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Promising Practices

On the Human Rights-Based Approach in German Development Cooperation. Justice Reform: Improving the Situation of Overcrowding in Prisons in Bangladesh

Background

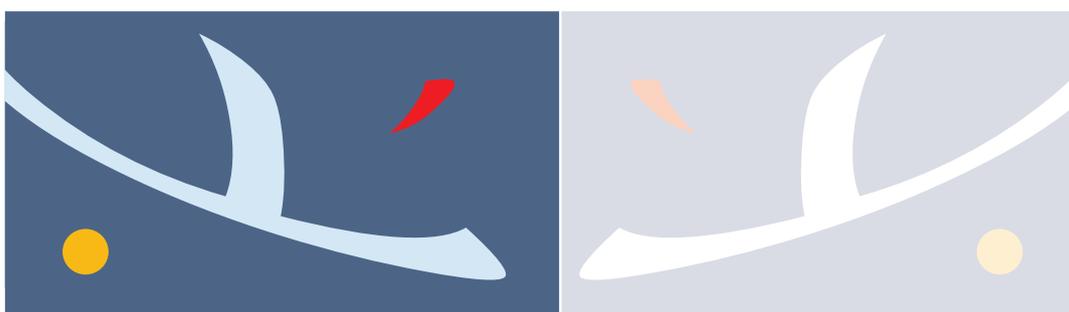
Prisons in Bangladesh are severely overcrowded by over three times their actual capacity. This is due to an inefficient, irregular and anachronistic criminal justice system. Bangladesh's prisons are governed by laws which date back to the 19th century. Many people, particularly the poor, face severe violations of their human rights.

Prisoners have limited access to legal assistance. Many prisoners spend months or years awaiting a court date. A staggering 70% of the prison population is yet to be convicted. Frequently the length of pre-trial detention exceeds the eventual sentence. Convicted detainees often stay longer in prison than their actual term because the prison administration has lost overview of lengths of sentence. Many people are detained for minor offences which can be associated with poverty. Release on parole or on probation is uncommon. Women and children who have become victims of violent crimes, such as human trafficking or rape, are kept in prisons for their own 'safety' rather than because they have committed any type of crime, as they don't have a safe place to stay. This practice is called "safe custody".

The conditions under which prisoners are held are appalling, contravening all international human rights standards. For example, up to 200 inmates share one cell of just 40 m² forcing them to sleep in turns. Juvenile and unconvicted offenders are often housed with convicted felons. Food, sanitation and hygiene are inadequate; violence and infectious diseases such as tuberculosis are rampant. It is reported that prisons become breeding grounds for disease, crime and religious fundamentalism.

The objective of the joint Bangladesh-German project 'Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh' (IRSOP) is to reduce prison overcrowding and improve legal protection for poor and vulnerable prisoners. There is a focus on speeding up the release of those detainees whose detention was unlawful or disproportionate, especially women, children and other disadvantaged groups.

The project is carried out in cooperation with the Bangladesh Ministry of Home Affairs, the Prison Directorate and GIZ. It is financed by the German Ministry for Economic Cooperation and Development and co-financed by Spain and the UK. The project started in 2008 and is expected to run until 2018.



Human rights framework

The right to equality before the law, due process, a fair trial and human treatment in detention are codified in a number of articles of the International Covenant on Civil and Political Rights (ICCPR), namely articles 7, 9, 10, 11, 14, 15, 16, and 26.

ICCPR [General Comment Nr. 13](#) on the administration of justice specifies the core guarantees regarding a due and fair process.

In addition, detainees also have the right to enjoy basic economic, social and cultural rights such as their right to adequate food, water, sanitation and health as codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The state also must respect and protect the specific provisions detailed in the conventions on women's rights (CEDAW), the rights of the child (CRC) and the rights of persons with disabilities (CPRD).

Bangladesh has ratified these conventions and thereby has the legal obligation to respect, protect and fulfil the human rights standards contained therein.

Towards a Human Rights-Based Approach

IRSOP supports the Government of Bangladesh to fulfil its obligations under international human rights law. As an entry point issues of overcrowding were addressed by discussing challenges to public health and security. Afterwards practical low-cost interventions have been identified that can quickly and permanently reduce the prison population.

Approaches which have illustrated successes from around the world have been adapted to suit the Bangladesh context. For example, a major activity area has been the establishment of **paralegal aid services**. Paralegals work to bridge the gap between prisoners, courts, police and lawyers, and to provide legal assistance to some of Bangladesh's most poor and vulnerable prisoners.

Paralegals have been trained and are operating in three pilot prisons (out of 68 prisons in total) – Dhaka Central Jail, Bogra District Prison and Madaripur District Prison, work in seven further prisons will begin in 2013 and it is planned that by 2017 IRSOP will work in 40 prisons in total. An intensive training programme was designed following a multi-agency approach. Training for paralegals is delivered by judges, magistrates, police and prison officials and lawyers. Three non-governmental organizations, BRAC, Bangladesh Legal Aid and Services Trust (BLAST) and Madaripur Legal Aid Association (MLAA), provide support services to the paralegals in Dhaka, Bogra and Madaripur, respectively. Paralegals are not lawyers; they are the paramedics of the

criminal justice system, who are bound by a very strict code of conduct agreed with prison authorities.

