

# **DEVELOPING A CIVIL SOCIETY FRAMEWORK FOR BENEFICIAL OWNERSHIP IMPLEMENTATION IN THE EXTRACTIVE SECTOR**

**Dauda Garuba**

A presentation at Civil Society Conference/High-level Meeting on Open Government Partnership (OGP) organised by NEITI

# Highlights

- Defining civil society
- Why civil society matters in Beneficial Ownership implementation
- Civil society in EITI and OGP processes

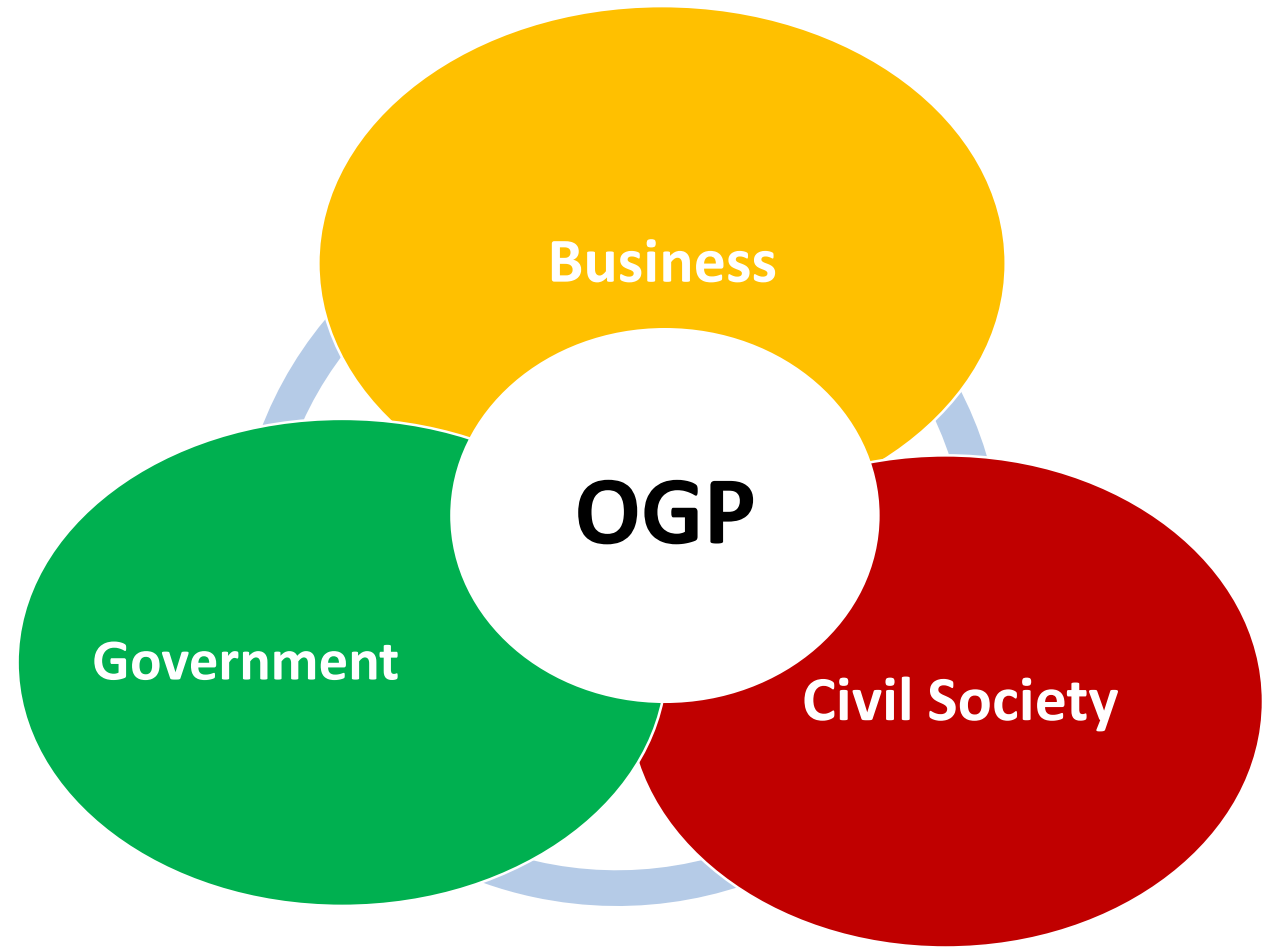
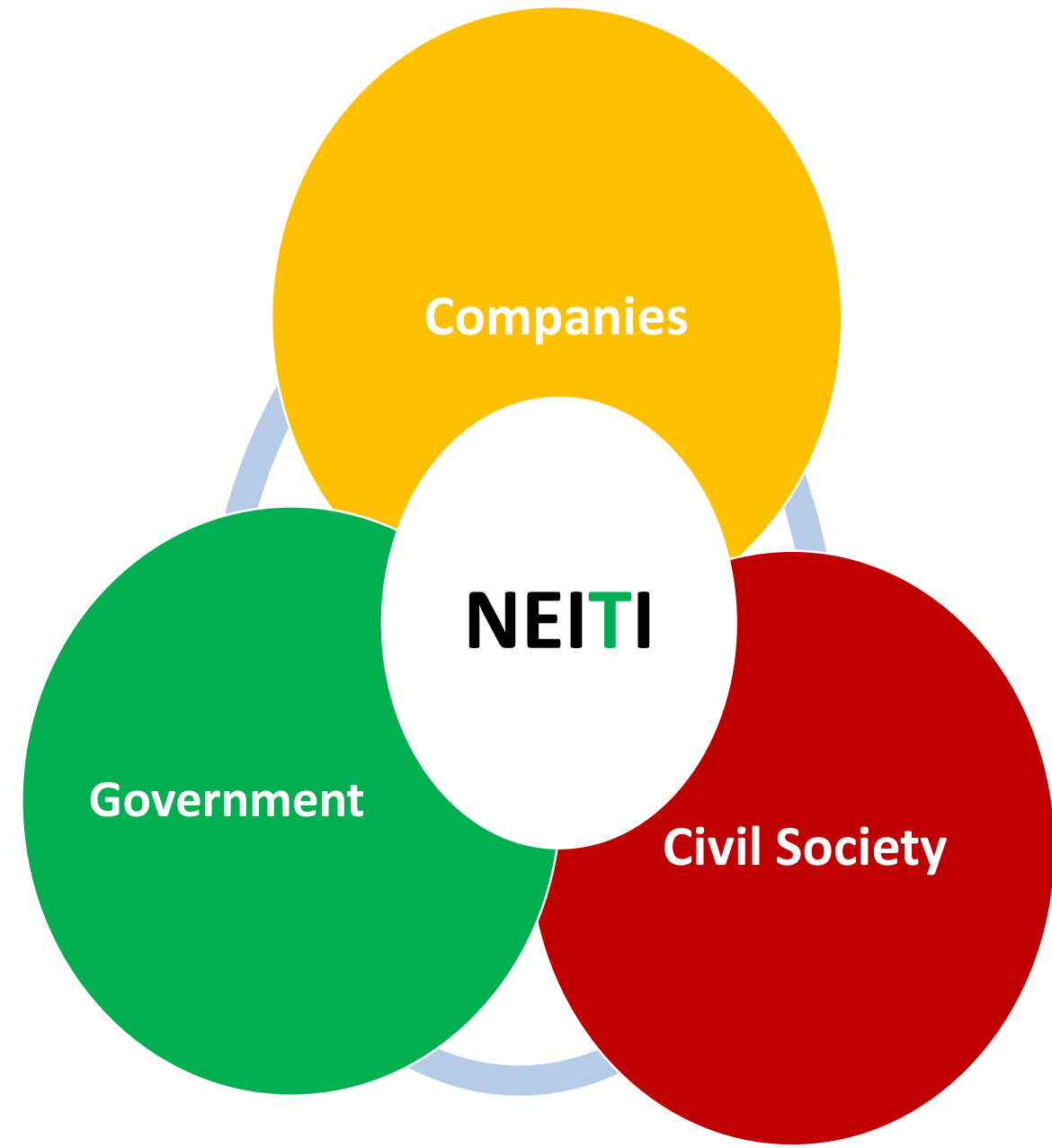
# Civil Society: Reality & Definition

