

# **THE APRM PROCESS IN SOUTH AFRICA**

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# Preface

South Africa was one of the driving forces behind the adoption of the New Partnership for Africa's Development (NEPAD) and the establishment of the African Peer Review Mechanism (APRM) that accompanied it. The APRM's continental secretariat – like that of NEPAD – is hosted by South Africa. Then-President Thabo Mbeki frequently emphasised that democracy, and good political, economic and corporate governance are necessary conditions for development, and invested his personal reputation in the effort to transform continental political and economic development. Though South Africa was not in the end one of the very first set of countries to undertake the APRM review, it was perhaps the most expeditious in completing each requirement of the process. The implementation of the APRM self-assessment took place in South Africa over less than one year, during 2005 and 2006, with the final review of the country report by the heads of state of the other APRM countries at the end of 2006.

This report is part of a series of studies commissioned by the Africa Governance Monitoring and Advocacy Project (AfriMAP) of the Open Society network of foundations in Africa (which includes the Open Society Initiative for Southern Africa, OSISA, our partner in this report) to assess the APRM process in adhering countries. Similar reports have been published on Benin, Burkina Faso, Ghana, Kenya, Mauritius, Nigeria and Rwanda. Others are being finalised for South Africa, Algeria, Mali, Mozambique and Uganda.

The present report was written by Nobuntu Mbelle, a South African and an expert consultant on issues of good governance and human rights within the AU framework. It is based on a review of the process documents and on interviews with people involved in the process as participants or experts.

Like similar reports prepared for other countries, the primary objective of this report is to examine whether and to what

extent the self-assessment process in South Africa complied with the effectiveness and credibility criteria defined by the APRM founding documents, and in particular to what extent it was open, participatory, transparent and independent.

Mbelle finds that, though South Africa was anxious to complete the APRM self-assessment on time and did so successfully, its commitment to speed was perhaps at the expense of quality. Although there was an expectation that South Africa would set a high standard for the process, it fell some way short of this ambition. There were some innovative and important steps, including the decentralisation of the process and an effort to collect information from a very wide range of respondents. But lack of planning and over-hasty implementation meant that the APRM process was nothing like as thorough as it could have been; more worryingly, the hand of government was far too strong in the preparation of the final self-assessment report.

The haste with which the APRM was conducted sometimes gave the impression that the authorities of South Africa conducted the process for the sake of having officially done so. There is little evidence that the APRM implementation informed South Africa's other planning or monitoring and evaluation processes. We hope that this report may encourage the current government led by President Jacob Zuma to revisit the APRM experience and widen once again the participation of South African civil society groups in the ongoing progress reports that South Africa must submit to the heads of state of the other countries that have undertaken to be peer reviewed. The commitment of South Africa is also needed to ensure that the APRM remains effective and independent at continental level, adhering to its initial transformatory ambitions.

Ozias Tungwarara  
Director, AfriMAP

# Summary

This report reviews the process of implementing the African Peer Review Mechanism (APRM) in South Africa. It focuses in particular on the national process leading to the adoption of a country self-assessment report for submission to the continental secretariat, and on the roles of the various stakeholders in preparing that report. It also examines the extent to which the APRM has informed official policy in the areas of governance and human rights following the initial peer review. Its conclusion is that while the South African APRM process had many strengths, it was also flawed by too great a level of government control, an overly ambitious timetable, and a consequent lack of meaningful civil society input into the self-assessment report. Ultimately, it appears that the South African government's commitment to the idea of the APRM may have been more symbolic than real.

South Africa was one of the founding members of the group of states that established the New Partnership for Africa's Development (NEPAD) and the APRM, part of a recommitment of African states to good governance also evidenced by the transformation of the Organisation of African Unity (OAU) into the African Union (AU). South Africa was accordingly one of the original group of states to sign the memorandum of understanding establishing the APRM process when it was first adopted in March 2003.

The APRM is a process aimed at strengthening governance systems and human rights promotion and protection in African states. It involves two main phases: first, the preparation of a country self-assessment report (CSAR) by the state that is subject to review; and secondly, an independent review led by a member of the APRM Panel of Eminent Persons responsible for oversight of the process at African level, culminating in the debate and approval of the country review report by a meeting of the other heads of state and government that have

signed up for the APR process (known as the APR Forum). The following principles guide the APRM process: (1) broad stakeholder consultation; (2) nationwide ownership of the self-assessment process; and (3) the credibility and integrity of the findings. This report reviews the South African APRM process with a focus on its adherence to these principles. It draws on reports from the national APRM secretariat, the continental APRM secretariat, and conferences; and also on information gained from interviews with those who were engaged in the process.

The self-assessment exercise in South Africa, which took place over less than one year, from its launch in September 2005 to the finalisation of the programme of action (PoA) in September 2006, brought together a range of participants from all sectors in the country. In his opening speech at the first national consultative conference for the South African APRM process in September 2005, President Thabo Mbeki asserted that it was South Africa's responsibility to invite popular participation in the process. In his state of the nation address in February 2006, he repeated his commitment to the completion of a successful APR review process.

The focal point (the key figure chosen to supervise the country's APR mechanisms, who in South Africa was Minister of Public Service and Administration Geraldine Fraser-Moleketi), the national APRM secretariat and the National Governing Council (NGC), formed the institutional framework responsible for guiding and leading the process. Among their preparatory activities, these bodies introduced innovative methods of broadening participation in the self-assessment and responding to the local environment. The most notable were the decentralisation of the national structures to the provincial level, and the simplification and translation into indigenous languages of the APRM questionnaire.

Data-collection and the compilation of the report were the most important aspects of the exercise; yet, as this report shows, they were given the least attention. Insufficient time was allotted to establishing a common research methodology and to processing the submissions for the country self-assessment report. Four research institutes, the Institute for Democracy in South Africa (IDASA), the South African Institute of International Affairs (SAIIA), the African Institute of Corporate Citizenship (AICC) and the Institute for Economic Research on Innovation (IERI), were appointed to record and analyse the inputs received and compile reports that would form the basis for the country CSAR. However, their efforts were severely hampered by logistical and linguistic constraints.

A notable challenge confronting the process in South Africa was the dominant role played by the government, which, having undertaken its own ten-year review of developments since the country's first democratic elections in 1994, seemed to regard the self-assessment as a similar undertaking that was in effect a report-card for the African National Congress (ANC) administration. Accordingly the government took charge of the process, appointing a senior cabinet minister as focal point; setting up APR structures that were heavily loaded with public officials; providing funding that was to be disbursed by a government department; dictating which civil society organisations (CSOs) were to participate; setting the terms of civil society engagement throughout; and substantively editing the final CSAR after the final consultative conference had discussed the summary reports prepared by the four research institutes. This compromised the independence of the country's APR mechanism, which, according to the founding principles, should entail the participation of all stakeholders on an equal basis. It also undermined the broader context within which the internal review was supposed to consider issues of governance and rights beyond the ambit of the government of the time.

The perception that the government was bent on interfering with and controlling every aspect of the process exacerbated the mistrustful relationship that has developed between the administration and many CSOs, even outside the APRM process. The focal point nominated a limited number of representatives of chosen non-government organisations (NGOs) to the NGC, and set the terms of engagement with civil society throughout. Public participation was also limited by logistical shortcomings: delegates attending the two national conferences were not given the documentation in advance, and so were prevented from engaging meaningfully in the debates. Concerns were constantly raised at the apparent lack of consultation, for example in the finalisation of the CSAR. A compensatory factor might have been the collated answers to the questionnaires circulated throughout the provinces by specially trained community development workers (CDWs),

who obtained the views of people living in remote areas as well as those in more advantaged circumstances. However, many of their reports were sent in too late to be included in the research agencies' submissions, or arrived in time but could not be translated before the deadline elapsed.

In many respects, the salient weakness of the self-assessment exercise was the government's gross underestimation of the time, work and research involved in completing the CSAR, especially in processing the reports of the provinces and the CDWs.

However, there was also a shortfall in the approach of civil society. CSOs were poorly prepared for the APR process, and few had a complete understanding of what it entailed. They tended to react to the government's initiatives and actions rather than attempt to suggest any of their own. Also, most of civil society's responses were confined to criticising the government, whether for poor policy implementation or its lack of transparency over the APR structures and their functions. This meant that the private sector was adopting the 'report card' approach rather than looking at the broader landscape of democracy in the country as a whole. This narrowness of vision is also seen in the failure of civil society to appropriate a stronger role in advising, monitoring and assisting the government, and to seeing the continuing APR process as a means to help bring this about.

The continental APRM bodies could also be criticised on the grounds of their rather perfunctory involvement. Both the support and review missions made very short visits to South Africa, during which they tended to concentrate on urban centres and consultations with townspeople, ignoring the country's huge rural population. Their conclusions were therefore based on a rather partial and superficial sample of South Africa's nationals.

In large measure, the CSAR covered a number of familiar issues: a lack of service delivery; corruption in the public sector; crime and its impact on vulnerable groups such as women and children; and xenophobia. The country review report (CRR) prepared independently by the APR country review mission endorsed many of these concerns, but also placed a stronger emphasis on certain critical issues, especially the question of crime and of xenophobia. At the presentation of the to the APR forum at the end of the process, former President Thabo Mbeki rebutted some of the issues raised by the CRR as cause for concern.

Following the peer review of South Africa in July 2007, the enthusiasm (such as it was) and focus on the APRM has dissipated. The structures responsible for monitoring the implementation of the programme of action (PoA) had yet to be established at the time of writing, and as of late 2009, the

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NGC had not met since the submission in February 2009 of the progress report on what has been done to carry out the PoA, becoming apparently moribund. The policy statements made by most of the new government's ministers following the April 2009 general elections did not mention the APRM, which seems to have been relegated to an experience in the distant past.

In sum, South Africa introduced a number of innovations that might have made the self-assessment exercise a resounding success. However, a number of aspects of the process itself and in particular the pervasive presence of government throughout raised concerns over the extent of popular participation and consultation. Also, and crucially, the government and civil society may not have had a common understanding of the purpose and nature of the APRM process. In spite of these weaknesses, the self-assessment exercise provided the government and civil society with an opportunity to debate and reflect on governance issues. Furthermore, though South Africa played a central role in the creation of the APRM as a programme of the AU, one could question whether South Africa's engagement with the process was genuine, and whether government and civil society were prepared to take the review by African institutions seriously. Ultimately, the sustainability of the process rests on South Africa's seeing the APRM as a valuable and relevant initiative.

Fifteen years into its nascent democracy, South Africa continues to experience difficulty in fulfilling some of the requirements of democracy and good governance outlined in the founding documents of the APRM. These challenges, which were raised by participants during the country's preparation of its CSAR in 2006, include accelerating the delivery of services such as health care and education, particularly to the poor; addressing corruption and crime; and improving access to justice for all. During the APRM process, civil society in particular raised xenophobia as a critical area of concern. Although the final version of the CSAR underplayed this issue, its relevance was dramatically demonstrated by the violence that erupted in South Africa against nationals of other African countries in April 2008. The fact that the APRM review correctly identified an issue that plunged the nation into crisis just one year after the completion of the process highlights the potential importance of the review process.