Through a census of the prison population in three sites, paralegals gather information on the legal status of prisoners and then present this information to lawyers, prosecutors, courts, police and prisons to ensure that appropriate action can be taken. Members of these institutions meet monthly in Case Coordination Committees (CCC) to act on the information from their local prisons. The census serves as a baseline against which the committee members will measure their success. The data from these surveys reveals, for example, the percentage of prisoners who are poor; who have legal representation; the average time spent in custody pending trial; the number of women and children in prison, including women and girls in safe custody; the percentage who were granted bail, but cannot afford the terms; or the percentage of prisoners who have overstayed the term of their warrant.

Paralegals also provide free legal assistance to prisoners and their families. Or they attempt to locate the prisoner's family or contact his/her embassy should they be a foreign national. Paralegals also hold courtyard clinics to educate prisoners on basic legal procedures, from arrest to appeal, so that they can apply the criminal law and procedures in their own cases if they lack the means to engage a lawyer. At their request paralegals may also provide legal and social support to persons on their release from prison.

The second set of project activities seeks to **address the training needs of prison staff** as identified by the Inspector General of Prisons, especially concerning risk assessment of prisoners under sentence. The Prison Directorate estimates that a large number of the prison population is made up of persons sentenced for or accused of minor crimes, who pose no real threat.

At the same time the project supports government agencies, such as the Prison Directorate, the Ministry of Home Affairs, the Ministry of Law, Justice and Parliamentary Affairs or the National Legal Aid Services Organisation, in their **efforts towards reforming the criminal justice system as a whole**. It provides expert advice and support on revising the colonial Jail Code from 1864 to draft a new contemporary Prison Act. The project also facilitates dialogue among all relevant actors on improving the provision of legal aid through the state.

The project has generated great interest among members of Bangladesh's judiciary. The Chief Justice of Bangladesh has appointed three Justices of the Supreme Court to advise and guide the project.

Achievements and Impact

By March 2013, **over 21,417 legal interventions had taken place**, comprising of legal advice and assistance by paralegals. Case Coordination Committees are operating successfully in Bogra and Madaripur.

These two mechanisms together have been able to achieve the release on condition or a **discharge of over 2,500 prisoners** in the three pilot sites.

It is estimated that this number will increase significantly once the work at Bangladesh's largest prison, Dhaka central jail, is scaled up. The Government is currently evaluating how and when they will adopt the mechanism of paralegals to roll out across the country, which will undoubtedly lead to an increase in the number of releases.

The **situation for juveniles and women** has improved significantly. The cases of 'safe custody' in Bogra or Madaripur have decreased and there are no longer juvenile offenders in these prisons. Whenever a juvenile enters the prisons he or she is now referred directly to the paralegals.

Support for the approach at institutional level has yielded results. For the first time the Prison Directorate has drafted a **strategic plan**, which will allow issues such as the rehabilitation of prisoners, training of staff and support for vulnerable prisoners to be prioritised over the next five years. Furthermore, GIZ has been asked by the Ministry of Home Affairs to support the **drafting of a modern Prison Act** to replace the colonial Jail Code. IRSOP assisted these processes with external expert advice.

A perhaps less tangible but highly significant side effect is that **trust and collaboration** between key stakeholders has improved

which has had a positive effect on transparency and effectiveness of the criminal justice system as a whole.

Overcoming its initial hesitation to discuss human rights issues, the Government of Bangladesh now prides itself on being a beacon for improving the human rights in prisons in South Asia. In October 2010, the Government, supported by IRSOP, organised an **international conference on prison reform**, during which the 'Dhaka Declaration on Reducing Overcrowding in Prisons in South Asia' was developed. It highlights that imprisonment should be a remedy of last resort and urges governments to use pre-trial detention less frequently and for shorter periods. It also makes recommendations to amend relevant laws accordingly.

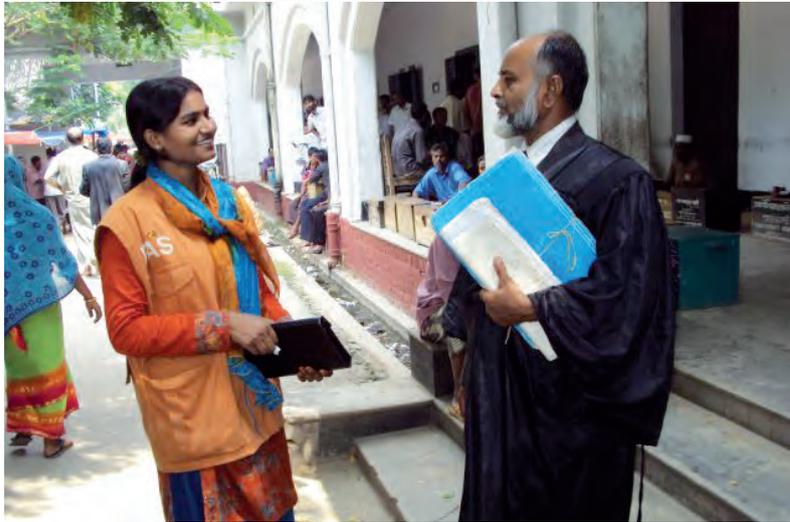
Challenges

Whereas the project has been able to achieve the release and access to justice for many prisoners in the pilot sites, there still is a high influx of prisoners due to **wider systemic challenges** in the criminal justice system. Addressing this issue requires a review of the criminal justice system as a whole: arrest and pre-trial detention, modes of investigation etc. It is therefore necessary for the government to seriously consider and enforce alternatives to custody such as parole or probation, as well as to strengthen the existing legal aid system.

