 2024, Carbon Tracing and Benefit Sharing Regulations had been developed.¹² These regulations aim to help ensure that communities are not taken advantage of by companies involved in carbon trading.¹³ However, the text was not available for review at the time of writing.

This commitment also aims to increase transparency around Kenya’s National Determined Contributions (NDCs) mitigation plan. The plan includes achieving a tree cover of 10% of the land area and promoting clean, efficient and sustainable energy technologies. Milestone 3 foresees a platform to track afforestation initiatives in the Water Towers region, including information on resource allocation and participation, which is a critical component to Kenya’ water management priorities. Kenyan law provides for participatory management of forests and water resources with communities.¹⁴ A 2023 report from the Office of the Auditor General flagged that a lack of timely and comprehensive monitoring and water tower assessments had resulted in the Kenya Water Tower Agency having limited information on its and partners’ activities. It recommended implementing the Water Towers Ecosystem Monitoring Framework and develop intervention specific indicators for its activities to measure success.¹⁵ The Ministry of Environment is already undertaking relevant initiatives, although it is unclear whether they are being carried out in the context of this action plan.¹⁶ The *Jaza Miti* platform tracks tree growing and offers technical services.¹⁷ To avoid duplication, it could be linked with the platform established under Milestone 3. Milestone 4 seeks to track the accessibility and impact of clean cooking technologies. To maximise open government impact, implementers are encouraged to publish information

gathered on the health and environmental impact of clean cooking technologies and government actions taken in response to the findings.

Lastly, through the early warning system for climate and weather risks (Milestone 5), the commitment aims to provide timely and relevant information so that stakeholders can take proactive measures that safeguard lives, livelihoods, and assets in response to climate-related risks. Under this milestone, the government will leverage the available wealth of traditional and indigenous knowledge of communities and modern technologies to enhance the accuracy and efficiency of information on weather patterns. This aim resulted from the realisation that indigenous peoples' understanding and predicting weather patterns can be harnessed and integrated within modern technological systems.¹⁸

Opportunities, challenges, and recommendations during implementation

A potential challenge for implementation is the diversity of actors and government bodies responsible for the intended activities. High-level government reorganisation and significant changes to allocated budgets in July 2024 may impact implementation. However, this commitment does benefit from an established implementing cluster working that brings key actors to the table, such as the Ministry of Environment, which can lay foundation for efforts moving forward. While it may take time to build trust and determine ways of working among government and non-government members, successful collaboration among Kenya's other thematic clusters indicate that this is worthwhile investment of time.

At the two-year midpoint, implementers can add milestones that enable Kenyans to use published information to participate in government decision making, public debate, and accountability mechanisms. Expanding the commitment's milestones to go beyond publication of information can raise this reform's level of ambition. In addition, the IRM recommends that implementers consider:

- **Strengthening frameworks governing carbon markets.** Prioritising the finalisation and adoption of the draft Carbon Credit Market Regulations that seeks to operationalise the recent amendments to the Climate Change Act can enable a rights-based approach as well as responsible and inclusive implementation of the carbon markets initiative.
- **Enhancing public capacity to meaningfully engaged with carbon markets.** This can enhance communities' receptiveness of various initiatives and investments, especially those whose lives are impacted. Create awareness and build communities' capacity to engage meaningfully with the carbon credit market initiatives and other climate solutions.
- **Leveraging and sustaining the ongoing progress with relevant initiatives** such as the *Jaza Miti* campaign. One way of sustaining the ongoing efforts is by enhancing the in-house capacity of the Kenya Forestry Research Institute to produce more tree seedlings for the afforestation campaign throughout the action plan cycle.
- **Generating adequate climate finance.** Creating a carbon registry and operationalising open data platforms can bridge data gaps across actors and sectors, which is crucial for converting NDCs into climate finance strategies, building effective solutions, and informing investors for the successful implementation of the climate commitment.

Commitment 2: Digital Governance

[Ministry of ICT and Digital Economy, Executive Office of the President, Local Development Research Institute.]

For a complete description, see Commitment 2 in [Kenya's 2023–2027 Action Plan](#).

Context and objectives

Kenya aims to become a digital powerhouse in Africa. The government's ambitious digital transformation aspirations are outlined in the 2022–2023 National Digital Master Plan,¹⁹ which builds on Vision 2030 National ICT Policy launched in 2020²⁰ and the Digital Economy Blueprint launched in 2019.²¹ This commitment aims to complement the master plan by incorporating transparency, inclusivity, and citizen participation into digital governance reforms. Kenya identified digital governance as a priority policy area as government co-chair of the global OGP Steering Committee. In this role, Kenya convened government and civil society from 12 countries at a digital governance workshop in Nairobi in March 2024.²²

This commitment takes a broad two-fold approach. First, it aims to continue advancing the government's digital transformation and ensure that marginalised groups are not left behind as government services and participation mechanisms move online. Second, this commitment aims to establish a framework for inclusive, safe, and responsible governance of emerging technology, focusing on artificial intelligence (AI). According to a lead civil society implementer, this commitment's objective is to establish inclusive, safe, and responsible secure digital transformation mechanisms; increase public trust through policy; and safeguard human rights and freedoms in the provision of digital services.²³ At the launch of the fifth OGP action plan in September 2024, President William Ruto highlighted the government's intention to curb misuse of AI, particularly regarding the spread of mis/disinformation.²⁴

Potential for results: Substantial

The Government of Kenya seeks to use this action plan to rebuild trust with citizens through concrete reforms.²⁵ This commitment could advance that aim if milestones that protect Kenyans' constitutional rights—participation in government decision-making, access to information, and freedom of expression—are prioritised. If fully implemented, this commitment could strengthen the ability for Kenyans to engage the government through digital platforms. It also has the potential to protect Kenyans' rights and data privacy in the face of increasing use of AI and other emerging technologies. Continued political support, resources, and collaboration will be essential to ensure that the wide-ranging activities are achieved.

This commitment's stated objective in the action plan is to reduce the digital divide between marginalised Kenyans and increasingly virtual public and private sectors. The milestones focus on strengthening the governance of emerging technology while a work plan outlines actors and activities to reduce the digital divide.²⁶ Altogether, the commitment and work plan have a substantial potential for results.

This commitment takes place within the context of Kenya's ongoing public and private sector digital transformation efforts. The government is in the process of digitising 20 thousand government services on the e-citizen platform and introduction of digital identification.²⁷ While ambitious, Kenya's Digital Masterplan lacks clear guidelines on how the marginalised quarters of the society (such as women, rural residents, people with disabilities, and the elderly) will be included,²⁸ which leaves them exposed to exclusion risk as the government migrates services online.²⁹ In this vein, the Government of Kenya and the United Nations Development Programme (UNDP) signed a memorandum in 2023 to accelerate inclusive digital transformation.³⁰

Huduma Kenya, a department within the Ministry of Public Service Performance and Delivery Management, was invited as a central member of the implementing cluster to help address the digital divide. Huduma Kenya Centres are one-stop shops for government services. Implementers are considering how these centres can improve equal access to digital government services and give Kenyans access to digital services they cannot access on personal devices. Implementers are also exploring how the centres can support Kenyans’ digital rights and participation.³¹

The Local Development Research Institute (LDRI) and partners have started developing guidelines for public engagement to be included in a forthcoming digital governance policy.³² In partnership with the Public Participation Cluster, implementers aim to establish feedback channels, such as chatbots and portals, for the public to give input on government services by December 2025. Plans also include establishing a platform for citizens to track the implementation of participatory digital governance. The ability for citizens to give feedback on public services is intended to be operationalised through Huduma Centres and provisions in the draft Public Participation Bill.³³

Reformers aim for the draft bill to reflect the nuances and needs of online public participation through Milestone 5.³⁴ Implementers will submit a memorandum to parliament to request language that reflects online engagement. This includes safeguarding human rights, avoiding internet shutdowns, and protecting the fundamental freedoms of speech, privacy, association, and safety online. In addition, the Commission on Administrative Justice seeks to ensure that the government responds to digital public input. This includes guidelines on appropriate times for ministries, departments, and agencies (MDAs) to respond to public feedback as reflected in their service charters.³⁵ Implementers are also considering creating digital response tools such as chatbots and feedback portals.³⁶

Under Milestone 2, the government commits to create a multi-stakeholder forum for dialogue on digital economy and transformation. Planned activities include defining the forum’s mandate and composition from relevant ministries, independent bodies, parliament, Council of Governors, Huduma Secretariat, and an equal number of non-state representatives from academia, private sector, and civil society. The workplan includes the appointment and gazettement of members and creation of a coordinating mechanism.³⁷ It also calls for the creation of a community of practice to facilitate knowledge-sharing on digital governance best practices.³⁸

The work plan includes activities to build civil servants’ capacity to provide digital services and use emerging technologies. This includes assessing capacity and training needs, developing a curriculum on topics like data protection, cybersecurity, and digital literacy, and implementing learning programs including master’s degree, short courses, and workshops.³⁹ At the time of writing, Strathmore University and development partners were creating training curriculum for civil servants, including a master’s degree, to strengthen government capacity on data protection and responsible digital service provision.⁴⁰

The second pillar of this commitment is to ensure safe, responsible and inclusive governance of priority emerging technologies such as AI, blockchain, cryptocurrency, and internet of things. This commitment specifically focuses on the risks and concerns related to AI development and deployment.⁴¹ To date, Kenya has already made headway through an Emerging Technology and AI Strategy Framework⁴² as well as a draft AI Code of Practice.⁴³

Under this commitment, the government aims to launch an Emerging Technologies Institute and Lab (Milestone 1) intended as a hub for experimentation, development, and update of emerging technologies in Kenya.⁴⁴ This goal was identified at Kenya’s Innovation Week in January 2023 in

support of the 10-year innovation master plan.⁴⁵ The institute will develop and document emerging technologies use-cases to solve development challenges such as climate, health, agriculture (Milestone 4). It will also convene dialogues and work with different stakeholders to research AI safety including how to safeguard human rights, data privacy, and mitigate bias as well as provide guidelines for the public sector on emerging technologies.⁴⁶ The lab will be hosted at the Konza Technopolis—a technological hub and city currently under construction in Makueni County—⁴⁷ which received an initial investment of USD 1 billion from Microsoft and the G42.⁴⁸ Reformers, including members of civil society and the academia, are encouraged to use the inclusion of this reform in the action plan to facilitate multi-stakeholder implementation.