# The New Partnership for Africa's Development and the APRM

The New Partnership for Africa's Development (NEPAD) is a strategic framework that sets a 'vision for Africa's renewal'. Five heads of state—those of Algeria, Egypt, Nigeria, Senegal and South Africa—initiated the programme, and NEPAD's founding document was formally adopted by the thirty-seventh summit of the Organisation of African Unity (OAU) in Lusaka, Zambia, in July 2001. NEPAD is now under the aegis of the African Union (the AU, which succeeded the OAU), though it has its own secretariat, based in South Africa, to coordinate and implement its programmes. Greater integration of this secretariat and NEPAD in general with the AU's processes and structures has been proposed at subsequent AU summits.

NEPAD's four primary objectives are to eradicate poverty, promote sustainable growth and development, integrate Africa with the world economy, and accelerate the empowerment of women. It is based on two underlying principles: commitment to good governance, democracy, human rights and conflict resolution; and the recognition that maintaining these standards is fundamental to the creation of an environment conducive to investment and long-term economic growth. NEPAD seeks to attract increased investment, capital flows and funding, and to provide an African-owned framework for development as the foundation for partnerships at both regional and international levels.

NEPAD is governed by a Heads of State and Government Implementation Committee (HSGIC), which finalised the policy framework adopted at Lusaka in October 2001. The HSGIC comprises representatives of three AU member states for each region, with President Obasanjo (Nigeria) as elected chair, and presidents Bouteflika (Algeria) and Wade (Senegal) as deputy chairmen, and reports to the AU Assembly of Heads of State and Government. There is also a steering committee

comprising 20 AU member states, to oversee projects and programme development.

In July 2002, the Durban AU summit supplemented NEPAD with a Declaration on Democracy, Political, Economic and Corporate Governance. According to its terms, states participating in NEPAD 'believe in just, honest, transparent, accountable and participatory government and probity in public life'. Accordingly, they 'undertake to work with renewed determination to enforce' inter alia the rule of law; the equality of all citizens before the law; individual and collective freedoms; the right to participate in free, credible and democratic political processes; and adherence to the separation of powers, including protection for the independence of the judiciary and the effectiveness of parliaments.

The Declaration on Democracy, Political, Economic and Corporate Governance also committed participating states to establishing an African Peer Review Mechanism (APRM) to promote adherence to and fulfilment of its commitments in its member states. The Durban summit also adopted a document setting out the stages of peer review, and the principles according to which the APRM should operate.

In March 2003, the NEPAD HSGIC meeting in Abuja, Nigeria,

- adopted an APRM memorandum of understanding (MOU) which effectively operates as a treaty; this entered into effect immediately, with six states agreeing to be subject to review (as of July 2009, 30 countries had acceded);
- agreed a set of 'objectives, standards, criteria and indicators' for the APRM;
- approved the establishment of a secretariat for the APRM, to be based in South Africa;

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- endorsed the appointment of a seven-person 'panel of eminent persons' to oversee the conduct of the APRM process and ensure its integrity.

The APR secretariat, which had become functional by late 2003, developed a questionnaire based on a wide range of African and international human rights treaties and standards, to guide the self-assessments of participating states concerning their compliance with the principles of NEPAD. Its questions are grouped under four broad thematic headings: democracy and political governance; economic governance and management; corporate governance; and socio-economic development. The questionnaire was formally adopted in February 2004, at Kigali, Rwanda, by the first meeting of the APR forum, which is made up of representatives of the heads of state or government of all the participant countries. At this point, the formal process of peer review was ready to start. The meeting identified the first four countries to undergo review as Ghana, Kenya, Mauritius and Rwanda. Since then, 12 APRM-acceding countries have completed their first reviews. In chronological order, these are Ghana, Rwanda, Kenya, South Africa, Algeria, Benin, Uganda, Nigeria, Burkina Faso, Lesotho, Mali, and Mozambique.

Each country to be reviewed is assigned to one of the seven eminent persons, who consider and review reports and make recommendations to the APR Forum. The first set of seven, with the position of chairperson rotating among them, comprised the following: Marie Angelique Savané (Senegal), Adebayo Adedeji (Nigeria); Bethuel Kiplagat (Kenya); Graça Machel (Mozambique); Mourad Medelci (Algeria, later replaced by Mohammed Babes); Dorothy Njeuma (Cameroon); and Chris Stals (South Africa). Some members of the panel stepped down during 2008 and 2009. At the meeting of the APR Forum in Addis Ababa in January 2010, new members were appointed, and the new panel consisted of: Adebayo Adedeji (Nigeria, chair since 2007), Mohamed Babes (Algeria), Amos Sawyer (Liberia), Julienne Ondziel (Republic of Congo), Siteke Mwale (Zambia), Akere Muna (Cameroon), and Domitilia Mukantangazwa (Rwanda).

In order to implement the APRM's objectives and ensure that the self-assessment process is satisfactorily completed, the 'country guidelines' issued by the APRM secretariat lay down that several institutions should be established at national level. Although these have varied somewhat in form, they have generally included:

- a national APRM focal point, ideally a person at ministerial level or in the office of the presidency, and reporting directly to the head of state;
- a national commission or governing council responsible for overseeing the national self-assessment process and

signing off on the documents produced, the members of which should be diverse and representative of a wide range of interest groups, and which should be autonomous (though not all countries have fully respected this rule);

- a national APRM secretariat, to provide administrative and technical support to the national commission or governing council, ideally functioning independent of government and with control of its own budget;
- a number of technical research institutions, which are given the responsibility to administer the APRM questionnaire and carry out background research.

The APRM documents identify five stages in the review process.

### **Stage One: Self-assessment and country support mission**

A country support mission (CSM) from the APR secretariat, led by the assigned eminent person, visits the participating country to ensure a common understanding of the rules, processes and principles of the APR. The team liaises with the country's focal point, and organises working sessions and technical workshops with stakeholders. The eminent person signs an MOU with the government of the country concerned, on modalities for the country review mission. The country then begins its self-assessment report (CSAR), which is based on the APR questionnaire. It is also expected to formulate a preliminary plan of action (PoA) to address the shortcomings identified in the CSAR. The PoA should be based on existing policies, programmes and projects.

The self-assessment is supposed to involve the broad participation of all stakeholders in the country, which includes citizens, civil society organisations (CSOs) and government ministries and departments.

### **Stage Two: Country review mission**

Following on the submission of the draft CSAR, a country review mission (CRM) team, also led by the same eminent person, and made up of representatives of the APR secretariat and of the APRM partner institutions (which include the UN Economic Commission for Africa—UNECA, and the African Development Bank) visits the country to carry out broad consultations, clarify any issues that may require discussion, and help to build national consensus on way forward.

### **Stage Three: Country review report and modification of plan of action**

The CRM drafts a report (the country review report—CRR), based on the information it has gathered during its review mission and on independent issues papers developed by the continental APR secretariat, and shares these findings with the government. The country finalises its PoA, which outlines policies and practices for implementation, basing it on both the CSAR and the CRR.

### **Stage Four: Conduct of peer review**

The CRM's report and the country's PoA are presented at the APR forum by the eminent person and the country's head of state or government to the other participating heads of state and government for consideration.

### **Stage Five: Publication of the report and plan of action**

After the report has been considered by the APR forum, it is tabled at the AU Summit before being made public.

# The implementation of the APRM process in South Africa

South Africa's implementation of the APRM must be seen in context of the central role the country played in the adoption of NEPAD and the APRM policies by the African Union itself. Since the transition to democracy in South Africa in 1994, its presidents, mindful of the destabilising role South Africa previously played, have sought to play a positive role on the continent, and to rebuild and consolidate African institutions. Former President Thabo Mbeki, in particular, in office from 1999 to 2007, stated that his aim was to promote an emphasis on development and good governance, and support the 'African Agenda' across the continent.<sup>1</sup> The resurgence of the 'African Renaissance', as articulated and propagated by President Mbeki, became the foundation for the part South Africa played in helping to found the AU. Mbeki played a central role in the adoption of NEPAD in 2001 by the Organisation of African Unity, and the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, which first committed states to implementing the African Peer Review Mechanism, was adopted at the inaugural AU Summit in Durban, South Africa, in 2002.

To show its commitment to NEPAD, South Africa offered to house its institutional headquarters and the APRM secretariat, in Midrand, Gauteng. The South African government seconded one of its economic affairs advisers, Professor Wiseman Nkuhlu, to be the first head of the NEPAD secretariat. Chris Stals, who had formerly served as head of South Africa's central bank, was elected as a member of the APRM's panel of eminent persons to represent Southern Africa.

On 9 March 2003 South Africa, represented by President Mbeki, became one of the first countries to sign the inter-governmental memorandum of understanding (MOU) that

formally established the APRM process. A year later, South Africa signed another agreement with the APRM continental body, undertaking to start its own self-assessment and review exercise in 2005.

South Africa's application of the review mechanism followed a series of steps over a period of less than a year (from the launch of the process in September 2005 to the submission of the revised PoA in September 2006). These started with the designation of the focal point and the establishment of structures to oversee the process; entailed a wide range of efforts to publicise the self-assessment process and call for submissions; research and information-gathering preparatory to submitting reports based on interpretation of the views expressed; and the compilation of the CSAR and PoA. This was followed by the country review report (CRR) and the amendments to the draft CSAR and PoA made by South Africa in response; their presentation to the APRM Secretariat and review by the APR forum; and the country's first report on its implementation of the PoA.

## The institutional framework

The leader of the South African APRM process was Minister Geraldine Fraser-Moleketi, appointed by President Thabo Mbeki as the APRM focal point, the apex of the institutional pyramid. She was supported by the national APRM secretariat and the National Governing Council, a 29-member body established to provide guidance on the implementation of the APRM. Similar structures were replicated at provincial level, with the premiers (in most cases) acting as provincial focal points, instructing provincial governing councils (PGCs).

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<sup>1</sup> State of the Nation Address of President of South Africa, Thabo Mbeki, 6 February 2008.

**Key dates in the South African APRM process**

9 March 2003	South Africa signs the continental MOU establishing the APRM and committing the country to undergoing the APRM process.
November 2004	The South African government nominates the focal point.
28–29 September 2005	The first national consultative conference is held and the National Governing Council (NGC) is launched.
9–11 November 2005	The APRM Secretariat Country Support Mission (CSM) pays its first visit.
11 November 2005	South Africa signs an MOU with the APRM Secretariat on the procedures for undertaking the review at national level.
4–7 December 2005	The CSM visits a second time.
16 February 2006	Four research institutes are selected by the NGC.
31 March 2006	The draft technical reports — first draft CSAR and draft Programme of Action (PoA) — are completed.
4–7 April 2006	Workshops are held to review the draft technical reports and PoA.
4–5 May 2006	The second national consultative conference is convened to validate the draft CSAR and PoA.
9 June 2006	The draft CSAR is adopted by South Africa's cabinet.
30 June 2006	The Focal Point submits the CSAR and draft PoA to the continental APRM Secretariat.
11–25 July 2006	The APRM Secretariat Country Review Mission (CRM) visits South Africa.
August 2006	The PoA is finalised.
December 2006	The APRM eminent persons submit the Country Review Report (CRR) for South Africa to the APR Forum.
1 July 2007	The South African CRR is reviewed by the APR Forum in Accra, Ghana.
4 February 2009	The first implementation report of the PoA is presented to the APR Forum in Addis Ababa.

***The focal point and national APRM secretariat***

In 2004, President Thabo Mbeki appointed Minister of Public Service and Administration Geraldine Fraser-Moleketi, as the APRM focal point, in accordance with the guidelines established by the continental APRM Secretariat. The national APRM secretariat was also established within the department of Public Service and Administration. Together, the focal point and secretariat were to be responsible for coordinating the review process, playing a much stronger role than in some other countries, or than recommended by the APRM Secretariat's guidelines.