Further, many prisons were built during colonial times. Some are **dilapidated** and nearly all **lack the necessary amenities** such as power generators, air-conditioning etc. The prison system is also suffering from a lack of modern information technology, which would allow them to record information relating to prisoners effectively and reliably. Software has been developed, however the surroundings are not fit for computers. Prisons therefore need to be renovated and modernized from top to bottom.



Paralegals enter a prison



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*Paralegal in conversation
 with a judge*



Lessons Learned

Working with such a sensitive topic requires **respect for political sensitivities** and needs trust from all sides. It was not necessary to mention human rights in order to achieve major improvements in the human rights situation of prisoners.

From the beginning of the project it has proved crucial to **build trust among all stakeholders**. **Transparency** between stakeholders is mandatory to achieve the agreed goals. The project always communicates next steps, achievements, challenges, etc. with all concerned stakeholders. This has helped the project team to build enormous trust and justifies the decision that Germany is the only donor country that is allowed to assist Bangladesh to reform their prison system.

Moreover, it is crucial to come up with **local solutions to local problems**. Beneficiaries have to identify their needs and stakeholders must develop tools or ideas that fit the local context. This has clearly shown validity in the process of drafting a strategic plan for the Prison Directorate, which was supported by international experts but always focused on local problems and realistic solutions.

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Promising Practices

On the human rights-based approach in German development cooperation Health: Ensuring inclusion and access to quality health care in Kenya

Background

Kenya is a signatory to a number of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, which contains the right to health. In addition, the 2010 Constitution of Kenya recognises the highest attainable standard of health as a basic human right. In spite of this, access to quality health services remains a mirage for various population groups in Kenya, particularly in the area of sexual and reproductive health.

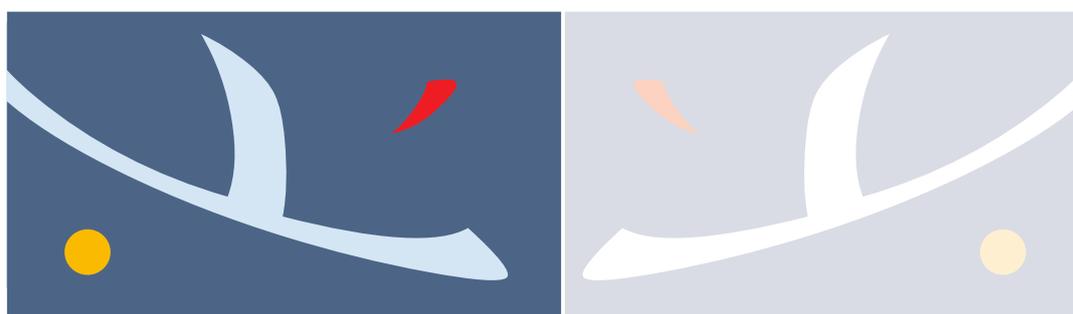
For a majority of Kenyans, the difficulty in claiming their rights to health and adequate healthcare is due to a lack of proper policy, resources and institutional frameworks. Health planning processes lack transparency, and the population is often left out in public decision-making processes related to health matters. The result is an insufficient allocation of public funds to the health sector: only 6 per cent of the national budget is allocated to the health sector, a far cry from the required 15 per cent required in the Abuja Declaration of 2001, to which Kenya is a signatory.

Societal stigma and discrimination coupled with a harsh legal and religious environment have limited access to information and quality healthcare for population groups most at risk, including sex workers, men having sex with men, injecting

drug users or lesbians, gay, bisexual, transgender and intersex people (LGBTI). Other vulnerable groups, such as persons with disabilities and adolescent girls, also face different forms of stigma and discrimination that undermine their right to health. In addition, the Kenyan Government has not dedicated a budget to adequately address the needs of vulnerable population groups – including survivors of gender-based violence.

Since 2006, the German-Kenyan Health Sector Programme has adopted a human rights-based approach. Its objective is to improve equitable access – especially for the poor and marginalised groups comprising those affected by HIV/AIDS – to affordable and good quality healthcare, particularly in the area of reproductive health. The programme works both at national and regional levels. Besides government institutions the programme cooperates with faith-based organisations, non-governmental organisation networks and the private sector in order to ensure better health system outcomes. The programme comprises four components:

1. Policy advisory services
2. Health financing
3. Family planning and reproductive health
4. Reduction of gender-based violence and human rights violations.



The programme is jointly implemented by GIZ and Kreditanstalt für Wiederaufbau (KfW) and is financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). It was launched in 2005 and is expected to run until 2016.

Human rights framework

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes the right to the highest attainable standard of physical and mental health. The UN Committee monitoring the implementation of the ICESCR specifies the right to health: Health services must be available, accessible, acceptable and of good quality (General Comment No. 14 of 2000). Kenya ratified the covenant in 1972.

The Constitution of Kenya adopted in 2010 guarantees the following economic, social and cultural rights: the right to the highest attainable standards of health including the right to health care services, reproductive health care and emergency medical care; the right to housing and sanitation of a reasonable standard; the right to food; the right to water. article 27 of the Constitution determines that the state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligates governments to ensure the availability of reproductive health services and to remove legal barriers to reproductive healthcare. Kenya ratified the convention in 1984.

Article 25 of the Convention on the Rights of Persons with Disabilities (CRPD) obligates governments to ensure equal range, quality and affordable health care to persons with disabilities. Kenya ratified the convention in 2008.

Article 16 of the African Charter on Human and Peoples Rights (Banjul Charta) obligates governments to protect the health and ensure the medical treatment of their people. Kenya ratified the Banjul Charter in 1992.