The Ministry for ICT and Digital Economy also commits to developing guidelines on safe, secure, and responsible development and use of emerging technologies (Milestone 3). The ministry will develop these guidelines based on a report from the ICT Reforms Sector and Digital Economy Working Group that details recommendations to improve Kenya’s digital governance strategies.⁴⁹

The work plan outlines preparatory steps such as mapping digital government services, initiatives, mandates, systems, and infrastructures across government in a report as well as documenting best practices for digital governance frameworks and coordinating mechanisms.⁵⁰ This will culminate in a Digital Governance Policy developed by December 2026, which addresses areas such as data governance, cybersecurity, digital identity, digital service delivery, digital inclusion, and emerging technologies.⁵¹

Opportunities, challenges, and recommendations during implementation

This wide-ranging commitment will require strong political support to implement elements with the greatest potential to open government to citizens. Political support will be needed to select, gazette, and convene task forces and working groups; resource, draft, and approve the unified digital governance policy; and develop and implement citizen engagement portals and guidelines. This commitment benefits from strong civil society and private sector support and brought new actors into Kenya’s OGP process.⁵²

The LDRI has received financial support to convene implementation cluster meetings and produce supporting knowledge products over the first five months. However, the AI Research Director from LDRI notes that additional financial and human resources from the government will be needed to implement the commitment over the next few years.⁵³ As implementers carry the reform forward, the IRM recommends that reformers consider:

- **Investing in internet network infrastructure in underserved urban and rural communities** by setting up secure public WiFi access points and incentivising the development of community networks. The lack of accessible and affordable internet exacerbates existing inequalities and exclusion of marginalised groups.⁵⁴
- **Amending and/or harmonising laws that promote access to information, public participation, and data protection** to prevent the arbitrary use of citizen information collected online. Clarity on privacy rights can help the public to be comfortable to express themselves, access services, and come together through digital platforms.
- **Reviewing and building on existing digital governance tools** to strengthen existing channels and avoid duplication. Portals such as the Public Procurement Information Portal, publications on government websites, and the e-citizen platform can be redesigned to factor in citizen engagement and feedback.

Commitment 3: Improving Availability of Data for Development

[Kenya Space Agency, Local Development Research Institute.]

For a complete description, see Commitment 3 in [Kenya's 2023–2027 Action Plan](#).

Context and objectives

Kenya has pursued open data across previous action plans, including the launch of a national open data portal in 2011.⁵⁵ Reformers have sought to increase access to timely, up-to-date, and accurate data to reduce inequality and improve evidence-based decision making for enhanced service delivery.⁵⁶ However, legal, technical, and capacity challenges led to inconsistent publication and unavailability of the portal in recent years.

This commitment seeks to strengthen the publication of government expenditure and geospatial data. This commitment focuses on strengthening the legal, technical, and human infrastructure needed for systematic budget data disclosure. It aims to enable the publication of disaggregated, accessible, and interoperable data at the national and county levels. Ultimately, this reform seeks to facilitate evidence-informed debate and decision-making as well as public accountability of government spending.

Political and social upheaval around the Public Finance Bill in 2024 underscored public desire for greater accountability of government spending as well as a lack of data to support evidence-informed discussion.⁵⁷ Implementation presents an opportunity for the government to build public trust through greater transparency of budget and expenditure data. Consolidating formal mechanisms can also channel public concerns into productive collaboration that strengthens public finance accountability and facilitate informed public debate.⁵⁸

Potential for results: Modest

Kenya has sought to advance open data over more than a decade. This commitment seeks to establish the necessary legal and technical framework to make government data available to the public through reform aimed at tackling low data management capacity as well as a lack of legal framework and technical infrastructure. It includes ambitious elements such as amending law to require publication of budget data, although the anticipated political and financial challenges during implementation contribute to this commitment having a modest potential for results.

This commitment aims to strengthen the open data legal framework at the national and county levels. It proposes amending public finance management legislation (Milestone 1) to mandate the publication of budget and expenditures data. The amendments will call for publication in machine-readable formats with a prescribed level of disaggregation and a harmonised reporting format to enable data interoperability, especially at the subnational level. Kenya's 2012 Public Financial Management Act requires the publication of budget documents,⁵⁹ but there is no legal mandate to publish budget data. Currently, budget data is extracted from a portable document format (PDF)⁶⁰ published informally by non-government organisations. Establishing a legal requirement would aid the regular publication of accurate and detailed budget data with geocoded information and satellite imagery on capital expenditures. A civil society representative noted that amending the Public Financial Management Act would likely be difficult, but advancing budget transparency is a key opportunity for the government to respond to public concerns.⁶¹

In Kenya, county planning and development, including statistical powers and functions, are conferred to the county government.⁶² Milestone 5 of the commitment proposes enactment of a County Statistics Act to provide a legal framework for county governments to mandate statistics units to produce statistics to inform policy, programmes, and projects. The act is aimed at ensuring standards in the collection, analysis, and dissemination of statistical data that address

the issue of quality, credibility, and uniformity of official statistics generated at the county level. Despite previous unsuccessful efforts, government and civil society implementers agreed that the context was now more favourable for its passage. At the time of writing, a draft County Statistics Act was ready and expected to be passed by the Senate,⁶³ having been brought to the parliament and made partially available for public comment.⁶⁴ The Council of Governors is engaged in the process, but there remains opportunity to engage county governments.

This reform seeks to inform civil servants on their data publication obligations following amendment to the Public Financial Management Act. In 2022, Kenya's School of Government introduced an access to information (ATI) curriculum for civil servants that includes an open data module which will be expanded to include information on open data standards, interoperability, and guidance on infrastructure (Milestone 7) to strengthen Information Officers' data management capacity. The curriculum has enabled information officers to fulfil their duties to respond to ATI requests.⁶⁵ This milestone therefore extends a programme with proven effectiveness to also support data publication. The government has also committed to developing a guidebook for publishing open government data (Milestone 3) to support standardisation in the disaggregation, format, and interoperability. It aims to help civil servants balance their legal obligations regarding ATI and data privacy.⁶⁶

Relevant government agencies also committed to establishing a Data Governance Council (Milestone 4), which will conduct a data capacity assessment report and develop an improvement roadmap. The roadmap will identify steps to improving civil servant capacity, infrastructure, and financing to support open data objectives. However, a lack of budget allocation and the council's statutory underpinning could inhibit its establishment amid competing government priorities.

Under Milestone 2, the National Treasury has committed to creating a budget data portal intended to enable continuous publication of budget data and geocoded information of capital expenditure. Publication of government expenditure, including at the county level, as well as open contracting data would support a strong accountability system for public financial management.⁶⁷ However, the absence of government funding for the portal could inhibit its establishment and maintenance. As demonstrated by other similar initiatives, ongoing financial and technical support are necessary for continuous functioning.⁶⁸ The Director of Space Systems and Infrastructure at the Kenya Space Agency notes that there was an intention to have a feedback mechanism embedded into the portal, but this has not been included expressly in the commitment. He noted the importance of having such feature integrated within the platform.⁶⁹

Kenya has made some progress in publishing geospatial data under previous action plans. Under Milestone 6, the Kenya Space Agency commits to continuing efforts to publish satellite data for use in the planning, monitoring, and innovation of climate change initiatives and service delivery. In July 2020, the Monitoring for Information and Decisions using Space Technology (MIDST) project was launched to support public-private sharing of geospatial data. The government developed draft geospatial guidelines and standards and a geospatial data platform.⁷⁰ The Kenya Space Agency also aims to work with partners to create a geographic information system (GIS) lab infrastructure within a government data centre (Milestone 8) which will offer a proof of concept for MDAs and county governments on how to pair remote sensing and budget data for planning and monitoring the transparency of government projects. Under past action plans, approximately 20 out of 47 county governments have established functional GIS laboratories within an enabling legal environment, which will eventually facilitate the utilisation of GIS information to streamline operations. While some counties implemented county spatial plans,⁷¹ a lack of supporting legislation and budget constraints previously limited implementation.

Opportunities, challenges, and recommendations during implementation

High-level government turnover and reduced government budget could detract the executive and legislative attention as well as resources from this reform.⁷² Implementation is an opportunity to address public demands for greater transparency and accountability of government budget and expenditure highlighted in the 2024 protests. If prioritised, this reform could foster data-driven debate and public trust in government. High-level political commitment, adequate funding, and technical support will be key to successful implementation. Implementers hope to get financial and technical support from partners such as the United Nations Food and Agriculture Organisation (FAO).⁷³

Commitment 5: Open Contracting

[Public Procurement Regulatory Authority, Development Gateway.]

For a complete description, see Commitment 5 in [Kenya's 2023–2027 Action Plan](#).

Context and objectives

Despite efforts over the last decade, corruption in public procurement remains a significant drain on public finances in Kenya.⁷⁴ Both government and civil society recognise the need to increase transparency and accountability in public procurement processes to reduce fraud and corruption. Reformers have sought to enact open contracting across previous action plans.

Kenya's 2010 Constitution and 2015 Public Procurement and Asset Disposal Act provide for a procurement and asset disposal system that is fair, transparent, and cost-effective. Kenya launched a Public Procurement Information Portal (PIIP)⁷⁵ and required that all procurement takes place on the end-to-end e-Government Procurement System (e-GP). However, gaps remain including in the legislative, regulatory, and institutional frameworks, human resource development, and public procurement operations, integrity, transparency, and accountability.⁷⁶ The divided governance of public procurement in Kenya could continue to be a challenge to harmonising reform efforts. Successful implementation will require coordination between the National Treasury and Public Procurement Regulatory Authority (PPRA).⁷⁷

This commitment aims to increase transparency of procurement information, public accountability over the implementation of contracts, and inclusion of special interest groups in procurement opportunities. The National Treasury and Local Development Research Institute (LDRI) commit to forming a multi-stakeholder group to draft a policy to standardise procurement processes, systems, and data publication (Milestone 3). Notably, the government commits to amending the 2015 Public Procurement and Asset Disposal Act to provide protection and channels for whistleblowers (Milestone 5) as the whistleblower protection bill stalls in parliament.