The secretariat comprised two officials from the office of the director-general of the department of Public Service and Administration; five officials from the Ministry of Public Service and Administration; four researchers on contract; and two members seconded from the South African Chapter of the Economic, Social and Cultural Council (ECOSOCC, an advisory organ of the AU representing civil society).

Within the national secretariat there was a research unit. Its main functions were to receive submissions and forward them to the technical support agencies (TSAs), the term used in South Africa for the research institutes designated to carry out and document the main body of research for the self-assessment report, and to organise workshops at which the opinions of experts could be consulted. The research unit was also responsible for simplifying the APRM questionnaire

(which was in English) and ensuring that it was translated into the remaining 10 of South Africa's official languages. It also assisted in the training of community development workers (CDWs) who were to be involved in the collection and collation of the data elicited through the questionnaire. Other activities of the secretariat included coordinating consultations with representatives of civil society; organising awareness-raising activities; and preparing and disseminating promotional material on the APRM process. It also provided technical and administrative support to the NGC, and liaison with the continental APRM Secretariat.

Ahead of the formal launching of the APRM process in South Africa, and most notably prior to the establishment of the NGC the government held two preparatory workshops for senior civil servants. These took place between December 2004 and April 2005.<sup>2</sup> Also, the government requested its departments to complete sections of the questionnaire in advance of the starting-date.

***The National Governing Council***

The 15-member NGC, which was announced at the first national consultative conference on 29 September 2005, comprised five senior members of government and 10 civil

<sup>2</sup> Herbert, R. and Gruz, S. *The African Peer Review Mechanism: Lessons from the Pioneers*, South African Institute of International Affairs, 2008, p. 257.

society representatives.<sup>3</sup> Later, on the advice of the APRM country support mission (CSM), which made its first visit to South Africa in November 2005,<sup>4</sup> the NGC was expanded to a 29-member body. While enlarging the Council presented an opportunity to involve other sectors not already included, and therefore allow wider representation, this did not happen. In the event the additional 14 members were alternate representatives for each of the original NGC members (excluding the chairperson). The APRM focal point, Minister Fraser-Moleketi, was the chairperson of the NGC, though the process by which she took this post is not clear. One view is that, as no election process took place within the council, the focal point was made chair before the NGC was convened.<sup>5</sup>

The NGC was divided into sub-committees. Four of these followed the thematic areas established by the APRM self-assessment questionnaire (democracy and political governance; economic governance and management; corporate governance; and socio-economic development). Others focused on research and on mobilisation of popular participation. Each of these sub-committees comprised representatives of both civil society and government. The NGC met at least once a month during 2006, when the APRM process was in its initial phase. From 2007, the meetings became infrequent, although one was held in July, soon after the peer review took place. No meetings were held in 2008, and none were recorded in 2009 following the presentation of the report on implementation of the PoA in February.

The concentration of the mechanisms co-ordinating the APRM process in what was essentially one government agency (which was also in principle under review by the self-assessment process) raises questions as to whether the process was independent of political interference.

Another issue concerns whether there was adequate consultation over the selection of civil society representatives to serve on the NGC. A day before the first national consultative conference began, the South African branch

of ECOSOCC called a meeting of civil society groupings, including the South African Council of Churches and the South African NGO Coalition, where representatives were elected.<sup>6</sup> The list was forwarded to the focal point before the conference.

The NGC was responsible for setting guidelines on the process; supervising every aspect of its stages, from the research to the compilation of the CSAR; and implementing the PoA. In essence, its task was to implement the continental APRM guidelines. However, in practice, this was interpreted differently. The national APRM secretariat maintained that it was accountable to the NGC, which determined the process and took decisions.<sup>7</sup> Yet the reports of the NGC suggest that its role was to assist the focal point, who was the leader of the APRM process.<sup>8</sup> This lack of clarity on which of the two structures was in charge of the self-assessment, and the dominant role of the focal point in the NGC was noted by the CSM during its first visit to South Africa in November 2005. The mission proposed that a clear distinction be made between the oversight and executive functions of the NGC, and the supportive role the national secretariat should play in relation to the council.<sup>9</sup>

### **Provincial structures**

Following the example presented by the NGC, the provinces initiated smaller-scale versions of the national structures. Provincial premiers and in other instances members of the provincial executive committee led the process as focal points. The PGCs were established between December 2005 and January 2006. For example, the Mpumalanga Provincial Governing Council was launched on 24 November 2005; the Limpopo Provincial Council on 5 December; and the Eastern Cape Provincial Governing Council was installed the following day. All of these councils coordinated the self-assessment process at their own level, with the aim of soliciting and preparing submissions that would later be forwarded to the NGC.

### **The funding of the APRM process**

The South African government made funds from its own resources available for the process, rather than apply for financing from external sources. The NGC compiled a

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3 Essop Pahad, Minister in the Presidency; Trevor Manuel, Minister of Finance; Mandisi Mpahlwa, the Minister of Trade and Industry; Bridgette Mabandla, Minister of Justice and Constitutional Development; and Geraldine Fraser-Moleketi (replaced by Masenyana R Baloyi in October 2008), the Minister of Public Service and Administration as chairperson. The 10 representatives of civil society, who were named later, were: Bheki Sibiyi, Business Unity South Africa (subsequently replaced by Jerry Vilakazi); Lukes Matoto, Disabled People South Africa; Zanele Twala, SANGOCO; Dr Nomonde Mqhayi, South African Youth Council; Thabisile Msezane, South African Council of Churches (SACC); Randall Howard, South African Transport and Allied Workers' Union (representing the Congress of SA Trade Unions—COSATU); Mongane Wally Serote, Arts and Culture sector representative; Master Mahlobogwane, South African National Civics Organisation; Laura Kganyago of the National Women's Coalition (NWC); and Moemedi Kepadisa of the National Council of Trade Unions (NACTU) (see [www.dpsa.gov.za](http://www.dpsa.gov.za)).

4 APRM, Country Report No 5, Republic of South Africa, p 41.

5 Email communication with Zanele Twala, member of the National Governing Council (NGC), 4 August 2009.

6 Interview with Zanele Twala, 13 May 2009.

7 Interview with Dugan Fraser, consultant at the national APRM Secretariat, 7 May 2009.

8 See also Herbert and Gruzd, op. cit.

9 Report of the APRM Country Support Mission to South Africa, 9–11 November 2005, Find at <http://www.aprm.org.za>.

budget of about R20.5 million (approximately US\$3 million at 2005 exchange rates) to cover the estimated expenditure. In practice, according to the *Implementation Progress Report* issued by the national APRM Secretariat in June 2006, approximately R16 million was made available by the government, to be administered by the Department of Public Service and Administration. This sum was intended to cover the activities of the national APRM secretariat and the NGC, as well as national processes such as the consultative workshops. It excluded the assessment-related activities of the provinces, which were to be supported by provincial budgets. The United Nations Development Programme (UNDP) contributed R2 million for an awareness-raising campaign on the South African APRM process. Of this amount, R500,000 was dedicated to the APRM song. While some NGC members argued that additional funds were needed to support other aspects of the process, particularly in the research area, others maintained that external financial support from other countries would compromise the ownership by South Africans of the national self-assessment exercise.<sup>10</sup>

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<sup>10</sup> Interview with Zanele Twala, member of the NGC, 13 May 2009.

# The country self-assessment process

After the formal inauguration of the South African APRM exercise, the country's self-assessment programme involved raising public awareness of the process throughout the country; calling for submissions; instituting a wide range of consultation; carrying out research; receiving reports on submissions; compiling the first draft of the CSAR; and submitting it for the approval both of the public and the cabinet. These steps took place over a five-month period, from November/December 2005 to May 2006. During this time-span, the APRM CSM conducted preliminary visits to observe and guide the preparations of the South African government, and the South African parliament conducted its own parallel assessment exercise. The sections below describe the different components of the self-assessment, ending with an account of the research contributions of organisations outside the government.

## First national consultative conference

On 13 September 2005, the focal point formally announced the participation of South Africa in the APRM process, and described how it would unfold. The official launch of the process took place on 28–29 September 2005 at the first national consultative conference, attended by some 350 participants, at which the NGC was installed. Some of those present had been invited by the government, while others had applied to attend. The conference adopted four principles in its approach to the process: establishing benchmarks for the review process; strengthening national mechanisms for assessing the performance both of the government and other stakeholders; ownership of the process; and supporting the building of Africa-based knowledge systems.

In his opening speech at the conference, President Mbeki asserted that it was South Africa's responsibility to involve popular participation in the process. Nonetheless, members of civil society groups raised concerns over the domination of the process by the government; the scant time-frame that had been allowed between the implementation of the process and the completion date; and the short notice and lack of adequate information given before the conference.<sup>11</sup> These had created a perception that the government wanted to exclude popular participation. Some delegates expressed concern that the lead agency was located in the government, and that the placement of both the focal point and the secretariat within the Ministry of Public Service and Administration diminished the inclusivity of the process.

The first national consultative conference was followed by similar conferences in the provinces in November 2005 to launch the APRM process. The attendance levels across the nine provinces ranged from 100 to 1 100 delegates.

## Awareness-raising activities

Television, radio and print media were used between November 2005 and May 2006 to raise public awareness of the APR process. Promotional material was used to reach the widest possible audience and to encourage citizens to participate. For example, advertisements and talk-shows were aired on radio and television, and the NGC's specially commissioned song was broadcast on several local radio

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<sup>11</sup> Email communication with Moloko Malakalaka, formerly at the Centre for the Study of Violence and Reconciliation, which participated in the first national consultative conference, 29 June 2009.

stations. The national APRM secretariat distributed 800 000 pamphlets explaining the process countrywide.

Activities to inform the public and invite participation were also undertaken in the provinces. The Mpumalanga PGC took a weekly slot on a local community radio station to discuss various aspects of the APRM process. District-level consultative conferences in Mpumalanga took place in December 2005 and January 2006, and similar events were arranged in the Western Cape in November 2005 and February and March 2006.

## Adaptation of the questionnaire

The national APRM Secretariat simplified and abridged the 88-page master questionnaire supplied by the continental APRM Secretariat to guide the self-assessment into a much shorter six-page document, which was translated from the original in English into South Africa's 10 other official languages. Potentially, this would allow the wide range of people for whom English was not a first language to engage with the process. Both the simplified and master versions of the questionnaire were made available on the South African APRM website.

Observers of the self-assessment process noted that in some instances the simplified version failed to capture the essence of the long-version questionnaire, while others believed that the technical aspects made it difficult for the CDWs to administer.<sup>12</sup> However, given the complexity of the master questionnaire, the adaptation process was a useful effort to try to make the self-assessment process more accessible to ordinary people. Below are comparative examples of questions on economic governance and management and corporate governance, with the original questions given first, and the simplified versions in bold.

According to documentation supplied by the national secretariat, over a million versions of the simplified questionnaires were disseminated throughout the country at provincial and local government level, in particular through the municipalities.

### Adaptation of the master questionnaire for distribution to the public

What is the prevalence of corruption in public administration and what measures have been taken in this regard?

What is the prevalence of money-laundering and what has been done in this regard? (long version)

**Are you affected in any way by corruption in government?** (short version)

What measures have been put in place to promote and protect rights?

What steps have been taken to facilitate equal access to justice for all?