Towards a human rights-based approach

The Government of Kenya has adopted the National Health Sector Strategic Plan (NHSSP II) and corresponding health policy reforms. The BMZ funded Health Programme implemented by GIZ encourages innovative approaches to improving basic human rights, including access to good quality and affordable healthcare, reducing gender-based violence, and assuring fair treatment for those vulnerable, marginalised and stigmatised by society. This is attained through mainstreaming the human rights-based approach in all aspects of health at structural, systemic and operational levels (see Figure 1).

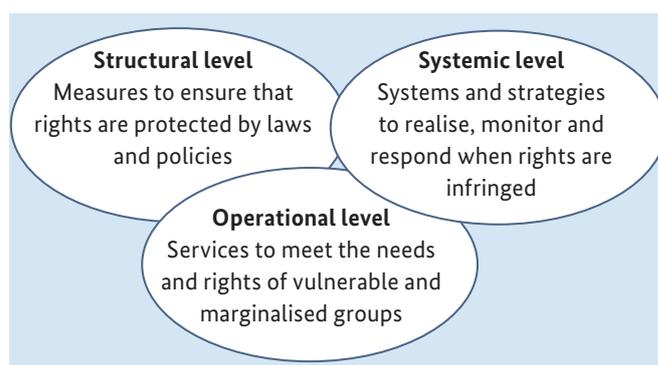


Figure 1:
The human rights-based approach – levels of intervention

At the **structural level**, GIZ has supported the integration of human rights standards and principles in legal and health sector policy reform processes:

- Inclusion of a Bill of Rights within the Constitution
- Pro-poor health sector reform
- Working with government agencies and other stakeholders on pushing for enactment of laws that prohibit female genital mutilation (FGM)
- Collaborating with the GIZ implemented Good Governance Programme in Kenya on the enforcement of the Sexual Offences Act
- Updating the reproductive health policy for adolescents
- Support in drafting the National School Health Policy

At the **systemic level**, GIZ has promoted the integration of human rights principles in annual health sector planning at national and decentralised levels. District Health Management Teams in supported districts have drawn up annual operational plans. These have included interventions with communities geared at fighting root causes of violence by challenging the gendered cultural norms that are harmful and lead to practices such as FGM.

GIZ has also provided training and advisory assistance to civil society organisations, such as the Health NGO Network and the Gay and Lesbian Coalition, to enhance their capacity to advocate for the rights of marginalised groups. Support for and institutional strengthening of civil society organisations and networks have increased their participation in policy-making processes in the context of the sector-wide approach to health. At community level they have promoted advocacy forums on reproductive health issues, including gender-based violence.

The inclusion of faith-based organisations within the government disbursement mechanism of Kenya's Health Sector Services Fund has led to an increased access to health services particularly for vulnerable and poor persons.

At the **operational level**, the programme has focused on improving the quality of care. This has included the promotion of practical skills and attitudinal change among service providers, in particular when dealing with person from vulnerable and marginalised population groups.

Through various pilots and projects, the programme is enhancing the capacity of health service providers to distribute information and improve services. An example is the initiative 'Health for all Kenyans through Innovation'. It seeks to improve access to healthcare for vulnerable people in low-income settings. Another example is a public-private partnership which has increased access to comprehensive services for survivors of gender-based violence.

The programme has also supported the Kenya Union of the Blind (KUB) in the installation of software that converts materials to text, MP3, digital talking books, large print and Braille. This took place at the ICT resource centre for youth with visual impairments, providing free internet access and computer training. Young people with visual impairments working in the centre thus were supported in producing materials in accessible formats. This honed their skills and gave them an income-generating activity geared towards support for KUB projects.

Impact

Human rights are now an integral part of Kenya's Constitution and the respective provisions are highlighted in the Bill of Rights. Government agencies, partner organisations and the Kenyan public are now more aware of the right to health and related rights.

At policy level, human rights are a thread running through various laws and policies. Support and institutional strengthening has enhanced the capacity of service providers to deliver inclusive and non-discriminatory information and services. Human rights principles are now integrated in the sector-wide approach, and there is emphasis on increasing access to services and information for the poorest population groups. Visually impaired persons for example can now access a translation of the Sexual Offences Act into Braille.

Furthermore, support for and the participation of civil society and faith-based organisations in policy-making processes have increased their capacity to advocate for the rights of marginalised groups. For example, people living in areas where only faith-based health facilities are accessible can now access treatment following the inclusion of these facilities in the new health services funding mechanism: the Health Sector Services Fund.

The Kenyan Government is also piloting projects within government health facilities to increase access for LGBTI, persons with disabilities and adolescent girls, groups that constantly battle with stigma and discrimination.

There is also better inclusion and participation of civil society through the Health NGOs Networks at the highest decision-making levels, such as the Reproductive Health Inter-Agency Coordinating Committee. This has provided an advocacy platform for responding to the health needs of the most vulnerable in Kenyan society.



Mother and Infant

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Challenges

Often enough, policy makers still view advocacy on health-related human rights as activism rather than a matter of key principles and obligations. National champions can change this; if properly identified and trained they can continue advocating for health-related human rights, embed them in strategies and policies, and put advocacy for human rights in the right perspective.

Monitoring and evaluation of compliance with human rights standards is another challenge. There is a need to further develop implementation and monitoring frameworks for constitutional and legal provisions. There is also a gap in documenting 'what works' as far as human rights interventions are concerned.