Regarding transparency and inclusion, this commitment aims to ensure that e-GP publishes data in line with the Open Contracting Data Standard (OCDS) covering the length of the procurement process (Milestone 1). It also aims to ensure the interoperability of data on e-GP and PIIP (Milestone 2) and public availability of information on individuals debarred from public procurement and their associated companies (Milestone 7). Activities include ensuring that procurement opportunities are accessible on both portals (Milestone 4) and raising awareness of special interest groups such as youth and women on procurement opportunities (Milestone 6). The PPRA also commits to enabling the public to submit feedback on contract implementation on the e-GP system and to ensure that the government acts on this information (Milestone 8).

Potential for results: Modest

This commitment contains ambitious activities to strengthen transparency and accountability of Kenya’s public procurement ecosystem through legal and technical reforms. Implementation of many milestones in this commitment hinges on an operational e-GP system, which has taken longer than expected. Challenges that have limited implementation of previous open contracting commitments in Kenya remain, such as coordinating various government entities and partners as well as limited capacity and resources within government to carry out open contracting reforms.⁷⁸ While this commitment primarily focuses on transparency and accountability in procurement at the national level, Kenyan OGP Local Program members are also pursuing open contracting commitments at the county level, where a significant portion of public contracting takes place.⁷⁹

This commitment seeks to strengthen transparency of procurement data on the e-GP and PPIP. The National Treasury has led the rollout of the e-GP platform, intended to digitise procurement process, with support from the World Bank.⁸⁰ The system enables online vendor registration, marketplace for government tenders, and bid submission which could improve accessibility of opportunities and efficiency of process at lower costs.⁸¹ The initial rollout plan for 1 July 2024 was delayed⁸² and, as of August 2024, the e-GP system had undergone user testing in 12 ministries, departments, agencies, and counties. The piloting phase is intended to conclude at the end of 2024, after which all ministries, departments, agencies, and executive offices of county governments will be required to use the system for procurement. County assemblies and agencies will be expected to follow in a second rollout phase.⁸³ PPRA employees have received training on the system. Whereas the e-GP portal publishes information on procurement transactions, PPIP publishes final information on the contract awarded and winning bidders.⁸⁴ The Head of Africa of the Open Contracting Partnership (OCP) noted that PPRA was receiving technical and financial assistance to improve PPIP, including compliance with OCDS, in the absence of a fully operational e-GP platform.⁸⁵

The PPRA and National Treasury aim to ensure procurement data is published according to the OCDS on the e-GP platform (Milestone 1). OCDS defines a common data model to disclose contracting data and documents throughout the procurement process.⁸⁶ Implementing OCDS has been delayed under previous Kenyan action plans while the e-GP system was prioritised.⁸⁷ As that e-GP is scheduled for full implementation in 2025, this commitment aims to ensure interoperable (Milestone 2), comprehensive, and useable data on e-GP, PPIP, and any other procuring entity platforms. A centralised and transparent platform promises to strengthen public accountability and reduce the likelihood of fraud and corruption.⁸⁸

While some procurement information is available on PPIP (e.g., awarded contracts), it is incomplete. There is limited compliance with disclosure requirements, including the legal mandate to publish information on beneficial owners for procuring companies.⁸⁹ By ensuring that e-GP is interoperable with the PPIP and other procurement platforms at the national and county levels, vast amounts of data can be generated and analysed to identify patterns, make better-informed decisions, identify cost-saving opportunities, and improve efficiency.⁹⁰ This commitment foresees that e-GP will also include a mechanism for the public to submit feedback on contract implementation (milestone 8). This channel is expected to be like that available on the PPRA portal. A representative from Development Gateway noted that it will be important to avoid duplication of efforts and multiple platforms serving the same purpose.⁹¹

Coordination challenges and funding shortfalls have inhibited past commitments.⁹² As such, coordination among necessary government bodies, civil society, and funding partners will be key to achieving open contracting objectives. The political context after the August 2022 elections

and internal government resistance to anti-corruption efforts have also been noted as obstacles.⁹³ Kenya's OGP open contracting cluster has offered a space for collaboration, where the PPRA and Development Gateway have sought to maintain momentum and a multi-stakeholder approach for open contracting reforms. Engagement with the National Treasury will be critical for successful implementation, given their leadership on e-GP rollout.⁹⁴ This presents an opportunity to strengthen the National Treasury's participation in the OGP process given their central role in open contracting. As of July 2024, key partners including Open Ownership, PPRA, Open Contracting Partnership, and the World Bank had been discussing funding and technical support for open contracting and beneficial ownership transparency efforts,⁹⁵ which suggests that resources will be available for implementing this commitment, although coordination to overcome political obstacles remains an open question.

This commitment aims to form a multistakeholder group to draft a national policy on procurement system requirements, data publication, implementation and roll out in Kenya (milestone 3). This effort will be led by the National Treasury and civil society organisation Local Development Research Institute and aims to be completed by halfway through the implementation period in January 2026.

Milestone 5 to amend the PPDA to protect and create channels for whistleblowers is one of the more ambitious and challenging elements of this commitment. The long-sought aim to adopt the Whistleblower Protection Bill has stalled, in part due to the bill's budgetary implications. Implementers included a milestone to amend the PPDA as an alternative to passing the bill. However, members of parliament are hesitant to amend PPDA as it could open the possibility of more amendments. A representative from Development Gateway noted that the chances of amending PPDA for whistleblower protections seemed slim. They suggested that CSOs working on whistleblower protection could be brought into the process to advocate for amending PPDA.⁹⁶ The limited prospects that whistleblower protections will be enshrined in law decreases this commitment's potential for results. However, if achieved through either an amendment to PPDA or passage of the Whistleblower Protection Bill, this commitment could achieve notable results.

The commitment also seeks to ensure e-GP aligns with requirements under Kenya's Access to Government Procurement Opportunities (AGPO) program. The AGPO program reserves up to 30% of procurement contracts for women, youth, and persons with disability.⁹⁷ Planned activities include targeted outreach, awareness raising, and ensuring accessibility to procurement opportunities on e-GP to special interest groups (Milestones 4 and 6). PPRA notes that the e-GP system includes accommodations for persons with disabilities. However, it will necessarily exclude those without internet access.⁹⁸

Opportunities, challenges, and recommendations during implementation

Coordination among PPDA, the National Treasury, and civil society and international partners will be central to advancing implementation. Likewise, continued financial and technical support from organisations such as the World Bank, Development Gateway, and Open Contracting Partnership can address government funding and capacity shortcomings. The more ambitious and political aspects of this commitment, such as enshrining whistleblower protections, will take strategizing and collaboration with potential allies outside the open contracting sector. This action plan's four-year timeframe gives Kenya a more realistic window to bring about observable open contracting results than previous action plans. There is also significant potential to strengthen government accountability in continuing to integrate beneficial ownership transparency and open contracting reforms. At midpoint, implementers can review progress and strategize for the remainder of the

implementation period. The midpoint refresh will offer an opportunity to expand or amend the commitment as appropriate to reflect additional aims and contextual developments.

Commitment 6: Public Participation, Legislative, and Fiscal Openness

[Senate, National Assembly, County Assembly Forums, Mzalendo Trust.]

For a complete description, see Commitment 6 in [Kenya's 2023–2027 Action Plan](#).

Context and objectives

Kenya has undertaken budget transparency and open parliament reforms across previous action plans. Yet opportunity remains to concretise channels for citizens to receive information and engage government on key public finance issues. Most recently, protests sparked by the proposed 2024 Public Finance Bill underscored concerns that the government was making borrowing and spending decisions that did not reflect public input or interests.⁹⁹ This commitment has the potential to help address relevant priorities, ranging from a lack of genuine public participation channels to public debt transparency.

Critically, this commitment includes a broad range of activities to increase transparency and public participation around public debt, budget process, and legislative activities. Civil society will advocate for operationalisation of the Public Benefits Organisation Act through supporting legislation (Milestone 9), which could safeguard the environment for nongovernment organisations. While the commitment does not specifically aim to pass the Public Participation Bill, it does seek to include a requirement for plain language in government and parliament documents in the bill's text (Milestone 8) while the parliament commits to launching online platforms for public petitions and memorandum (Milestone 7). As these platforms exist, implementers can consider steps to strengthen these channels for parliamentary engagement.

The reform includes various activities to ensure greater availability of information on Kenya's public debt. Civil society and the Parliamentary Budget Office commit to opening committee hearings on debt to the public (Milestone 1) and include information on public debt in budget documents (Milestone 4). The Institute of Social Accountability (TISA) and Mzalendo Trust have also committed to publishing information on public debts on interactive platforms (Milestone 3) and conducting an assessment on debt impact on public interest groups (Milestone 2). More generally, the commitment also includes the publication of a state of parliamentary openness report and framework to assess the implementation of legislative proposals and needs (Milestones 5 and 6).

Potential for results: Modest

This commitment addresses issues central to the national debate in Kenya around public finance, debt, and the relationship between citizens and the state. It seeks to advance important but modest steps towards greater transparency and public participation in parliament. The activities build on recent developments such as the introduction of the Public Participation Bill to parliament, formation of an OGP Parliamentary Caucus and the National Assemblies' Public Debt and Privatisation Committee. It is worth noting that most milestones have a civil society counterpart designated as the lead implementer. This commitment will require buy-in and implementation by parliament to achieve its greatest potential. For instance, its ambition could be raised if it included the passage and implementation of the Public Participation Bill, which would fund and standardise public participation practices across government.