**Reality:** ‘Fifth estate of the realm’ (fashioned along Edmond Burke’s reference to the media as the “Fourth estate of the realm”)

**Definition:** “the realm of organised intermediary groups that are voluntary, self-generating, independent of the state and the family, and bound by a legal order or set of shared rules” (Diamond, 1997). Anything non-government

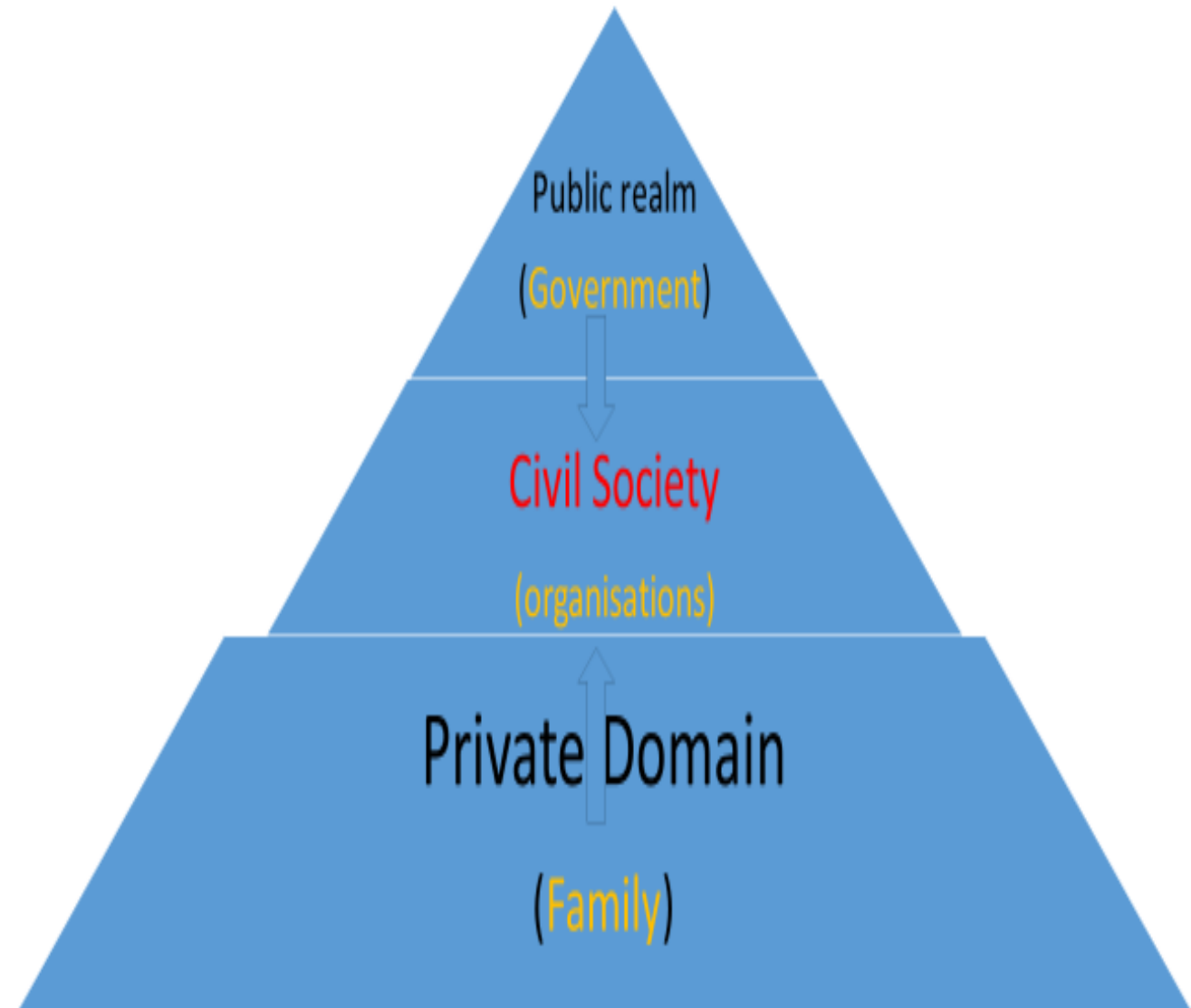
- ❖ Traditional NGOs
- ❖ Professional groups
- ❖ Trade unions
- ❖ Market women association
- ❖ Religious bodies
- ❖ Media, etc