Despite increased awareness concerning human rights, human rights for sexual minorities and LGBTI are still very sensitive and controversial. Much more needs to be done to foster change in social attitudes towards human rights principles, like non-discrimination.

The low proportion of the national budget allocated to the health sector is a key challenge to achieving affordable and quality healthcare. The Kenyan Government needs to ensure sufficient staffing and stocking of health facilities if Kenyans are to benefit from improved services.

Lessons learned

The GIZ implemented programme's multi-level approach has made the human rights-based approach multi-directional, and thus more effective. In addition, promoting dialogue between several stakeholders (government, civil society and faith-based organisations) has contributed to the fact that more Kenyans have access to information on health-related human rights and benefit from improved services. Finally, with increased awareness, information and progressive laws entrenching human rights – such as the Kenyan Constitution – citizens can and increasingly do demand implementation of these laws.

In terms of project management it has become obvious that – in order to achieve sustainable impacts – human rights need to be integrated at the onset of project planning and have measurable indicators within monitoring and evaluation frameworks.

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Promising Practices

On the human rights-based approach in German development cooperation Water and sanitation: Ensuring access for the urban poor in Kenya

Background

Kenya is a multi-ethnic society, with considerable difficulties in its transition to democracy. There are historic inequalities in the access of different ethnic groups to power and resources (particularly land) which have not been addressed and are prone to escalate into violent conflict as witnessed in the 2007 presidential elections. Corruption remains endemic. In the Corruption Perception Index 2012, Transparency International ranked Kenya on place 160 out of 176. Therefore, human rights and good governance are high on the agenda of all German support programmes in Kenya.

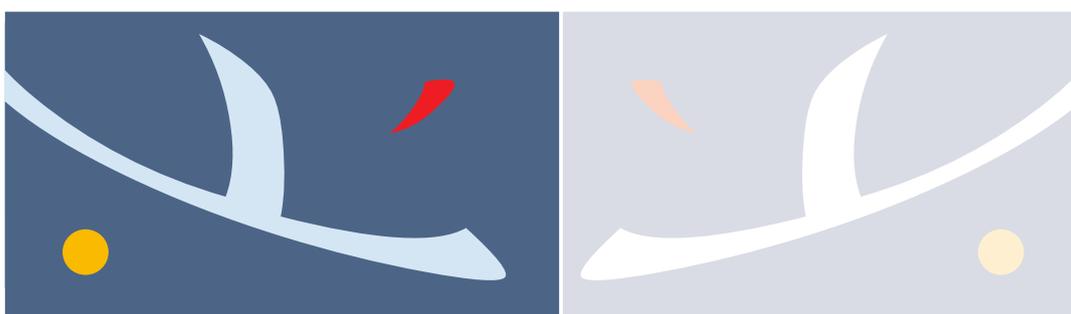
Kenya suffers from chronic water shortages due to the skewed relationship between limited available resources, population growth and environmental degradation. Women and children are particularly affected. According to a [survey at Maji-Data](#) only 38.7 % of the urban poor have access to water, and 46.8 % use some form of sanitation. Management of water resources is slowly improving due to a comprehensive water sector reform process started in 2002.

The objective of the German-Kenyan Programme „Reform of the Water Sector“ is to increase the sustainable access of the urban poor to water and sanitation and to improve the management of water resources. The programme works on the national and regional levels and in selected localities.

It has five components:

1. Support to the Ministry of Water and Irrigation in the implementation of sector reforms
2. Regulation of the water sector
3. Commercialisation of water and sanitation services
4. Improvement of water resource management
5. Support to up-scaling access to sanitation in urban low income areas

The programme is carried out in cooperation between GIZ and KfW and is financed by the German Federal Ministry for Economic Cooperation and Development (BMZ) and the Bill & Melinda Gates Foundation. The programme started in 2003 and is expected to end in 2013.





Left to right:
Operation of water kiosks, Athi River, Kenya
Water Company Staff at Work, Webuye

Human rights framework

Article 11 and 12 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) establish “the right to an adequate standard of living” and “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. The right to water and sanitation is understood to be part of those two rights.

The UN treaty body watching over the implementation of the International Covenant on Economic, Social and Cultural Rights specifies the right to water: Water for domestic and personal use must be available, accessible, acceptable, and of an appropriate quality (General Comment No. 15 (2002)). A similar specification is currently under development for the right to sanitation.

Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities, participation and empowerment, transparency and accountability.

Towards a human rights-based approach

Since 2002, the Kenyan Government has reformed the policy, legal and institutional framework in the water sector. It employed a stringent pro-poor-focus and adopted a human rights-based approach in 2005/2006.

To achieve fast track solutions for the poor in informal urban settlements, the programme supported the elaboration and implementation of up-scaling concepts of the Water Sector Trust Fund: Water service providers can apply for funding to e.g. extend services to informal settlements with low-cost technologies such as water kiosks, yard taps and shared sanitation facilities. In addition, progressive tariff structures were devised, and cross-subsidies made water affordable for the poor.

Water kiosks deliver water of controlled quality and price. Their establishment shifts informal to formal service provision. This has substantially improved living conditions of the urban poor in peri-urban and densely populated areas, as a 2010 [“Survey on the impact of formalized water kiosks on living conditions in Athi River and Ongata Rongai”](#) demonstrated.

In line with the human rights-based approach, kiosk facilities and their management concept actively involve the un- or underserved. In addition, the programme supported increased participation of raw water users through the establishment and strengthening of Water Resource User Associations and consumers through Water Action Groups.