**Are these rights being protected and promoted:**

- **Human rights**
- **Socio-economic rights**
- **Cultural rights?**

What are the main categories of commercial enterprise and their role in the economy?

What is the regulatory framework for economic activities and to what extent does it facilitate economic enterprise in the country?

What are the external and internal factors that impact on business activity?

**How easy is it to start up and do business in South Africa?**

### The community development workers' reports

The national APRM secretariat had trained some 150 community development workers, who were largely recruited from the public services at local or provincial level but included some representation from civil society. Their task was to assist in the collection of data on the APRM process through interviewing individuals and seeking their responses to the short version of the questionnaire, across the country, between September and December 2005. Some 3 000 participants, largely CDWs who had not been involved in the APRM training and members of CSOs, attended workshops held by the original trainees in all the country's provinces. On average these workshops, intended to extend the number of people trained to administer the questionnaire and collate the answers, took place over two days.

The CDWs organised workshops, conducted interviews, convened public meetings and administered the simplified questionnaire. They also visited rural areas that were distant from the urban centres, and engaged with communities in the applicable indigenous language. The data collected were summarised in a report written by the CDW, sent to the provincial authority, and incorporated into the provincial submission to the national secretariat, which was responsible for forwarding them to the research agencies. Most of the CDW reports were written in indigenous languages other than English.

<sup>12</sup> Herbert and Gruz, op. cit., p. 282.

In addition, provincial consultative conferences convened by the CDWs took place across the country between 10 and 20 June 2006. However, most of the information elicited by these meetings was not included in the final provincial reports, since the deadline set by the NGC for submissions to the process had passed three months previously.

Owing to the large number of CDW reports completed (some 6 200) and the fact that most were not received in time to be translated and taken into consideration in preparation of the CSAR, a separate synthesised report was compiled by a four-member team contracted by the focal point, and published in August 2006.<sup>13</sup>

Some of the institutes appointed as Technical Support Agencies (TSAs) expressed concern over the methodology used in collecting information, and the poor quality of the surveys submitted.<sup>14</sup> IDASA, the TSA that compiled the report on democracy and good political governance, admitted that because of 'time constraints and linguistic capabilities', it had been unable to process some 2 700 submissions from CDWs, largely in indigenous languages.<sup>15</sup> For example, 85% of the simplified questionnaires completed in Free State Province were not in English.<sup>16</sup>

Soliciting views from all levels of society was a positive and important step towards widening participation in the APRM process. However, more thought and planning should have been invested in data collection and translation, so that these views could be incorporated in the CSAR.

### Submissions

A general call for public submissions was publicised on the national APRM website from December 2005. Broadly, these were to be made in three ways: through written submissions; the completion of the questionnaire by the CDWs who had been dispatched across the provinces; and reports from the PGCs, which were to include the fruits of their consultations, the material gleaned from the CDWs' completed questionnaires, and input on the central themes seen from the provincial perspective.

Some of the submissions sent in covered all four themes,

while others limited their focus to one or two. The majority of the written reports sent in by CSOs responded to the thematic areas related to socio-economic issues and to democracy and political governance. Few written submissions were forthcoming from members of the business sector, academic institutions, statutory bodies, political parties or faith-based organisations, although some were received from the judiciary.

The initial deadline decided by the NGC was 10 March 2006. However, when it became apparent to the council that most submissions would not be ready in time, the due date was extended to 17 March. Most of the submissions were received in February/March, and posted on the national APRM website. Although some of the provinces produced their reports within the allotted time, others had difficulty meeting the deadline. KwaZulu-Natal's submission was two months late.

### The APRM country support mission

The APRM country support mission (CSM), which visited South Africa for the first time from 9 to 11 November 2005, was led by Professor Adebayo Adedeji of the panel of eminent persons. The rest of the team comprised members of the continental APRM Secretariat; independent technical consultants; representatives of the APRM's partner institutions such as the UN Development Programme (UNDP) or Economic Commission for Africa (UNECA); politicians; businesspeople; and academics. The aim of the CSM was to assess the structures that had been made ready to undertake the country self-assessment process and to prepare the national PoA.<sup>17</sup> In their interactions with various stakeholders, the members of the CSM also considered the effectiveness of the initiatives aimed at raising awareness of the process in the country.

Over the three days it spent in South Africa, the CSM held meetings with government officials, the NGC, some members of the PGCs, business organisations and civil society groups. On 11 November 2005, President Mbeki, representing the South African government, and Professor Adedeji, on behalf of the APRM forum and panel of eminent persons, signed the MOU that marked South Africa's formal agreement to undergo the review.

13 The four consultants were: Prof Zuby Saloojee; Prof Mathole Motshekga; Prof Susan Booysen, and Rasigan Maharaj. See 'Report on Community Development Workers' APRM Consultations', August 2006.

14 Herbert and Gruzd, *op. cit.*, p. 283.

15 APRM Technical Report, 'Democracy and Good Political Governance', 4 April 2006, p. 18.

16 APRM Technical Report, 'Economic Governance and Management', 7 April 2006, p. 19.

17 The country support mission comprised: Professor Adedeji (member of the panel of eminent persons); Dr Bernard Kouassi (Executive Director, APRM secretariat); Professor Atsain Achi (African Development Bank); Ms Zemenay Lakew (UNDP); Mr Patrick Bugembe (UNECA); Ms Evelynne Change (APRM secretariat staff); Ms Nana Boateng (APRM secretariat staff); and Mr Dalmar Jama (APRM secretariat staff).

The mission conducted a follow-up visit to two provinces, Limpopo and the Eastern Cape, from 4 to 7 December 2005, to assess their preparedness.

## The role of parliament

Soon after the first national consultative conference in October 2005, parliament formed a joint ad hoc committee and sub-committees on the APRM to discuss the four thematic areas. The purpose of this initiative was to provide a shadow APRM assessment report for submission to the continental secretariat. This was an innovation in the normal conduct of a national self-assessment; another was the inclusive nature of the sub-committees, which comprised representatives of all the country's political parties, unlike the official APR structures. Parliament conducted hearings at which members of the public, including representatives of NGOs and government departments, presented submissions and engaged in debate with members of the parliamentary committee.

Notwithstanding the enthusiasm aroused by the parliamentary exercise, it also gave rise to a number of criticisms. In some respects the hearings seemed to duplicate and confuse the national process. Given the likelihood that the parties making submissions to parliament would also be engaging in the provincial consultations and sending written comments to the secretariat, many observers questioned the additional value of parliament's role.<sup>18</sup> Bearing in mind the potential overlaps between parliament's and the national process, the CSM proposed that the outcomes of the hearings be incorporated into the national report.<sup>19</sup> Accordingly, the joint parliamentary committee compiled a parliamentary submission, which was put forward to the national APRM secretariat.

However, the more inclusive process organised by parliament gave a glimpse of a possible method of conducting the self-assessment debate in future, as South Africa enters the next phase of the APRM process.

## Research capacity and the technical support agencies

Following its first visit in November 2005, the CSM recommended that experienced research institutions should be involved in the preparation of the CSAR. In response,

the NGC both established an internal seven-member research sub-committee comprising three representatives of government and four of civil society to review the submissions received and coordinate the compilation of the CSAR, and also obtained help from outside agencies.

Firstly, the NGC invited academic institutions and research and advocacy organisations to submit applications for accreditation as 'research partners' in the process. The NGC's research sub-committee selected 15 research partners in February 2006. These partners, who participated on a voluntary basis, were required to make submissions on themes chosen from the questionnaire, and to participate in the NGC-convened research seminars, four of which were held in March 2006.

In addition, the NGC invited applications from research organisations to become 'technical support agencies', a paid position. Their function would be supplementary to that of the research sub-committee and research partners, and involved contributing to research and the writing of the CSAR. In order to be considered, each applicant had to make a submission on the APRM. According to the chairperson of the research sub-committee, which helped select the four TSAs, an important criterion was that they should be independent institutions that had expertise in their chosen thematic areas.

Four TSAs were chosen in February 2006, a third of the way into the process, to cover the four main thematic areas: for democracy and political governance, the Institute for Democracy in South Africa (IDASA); for economic governance and management, the South African Institute of International Affairs (SAIIA); for corporate governance, the African Institute of Corporate Citizenship (AICC); and for social and economic development, the Institute for Economic Research on Innovation (IERI). The responsibilities of each TSA were to:

- produce a draft technical report reflecting all the submissions received for the relevant thematic area across the country;
- analyse the written submissions;
- co-host a seminar of experts with the NGC to test the report's findings and amend it;
- participate in the second national consultative conference, the aim of which was to validate the report;
- produce a final draft technical report and preliminary PoA.

Although the TSAs were responsible for producing technical reports that would form the basis of the country's CSAR and draft PoA, the writing of the final draft CSAR report was to be the responsibility of the NGC's research sub-committee.

<sup>18</sup> The Black Sash, the Congress of South African Trade Unions (COSATU) and the Public Service Commission are some of the institutions that made submissions to the parliamentary committee.

<sup>19</sup> APRM, *Country Review Report No. 5*, p. 42.

The relationship between the TSAs and the NGC had its difficulties. The fact that these agencies had already been asked to make submissions to the APRM process, and therefore had a vested interest in the process, inevitably led to disagreements on the content of the technical reports. The focal point expressed concern that the TSAs' reports appeared to promote their own agendas rather than respecting the content of the submissions.<sup>20</sup> The TSAs meanwhile, had different approaches, but several felt that their expertise should be allowed to enhance the report in each of their thematic areas, especially where no submissions had been received on an issue which was nonetheless felt to be important.

### **Preparation of the draft country self-assessment report**

The TSAs were given five weeks, between 17 February and 24 March 2006, within which to produce their respective reports on the designated themes. All four thematic technical reports were completed by 30 March 2006. Two of the agencies, AICC and IERI, had been unable to consider and include all the submissions owing to time constraints.<sup>21</sup>

The technical reports varied in approach and length. The socio-economic development report covers 771 pages, while the democracy and good political governance report is 134 pages long. Only some of them specified the methodology used, and explained the limitations that had affected their compilation. Others, like IDASA, did not. It is clear that time was a major constraint. Also, while some reports (for instance the socio-economic development technical report), referred to the submissions and even included them in an annexure, others followed different methods. In some cases, the reports summarised the contents of the submissions received and also included additional research.

These differences in the presentation of reports seem to indicate a lack, either of a common understanding of how the report should be compiled, or of a clear format for the reports. Because the TSAs had not been involved in designing the research methodology, they were unsure how data had been collected, particularly for the submissions from the provincial processes and the CDWs.<sup>22</sup> These doubts, insufficient capacity at some of these institutions, the poor quality of some of the inputs, and the short time allowed them to complete the reports made it extremely

difficult for the TSAs to process all the submissions.<sup>23</sup>

The NGC appointed the Human Sciences Research Council and the Office of the Auditor-General, both statutory bodies, to assess not only the quality of the reports produced by the TSAs but the degree to which they reflected the matters raised in the submissions. The Human Sciences Research Council was responsible for overseeing the work of IERI and IDASA, while the Auditor-General reviewed that of the other two research institutes. The quality assurance agencies worked closely with the TSAs to ensure that the submissions received were fairly and accurately represented in their reports.<sup>24</sup>

### ***Expert workshops***

The national APRM Secretariat, together with the TSAs, organised workshops held from 4 to 7 April 2006, at which experts on each of the four thematic areas could discuss the technical reports. A press statement published on the national APRM website publicised these workshops. The TSAs nominated the experts (drawn from universities, businesses, parliament and government) who were invited to participate. The workshops took place over four days, with one day allocated to each theme. According to SAIIA, copies of the draft technical report and a summary prepared by the TSA concerned were circulated only on the day that theme was to be discussed. This meant the delegates had insufficient time to study the reports, or to engage meaningfully with the substantive issues raised.<sup>25</sup>

### ***Revising the draft country self-assessment report***

The national APRM secretariat compiled the draft CSAR, which was, in essence, a consolidated and edited version of the technical reports. This was tabled at the second national consultative conference, held in May 2006. Because the purpose of the conference was to consult stakeholders on the CSAR and validate it, the secretariat printed some 3 000 copies of the 300-page draft for distribution to the participants. However, two days before the conference, the focal point called an urgent meeting of the NGC to discuss this draft in view of various criticisms that had been aired by members of the NGC. Some raised the concern that the executive summaries of each of the four main themes did not adequately reflect the contents of the technical reports, the discussions at the workshops held in April, and submissions received. On the other hand, others were of the

20 Institute for Global Dialogue, 'Interview with Minister Geraldine Fraser-Moleketi', Global Dialogue, September 2006, p. 18.