# Civil Society in NEITI & OGP



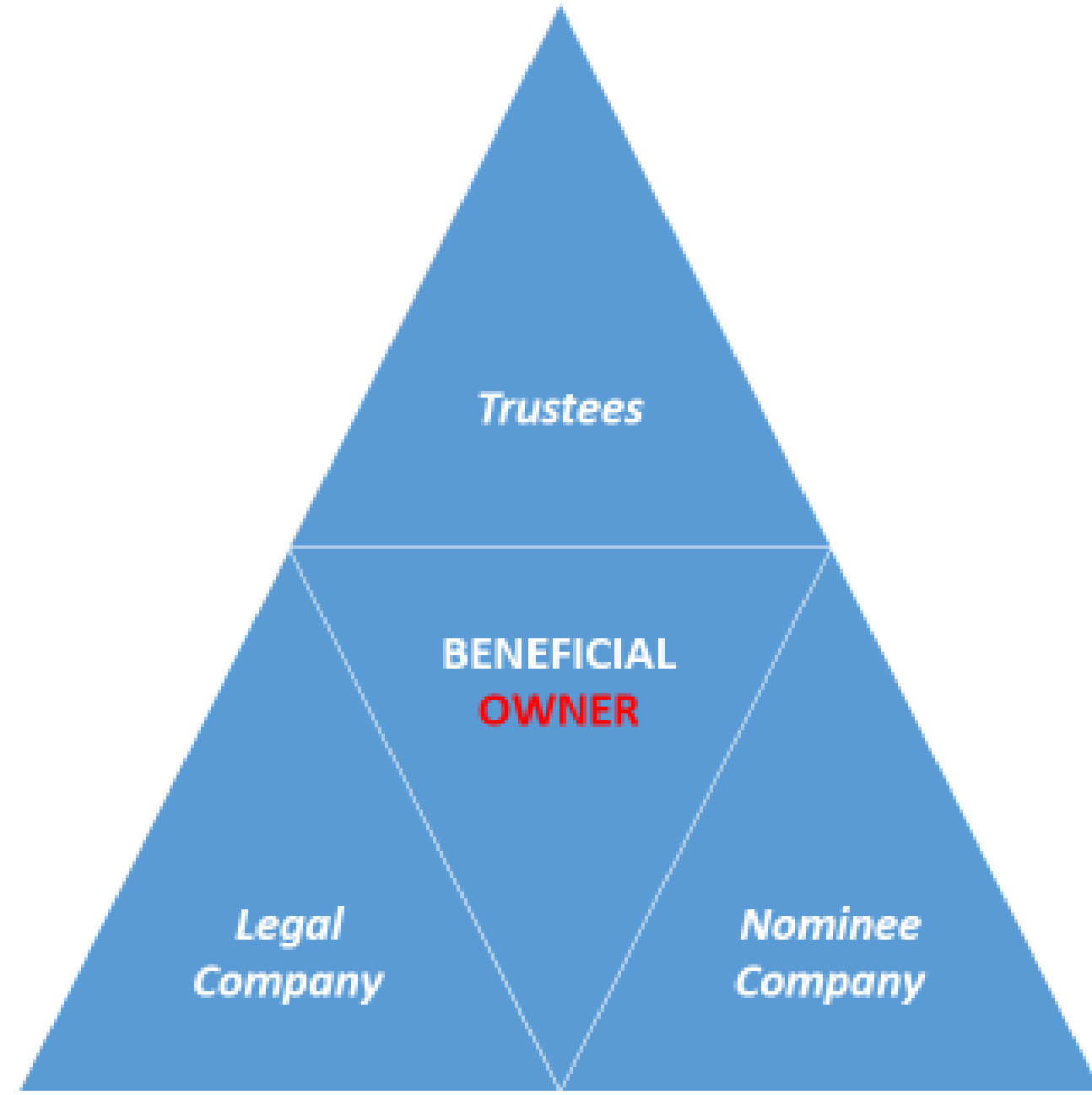
# EITI and OGP: Why Civil Society Matters?