Gender mainstreaming is a goal in the relevant Kenyan strategies, and measured by a sizable increase in women’s representation in decision-making in the water sector. The National Water Policy of 2012 prescribes that water institutions and water resource user associations must have at least 30% women members; it recommends that 50% of those operating water kiosks should be women. Women’s representation is also part of the application requirements for project financing to the Water Sector Trust Fund.

The programme supported the Ministry of Water and Irrigation to turn human rights standards and principles ([see Box 1](#)) into indicators and to integrate them into the strategies for national water resource management and national water services developed in 2007. The service providers are licensed and thereby regulated: Service provision has become formalised. Apart from the obligation to report on compliance with the standards, they need to document their performance annually. The programme supports the establishment of the necessary management information and benchmarking system. Based on these data, the regulator submits a yearly “Impact Report” to the public. This has led to more accountability and transparency.

Overall water governance was strengthened by supporting clear lines of responsibility within and between the water institutions: The Ministry of Water and Irrigation has the overall political responsibility for the water sector and its reform. According to the Water Bill 2012, the Water Services Regulatory Commission licences water service providers to ensure water services are sustainable and provided with increasing performance. Most providers are registered private companies in the ownership of municipalities. They are required to adopt a customer service approach and establish adequate complaints mechanisms, e.g. customer care desks. Providers are specifically required to report on progress in extending services to the settlements of the urban poor. Lastly, a Water Tribunal has been established to solve water disputes.

Tariff reforms: Aim for affordable access and sustainability

Tariff setting was oriented towards criteria harmonised with human rights standards so that the essential amount of water and sanitation services would become accessible and affordable for the poor. At the same time the Kenyan water sector reform aims to better cover water costs. The coverage of the operation and management costs of service provision is a first step. Another important step is to create water service providers which can generate economies of scale, and better cross-subsidise water from big consumers to the poor.

Process

The programme helped to introduce the human rights-based approach as a part of its advisory services to the Ministry of Water and Irrigation. The Ministry in turn adopted the human right to water as a guiding framework for the harmonisation of donor activities in the Kenyan water sector in 2007. Thus, the different Kenyan policy and strategy documents in the water sector, e.g. on water resource management, water services and sanitation, contain specific chapters on the human right to water and sanitation.

The Ministry adopted the human rights-based approach only after intensive dialogue and after key stakeholders had become familiar with the contents of the UN General Comment No. 15. This has helped to overcome the mistaken assumption that the right to water would entail free provision of drinking water to the poor.

On the policy level, the human rights-based approach supported a commitment to extend formalised water kiosks to urban informal settlements nation-wide. To do so, an innovative instrument that allows for the coordination of planning, funding and participation (the so called Urban Project Cycle) has been put in place. In the meantime, this instrument has become the national standard to promote low cost solutions for the urban poor.

Dialogue was also a key success factor within the sector. Thus, the water sector has become far more open to civil society participation. The general public can now participate in the elaboration of policies and strategies and has a right to be part of decision-making on water resources and services. The representatives of right-holders, e.g. in water user associations, have thus become regular dialogue partners of duty bearers.

Impact

Results and impact have been achieved on different levels, to name the most important ones:

- The right to water and sanitation is meanwhile explicitly recognised at the highest legal level, in [Art. 43 of the Constitution of 2010 \(PDF, 1.3 MB, not barrier-free\)](#), and is also contained in Art. 46 of the Water Bill of 2012. The provisions of the Water Bill are expected to enhance the legal framework for equitable access to water supply and sanitation services and thus support the implementation of the new sector policy.
- Since the Kenyan Ministry of Water and Irrigation has adopted the right to water as the framework for its national water policy it expects that donors also comply with the criteria stemming from the right to water.
- Aid effectiveness in the sector has increased, as has the commitment of resources to the sector (investment funds were multiplied by ten within seven years of reforms).
- The establishment of a Water Sector Trust Fund, the use of innovative coordination instruments, and the participation of key stakeholders have helped to fast-track and up-scale access to service for the un- and underserved.
- The human rights-based approach promoted a comprehensive pro-poor orientation in the sector. With the Water Sector Trust Fund in place utilities can now extend services to areas of the poor that were long ignored by the formal service providers. Service providers can thus no longer define their own service areas which often left the urban poor out, or report only on the areas served by their network.
- Sector institutions, like the Autonomous Regulator, the Water Sector Trust Fund and the Water Resource Regulatory Authority have incorporated human rights aspects in their guidelines and service quality standards.
- The Water Bill 2012 will make stakeholder participation mandatory, with detailed procedural standards. This has helped to make strategies and key documents more comprehensive and focused on the needs of people – unlike the top-down approach dominating before.
- Overall, the ongoing up-scaling of access would not have been possible to such an extent without the human rights-based approach.

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Challenges

There remain a number of challenges due to the complexity of the water sector. Despite the huge success (the Water Sector Trust Fund reached over one million people with quality-controlled water in four years) up-scaling access to water and sanitation services for the poor remains the biggest challenge. In addition, increased participation and empowerment of the un- and underserved in decision-making processes in the water sector should go hand in hand with more human rights awareness among right-holders. Civil society and community-based organisations are important partners to realise this.

Another challenge relates to monitoring: Although the regulators have a clear mandate to monitor compliance with human rights standards, it is difficult to make duty bearers report with the required details and quality.

And lastly, while the human rights-based approach has resulted in bringing sanitation higher up on the political agenda, up-scaling access to sanitation for the urban poor in dense settlements requires urgent further action.