21 Herbert and Gruzd, op. cit., p. 285.

22 Interview with Claude Kabemba, formerly at the Human Sciences Research Council, 18 June 2009.

23 Ibid.

24 APRM Technical Report, 'Economic Governance and Management', op. cit., p. 9.

25 Herbert and Gruzd, op. cit., p. 296.

opinion that the report was biased, and expressed the views of the TSAs rather than the gist of the submissions.<sup>26</sup> Also, the NGC complained about its length.<sup>27</sup> The research staff of the TSAs worked with members of the national APRM secretariat and the NGC throughout the night of 2 May to edit the report, so that the revised version could be printed and used at the conference.

### **Second national consultative conference**

This conference, which took place over 4–5 May 2006 in Kliptown, Soweto, was attended by some 1 700 participants. Many delegates had been invited by the PGCs, TSAs and the NGC, and others had requested permission to attend. On the first day of the conference, every participant received a file containing the 150-page draft CSAR with an annex containing the government of South Africa's submission in full, and a list of all the other submissions received for each of the four themes. The TSAs gave presentations on each of their focus areas in plenary sessions, which were followed by a more focused discussion of matters arising from the summarised themes by the attendees, who had been split up into working groups. Although the technical research agencies had prepared draft PoAs for each of their themes, these were not included in the conference material. As a result, 'the discussions were vague and superficial, and did not produce a strong and implementable programme of action'.<sup>28</sup> Observers noted that the time allowed for each member of the public to speak was scant, and that consequently the extent to which the CSAR could be affected by any of the views expressed is questionable.<sup>29</sup>

### **Further revisions to the country self-assessment report**

After the conference, a further revision was made to the draft country CSAR by a multi-disciplinary task team led by Professor Anver Saloojee, the NGC member representing the presidency. The team comprised four civil society representatives and government officials, mainly from the presidency and the NGC, but did not include members of the TSAs. Therefore, while the initial report-writing was coordinated from the national APRM secretariat, responsibility for the draft CSAR was taken over by the presidency's nominee. The NGC

met on 2 June to finalise and adopt the CSAR, but could not do the same for the draft PoA, which was not yet ready. The cabinet adopted the final CSAR report on 9 June.

Representatives of the TSAs observed that there was a discrepancy between the two versions of the report. This raised questions concerning the degree to which the consultations, particularly with members of civil society, had been taken into account in the final CSAR. If they had not, the so-called validation given at the Kliptown meeting in May 2006 would have been nullified.<sup>30</sup> In sum, the extent to which the CSAR was a true reflection of the views of all participants in the process could be queried.

The focal point submitted the final CSAR and draft PoA to the continental APRM secretariat on 30 June 2006. The text was not made available on the national APRM website until excerpts had been published by a local newspaper.<sup>31</sup>

### **The adoption of the draft national programme of action**

According to the APRM panel of eminent experts, the national PoA should:

- be designed by all stakeholders in the country;
- cover major gaps and deficiencies identified in the APRM process;
- set parameters for costing and time-frames;
- allocate monitoring and implementation responsibilities;
- represent firm commitment from stakeholders;
- have the full endorsement of the government.

On 20 June 2006, the national APRM secretariat held a workshop on the draft PoA, at which the thematic PoAs prepared by the four TSAs formed the basis for discussion. The consolidated draft was debated further by the NGC on 26 June 2006, finalised on 29 June, and submitted to the continental APRM Secretariat for consideration by the country review mission. Following comments made by the mission, the national secretariat made further revisions to the PoA, producing one dated 28 August and another dated 15 September 2006. The latter was submitted to the APRM panel of eminent persons, which requested yet more amendments. The South African government had not completed the final PoA in time for the peer review scheduled to take place in Addis Ababa, Ethiopia, in January 2007. The

26 Institute for Global Dialogue, 'Interview with Minister Geraldine Fraser-Moleketi', Global Dialogue, p. 18.

27 Herbert and Gruzd, op. cit, p. 297.

28 Ibid.

29 Sokomani, A. *Assessing the African Peer Review Mechanism: [the] second South African consultative Conference*, Institute for Security Studies, 12 May 2006. [http://www.iss.co.za/index.php?link\\_id=21&slink\\_id=2502&link\\_type=12&slink\\_type=12&tmpl\\_id=3](http://www.iss.co.za/index.php?link_id=21&slink_id=2502&link_type=12&slink_type=12&tmpl_id=3). Viewed on 27 April 2009.

30 Interviews with Steven Gruzd, SAIIA, on 12 June 2009, and with Paul Graham, IDASA, on 31 July 2009. Both SAIIA and IDASA were technical support agencies.

31 The weekly *Sunday Times* published excerpts from the self-assessment report on 16 July 2006.

## THE APRM PROCESS IN SOUTH AFRICA

APR Forum, the meeting of heads of state and government participating in the APRM, therefore postponed the review of South Africa's CSAR and PoA until its subsequent meeting in Accra, Ghana, six months later.

There are a number of reasons to suggest that the process of drawing up and adopting the PoA was not inclusive. In the first instance, the draft PoA that had been formulated by the TSAs was not distributed for debate at the second national consultative conference. In the second, the editing of the PoA would appear to have been directed by a member of the NGC's research sub-committee seconded from the presidency. Third, an effort seems to have been made to align the PoA with the government's own programme of action, which had already been allocated a budget.

# Overview of the country self-assessment report

The two main versions of the CSAR report that are available are the executive summary distributed at the second consultative conference in May 2006 and the revised text sent to the continental APRM Secretariat on 6 June. A point of interest is that the executive summary distributed at Kriptown for the second consultative conference covered approximately 160 pages, the same length as the full text of the final CSAR. A further difference is that the May draft contains information on the submissions received, whereas the June text does not make specific mention of any submissions save those from government agencies. The approach in the final text seems to focus on the government's efforts to address the challenges it considers most pressing.

## May 2006 version

Of the four main themes of the self-assessment process, three (those on democracy and good governance; socio-economic development; and economic governance and management) received the highest number of inputs from the public. Among the issues raised in the draft report, corruption in the public sector is a common thread in most of the submissions on these themes. The draft report noted disagreements between stakeholders on whether or not the high-profile corruption trials in progress at the time should be included in the report, and concerns raised over the inadequate protection offered to whistle-blowers.

Each of the thematic reports drafted by the TSAs recorded not only the issues addressed in the submissions, but noted others that had not been adequately covered. The technical report on corporate governance, for example, examined the key concerns raised, identified areas of consensus and

disagreement, and pointed out gaps. A list of all submissions received on that theme was included in each report. That on economic governance and management provided a brief explanation of the methodology used in processing inputs, and included in its list of submissions those that had been received after the cut-off date and therefore had not been considered in the report. (Among the latter were some from the CDWs.) A bibliography of supplementary material was added.

The only submission included as an annex to the executive summary in the participants' conference files was the government's. The motive for including that submission and no others was unexplained.

## June 2006 (final) version

The 160-page CSAR sent to the continental APRM secretariat answered most of the questions posed in the self-assessment questionnaire, but did not identify the institutions that had participated in the national process. A few submissions were mentioned in the introduction, together with the names of the government agencies that had contributed, but the extensive list of submissions given in the May draft was excluded. References to studies and reports were restricted to those originating from government or statutory bodies.

The CSAR suggests that despite the existence in South Africa of policies aimed at protecting rights, their implementation is hindered by various constraints. A summary of key concerns follows under each of the four main theme headings.

### ***Democracy and good political governance***

- Competition for limited resources between citizens and non-nationals seeking political and economic stability in South Africa is a potential source of conflict.
- Violence against, and in particular the trafficking of, women and children is a source of concern.
- The ability of the public sector to deliver services is constrained by a lack of both skills and capacity.
- Many people, particularly those living in rural communities and children from other countries (for example refugees), have poor access to justice, education and health care.
- Parliament lacks the capacity to exercise its oversight role, particularly in considering proposed legislation concerning finance.
- Corruption affects public access to services, and the protection provided to whistle-blowers is inadequate.
- The number of children in detention is increasing.
- There is active discrimination against vulnerable groups including non-nationals. The latter raises concerns about xenophobia.
- The processing of asylum applications remains highly problematic.
- Government should play a greater role in promoting social cohesion and integration.
- Women are economically impoverished and deprived of or denied access to their rights, particularly in the rural areas.

### ***Social and economic development***

- The government's policy on HIV and AIDS should be clearer; accurate information on the prevalence of HIV and AIDS should be provided; and the connection between good nutrition and the treatment of HIV and AIDS should be better understood. Responsibility for the wider dissemination of information on anti-retroviral treatment should be shared between government and civil society.
- There should be greater communication between government and civil society on the delivery of social services.
- The wide disparities between socio-economic groups are particularly marked in the quality of education and access to schooling available, particularly to vulnerable groups.
- Civil society has a critical role to play in helping to shape development programmes and monitoring service delivery by the government, particularly in view of the shortfall in skills and funding in the public sector.

- The relationship between government and civil society ought to be strengthened, particularly in cases where engagement with communities can assist the formulation of more effective policies.
- The provision of basic services such as sanitation, education, health care and electricity is poor in certain areas.
- The unemployment level, particularly among women, should be reduced, as should the number of people living in informal dwellings.
- Implementation of the land reform programme has been slow.
- For many of the country's citizens, poverty, unemployment and under-development act as a stumbling-block to their enjoyment of socio-economic rights.

### ***Corporate governance***

- There is a need to review the laws that regulate companies.
- Moves should be made to foster much wider participation in the economy.
- The right to form unions in the workplace should be upheld.
- Corporate governance in the business and not-for-profit sectors should be strengthened.
- Shareholders should play a more active role in company decision-making.
- There should be greater gender parity in business practice.

### ***Economic governance and management***

- Economic growth is not benefiting the poor.
- Attention should be paid to measuring the national levels of poverty and unemployment.
- Economic policy-making should be more inclusive of all sectors of the population; the government should not consult only the 'urban elite'.
- There are significant skills shortages, backlogs in infrastructure development, and a lack of capacity in the public service, particularly at local government level, where the budget allocations for service delivery decided at provincial level are implemented.
- Small business owners experience difficulties in gaining access to finance.
- Parliament's capacity to consider legislation relating to the economy needs to be strengthened.
- There is poor communication between the three

spheres of government, and inadequate monitoring and implementation of service delivery policy at the provincial and local government levels, to the detriment of the citizenry.