Likewise, the Civil Society Parliamentary Engagement Network commits to advocating for regulations to operationalise the 2013 Public Benefits Organisation (PBO) Act which requires action of the relevant Cabinet Secretary. This remains critical and progressive to provide an enabling environment for non-governmental organisations to operate (Milestone 8). Mzalendo Trust hopes that the OGP Caucus, formed last year with members from the House of Representatives and the Senate, will help champion open government legislation such as the PBO Act.¹⁰⁰

Despite having the fastest growing economy in Africa, Kenya struggles under significant public debt with USD 80 billion in domestic and international debt. Interest payments amount to 27% of government revenue. It has significant impact on fiscal and budget decisions, as demonstrated by the proposed 2024 Public Finance Bill, which sought to increase tax revenue to pay debt obligations.¹⁰¹ Accessible information on public debt is therefore a key component for an informed public debate and participation in government budget decision making.

This commitment builds on Kenya’s existing foundation for public debt disclosure. The Public Debt and Borrowing Policy requires the National Treasury to publish public debt information.¹⁰² At the time of writing, the National Treasury had published annual borrowing and debt management reports for the 2023–2024 fiscal year, debt sustainability analysis up to December 2022, external debt register up to December 2023, and monthly bulletins up to April 2024.¹⁰³ The External Public Debt Register provided loan-level information about amounts contracted and drawn, interest rate, maturity, and currency denomination for all loans.¹⁰⁴ In September 2024, the Auditor General of Kenya commenced a public debt audit.¹⁰⁵ However, debt information remains challenging for the public to understand.

Mzalendo Trust and TISA aim to increase the accessibility and usability of this information through interactive digital tools (Milestones 3) built on existing platforms such as the Jihusishe App, Promise Tracker, and Publish What You Borrow. To date, they are continuing to develop the Jihusishe mobile app¹⁰⁶ aimed at facilitating communication between citizens and government officials as well as provide current, accurate information about government projects, laws, policies, and proposals.¹⁰⁷ Mzalendo Trust also aims to produce a report on the gender implications of public debt (Milestone 2) in recognition of the heavy impact that funding cuts to service debt payments on gendered sectors such as education, health, and agriculture with the hope of generating resources and data to inform advocacy.¹⁰⁸

The Executive Director of Mzalendo Trust noted that the National Assembly has a Public Debt and Privatisation Committee.¹⁰⁹ Notably, Kenya commits to holding public hearings on debt in line with the 2012 Public Financial Management Act (Milestone 1). Public hearings were one of several recommendations identified by a Public Debt Management Assessment carried out by the committee, with the support of the Westminster Foundation for Democracy.¹¹⁰ Public hearings have the potential to strengthen both parliamentary and public oversight.

Although the 2010 Constitution enshrines the right to public participation in legislative actions, the government has not yet systematically enacted it through the passage of the Public Participation Bill. In its absence, there have been unclear standards for public participation and, consequently, Kenya’s Court of Appeals has struck down legislation deemed to not have sufficient participation.¹¹¹ Parliamentary openness is currently rudimentary, and public consultation is not proactively undertaken. Bills and reports, for instance, are also often not user friendly or machine readable while documents such as Hansards, voting records, and parliament attendance are not made public.¹¹²

The current draft Public Participation Bill introduced in the National Assembly in 2023 seeks to provide a framework for public participation in the decision-making process by state organs. Its scope includes policymaking, law-making, budgeting, and financial management.¹¹³ As the passage of this bill has been an aim across previous action plans, it was not included in this commitment as the bill had already reached the public participation stage at the time action plan co-creation.¹¹⁴ At the time of writing, Mzalendo Trust had submitted memoranda proposing the inclusion of a plain language reasonable accommodation requirements in the bill (Milestone 7), which requires that information be distributed widely using various available means in a language and form that can be understood by Kenyans with consideration for special interest groups such as persons with disabilities.¹¹⁵ Should the bill pass by the midpoint refresh, reformers can consider extending this commitment to include its implementation.

Meanwhile, the parliament has digital tools in place relevant to electronic submission of petitions and memoranda¹¹⁶ as well as a legislative proposal tracker¹¹⁷ (Milestones 5 and 6). However, there is a need to standardise and strengthen public participation channels with parliament. Many members of parliament remain hesitant to undertake genuine transparency and participation efforts which often led to public input not having any effect on draft legislation.¹¹⁸

Opportunities, challenges, and recommendations during implementation

This reform has previously stalled due to a lack of high-level political support. Importantly, it presents an opportunity for the government to concretely respond to public outcry for genuine avenues to participate in decision making. As with other commitments, there is no allocated budget and therefore implementers must source funding for activities.

Reformers will be able to review progress and amend this commitment at the two-year mark. The IRM recommends that the commitment be updated to include more forward looking and ambitious milestones to reflect the four-year implementation period. These could include passage and implementation of the Public Participation Bill as well as strengthening requirements for the parliament to act on petitions, memoranda, and input submitted by the public. It could also include a clear commitment to operationalise the PBO Act and activities to continue advancing transparency and accountability of public debt.

Commitment 7: Access to Information

[Commission on Administrative Justice, Article 19 Eastern Africa]

For a complete description, see Commitment 7 in [Kenya's 2023–2027 Action Plan](#).

Context and objectives

Right to information is enshrined in Article 35 of the 2010 Constitution and the 2016 Access to Information (ATI) Act, passed under a previous OGP action plan. The act establishes government responsibility to respond to requests for information and proactively publish certain categories of information.¹¹⁹ Reformers have advanced implementation of the act across previous action plans spearheaded by the Access to Information OGP Cluster co-led by the Commission on Administrative Justice (CAJ) and Article 19.

Progress thus far includes an Electronic Records and Data Management Standard, drafted ATI regulations, and an ATI course in the Kenya School of Government.¹²⁰ However, the delayed passage of regulations to operationalise the act has left the framework for digitisation of records, recordkeeping, and proactive disclosure fragmented.¹²¹ An absence of allocated budget has also prevented the completion of a central digital repository for government records and data.¹²²

Meanwhile, a lack of policy has led to an inconsistent approach for disclosing information and digitising government records. Further, an entrenched culture of secrecy within the government and diminishing media credibility contribute to a lack of openness within government institutions.

This commitment aims to further implement the ATI Act through development of a National ATI Policy, reporting guidelines for Public and Private Entities, and a framework for digitisation of public records. It also seeks adoption of the Model County Access to Information Law by OGP Local counties and increase awareness and uptake of the Access to Information course. The commitment specifically seeks to strengthen journalists' capacity to use ATI to combat mis/disinformation and to ensure proactive and timely release of election related information. As access to information is a cornerstone of open government, implementation of this reform would support other commitments in the action plan, such as Commitment 1 on climate action transparency and Commitment 3 on open data.

Potential for results: Substantial

This commitment holds significant potential to address gaps in implementation of the ATI Act and strengthen Kenyan's right to information. By continuing to address legislative and capacity gaps, this commitment promises to improve the government's ability to publish information proactively and reactively. Notably, this iteration of the commitment includes a focus on proactive publication of election data and addressing mis/disinformation. These critical components can help to address public distrust in government and election credibility. As written, some milestones are limited in scope (2), have already been achieved (1), or could be more specific (8). However, interviews indicate that implementers intend to go above and beyond the stated activities to achieve the commitment's objectives.

Milestone 1 commits to developing a National ATI Policy. The ATI Act was not preceded by a policy as is usual due to pressure to pass the act by the five-year timeframe set by the constitution. This has resulted in gaps in the implementation of the act. At the time of writing, a draft policy had already been developed by the Ministry of ICT and CAJ but remains subject to cabinet ratification. It offers directions, priority areas, objectives, and strategies for ATI in Kenya. Therefore, the IRM recommends that this milestone be updated to focus on finalisation and implementation of the policy.¹²³ In addition to this policy, the ATI regulations were gazetted in 2023 and came into force in March 2024.¹²⁴ The implementation of the ATI regulations and policy have notable potential to standardise and expand implementation of the ATI Act.

The CAJ commits to developing reporting guidelines for public and private entities on ATI (Milestone 3) which will set expectations for public and private entities to report on their compliance with the act. Currently, the CAJ synthesises information submitted by institutions on their ATI compliance into annual reports. However, a lack of sanctions for non-reporting under the ATI Act has resulted in incomplete information. The commission intends to use their mandate under the Performance Contracting Framework to include ATI reporting as an aspect of their performance contracting review. This has the potential to increase entities' reporting to the commission as the review findings can have budget implications.¹²⁵

Under Milestone 4, the CAJ and the Ministry of ICT commit to developing a framework for the digitisation of public records under the ATI Act, which requires digitisation of records, particularly analogue and historical documents. As the provisions are vague, the framework will provide minimum standards for digitisation in keeping public records and preserving information.¹²⁶ The CAJ and Article 19 aim to refresh and expand participation in the ATI course offered by and alongside the Kenya School of Government under Milestone 6. This will be done through awareness raising and inclusion of private sector information officers, which will be informed by a

study that was underway at the time of writing on what institutions had information officers and their training needs. As the course has only been available for a few years, there has not yet been a study on its impact for ATI compliance. However, implementers noted that such a study could take place in the latter half of the implementation period.¹²⁷

Milestone 2 seeks the adoption of the model ATI law in four counties participating in the OGP Local programme. Kenya's four OGP Local members have expanded to six since the action plan was developed, which include Elgeyo Marakwet, Makueni, Nandi, Nairobi, Machakos, and Kakamega.¹²⁸ Of these counties, only Makueni has an ATI Law.¹²⁹ Given the action plan's four-year timeline, the CAJ and Article 19 are encouraged to support all six OGP Local members to adopt ATI laws. This can include supporting the members to develop and implement ATI commitments in their county action plans. Implementers noted that work will extend beyond the four counties noted in the action plan and have already carried out advocacy to 16 counties.¹³⁰

Under this action plan, the CAJ aims to create a framework for counties' adoption of the law. The County Government Act requires counties to pass ATI laws, with a model ATI law for counties developed by the CAJ with support from GIZ. Kwale and Embu counties adopted ATI laws before the national ATI Act was passed,¹³¹ while Kisumu and Laikipia counties had bills at advanced stages. The CAJ is currently prioritising support for counties that express interest in passing a county ATI law, such as Nyamira, although counties with ATI laws still require support to understand their ATI obligations and implement the laws. The CAJ will begin with advocacy to gain support for ATI laws among county leadership and then support counties to understand the content and adapt the law to avoid a 'copy and paste' approach of the model law without understanding its implications. After a county ATI law is passed, the CAJ and Article 19 will support implementation.¹³² Implementers noted that this commitment's milestones also apply to the county level,¹³³ which indicates that this milestone is more ambitious than written.