Lessons learned

A human rights-based approach should be incorporated into a water programme right from the start. The approach adds legitimacy and legality to pro poor strategies and can align the legal and institutional framework accordingly. This is particularly needed where commercialisation and private sector participation are called for and national authorities are unable to ensure that this is done in a socially responsible fashion. If the regulation of the water sector is based on human rights criteria, the private sector can contribute to human rights realisation (see [2010 Report of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation \(PDF, 188 KB, not barrier-free\)](#)).

All sector institutions, including non-governmental and community-based organisations, need to be involved in order to make duty bearers and right-holders to work towards the common aims. Formalisation of participation can lead to empowerment of right holders and is key to ensure effectiveness of improved accountability and transparency.

While the human rights-based approach appeared challenging in the beginning, it was after all, not so difficult to integrate it into policies and practices – and it has added demonstrable value. The positive Kenyan experiences are starting to get replicated in other countries in East Africa, as demonstrated in a collection of [Good practices by the Special Rapporteur on the human right to safe drinking water and sanitation \(PDF, 3.6 MB, not barrier-free\)](#).

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Promising Practices

On the human rights-based approach in German development cooperation. Education: PACE – A rights-based vision among education officials in Guatemala

Background

PACE, the Education Quality Promotion Programme (Programa de Apoyo a la Calidad Educativa) supports the Guatemalan Ministry of Education in implementing a major educational reform, set by the 1996 Accord on Identity and Rights of the Indigenous Peoples. The Accord is part of the Guatemalan peace accords, which were concluded in 1995 and 1996 after 36 years of violent civil war.

The education reform addresses the historically marginalized indigenous population and aims to establish an education system that responds to the cultural and linguistic diversity of Guatemala. Since 1996 numerous laws and measures have been adopted and a number of institutions have been set up to promote diversity and overcome marginalisation of the indigenous population. However, vast gaps remain between the aspirations of an education system responsive to the cultural and linguistic diversity of the Guatemalan population and its actual implementation.

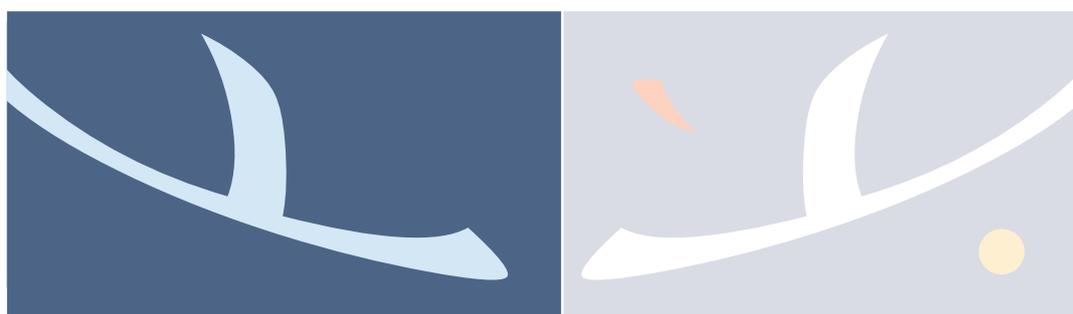
Historically rooted processes of exclusion, discrimination and racism continue to persist in the education sector. Indigenous children and youths from rural areas are especially affected. In 2004, only 42% of rural students completed primary education; only 68% of rural indigenous young women were alphabetized in 2006. Overall, Guatemala has the highest average of illiter-

ate indigenous women in Latin America. Great efforts have been undertaken to substantially increase primary enrolment in the past years. However, Guatemala still has the lowest public expenditure for education in Latin America with only 2.6% of its GDP. Quality education and bilingual intercultural education still needs to be more effectively addressed by the Guatemalan Ministry of Education.

PACE aims at supporting the Ministry of Education in its task to assure children and youths, especially from rural areas, an education which is better oriented at the demands and needs of a multi-ethnic and multi-cultural society. The main elements of PACE's support are in education management, bilingual intercultural education, secondary education and education for food security.

PACE works at the national level and in four provinces. It focuses on the education authorities and officials at the provincial level. In the context of the decentralization of the education system, they are considered change agents in the implementation of the reform.

The programme PACE started in 2005 and is financed by the German Ministry for Economic Cooperation and Development (BMZ). It is implemented by the German Agency for International Cooperation (GIZ) and supposed to end in 2013.



Towards a Human Rights-based approach

The education reform opened up the opportunity to rebuild the Guatemalan education system from scratch and to render it responsive to the pluralistic Guatemalan society. Instead of taking a top-down approach in education planning and management, the reform promoted decentralization and participatory approaches in order to engage indigenous communities and civil society in the process of establishing this new education system and designing its contents. The reform stipulated a culturally and linguistically pertinent curriculum with new materials, like school books, and the empowerment of teachers as well as education officials to implement the new educational policy. Such a reform requires governmental education officers and teachers to change their attitudes and behaviour. This remains an enormous challenge. Designing the education system from a human rights-based perspective entails a vision of an inclusive educational system. This implies that the human rights of all peoples in a diverse society are being realised, giving special attention to the most vulnerable groups, like indigenous peoples in rural areas as well as girls and children with disabilities.