- Clarity is required on economic regional integration in the Southern African Development Community.
- The monitoring of anti money-laundering measures is inadequate.
- Corruption in government is a continuing concern.

It is worth repeating that while the final CSAR made reference to the submissions of specific government agencies, in particular Statistics South Africa and the National Treasury, the civil society groupings that had sent in reports were not referred to by name. The CSAR could therefore be characterised as a government progress report rather than an overview of the state of democracy, human rights and governance in the country as a whole.

There are some differences of substance and emphasis between the initial draft CSAR and the version submitted to the continental APRM secretariat. For example, floor-crossing (which allows elected parliamentarians to change parties without losing their seats) was mentioned as an area of concern in the May draft, but omitted from the final CSAR. It resurfaced in the CRR (see below). Again, while the first draft spoke of 'countering high levels of xenophobia', the final version appeared to gloss over this concern, instead suggesting that, according to submissions, refugees and asylum seekers 'sometimes face discrimination ... and xenophobic attitudes'. The CRR subsequently acknowledged xenophobia as a problem in South Africa that needed to be addressed.

# Country review mission and report

After having received the CSAR, the continental APRM structures sent a country review mission (CRM) to South Africa to conduct an independent screening process of the findings of the CSAR. Afterwards the CRM produced a report, the country review report, which was sent to both the continental and the country's secretariats. In the light of the CRM's recommendations, South Africa made further changes to its PoA.

## Country review mission

The continental APRM's CRM was headed by Professor Adebayo Adedeji, a member of the panel of eminent persons who had also led the CSM to South Africa. The CRM, which was much larger than the CSM, comprised members of the APRM secretariat and partner institutions, and thematic experts.<sup>32</sup> The team's visits took place over 11–25 July and again during 26–28 July 2006, after which the mission compiled its own independent review report that took into account both information submitted in the CSAR and information the team separately collected during its consultations in South Africa.

During its visit, the CRM held meetings with representatives of the NGC, the TSAs, the quality assurance institutions and

government representatives at national level. Members of the NGC outlined the CSAR to the CRM, while representatives of the TSAs made brief presentations. The CRM also visited Gauteng, Free State, Western Cape, KwaZulu-Natal, North West and Mpumalanga, where they met the PGCs, the provincial legislatures and (separately) community members in impoverished districts such as Khayelitsha in Cape Town. The length of these visits was limited to one-day consultations in the capital cities of the seven provinces.

Limpopo and Eastern Cape were not visited, as according to the CRM the CSM had done so during its second visit (from 4 to 7 December 2005). However, it should be noted that the nature and purpose of the support missions are different from those of the review missions. While the former was intended to measure the preparedness of South Africa to undertake the APRM process, the goal of the CRM was to evaluate the CSAR in the light of its independent findings.

The mission also interviewed representatives from various civil society groupings, including faith-based organisations, the elderly, the young, traditional leaders, women's rights movements and small businesses; and also members of opposition political parties. In addition, the CRM visited the Lindela Repatriation Centre west of Johannesburg, which holds immigrants thought to have entered South Africa illegally. While the mission attempted to consult people across the widest possible range of society, the brief time they spent in the country was arguably insufficient to make a thorough investigation possible. Further, the bias shown by the mission in favour of visiting urban centres prevented large numbers of the rural population from contributing their views to the CRM.

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32 The country review mission consisted of Professor Adebayo Adedeji; members of the APRM secretariat: Dr Bernard Kouassi, Evelynne Change, Ferdinand Katendeko, Dr Afeikhena Jerome, Rachel Mukamunana, Eunice Kamwendo, Dalmar Jama and Nana Boateng; thematic experts Professor Amos Sawyer, Professor Peter Anyang' Nyong'o, Professor Roland Ubogu, Dr Babacar Ndiaye, Professor Adebayo Ogunlesi, Dr Francis Chigunta, Professor Mbaya Kankwenda and Professor Julia Duany; and delegated from partner institutions: Charles Muthuthi, Professor Ahmed Mohiddin, Professor Emmanuel Nnadozie, Dr Batholomew Armah and Dr Kojo Busia.

Some of the key issues raised during the consultations are the following:<sup>33</sup>

- International instruments ratified by the South African government have not been implemented.
- While good laws have been passed, there are difficulties in translating them into action.
- The high levels of crime, and in particular violence against women and children, are a serious concern.
- There is a need to reform the criminal justice system.
- Poverty and unemployment are unacceptably high.
- At local government level there is a shortage of skills, which results in poor provision of services.
- Land reform is occurring at a slow pace.
- The existence of two economies, formal and informal, needs to be acknowledged.
- The national parliament and the provincial legislatures do not exercise their oversight roles with sufficient care.
- Those with HIV and AIDS have poor access to treatment and educational/economic opportunities.
- There is a general lack of access to housing and services, particularly in the rural areas.
- The country's PoA does not correspond sufficiently with issues raised in the CSAR. Further, there has been no debate over what the best structure to guide the implementation of the PoA should be.
- Civil society can undertake the important role of monitoring government policy and service delivery and improving access to rights only if it is allowed to participate in policy-making.
- The participation of the country's citizens in the APRM process was inadequate.
- The inability of the TSAs to verify the data submitted, particularly by the provinces and CDWs, and the scant time allotted to compiling the CSAR were weaknesses in the process.
- The PoA failed to take into account key concerns in the area of corporate governance.
- The PoA did not raise issues concerning social inequality.

### **The government's response to the draft country review mission report**

The CRM's draft report was submitted to the focal point in August 2006 for comment. It was not clear whether the responsibility for responding to it rested with the government

<sup>33</sup> APRM, *Country Review Team Visit report, 11–25 July 2006 (Additional Consultations 26–28 July 2006)*.

or the NGC, especially as the report included suggestions for amendments to the country's PoA. The NGC met on 24 August 2006 to discuss the draft CRR and to revise the PoA, although apparently it was the government that responded formally to the report. It would seem that the panel of eminent persons requested a revision of the PoA in December 2006.<sup>34</sup> However, the final revision of the PoA had not been completed in time and so the country review was postponed for six months.

### **Overview of the country review report**

The final CRR makes some 180 recommendations to South Africa that range across the four main themes and raise several areas of concern requiring attention. These include the following:

- sensitive race relations;
- insufficient protection of minority rights;
- the need to broaden black economic empowerment to benefit a wider group;
- the failure of the education system to provide school leavers with skills appropriate to becoming economically active;
- criminality and ill-discipline in schools and high drop-out rates at tertiary level;
- a lack of awareness of their rights in the broader public;
- social and economic inequalities, particularly as regards the high levels of unemployment and poverty;
- a skills shortage, and poor implementation of training programmes at local government level;
- under-representation of women in the private sector;
- high levels of violent crime;
- gender-based crime and violence against children;
- the prevalence of xenophobic tendencies, especially against foreigners from other African countries;
- the reluctance of some beneficiaries of the apartheid policy to contribute to reconstruction and development.

The report, broadly, did not differ much from the CSAR, although it reinstated some of the issues that had been omitted or toned down during the final editing of the CSAR (see above). The difference lies in the emphasis, particularly on the areas of crime and xenophobia. Former president Thabo Mbeki disputed the singling out of both during the CRR presentation and peer review of South Africa at the meeting of the APR Forum in July 2007 (see below).

<sup>34</sup> Interview with Zanele Twala, member of the NGC, 13 May 2009.

## THE APRM PROCESS IN SOUTH AFRICA

In relation to xenophobia, it is worthy of remark that two of the recommendations made in the CRR were that South Africa should (1) strengthen anti-xenophobic institutions and (2) find better-informed measures, such as programmes of civic education, for combating the growing problem of xenophobia. However, the implementation report on the PoA, which spans November 2007 to December 2008, does not respond to these (see below).

After the peer review had taken place on 1 July 2007, the continental APRM secretariat incorporated the comments and inputs made by the states that attended the review into the CRR, which was then published.

### The programme of action

Following changes suggested in part by the continental APRM structures, the national APRM secretariat had to amend its June 2006 draft PoA, which was a document that contained little detail, and prepare a more substantive version to accompany the CRR that was presented to the APR Forum in July 2007. According to an interview with an NGC member, it would appear that the underlying reason for the postponement of the original date for submission of South Africa's report to the continental body (January 2007) was a delay in incorporating the suggested changes to the PoA.

An overview of the key objectives of the two versions, with a note on the amendments in the 2007 CRR, is provided on page 24. The concerns relating to crime, corruption and land reform that were raised by stakeholders at the second consultative conference and during the CRM's visit are reflected in the final PoA. The total estimated budget for the implementation of the PoA is R130.915 billion (approximately US\$18.7 billion, at July 2007 rates). It is unclear the extent to which this budget represents new commitments or simply a rebranding of existing government programmes.

### Review by the APR Forum

South Africa was 'peer reviewed' by the APR Forum on 1 July 2007 on the margins of the AU Summit in Accra, Ghana, by 18 heads of state and government. Professor Adedeji of the panel of eminent persons presented the CRR, and South Africa's head of state at the time, President Mbeki, responded. His remarks on the report<sup>35</sup> included a strong rebuttal of the perceptions that the crime level in South Africa was very high, and that xenophobic tendencies were increasing. He also argued that any analysis of poverty in the country at present had to take the context of conditions during the apartheid years into consideration.

In the main, as reflected in the Country Review Report, the heads of state and government present at the meeting commended both the quality of the CRR and the strides taken by South Africa in economic and political development since its first democratic elections. The level of crime was, however, noted by heads of state as an area of concern.

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35 See APRM, *Country Review Report No. 5*, Republic of South Africa, September 2007.

**Objectives for Programme of Action**

Theme	June 2006 version submitted to CRM	September 2006 amended version	Final July 2007 version (objectives additional to those in September 2006 version)
Democratic and Political Governance	<ul style="list-style-type: none"> <li>• Human rights culture is strengthened nationally</li> <li>• Access to justice is increased and improved</li> <li>• Forums and mechanisms for social dialogue and participation in the delivery and monitoring of public services are built and strengthened</li> </ul>	<ul style="list-style-type: none"> <li>• Human rights culture is strengthened nationally</li> <li>• Access to justice is increased and improved</li> <li>• Forums and mechanisms for social dialogue and participating in the delivery and monitoring of public services are built and strengthened</li> </ul>	<ul style="list-style-type: none"> <li>• Racism is successfully combated, leading to the emergence of a truly non-racial society</li> <li>• Perceptible reductions are seen in levels of crime and violence, in particular those that victimise women and children</li> <li>• Levels of corruption decrease, and national values and integrity are fostered in all spheres of government and all sectors of society</li> </ul>
Economic Governance and Management	<ul style="list-style-type: none"> <li>• A participatory public service monitoring and evaluation system is established</li> <li>• The capacity, status and output of the legislature is strengthened</li> <li>• The National Anti-corruption Forum is given greater support and an extended programme, particularly for monitoring and evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• Processes for public participation in policy formulation and implementation are improved</li> <li>• Greater efficiency and effectiveness is achieved in public expenditure management and monitoring</li> <li>• Service delivery is improved</li> <li>• Unemployment is halved by 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Economic policies are harmonised and trade between member states improves</li> </ul>
Corporate Governance	<ul style="list-style-type: none"> <li>• A new Companies Act is adopted, and public participation in the process is enhanced</li> <li>• The capacity of institutions and systems to participate in improving corporate governance and promoting the work they do is strengthened</li> <li>• Consumer and shareholder activist movements are encouraged</li> </ul>	<ul style="list-style-type: none"> <li>• New companies legislation is adopted</li> <li>• The capacity of institutions and systems to participate in improving corporate governance is improved</li> <li>• Consumer and shareholder activist movements are strengthened</li> <li>• Corporate governance, accountability, and transparency gain ground in the non-governmental sector</li> </ul>	<ul style="list-style-type: none"> <li>• The planning and conduct of companies in the private sector is informed by national development imperatives</li> </ul>
Socio-Economic Development	<ul style="list-style-type: none"> <li>• A national conversation on poverty is started</li> <li>• A programme to address basic socio-economic needs is launched</li> <li>• Funding for civil society organisations is improved and built up</li> </ul>	<ul style="list-style-type: none"> <li>• Definitions and measurement of poverty are agreed upon and applied</li> <li>• Strategies and programmes to improve children's nutrition and ensure their healthy development are successfully implemented</li> <li>• Multi-sectoral, collaborative partnerships are formed, and strategies and programmes to reduce the prevalence of HIV and the impact of AIDS are implemented</li> <li>• Universal access to constitutionally mandated basic rights and services is provided</li> </ul>	<ul style="list-style-type: none"> <li>• Land reform contributes to the ability of rural people to earn livelihoods</li> <li>• The education system improves its effectiveness and efficiency at all levels</li> <li>• An integrated and holistic approach to combating HIV and AIDS, as well as other communicable diseases such as TB and malaria, is adopted and acted on</li> <li>• Social capital is built at all levels, particularly in vulnerable and marginalised communities, and participation of civil society organisations in socio-economic development processes is improved</li> </ul>