Using access to information to deliberately support democratic processes is a new objective in Kenya's ATI OGP commitments. To do so, reformers aim to train the media on using ATI to combat mis/disinformation (Milestone 7). The CAJ, Article 19, and partners also intend to engage relevant bodies to ensure proactive and timely release of election related information (Milestone 8). Kenya's next general elections will take place in 2027, at the end of this action plan cycle. While generally free and fair, Kenya's elections are politically charged and have been characterised by civil unrest and demands for greater transparency and credibility.¹³⁴ As elsewhere, Kenya's elections have been increasingly impacted by mis/disinformation.¹³⁵ This commitment provides a runway to strengthen supply, demand, and use of government-held information for informed public debate and transparent election processes in 2027.

Kenya's compliance with the African Commission on Human and Peoples' Rights' guidelines on access to information and elections was assessed for the 2022 general elections.¹³⁶ These findings will inform training to Kenyan election stakeholders to ensure publication of election information throughout the cycle.¹³⁷ The report calls for adoption of ATI regulations and the regulatory framework for social media evaluated to balance protecting human rights while also addressing mis/disinformation. It includes specific recommendations on where bodies such as the Independent Electoral and Boundaries Commission and Officer of the Register of Political Parties can increase proactive publication of election information, such as comprehensive, timely, and accessible information on vote counts, results, and complaints.¹³⁸ Improving the proactive publication of accurate and timely election information can address critical challenges to peaceful and credible elections in Kenya. Additionally, addressing mis/disinformation can help to reduce inappropriate foreign and domestic influence on public date. At the midpoint, the IRM

recommends the addition of further details as to how election bodies are being engaged and which types of information are targeted for publication.

Opportunities, challenges, and recommendations during implementation

Civil unrest during elections and other pivotal moments indicates the potential to improve trust between Kenyans and the government. Tensions have been fuelled by the spread of mis/disinformation in the absence of credible information from the government. Comprehensive implementation of the ATI Act, particularly during election periods, has the potential to strengthen trust and facilitate informed public debate and participation.

Political resistance has stalled passage of the ATI Act and regulations in the past. High-level officials' recognition of ATI's role in restoring public trust may support the implementation of this commitment. Political support at the county level, such as working with the Council of Governors, will be essential for ATI progress at the local level.¹³⁹ Previously, high-level officials have turned their attention to ATI when incentivised by international loans and agreements.

The CAJ has championed ATI implementation despite a limited budget under government austerity measures. This reform benefits from strong support from the CAJ Commissioner and a newly created ATI Department. Close partnership with civil society has helped to fill funding gaps and carry out activities, such as sensitisation of civil servants and the public. The CAJ and Article 19 report that they were strategising to fund the implementation of this commitment.¹⁴⁰

Other commitments

Other commitments that the IRM did not identify as promising commitments are discussed below. This review provides recommendations to contribute to the learning and implementation of these commitments.

Commitment 4: Beneficial Ownership Transparency

Public access to beneficial ownership information, particularly when tied to contracting data, has significant potential to fight corruption through greater public accountability.¹⁴¹ Under the last action plan, Kenya enacted beneficial ownership regulations and launched a beneficial ownership information portal internal to government.¹⁴² While this commitment text aims to make the portal accessible to the public, a representative from the Business Registration Department stated that the government was not committed to this objective. They stated that in the government's view, this information should only be made available to competent authorities and possibly financial institutions;¹⁴³ further noting that current data protection laws limit public access to this information, although this obstacle could hopefully be addressed in the future.¹⁴⁴ This commitment is not considered promising at the time of writing as the implementing agency does not intend to make beneficial ownership information public. Resultantly, the planned activities focus on internal government reforms. The IRM recommends that implementers consider how data protection and beneficial ownership transparency laws can be harmonised to maximise government transparency. If implementation results in opening the beneficial ownership register to the public, the IRM will take that into consideration in the Results Report.

Commitment 8: Access to Justice

This commitment is a continuation from the fourth action plan where it sought to expand access to justice by operationalising the provisions of the Legal Aid Act and the Alternative Justice Systems Policy. The current action plan seeks to enhance access to grassroots justice, digitised justice, as well as the implementation of the Legal Aid Act and Alternative Justice Systems Policy. The commitment lacks an open government lens since implementation would not contribute to civic participation, public accountability, or transparency in government. The IRM will reassess

this commitment at the midpoint if the commitment is amended during the refresh process. Implementers can refer to the Methodology and IRM Indicators section in this report to update the commitment text to include a clear open government lens.

Commitment 9: Building open Government Resiliency

This commitment is continued from the previous action plan but has been refocused on developing governance policies and frameworks on principles of open governance and establishment of a new National Council on OGP to coordinate alignment across government programs with OGP principles and financing. While the commitment seeks to institutionalise OGP principles of principles transparency, public accountability, civic participation across governance frameworks, the objectives and proposed interventions remain unclear.

¹ “Vision 2030,” *Government of Kenya*, <https://vision2030.go.ke>.

² “Kenya at a Glance,” *Food and Agriculture Organisation of the United Nations*, 2022, <https://www.fao.org/kenya/fao-in-kenya/kenya-at-a-glance/en>.

³ Charles Wahungu (Enzi Ijayo – Africa Initiative), interview by IRM Researcher, 11 July 2024.

⁴ “Kenya Unveils Comprehensive Legal Framework to Accelerate Climate Action,” *NDC Partnership*, 4 September 2023, <https://ndcpartnership.org/news/kenya-unveils-comprehensive-legal-framework-accelerate-climate-action>.

⁵ “IRM End-of-Term Report: Kenya 2016–2018,” *Open Government Partnership*, August 2020, https://www.opengovpartnership.org/wp-content/uploads/2020/08/Kenya_End-of-Term_Report_2016-2018.pdf.

⁶ Christopher Graham, “Managing Climate Change: The Role of Multi-Stakeholder Partnerships in Building Climate Resilience in Sub-Saharan Africa,” *Interdisciplinary Journal of Partnership Studies*, 7 (2), 2020, <https://pubs.lib.umn.edu/index.php/ijps/article/download/3386/2648/14897>, p. 3–4.

⁷ “Kenya’s First National Determined Contribution,” *Ministry of Environment and Forestry*, June 2022, <https://unfccc.int/sites/default/files/NDC/2022-06/Kenya%27s%20First%20NDC%20updated%20version%29.pdf>; “FSD Landscape of Climate Finance in Africa,” *Financial Sector Deepening Africa*, 2022, <https://fsdafrica.org/publication/landscape-of-climate-finance-in-africa>.

⁸ “Carbon Credits Explained,” *MIT News*, 2024, <https://news.mit.edu/2024/explained-carbon-credits-0228>.

⁹ “Kenya’s Carbon Markets: The Goose That Lays the Golden Egg?” *International Finance Corporation*, January 2024, <https://www.ifcreview.com/articles/2024/january/kenya-s-carbon-markets-the-goose-that-lays-the-golden-egg>; “3 Reasons Why Kenya’s Carbon Markets Can Be Expected to Grow,” *Forbes*, 29 May 2024, <https://www.forbes.com/sites/simithambi/2024/05/29/3-reasons-why-kenyas-carbon-markets-can-be-expected-to-grow>; “Communities in Kenya fight carbon project that sold credits to Meta, Netflix,” *Semafor Africa*, 2024, <https://www.semafor.com/article/05/07/2024/kenya-fight-carbon-credits-meta-netflix>.

¹⁰ “Netflix, Apple, Shell, Delta Join Kenya’s Carbon Credit Boom,” *Carbon Credits*, 2024, <https://carboncredits.com/netflix-apple-shell-delta-join-kenyas-carbon-credit-boom>.

¹¹ “Climate Change (Carbon Markets) Regulations 2024,” *Kenya Gazette Supplement No. 105*, 17 May 2024, <https://shorturl.at/TGGBv>.

¹² “The Carbon Credit Trading and Benefit Sharing Bill 2023 (Eighth Draft),” *Government of Kenya*, August 2023, <https://kwckkenya.com/wp-content/uploads/2023/08/Carbon-Credit-Trading-Bill-Eighth-draft.pdf>.

¹³ Wahungu, interview.

¹⁴ “Water Towers Program Factsheet,” *USAID*, May 2022, https://www.usaid.gov/sites/default/files/2022-05/Water_Towers_Program_factsheet_2022.pdf.

¹⁵ “Auditor-General’s Performance Audit Report on Conservation of Water Towers in Kenya,” *Office of the Auditor General of the Government of Kenya*, October 2023, <https://www.oagkenya.go.ke/wp-content/uploads/2023/10/KENYA-WATER-TOWERS-REPORT.pdf>.

¹⁶ Wahungu, interview.

¹⁷ “Frequently Asked Questions - #Jazamiti App,” *Kenya Forestry Research Institute*, <https://www.kefri.org/components/jazamiti/faqs.html>; “Jazamiti,” *Google Play Store*, <https://play.google.com/store/apps/details?id=com.kefri.org&hl=en&gl=US&pli=1>.

¹⁸ Wahungu, interview.

¹⁹ “The Kenya National Digital Master Plan 2022–2032,” *Ministry of ICT, Innovation, and Youth Affairs*, April 2022, <https://cms.icta.go.ke/sites/default/files/2022-04/Kenya%20Digital%20Masterplan%202022-2032%20Online%20Version.pdf>, p. 35.