- Pivotal place in state-society relations
- A growing important platform for promoting citizens' participation in governance
- Connection to upsurge in civic engagement



# Beneficial Owner: Definition

- **Black's Law Dictionary:** "A legal term where specific property rights ("use and title") in equity belong to a person even though legal title of the property belongs to another person"
- **Financial Action Task Force (FATF):** "The natural person(s) who ultimately owns or controls a legal entity and/or the natural person on whose behalf a transaction is being conducted ... including those persons who exercise ultimate effective control over a legal person or arrangement"
- **EITI:** "the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity."
- **OGP:** "The ultimate owners of private companies"



# Get it together & Break it down

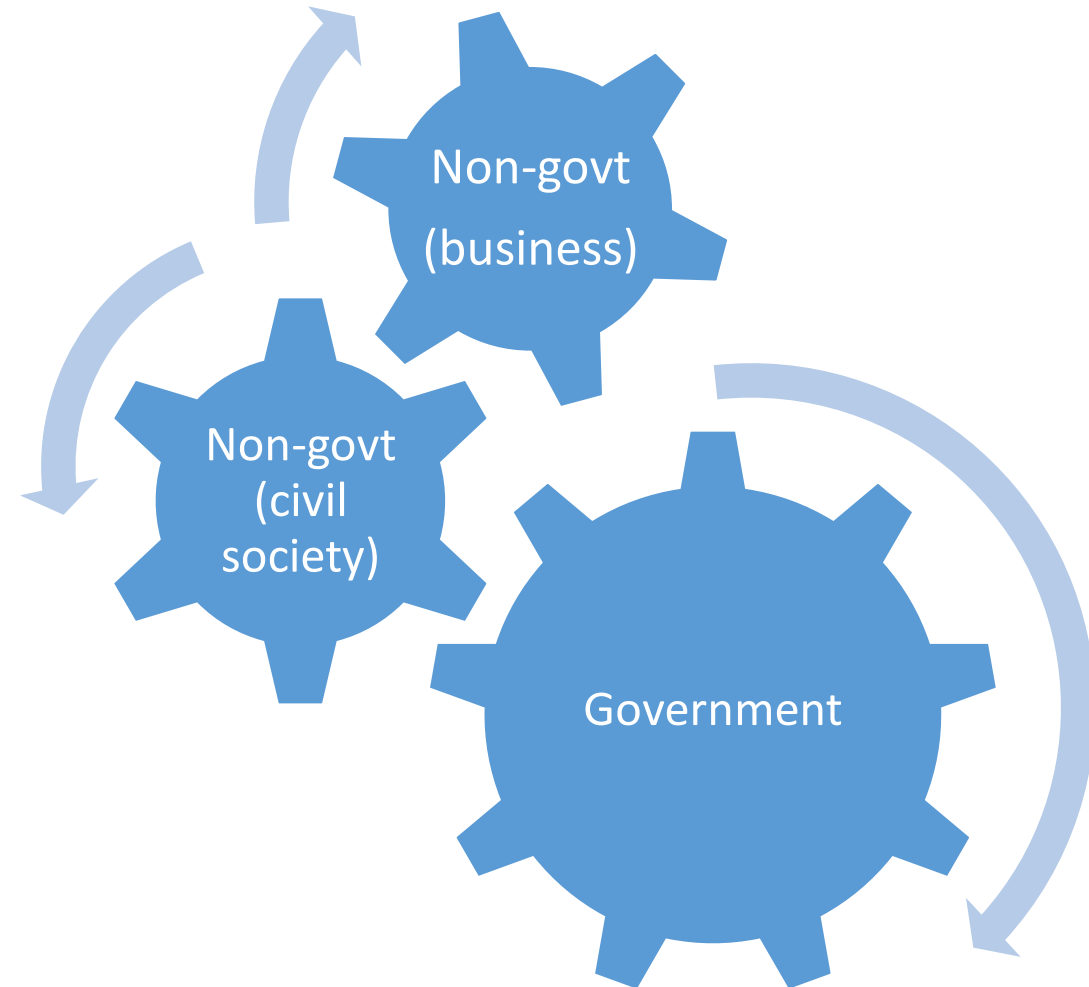
- Beneficial owners are the real, life and blood, individuals who own, profit from and exercise control over companies.
- Key elements:
  - A natural person who ultimately owns or controls a customer;
  - A natural person on whose behalf a transaction is being conducted; and
  - A person who exercises ultimate effective control over a legal person or arrangement
- Key Actions:
  - Establishment of a publicly accessible register of Beneficial Owners
  - Verification for validity and reliability