# The APRM in South Africa since the completion of the review process

## Implementation of the programme of action

Following the peer review of South Africa at the APR Forum in Accra in July, the NGC met on 7 August 2007. Members called for the release of the report before the six-month period usually observed had ended. The main outcomes of this meeting were the adoption of an implementation process plan, and the establishment of a management office to co-ordinate implementation and report on progress to the APR panel. The NGC was scheduled to meet again before the publication of the CRR, but did not.

The PoA proposed that the current focal point should be responsible for 'implementing, monitoring and evaluating' the national effort; and that a Programme Management Unit be established in the Department of Public Service and Administration. The NGC would presumably have oversight duties.

Minister Fraser-Moleketi convened a meeting of the NGC to discuss the second draft of the first implementation report of the SA APRM PoA on 9 May 2008. The new focal point who took over following the resignation from government of Minister Fraser-Moleketi (and President Mbeki) in September 2008, Minister Masenyane Baloyi, and the new president, Kgalema Motlanthe, presented South Africa's first implementation report at the APR forum in Addis Ababa, Ethiopia, on 4 February 2009.

## The first progress report on the programme of action

According to its foreword, South Africa's first progress report, covering the period from November 2007 to December 2008, was a joint compilation involving both the public and the private sectors. However, a member of the NGC representing civil society indicated that she had not seen the final version of the report before it was tabled at the APR forum.

The report outlines progress made in the four thematic areas, and lists the following developments (with comments added in brackets).

- South Africa has ratified the Southern African Development Community Protocol on the Facilitation of the Movement of Persons, which regulates migration within the southern African region.
- Programmes aimed at alleviating poverty, which include the social security assistance programme, have been outlined.
- The government has increased the percentage of no-fee schools to provide access to education to a higher number of children. The national school nutrition programme is to be extended to cover secondary as well as primary schools in 2009.
- The government has engaged in programmes to support children affected by HIV and AIDS. These include providing support and food parcels for child-headed households, and providing voluntary counselling and testing services. (There is no mention of access to preventative medication such as anti-retroviral therapy.)
- The government continues to face logistical difficulties in making access to water, sanitation and electricity universal.

- A women's fund to build capacity and empower women has been established.
- The government has responded to the xenophobic violence that broke out between citizens and foreign non-national communities in largely impoverished areas by appointing a parliamentary task team to discover the root causes. (However, there is no mention of the government's adopting measures to prevent further xenophobic attacks, although the CRR recommended it do so.)
- The government has acknowledged the occurrence of racially-based attacks, and launched a Constitutional Education Programme intended to raise public awareness of rights, and in particular the right of access to justice for vulnerable groups, including migrants. (The report does not indicate what government has done to address failures in racial integration.)
- A higher proportion of the government's budget has been allocated to curbing crime.
- The government has recognised a need to strengthen its anti-corruption mechanisms.
- The government has adopted a national strategic plan that proposes a holistic look at the HIV and AIDS pandemic by seeking to reduce (1) the number of new HIV infections and (2) the impact on the individual, families and communities. Larger budget allocations have been made to cover additional needs like improved nutrition and health systems.

## The current status of APR activities in South Africa

The national APRM secretariat convened a meeting with stakeholders on 6 April 2009, in White River, Mpumalanga Province, which received national television coverage. Its purpose was to examine the key issues in the CRR; give feedback on the implementation of the PoA report; and reactivate the PGC. The secretariat indicated that similar meetings would take place in all provinces before the end of 2009. However, by the second half of 2009, it had made little progress towards establishing the Programme Management Unit, and the NGC had not been reconstituted by the end of July. The South African APRM website has yet to be updated with new information on current activities (including what is being done to turn the PoA objectives into concrete policies).

In the period following the peer review there has a discernible lack of internalisation of the APRM in the South African polity.<sup>36</sup>

<sup>36</sup> Interviews with Paul Graham, IDASA, 31 July 2009, and with Steven Gruzd, SAIIA, 12 June 2009.

For example, during the media briefings given by the new government ministers in June 2009, no mention was made of the APRM PoA, and it is not apparent that the government's programmes are informed by its recommendations. Some public policy analysts believe that this is indeed the case; that any alignment is coincidental.<sup>37</sup> There has been a similar lack of follow-up on the implementation of the PoA at the level of civil society. Some organisations that were involved in the self-assessment process have disengaged from the APRM,<sup>38</sup> and SAIIA would appear to be the one of the few research institutes with a dedicated programme on the APRM. The presentation and substance of the first progress report on the implementation of the PoA in February 2009 received minimal media coverage. In general, enthusiasm and interest have dissipated.

President Jacob Zuma, in his state of the nation address to a joint sitting of parliament on 3 June 2009, referred to South Africa's commitment to strengthening the AU and implementing the NEPAD programmes. Similarly, Minister Maite Nkoana-Mashabane, who is responsible for International Relations and Co-operation, mentioned the importance of improving NEPAD programmes in her speech to parliament on 18 June 2009. In neither instance was there any direct mention of the APRM, or to South Africa's obligations under it. Commentators argue that with the change in the government leadership there may be less support for prioritising an African agenda. In consequence, this country's commitment to the APRM may become a casualty.<sup>39</sup>

<sup>37</sup> Interview with Paul Graham, IDASA, 31 July 2009.

<sup>38</sup> Telephone interview with Zama Ndaba, South African Chapter of ECOSOCC, 27 July 2009; interview with Paul Graham, IDASA, 31 July 2009.

<sup>39</sup> Interviews with Chris Landsberg, University of Johannesburg, formerly the Executive Director, Centre for Policy Studies, a research partner, 21 May 2009; and Claude Kabemba, formerly at the Human Sciences Research Council, 18 June 2009.

# Critical evaluation of the APRM process in South Africa

The APRM process was arguably the first exercise in which South Africa's government and non-state actors came together to debate issues of governance and human rights.<sup>40</sup> The process, which proved new and complex for both the public and the private sectors, provided a forum for discussion of matters of concern to the country a decade after the first democratic elections took place. However, the way the self-assessment was carried out also gave rise to questions concerning such matters as the role of government, the institutions supervising the national APRM process, the interaction with the continental structures, and the preparations made beforehand. These themes are discussed below.

## Government and the process

African governments, including South Africa, tend to impress observers by adopting laudable policies. However, the extent to which they take their commitments seriously is doubtful. A little of over a year before the APRM exercise began, the South African government had completed its own ten-year review on implementation of government policy and challenges from 1994-2004, addressing many of the same matters raised by the APRM. In light of this, and the fact that the government has its own annual programme of action,<sup>41</sup> was the South African government willing to undergo what many considered a similar or even duplicate process? Did the administration truly believe that this was an undertaking that had value for the country, or was it just checking the box on a continental process? Some participants suggested

that in practice the South African self-assessment exercise was symbolic rather than a genuine attempt to learn more,<sup>42</sup> and that for the government its virtue lay in the public relations value of the review, rather than the process itself or the outcome (the PoA).<sup>43</sup> South Africans talking to each other on issues such as poor service delivery formed an important part of the debate; yet some of those interviewed for this report argued that the APRM process was 'politically irrelevant'. Also, given that the government had already adopted its own programme of action, which had been allocated a budget, it was apparently disinclined to alter its arrangements in response to recommendations emanating from the continental APRM institutions.

The projected time frame set by the government to carry out the self-assessment and compile a PoA, the inclusion of civil society at a relatively late stage in the exercise, and the scant time given to the TSAs to complete their reports are all examples of the intention on the part of government to complete the report in the shortest time possible. (The initial plan was that three to five months would suffice.)

If the APRM was indeed politically irrelevant, then arguably the two reasons for South Africa's participation in the review were the government's wish to avoid any accusation of 'exceptionalism' and its desire to encourage other African countries to accede to the APRM.<sup>44</sup>

40 Interview with Dugan Fraser, former consultant to the national APRM secretariat, 7 May 2009.

41 See [www.info.gov.za/aboutgovt/poa/index.html](http://www.info.gov.za/aboutgovt/poa/index.html).

42 Interviews with Claude Kabemba, formerly of the Human Sciences Research Council, 18 June 2009, and Steven Gruzd, SAIIA, 12 June 2009.

43 Interview with Paul Graham, Executive Director, IDASA, 31 July 2009.

44 Ibid.

## The institutions of the national APRM process

Political support for the process was important in ensuring that there was cooperation across government agencies and that funds were made available. However, concentrating the organisational structures in government agencies gave rise to the perception that the process was government-driven;<sup>45</sup> and vesting the leadership of the APR self-assessment in a cabinet member was also a cause of much distrust between government and civil society. It also meant that to the private sector the undertaking lacked transparency from the beginning. At times it was not clear whether decisions were being made by the NGC or by a senior government official.

Creating an independent structure served by officials dedicated to managing the process would have been an appropriate mechanism that would have countered perceptions of undue interference by the government. Importantly, it would also have affirmed that the evaluation was genuinely an undertaking by the country as a whole, and not merely a report-card on government performance.

In the years that follow the initial review, the country's private and public sectors remain responsible for taking action on the problems identified at that time. Perhaps this gives cause for optimism. Given that the new NGC had not been constituted by the second half of 2009, South Africa may yet take the opportunity to re-think its composition. Enlisting members to serve on the NGC part-time proved far from ideal during the preparation of the CSAR, because they were essentially volunteering to manage a complicated process within a very short period. A member of the NGC conceded that the Council had had insufficient capacity to undertake the volume of work entailed.<sup>46</sup>

## Preparation and planning

The inadequacy of the plans made before starting the APRM process was the major cause of weaknesses in the South African self-assessment exercise.