- ²⁰ “National Information, Communications and Technology (ICT) Policy,” *Ministry of ICT*, November 2019, <https://www.ict.go.ke/wp-content/uploads/2019/12/NATIONAL-ICT-POLICY-2019.pdf>.
- ²¹ “Kenya Digital Economy: Digital Economy Blueprint,” *Ministry of ICT*, May 2019, <https://www.ict.go.ke/wp-content/uploads/2019/05/Kenya-Digital-Economy-2019.pdf>.
- ²² Tim Hughes and Sarah Kennedy, “Three Ways to Better Govern the Use of AI,” *Open Government Partnership*, 2024, <https://www.opengovpartnership.org/stories/three-ways-to-better-govern-the-use-of-ai>.
- ²³ Leonida Mutuku (AI Research Director at the Local Development Research Institute), correspondence with IRM researcher, 13 September 2024.
- ²⁴ “Kenya announces regulatory measures to curb AI-driven disinformation,” *Techpoint Africa*, 12 September 2024, <https://techpoint.africa/2024/09/12/kenya-announces-regulatory-measures>.
- ²⁵ William Ruto, “Launch of Kenya’s 5th Open Government Partnership Action Plan, Nairobi,” *X (formerly Twitter)*, 12 September 2024, https://x.com/williamsruto/status/1834105875612795071?t=8XqABEFamYP8Z5C_Eckd4A.
- ²⁶ Mutuku, correspondence.
- ²⁷ Mutuku, correspondence.
- ²⁸ “Kenya’s Digital Economy: People’s Perspective,” *Dalberg*, <https://dalberg.com/our-ideas/kenyas-digital-economy-a-peoples-perspective>.
- ²⁹ “Kenya’s Carbon Markets: The Goose That Lays the Golden Egg?” *International Finance Corporation*.
- ³⁰ “UNDP Unveils Digital Public Infrastructure Portfolio and Signs MOU to Drive Inclusive Digital Transformation,” *United Nations Development Programme*, 2023, <https://www.undp.org/kenya/press-releases/undp-unveils-digital-public-infrastructure-portfolio-and-signs-mou-drive-inclusive-digital-transformation>.
- ³¹ Mutuku, correspondence.
- ³² Mutuku, correspondence.
- ³³ The IRM received a copy of the “Digital Governance Commitment Work Plan” in September 2024.
- ³⁴ “2023 Public Participation Bill,” *Parliament of Kenya*, <https://shorturl.at/cSlnj>.
- ³⁵ See Digital Governance in: “Kenya 2023–2027 National Action Plan,” *Government of Kenya*, https://www.opengovpartnership.org/wp-content/uploads/2024/01/Kenya_Action-Plan_2023-2027_December.pdf, p. 30; Statement by OGP CSO Multi-Stakeholder Forum on #RejectFinanceBill2024 Protests on 27 June 2024.
- ³⁶ Mutuku, correspondence.
- ³⁷ Mutuku, correspondence.
- ³⁸ “Digital Governance Commitment Work Plan.”
- ³⁹ “Digital Governance Commitment Work Plan.”
- ⁴⁰ Mutuku, correspondence.
- ⁴¹ Mutuku, correspondence.
- ⁴² “Kenya Unveils National Emerging Technologies and AI Strategy Framework,” *KICTANet Think Tank*, 5 June 2024, <https://www.kictanet.or.ke/kenya-unveils-national-emerging-technologies-and-ai-strategy-framework>; “Shaping Kenya’s AI Future: UNESCO Contributes to National AI Strategy Formulation,” *UNESCO*, 2 April 2024, <https://www.unesco.org/en/articles/shaping-kenyas-ai-future-unesco-contributes-national-ai-strategy-formulation>.
- ⁴³ “Kenya: KEBS Publishes Draft AI Code of Practice,” *Data Guidance*, 22 April 2024, <https://www.dataguidance.com/news/kenya-kebs-publishes-draft-ai-code-practice>.
- ⁴⁴ “Driving Innovation: KeNIA’s Actionable Resolutions from Kenya Innovation,” *Kenya National Innovation Agency*, 2023, <https://www.innovationagency.go.ke/blog/driving-innovation-kenias-actionable-resolutions-from-kenya-innovation-week-2023>.
- ⁴⁵ “Kenya 10-Year Innovation Masterplan,” *Government of Kenya*, https://innovationmasterplan.go.ke/assets/documents/national_innovation_masterplan.pdf.
- ⁴⁶ Mutuku, correspondence.
- ⁴⁷ “Konza Technopolis,” *Government of Kenya*, <https://konza.go.ke>.
- ⁴⁸ “Microsoft and G42 Announce \$1 Billion Comprehensive Digital Ecosystem Initiative for Kenya,” *Microsoft News*, 22 May 2024, <https://news.microsoft.com/2024/05/22/microsoft-and-g42-announce-1-billion-comprehensive-digital-ecosystem-initiative-for-kenya>.
- ⁴⁹ Mutuku, correspondence; “Working Group on Policy and Legislative Reforms for the Information, Communications and the Digital Economy Sector,” *Kenya Gazette*, 19 September 2023, https://kenyalaw.org/kenya_gazette/gazette/volume/Mjk4Mw--/Vol.CXXV-No.208.
- ⁵⁰ “Digital Governance Commitment Work Plan.”
- ⁵¹ Mutuku, correspondence.
- ⁵² Mutuku, correspondence.
- ⁵³ Mutuku, correspondence.
- ⁵⁴ “Enhancing Digital Civic Space through the OGP Process,” *International Center for Not-for-Profit Law*, <https://www.icnl.org/wp-content/uploads/OGP-digital-commitments-final-new-logos.pdf>, p. 7.

- ⁵⁵ “Kenya Leads on Open Data in Developing Countries,” *The World Bank*, 2011, <https://blogs.worldbank.org/opendata/kenya-leads-open-data-developing-countries>.
- ⁵⁶ “The Kenya Open Data Initiative,” *Centre for Impact*, 5 April 2016, <https://www.centreforpublicimpact.org/case-study/open-data-kenya>.
- ⁵⁷ Meron Elias, “What is behind Kenya’s protest movement?” *Crisis Group*, 3 July 2024, <https://www.crisisgroup.org/africa/east-and-southern-africa/kenya/what-behind-kenyas-protest-movement>.
- ⁵⁸ Muchiri Nyaggah (Executive Director of Local Development Research Institute), interview by IRM researcher, 5 July 2024.
- ⁵⁹ “Public Finance Management Act No. 18 of 2012,” *National Council for Law Reporting*, 2012, <https://www.worldbank.org/content/dam/Worldbank/document/Africa/Kenya/Kenya%20Devolution/Public%20Finance%20Management%20Act%20%282012%29.pdf>.
- ⁶⁰ “Kenya 2023 Open Budget Survey Results,” *International Budget Partnership*, 2023, <https://internationalbudget.org/open-budget-survey/country-results/2023/kenya>.
- ⁶¹ Nyaggah, interview.
- ⁶² “Report on the Consideration of the Statistics (Amendment) Bill 2019,” *National Assembly*, 30 July 2019, <https://shorturl.at/94k7B>, p. 9–11.
- ⁶³ “The County Statistics Bill 2024,” *Kenya Gazette Supplement Senate Bills*, May 2024, [http://www.parliament.go.ke/sites/default/files/2024-05/The County Statistics Bill, No.5 of 2024.pdf](http://www.parliament.go.ke/sites/default/files/2024-05/The%20County%20Statistics%20Bill,%20No.5%20of%202024.pdf).
- ⁶⁴ Andrew Nyawade (Director of Space Systems and Infrastructure), interview with IRM researcher, 5 July 2024; Nyaggah, interview.
- ⁶⁵ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*, 2024, <https://www.opengovpartnership.org/documents/kenya-results-report-2020-2022>.
- ⁶⁶ Nyawade, interview.
- ⁶⁷ Nyaggah, interview.
- ⁶⁸ Mia Katan, “Six questions to protect your transparency portal from zombie status,” 2022, <https://www.opengovpartnership.org/stories/six-questions-to-protect-your-transparency-portal-from-zombie-status>.
- ⁶⁹ Nyawade, interview.
- ⁷⁰ “Kenya GeoPortal,” *Esri*, <https://kenya.africageoportal.com>; “IRM Transitional Results Report: Kenya 2018–2021,” *Open Government Partnership*, May 2023, https://www.opengovpartnership.org/wp-content/uploads/2023/05/Kenya_Transitional-Results-Report_2018-2021.pdf.
- ⁷¹ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*, p. 20; “Improving Sub-National Spatial Data Analytics in Kenya,” *CEPEI*, 26 June 2023, <https://cepei.org/en/documents/improving-sub-national-spatial-data-analytics-kenya-2>.
- ⁷² Elias, “What is behind Kenya’s protest movement?” *Crisis Group*.
- ⁷³ Nyawade, interview.
- ⁷⁴ “Benefits on Electronic Government Procurement System in Kenya,” *Public Financial Management Reforms Secretariat*, 15 January 2024, <https://www.pfmr.go.ke/4832-2>.
- ⁷⁵ “Public Procurement Information Portal,” *Government of Kenya*, <https://tenders.go.ke>.
- ⁷⁶ “National Public Procurement and Asset Disposal Policy 2020,” *Government of Kenya*, <https://www.treasury.go.ke/wp-content/uploads/2021/12/NATIONAL-PUBLIC-PROCUREMENT-AND-ASSET-DISPOSAL-POLICY-2020.pdf>, p. 1.
- ⁷⁷ Edwin Muhumuza (Head of Africa at the Open Contracting Partnership), interview with IRM researcher, 4 October 2024.
- ⁷⁸ Muhumuza, interview.
- ⁷⁹ Kenyan OGP Local members with open contracting commitments include: Elgeyo Marakwet, Makueni, and Nandi.
- ⁸⁰ “Kenya Secures Support to Further Strengthen Transparency in Public Finance Management and Enhance Revenue Mobilization,” *The World Bank*, 12 December 2023, <https://www.worldbank.org/en/news/press-release/2023/12/12/kenya-secures-support-to-further-strengthen-transparency-in-public-finance-management>.
- ⁸¹ “Benefits on Electronic Government Procurement System in Kenya,” *Public Financial Management Reforms Secretariat*.
- ⁸² Brian Gitonga (Government Point of Contact for Commitment 5), interview by IRM researcher, 11 July 2024; Charlene Migwe-Kagume (Development Gateway), interview by IRM researcher, 11 July 2024.
- ⁸³ “Piloting of Government’s E-Procurement System to End in December,” *Kenyan Wall Street*, 14 June 2024, <https://kenyanwallstreet.com/piloting-of-governments-e-procurement-system-to-end-in-december>.
- ⁸⁴ Gitonga, interview; Migwe-Kagume, interview.
- ⁸⁵ Muhumuza, interview.
- ⁸⁶ “Open Contracting Data Standard,” *Open Contracting Partnership*, <https://standard.open-contracting.org/latest/en>.
- ⁸⁷ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*.
- ⁸⁸ “Benefits on Electronic Government Procurement System in Kenya,” *Public Financial Management Reforms Secretariat*.
- ⁸⁹ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*.
- ⁹⁰ “Benefits on Electronic Government Procurement System in Kenya,” *Public Financial Management Reforms Secretariat*.