# Civil Society Framework for BO Implementation

## Definition

- A guide establishing the principles and practices of civil society engagement with the implementation of Beneficial Ownership

## Interaction





# A Blast from the Past: Why Civil Society Framework Matter

- ❑ A victim of exclusion & gang up
- ❑ The Danger of being a loner
- ❑ A symbol of rationalisation & a matter of fulfilling all righteousness
- ❑ Selective censorship



# Ingredients of an Ideal CSO Framework

- Forward-looking
- Leveraging strength of diversity
- Inclusiveness & self-assertion ('No to sidon-look')
- Collegiality, collectivity, **but** shadow reporting
- Timeliness of deliverables

# Reference Resources

- Passage of CAMA
- DPR Guidelines on measurement and metering
- PIAB
- BVN (corruption, money laundering, illicit financial flows, drug trafficking & terrorism financing)

# Anticipated Challenges?

- Limited access to funding leading to limited engagement
- Internal squabbles leading to inability to present a united front
- Diversion of attention (e.g. positioning for perks around participation)
- Inequality (national and sub-national civil society)
- Donor-dependence and donor-fatigue
- Inadequate feedback
- Limited capacity & Reductionism?

# Suggested Contents: Institution, Legal & Administrative Processes

- ❖ Civil society engine room
- ❖ Hanging fruits: Presidential assent to CAMA & Passage of PIAB
- ❖ Establishment of a two-way feedback mechanism
- ❖ Capacity development & advocacy
- ❖ Involvement in working tours and verification of BO information
- ❖ Whistle-blowing
- ❖ Insistence on not having hair-shaving in CS absence
- ❖ Sustainability of engagement (Refusing to be frustrated out of process)
- ❖ Networking with international voices with clout (technology – information/experience sharing & mobile devices)
- ❖ Stocktaking on changes over time – i.e. good governance &
- ❖ service delivery tracking

# Strategies for Delivering

- Securing the options that is up for grab
- Level of consultations required for it to happen
- Critical mapping & targeting influencers/decision makers
- Available incentives on offer
- Direction of public sensitisation & awareness creation
- Capacity development
- Sustainability

**Thank you for your attention**