All of those interviewed by the author expressed the view that better planning would have entailed allocating adequate time to each stage of the process; and that organising sufficient research capacity at the outset would have ensured that all

the data submitted could be processed and analysed.<sup>47</sup> Full-time researchers might have been better able to devote sufficient time to complete the work. As it was, the research methodology was flawed; the collection of data, particularly from the provinces, was inconsistent; and the quality of submissions was poor in some cases. The TSAs encountered difficulties in handling the reports of CDWs that were written in indigenous languages, and were generally unprepared to accommodate language diversity, which was why some of the CDWs' submissions in the indigenous languages could not be processed in time for inclusion in the technical reports. Adequate training of both the CDWs and those involved in compiling the report would have overcome some of these difficulties.

Engagement with stakeholders outside government, such as civil society, should have started as soon as the focal point had been identified. This would have given CSOs sufficient time to brief themselves on the key objectives of the APRM process, particularly that of reviewing the quality of governance in the country as a whole (and not simply assessing government performance). Also, starting the process at the end of year, which in South Africa is a holiday period, was bad timing as far as ensuring wide participation was concerned.

## Involvement of a broad range of citizens

Arguably the participation of South Africans in the process was inclusive. The total number of people who attended the two national and the provincial conferences, the seminars, and the sectoral meetings was large, while the CDWs collected a very large number of responses to the simplified questionnaire. However, observers question how meaningful this participation was. There was seldom any advance dissemination of the reports that were to be discussed at the conferences and seminars, which meant that delegates received the material only on the day of the event. Furthermore, the quality of inputs from the floor was uneven. Apart from the four seminars that were co-organised by the TSAs (where the agencies could identify and invite participants who were well-qualified to give opinions on the theme in hand), selection of the participants in the bigger meetings was not possible, resulting in 'rent-a-crowd' attendance in some cases. The large participant numbers contributed to making the process legitimate<sup>48</sup> in one respect, but the quality of debate was a casualty of the lack of selection procedures and the scant time allotted to briefing and to hearing contributions from the audience.

45 Efforts were made to source a response to these perceptions from government officials, in particular the focal point during the APRM process and the current focal point during the compilation of this report.

46 Interview with Zanele Twala, member of the NGC and former Executive Director, SANGOCO, 13 May 2009.

47 Email communication, Unathi Bongco, national APRM secretariat, in the Department of Public Service and Administration, 13 May 2009.

48 Interview with Paul Graham, IDASA, 31 July 2009.

## Civil society participation

During the APRM process the meaning was contested of popular participation, of what constitutes civil society, and of the role that these non-state formations, particularly in the not-for-profit sector, should play in democratic South Africa. The feeling of exclusion from the process in bodies representing civil society, and the apparent desire on the part of the government to control their participation, are among the issues that arose during the self-assessment exercise. On the other hand, government representatives questioned the legitimacy, constituency and mandate of the NGOs.

The democratic government has had and continues to have a fractured relationship with civil society, NGOs in particular. Some of these cracks were apparent during the APRM process. The government, which is led by the African National Congress (ANC), assumes that its legitimate elected status gives it the moral authority (after having inherited a 'bankrupt apartheid state') to implement its development agenda in a manner that imposes clear parameters on the participation of civil society. Since 1994, the administration's view has been that NGOs are influenced by donors from abroad, and work against South Africa's plans for development. In a speech made at the ANC Mafikeng Conference in 1997, Nelson Mandela, at that time head of state and leader of the party, expressed concern over 'undue' criticism of the government by NGOs, which was threatening to undermine his administration's programme of reconstruction. Some NGOs believed that these comments '[signalled a new era of distrust between the voluntary sector [and government]'.<sup>49</sup> Eight years later, his successor, Thabo Mbeki, echoed similar reservations over the commitment of NGOs funded by foreign donors to the democratic trajectory of South Africa during the opening of the first consultative conference of the APRM process in South Africa.

These government perceptions of civil society, especially the NGOs, laid the foundations for the mistrust between public and private stakeholders that affected the APRM process. As a result, some analysts argue that certain of the NGOs were unhelpfully preoccupied with questioning the transparency of the government-led process, instead of debating substantive issues.<sup>50</sup> Government also displayed arrogance by making its own decisions on which CSOs should participate, and stipulating the terms of their engagement, without any form of negotiation. Using a narrow lens through which it saw the only legitimate civil society groups as being membership-based, the government chose to work with representative

bodies such as the South African NGO Coalition, a network of over 3 000 NGOs, and the South African chapter of the AU's Economic, Social and Cultural Council (ECOSOCC) launched in 2005 and supported by the government.

Concerned at the possibility of exclusion from the country self-assessment process, some NGOs attempted to organise themselves in preparation for the undertaking. Most notable among them were SAIIA, which had an interest owing to its research focus on governance issues and the APRM process, and the South African NGO Coalition (SANGOCO).

The focal point arranged a meeting with the South African branch of ECOSOCC in early September 2005 to explain to this extremely limited sample of civil society the way in which the process would unfold, and SAIIA and SANGOCO took the lead in raising awareness of the programme among CSOs by holding a meeting on 22 September 2005, six days before the first national consultative conference was held.<sup>51</sup> The key outcomes of the meeting, as outlined in SANGOCO's submission to the APRM, were to call for greater inclusiveness, an enhanced role for civil society, and the sourcing of sufficient funds to ensure that the process was 'a success, in the national interest and in the fight against poverty and inequality...'. Some observers argue convincingly that the participation of NGOs in the APRM process was limited even further, to involve only urban-based 'elite' bodies.<sup>52</sup>

The government's understanding of consultation appears to have meant informing those attending meetings of what was under way, rather than any kind of equal interaction. A weakness in the consultative conferences was the inability to facilitate meaningful discussion in areas contested by civil society and government. Also, these conferences created expectations in those members of civil society who attended that the views they expressed would be incorporated in the CSAR. In most cases, not only did participants receive the relevant material too late to prepare their responses, but the time allocated to each theme was generally one day, allowing limited time for debate. NGOs and CSOs aired these concerns and expressed their lack of trust in aspects of the process to the CRM in July 2006.

49 Cawthra, H.C. and Kraak, G. 'Annual Review: The Voluntary Sector and Development in South Africa 1997/98', *Development Update*, Vol. 2 No. 3, 1999, pp.165–166.

50 Interview with Chris Landsberg, former director of the Centre for Policy Studies and research partner, 21 May 2009.

51 This preparatory civil society meeting was co-hosted by the South African NGO Coalition, the South African Council of Churches, the South African Institute of International Affairs and Transparency International-SA, and held in Johannesburg.

52 Email communication, Moloko Malakalaka, formerly at the Centre for the Study of Violence and Reconciliation, participant in the first national consultative conference, 29 June 2009.

## The continental APRM structure

The continental APRM secretariat coordinated the two CSMS that visited South Africa in November and December 2005 and the CRM mission that followed in July 2006. One criticism of the missions is the short time they spent in the country.<sup>53</sup> In most cases, the visits took place over one or two days, and concentrated on the urban areas. Most of the rural communities, which constitute an important constituency in South Africa, did not have the opportunity to engage with the panel's representatives, so the teams were unable to gather a broad spectrum of views.

An observation made to the author was that the panel of eminent persons and the continental APRM secretariat could have considered revising the questionnaire to make it more relevant for South Africa, given this country's degree of development.<sup>54</sup> For example, the question relating to intra-state conflict was perhaps not applicable to South Africa. This may explain why the democracy and good political governance section of the draft CSAR noted a lack of clarity on the meaning of intra-state conflict in the South African context.

## Internalising the APRM process for the future

While South Africa has signed and committed itself to various continental programmes, its greatest weakness is its inability to implement them in a concrete and effective way. Also, the relevance of the APRM process for South Africa was perhaps not evident to the stakeholders in either the public or the private sectors. The APRM procedure was intended to include and speak to civil society's role in helping to address the issues raised in the questionnaire. Yet civil society's failure to sustain its engagement with AU programmes hampered its participation in the APRM process.<sup>55</sup> Also, most of the representatives of civil society who were interviewed by the author for this report admitted that they had since disengaged from the process. They were not familiar with, and in some cases had lost interest in, the structures responsible for monitoring progress in carrying out the PoA. The government too has shown little commitment to following through on the implementation of South Africa's PoA.

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53 Telephone interview with Zama Ndaba, South Africa ECOSOCC Chapter, 27 July 2009.

54 Interview with Paul Graham, IDASA, 31 July 2009.

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55 Telephone interview with Zama Ndaba, South Africa ECOSOCC Chapter, 27 July 2009.

# Conclusion

It was anticipated that South Africa, as one of the countries behind the founding of the APRM, would set the benchmark for conducting a credible self-assessment process. Some of the criteria that South Africa was expected to fulfil were broad consultation, a legitimate methodology and a well-thought-out research procedure. These would lead to the compilation of a CSAR that was a true reflection of key issues identified by all the stakeholders were, and the PoA would make a genuine attempt to address problems.

The process was indeed inclusive in the sense that a large number of people drawn from every sector participated in the self-assessment. The decentralisation of the structures overseeing the process also contributed to gathering as many views on governance as possible.

However, as this report indicates, there were a number of flaws in the methodology of the information-gathering, collation and editing of submissions. There was also a discrepancy in the understanding of the roles the major stakeholders—government and civil society—should play. These flaws, which were largely attributable to inadequate preparation and planning, led to the difficulties some sections of civil society experienced in taking ownership of the final CSAR.

An insight arising out of the national APR process is that there is an underlying mismatch between the South African government's international commitments and their application at national level. There is little evidence to show that the recommendations from the Country Review Report have explicitly informed South Africa's policy-making process. The greatest challenge facing South Africa is whether it is able to translate its policy to enhance engagement in Africa into tangible outcomes for the country. While the report shows that yes, there were useful aspects to the process,

one has to question whether all of those involved viewed the APRM as a relevant and important procedure. The government felt compelled to go through with the process, having shown political commitment to it. Civil society saw it as an opportunity to engage with government and perhaps vent frustration over some government policies, but not as achieving much beyond that.

South Africa's experience with the peer review process could be an indication for further reflection by the APRM on ensuring that the process is relevant across Africa. Clearly not all countries are at the same stage of development, yet they are all facing their own challenges in strengthening democracy and human rights. Designing a process to address conditions of a particular country could ensure a deeper commitment to the process. South Africa's engagement in the process re-affirmed concerns and raised challenges facing the country. The occasion the APRM provided for dialogue between civil society and government is important in a democracy. But the process has yet to assist in the institutionalisation of such dialogue within the processes of either government or civil society in South Africa.

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## Interviews

Unathi Bongco and Keamogetsoe Xaba, chief director and deputy director respectively, national APRM secretariat, Department of Public Service and Administration.

Dugan Fraser, former consultant for the national APRM Secretariat, Department of Public Service and Administration.

Paul Graham, Executive Director, Institute for Democracy in South African and a technical support agency.

Steven Gruzd, South African Institute of International Affairs and Technical Research Institute.

Claude Kabemba, formerly at the Human Sciences Research Council, a quality assurance institute involved in the preparation of the country self-assessment report.

Chris Landsberg, University of Johannesburg, former Director at the Centre for Policy Studies and a research partner.

Moloko Malakalaka, formerly at the Centre for the Study and Violence and Reconciliation, an NGO that participated in the APRM process.

## THE APRM PROCESS IN SOUTH AFRICA

Zama Ndaba, former Secretary General of the South African chapter of the Economic, Social and Cultural Council and seconded to the national APRM secretariat.

Zanele Twala, former Executive Director, South African NGO Coalition and member of the National Governing Council.