- ⁹¹ Gitonga, interview; Migwe-Kagume, interview; “A Decade of Review: Kenya – Open Government Partnership,” Mzalendo Trust, July 2023.
- ⁹² “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*.
- ⁹³ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*.
- ⁹⁴ Gitonga, interview; Migwe-Kagume, interview.
- ⁹⁵ Muhumuza, interview.
- ⁹⁶ Gitonga, interview; Migwe-Kagume, interview.
- ⁹⁷ “Access to Government Procurement Opportunities,” *Government of Kenya*, <https://agpo.go.ke>.
- ⁹⁸ Gitonga, interview; Migwe-Kagume, interview.
- ⁹⁹ “Kenya’s Parliament Invasion: MPs Saved by Protesters against the Finance Bill,” *BBC News*, 28 June 2024, <https://www.bbc.com/news/articles/cg3jvvggnlqxo>; “Police in Kenya fire tear gas at protesters as new cabinet ministers are sworn in,” *Associated Press*, 8 August 2024, <https://apnews.com/article/kenya-protests-antigovernment-ruto-tear-gas-37d92363a777da45ede525392119d179>.
- ¹⁰⁰ Caroline Gaita (Executive Director of Mzalendo Trust), interview by IRM Researcher, 28 March 2024.
- ¹⁰¹ “Behind the Deadly Unrest in Kenya, a Staggering and Painful National Debt,” *The New York Times*, 26 June 2024, <https://www.nytimes.com/2024/06/26/business/kenya-tax-protests-debt.html>.
- ¹⁰² “Public Debt and Borrowing Policy 2020,” *Government of Kenya*, February 2021. <https://ntnt.treasury.go.ke/wp-content/uploads/2021/02/Debt-and-Borrowing-Policy-2020-Final-June-2020.pdf>.
- ¹⁰³ “Public Debt Management,” *National Treasury of Kenya*, <https://www.treasury.go.ke/public-debt-management>.
- ¹⁰⁴ “External Debt Register,” *National Treasury of Kenya*, <https://www.treasury.go.ke/external-public-debt-register>.
- ¹⁰⁵ “Kenya begins national debt audit, finance minister says,” *Reuters*, 16 September 2024, <https://www.reuters.com/world/africa/kenya-begins-national-debt-audit-finance-minister-says-2024-09-16>.
- ¹⁰⁶ “Jihushishe,” *Google Play Store*, https://play.google.com/store/apps/details?id=org.pwaniteknowgalz.mobipeace.jihushishe&hl=en_GB.
- ¹⁰⁷ Anne Stopper, “An app for better governance and civic engagement in Kenya,” *Mozilla Foundation*, 27 March 2024, <https://foundation.mozilla.org/en/blog/an-app-for-better-governance-and-civic-engagement-in-kenya>.
- ¹⁰⁸ Gaita, interview.
- ¹⁰⁹ Gaita, interview.
- ¹¹⁰ “Boosting Kenya’s Debt Oversight,” *Westminster Foundation for Democracy*, 2024, <https://www.wfd.org/story/boosting-kenyas-debt-oversight>.
- ¹¹¹ “Kenya Court of Appeal Declares the Finance Act, 2023 Unconstitutional One Year Later,” *Ernst & Young*, 2023, <https://taxnews.ey.com/news/2024-1498-kenya-court-of-appeal-declares-the-finance-act-2023-unconstitutional-one-year-later>.
- ¹¹² Gaita, interview.
- ¹¹³ “2023 Public Participation Bill,” *Parliament of Kenya*.
- ¹¹⁴ Gaita, interview.
- ¹¹⁵ Clause 5 (1) under the General Public Participation Guidelines Schedule of the 2023 Public Participation Bill, see: <https://shorturl.at/pMbUR>.
- ¹¹⁶ “Petition to Parliament,” *National Assembly*, http://www.parliament.go.ke/contact/national_assembly_petition; “House Business: Bills,” *National Assembly*, <http://www.parliament.go.ke/the-national-assembly/house-business/bills>.
- ¹¹⁷ “Legislative Proposal Tracker,” *Parliament of Kenya*, July 2023, http://www.parliament.go.ke/sites/default/files/2023-07/LEGISLATIVE_PROPOSAL_TRACKER_-_AS_AT_24_JULY_2023.pdf.
- ¹¹⁸ Gitungo Wamere (Programs Coordinator at Mzalendo Trust), interview by IRM researcher, 27 March 2024.
- ¹¹⁹ “The Constitution of Kenya 2010,” *National Council for Law Reporting*, 2010, http://www.parliament.go.ke/sites/default/files/2023-03/The_Constitution_of_Kenya_2010.pdf; “A Guide on Proactive Disclosure for Public Entities at National and County Government Level in Kenya,” *Commission on Administrative Justice*, August 2018, <https://test.ombudsman.go.ke/download/guide-on-proactive-disclosure-of-information/#>; “Access to Information Act No. 31 of 2016,” *Government of Kenya*, 2016, <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/AccessToInformationActNo31of2016.pdf>.
- ¹²⁰ “IRM End-of-Term Report: Kenya 2016–2018,” *Open Government Partnership*.
- ¹²¹ “Kenya 2020–2022 National Action Plan,” *Government of Kenya*, March 2021, <https://www.opengovpartnership.org/documents/kenya-action-plan-2020-2022>, p. 25.
- ¹²² “IRM End-of-Term Report: Kenya 2016–2018,” *Open Government Partnership*, p. 46; “IRM Transitional Results Report: Kenya 2018–2021,” *Open Government Partnership*, p. 8.
- ¹²³ “Draft National Access to Information Policy,” *Ministry of Information, Communications, and the Digital Economy*, December 2023, <https://ict.go.ke/wp-content/uploads/2023/12/Revised-ATI-Policy.pdf>.
- ¹²⁴ “Access to Information General (Regulations) 2023,” *Parliament of Kenya*, 2023, <http://196.202.208.105/xmlui/handle/123456789/23902>.

- ¹²⁵ Viola Ochola (Director of Access to Information at the Commission on Administrative Justice), interview by IRM researcher, 12 March 2024; Sarah Wesonga (Programs Officer at Article 19 East Africa), interview by IRM researcher, 12 March 2024.
- ¹²⁶ Ochola, interview; Wesonga, interview.
- ¹²⁷ Ochola, interview; Wesonga, interview.
- ¹²⁸ “OGP Local,” *Open Government Partnership*, <https://www.opengovpartnership.org/ogp-local>.
- ¹²⁹ “The Makeni County Access to Information Bill 2024,” *Makeni Bills*, 8 April 2024, <https://makueni.go.ke/sandbox/site/files/2024/02/Makueni-County-Access-to-Information-Bill-2024-2.pdf>.
- ¹³⁰ Ochola, interview; Wesonga, interview.
- ¹³¹ “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*.
- ¹³² Ochola, interview; Wesonga, interview.
- ¹³³ Ochola, interview; Wesonga, interview.
- ¹³⁴ “Proactive Disclosure of Information During Elections in Kenya,” *Centre for Human Rights & Article 19*, 2023, <https://shorturl.at/xG411>.
- ¹³⁵ “Kenya: Tackling Misinformation Is Critical for Electoral Integrity,” *Article 19*, <https://www.article19.org/resources/kenya-tackling-misinformation-critical-electoral-integrity>.
- ¹³⁶ “Proactive Disclosure of Information During Elections in Kenya,” *Centre for Human Rights & Article 19*.
- ¹³⁷ Ochola, interview; Wesonga, interview.
- ¹³⁸ “Proactive Disclosure of Information During Elections in Kenya,” *Centre for Human Rights & Article 19*.
- ¹³⁹ Ochola, interview; Wesonga, interview.
- ¹⁴⁰ Ochola, interview; Wesonga, interview.
- ¹⁴¹ Combating Contemporary Kleptocracy: State of Play in Kenya,” *The Institute of Economic Affairs Kenya*, <https://ieakenya.or.ke/download/combating-contemporary-kleptocracy-state-of-play-in-kenya>; p. 1.
- ¹⁴² “IRM Results Report: Kenya 2020–2022,” *Open Government Partnership*, p. 19.
- ¹⁴³ Sarah Wainaina (Assistant Register of the Business Registration Department), interview by IRM researcher, 19 March 2024.
- ¹⁴⁴ Wainaina, interview; Philip Nyakundi (Policy Director for Africa at Global Financial Integrity), interview by IRM researcher, 19 March 2024.

Section III. Methodology and IRM Indicators

The purpose of this review is not an evaluation. It is intended as a quick, independent, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. The IRM highlights commitments that have the highest potential for results, a high priority for country stakeholders, a priority in the national open government context, or a combination of these factors.

The three IRM products provided during a national action plan cycle include:

- **Co-Creation Brief:** A concise brief that highlights lessons from previous IRM reports to support a country’s OGP process, action plan design, and overall learning.
- **Action Plan Review:** A technical review of the characteristics of the action plan and the strengths and challenges IRM identifies to inform a stronger implementation process.
- **Results Report:** An overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning.

In the Action Plan Review, the IRM follows a filtering and clustering process to identify promising reforms or commitments:

Step 1: Determine what is reviewable based on the verifiability of the commitment as written in the action plan.

Step 2: Determine if the commitment has an open government lens. Is it relevant to OGP values?

Step 3: Review commitments that are verifiable and have an open government lens to identify if certain commitments need to be clustered. Commitments that have a common policy objective or contribute to the same reform or policy issue should be clustered. The potential for results of clustered commitments should be reviewed as a whole. IRM staff follow these steps to cluster commitments:

- a. Determine overarching themes. If the action plan is not already grouped by themes, IRM staff may use OGP’s thematic tagging as reference.
- b. Review commitment objectives to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
- c. Organise commitments into clusters as needed. Commitments may already be organised in the action plan under specific policy or government reforms.

Step 4: Assess the potential for results of the clustered or standalone commitment.

Filtering is an internal process. Data for individual commitments is available in Annex 1. In addition, during the internal review process of this product, the IRM verifies the accuracy of findings and collects further input through peer review, OGP Support Unit feedback as needed, interviews and validation with country stakeholders, an external expert review, and oversight by IRM’s International Experts Panel (IEP).

As described earlier, IRM relies on **three key indicators** for this review:

I. Verifiability

- **Yes, specific enough to review:** As written in the action plan, the stated objectives and proposed actions are sufficiently clear and include objectively verifiable activities to assess implementation.

- **No, not specific enough to review:** As written in the action plan, the stated objectives and proposed actions lack clarity and do not include explicitly verifiable activities to assess implementation.
- Commitments that are not verifiable will be considered not reviewable, and further assessment will not be carried out.

II. Open government lens

This indicator determines if the commitment relates to the open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration and the OGP Articles of Governance by responding to the following guiding questions. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institution, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP values as defined in the Articles of Governance. In addition, the following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will the government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable legal, policy, or institutional frameworks to foster accountability of public officials?

III. Potential for results

The IRM adjusted this indicator—formerly known as the “potential impact” indicator—to take into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, the IRM modified this indicator to lay out the expected results and potential that would be verified in the IRM Results Report after implementation. Given the purpose of this Action Plan Review, the assessment of potential for results is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** A positive but standalone initiative or change to processes, practices, or policies. The commitment does not generate binding or institutionalised changes across government or institutions that govern a policy area. Examples are tools (e.g., websites) or data release, training, or pilot projects.

- **Substantial:** A possible game changer for practices, policies, or institutions that govern a policy area, public sector, or the relationship between citizens and state. The commitment generates binding and institutionalised changes across government.

This review was prepared by the IRM in collaboration with Eva Maria Okoth and was externally expert reviewed by Brendan Halloran. The IRM methodology, quality of IRM products, and review process are overseen by IRM’s IEP. For more information, see the IRM Overview section of the OGP website.¹

¹ “IRM Overview,” *Open Government Partnership*, <https://www.opengovpartnership.org/irm-guidance-overview>.

Annex 1. Commitment by Commitment Data¹

Commitment 1: Climate Action
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest
Commitment 2: Digital Governance
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Substantial
Commitment 3: Improving Availability of Data for Development
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest
Commitment 4: Beneficial Ownership
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest
Commitment 5: Open Contracting
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest
Commitment 6: Public Participation, Legislative and Fiscal Openness
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest
Commitment 7: Access to Information
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Substantial
Commitment 8: Access to Justice
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? No• Potential for results: Unclear
Commitment 9: Building Open Government Resiliency
<ul style="list-style-type: none">• Verifiable: Yes• Does it have an open government lens? Yes• Potential for results: Modest

¹ **Editorial notes:** Commitment short titles may have been edited for brevity. For the complete text of commitments, please see: “Kenya’s Open Government Partnership (OGP) 5th National Action Plan 2023–2027,” *Government of Kenya*, 2 January 2024, <https://www.opengovpartnership.org/documents/kenya-action-plan-2023-2027-december>.

Annex 2. Action Plan Co-Creation

OGP member countries are encouraged to aim for the full ambition of the OGP Participation and Co-Creation Standards that came into force on 1 January 2022.¹ The IRM assesses all countries that submitted action plans from 2022 onward under the updated standards. Table 2 outlines the extent to which the countries’ participation and co-creation practices meet the minimum requirements that apply during development of the action plan.

OGP instituted a 24-month grace period to ensure a fair and transparent transition to the updated standards. Action plans co-created and submitted by 31 December 2023 fall within the grace period. The IRM will assess countries’ alignment with the standards and their minimum requirements.² However, countries will only be found to be acting contrary to process if they do not meet the minimum requirements for action plans co-created in 2024 and onwards.

Please note that, according to the OGP National Handbook, countries implementing four-year action plans must undertake a refresh process at the two-year mark. Countries are expected to meet minimum requirements 3.1 and 4.1 during the refresh process.³

Table 2. Compliance with minimum requirements

Minimum requirement	Met during co-creation?
1.1 Space for dialogue: Kenya has an OGP Council that includes high-level government, parliament, and civil society members, chaired by President William Ruto. A Technical Committee that includes government and civil society commitment cluster leads and OGP Local member representatives met frequently during co-creation. ⁴ However, there is no public information on the Council and Committee’s basic rules.	No
2.1 OGP website: While OGP Kenya has a Twitter and Facebook, they do not contain the latest action plan or other basic information on Kenya’s OGP process. ⁵	No
2.2 Repository: Kenya has a public Google Drive folder with information on development of the action plan. ⁶ It is recommended that the drive be updated at least every six months during implementation.	Yes
3.1 Advanced notice: A co-creation timeline with information on opportunities to participate was not published online in advance due to the absence of an OGP Kenya website or maintained social media sites. A co-creation roadmap was communicated verbally in multistakeholder forums. ⁷ However, this information must be made available online and in advance for the minimum to be met.	No
3.2 Outreach: Prior to the main co-creation workshop that was held on 23 May 2023, several meetings ⁸ were convened with civil society, government, and the media to provide information about OGP and the opportunities to get involved.	Yes
3.3 Feedback mechanism: In addition to in-person co-creation workshops, OGP Kenya used both public notices on twitter ⁹ and email communications ¹⁰ to invite stakeholders to participate in the design of the commitments and send their input on the draft action plan.	Yes
4.1 Reasoned response: Contributions from stakeholders were collected and documented in a joint memorandum from civil society organisations ¹¹ and direct comments on the text of the draft commitments. ¹² Stakeholder feedback was discussed during validation meetings among the cluster groups. The final text was developed by consensus. ¹³	Yes
5.1 Open implementation: The IRM will assess whether meetings were held with civil society stakeholders to present implementation results and enable civil society to provide comments in the Results Report.	Not applicable

A public Google Drive folder now includes information on co-creation and implementation of Kenyan OGP action plans. However, the absence of a Kenya OGP website or social media sites with relevant information prevents Kenya from meeting several of the minimum requirements under the Participation and Co-Creation Standards. The IRM recommends that Kenya devise a plan for a sustainable and updated online space for information sharing on OGP activities and opportunities to engage. This could include relaunching the standalone website, the creation of an OGP page on an existing website, and/or use of OGP Kenya’s social media accounts to share relevant information on action plan development and implementation.

¹ “OGP Participation and Co-Creation Standards,” *Open Government Partnership*, 2021, <https://www.opengovpartnership.org/ogp-participation-co-creation-standards>.

² “IRM Guidelines for the Assessment of Minimum Requirements,” *Open Government Partnership*, <https://www.opengovpartnership.org/documents/irm-guidelines-for-the-assessment-of-minimum-requirements>.

³ See Section 2.3 in: “OGP National Handbook,” *Open Government Partnership*, 2022, <https://www.opengovpartnership.org/documents/ogp-national-handbook-rules-and-guidance-for-participants-2022>.

⁴ The seven meetings were held on (1) 7 December 2023, see: <https://x.com/MzalendoWatch/status/1733010855548375380?s=20>; (2) 17 October 2023, see: <https://x.com/MzalendoWatch/status/1714203844891013440?s=20>; (3) 18 October 2023, see: <https://x.com/MzalendoWatch/status/1714563654073356692?s=20>; (4) 26 July 2023, see: <https://x.com/MzalendoWatch/status/1684090423080546304?s=20>; (5) 23 May 2023, see: <https://x.com/MzalendoWatch/status/1660902836014653441?s=20>; (6) 10 May 2023, see: <https://x.com/MzalendoWatch/status/1656590500546109441?s=20>; and (7) 16 February 2023, see: <https://x.com/MzalendoWatch/status/1626109654454394880?s=20>. See: “Kenya’s Open Government Partnership (OGP) 5th National Action Plan 2023–2027,” *Government of Kenya*, 2 January 2024, <https://www.opengovpartnership.org/documents/kenya-action-plan-2023-2027-december>.

⁵ See: “OGP Kenya,” *X (formerly Twitter)*, <https://twitter.com/ogpkenya>; “OGP Kenya,” *Facebook*, <https://www.facebook.com/OgpKenya>.

⁶ See OGP Repository at: https://drive.google.com/drive/u/1/folders/1ir_BlqiEHrrkjFwelu6htisP0MIb4iOc.

⁷ Caroline Gaita (Executive Director of Mzalendo Trust), interview by IRM researcher, 27 March 2024.

⁸ See Note 4 in this section.

⁹ See an update from Mzalendo Watch at, “1. Access to Justice,” *X (formerly Twitter)*, 16 November 2023, <https://twitter.com/MzalendoWatch/status/1725030684022997289?s=20>.

¹⁰ The IRM researcher confirmed based on emails shared by Caroline Gaita (Executive Director of Mzalendo Trust), for the 5th Action Plan Co-Creation Workshop on 16–19 October at Sarova Woodlands Hotel, dated 3 October 2024, and 5th National Action Plan Co-Creation Multi-Stakeholder Forum (MSF) on 23 May 2023, dated 3 October 2024.

¹¹ Memoranda on the commitment on the proposed carbon markets regulations dated 16 and 17 October 2023 between Community Land Action Now (CLAN), Namati, Natural Justice, Impact, and Kenya Wildlife Conservancies Association (KWCA), see: <https://drive.google.com/drive/u/1/folders/18hAdOckvcONHFPXRRlvwCO8-X2XTMszp>.

¹² Based on stakeholder inputs on each draft commitment text in tracked changes, see: https://drive.google.com/drive/u/1/folders/1ir_BlqiEHrrkjFwelu6htisP0MIb4iOc.

¹³ Gaita, interview.