Process

In 2010, PACE took the initiative to train education officers in how to adopt a human rights-based approach in their daily work context. A representative baseline-study was carried out in the four provinces. The study aimed to assess education officers' knowledge of the right to education and its implementation. Their awareness regarding the discrimination of girls as well as of indigenous people was also evaluated. In addition, the study investigated how education officers would react when confronted with certain scenarios, likely to involve human rights violations, such as the non-admission of students or the transferral of teachers, leading to situations where students temporarily lack a teacher. The study showed a considerable lack of knowledge among government officers regarding the contents and application of human rights and the right to education, in particular. In fact, only a few of them could name relevant human rights conventions and understood their implications for their work. The right to education, in particular, was mainly associated with the free availability of and access to education while education quality was not considered to be an inherent element of the right to education.

The results of the baseline-study were discussed in a meeting with high and middle ranking officers of the educational directorates in the four provinces. The limited circle of participants allowed for a confidential debate about the results in order to identify causes and potential solutions. This lively and constructive process was essential for motivating the participants to accept ownership over the results. Participants also became interested in acquiring a deeper understanding of the rights-based approach to education.

Human rights framework

Art. 14 of the UN Declaration on the Rights of Indigenous Peoples of 2007 stipulates that indigenous peoples have the right to establish and control their educational systems and provide education in their own languages and in a manner appropriate to their cultural methods of teaching and learning.

The Declaration sets out that States shall, in conjunction with indigenous peoples, take effective measures to ensure that indigenous individuals, particularly children, including those living outside their communities, have access to an education in their own culture and which is provided in their own language.

Declarations by the UN General Assembly are non-binding. However, declarations are used to interpret binding human rights instruments, like the International Covenant on Economic, Social and Cultural Rights (ICESCR). Thus the UN Declaration on the Rights of Indigenous Peoples has acquired legal significance and impact.

Art. 13 of the ICESCR establishes the right of everyone to education. Art. 14 obliges State Parties to introduce compulsory primary education free of charge for all. Education has to be available, accessible, acceptable, and adaptable. Education must be physically accessible and economically affordable to all, especially to the most vulnerable persons and groups, in law and in fact. Acceptability relates to the form and substance of education, including curricula and teaching methods. The latter have to be of good quality, relevant to and culturally appropriate for students and, to a certain degree, parents.

Adaptability entails that education has to be flexible enough to adapt and respond to the needs of students within diverse social and cultural settings. Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities.

Based on the study, PACE supported the development of a blended-learning training course on the human rights-based approach to education in Guatemala. The course was offered to education officials in the four provinces. Its objective was to broaden the participants' perspective and to deepen their critical awareness and interpretation capacity with regard to human rights and the implementation of the right to education in their own work. It is most important that education officers understand the relationship between the right to education and the rights of indigenous peoples in the Guatemalan context. They should be enabled to implement the right to education in their provinces, taking into account factors like cultural and linguistic diversity, social status, rural context, age and gender.

The training programme was organized as a continuous process, consisting of three workshop sessions of one day and a half, spread out over a period of two months. This combination allowed participants to confront their learning experience with the reality of their daily work. To complement these intensive sessions and promote further interaction among participants of these four provinces, PACE set up an e-learning platform. The methodology was intended to stimulate a constructive debate among participants with different professional backgrounds and from different ethnic groups.

The training programme included discussions and group work as well as the analysis of case studies, reading material and films. Critical reflection and analysis was strongly encouraged. For example, after the first session participants were invited to analyse the Report of the Special Rapporteur on the Right to Education of his visit to Guatemala in 2008. Participants discussed their opinions on the report on the e-learning platform. Another task was to formulate a project proposal for the application of the right to education within their province.

Between 2011 and 2012, 211 participants registered for the training programme and 196 successfully completed it. There was a wide range of participants, such as technical and administrative staff as well as local school inspectors. Overall, the participants were highly satisfied with the training programme, emphasising their increased awareness and understanding with regard to the human rights-based approach and its application in their work context. They also appreciated the exchange of experiences with colleagues from other departments and regions.

In addition, in one province, six pedagogical advisors and two local school inspectors who had taken part in the training programme, took the initiative to train 150 teachers and 50 school

directors in the human rights-based approach to sensitize them with regard to their teaching practice. For this purpose, PACE supported them to elaborate training guidelines. Finally, 29 education officers from the Directorate of Monitoring and Verification of Quality at the national Ministry of Education were trained in 2012.

Since 2010, approximately 43 % of the target group in four provinces has taken part in these trainings. The training modules received the full support of high-level officials of the education authorities, and several sub-directors took part in the training. This high-level support and involvement also demonstrated to other participants that the right to education was something that is taken seriously by their superiors.

Challenges

It is a long-term process to implement a new way of thinking and acting within the education system. It is a challenge for teachers and education officials to put the human rights-based approach to education into practice: Legal and administrative parameters still need to be adapted and, most importantly, the political vision and discourse with respect to the rights of indigenous peoples need to change. Many teachers and education officials still hold quite biased interpretations of social reality, and traditional and religious conceptions still shape their views – issues, such as the discrimination of girls and women are thus seen through a very different lens.

In addition, the structure of the diploma remains a challenge: The more actors are part of the steering structure of the diploma, the clumsier and less flexible it gets.



Teacher and pupil in Guatemala.



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Teachers of PROFE

Lessons learnt

Engaging provincial education officials as duty-bearers has proven to be a successful strategy. They are the key actors if substantial changes are to be introduced into the education system. In terms of sustainability, the baseline-study showed that 54 % of the education officials included in the study have been working in the Ministry of Education for the past twelve years or more. Therefore, it is worth investing in this critical mass of education officials!

Having conducted a baseline-study at the beginning provided for a helpful starting point. It allowed for the presentation of well

researched evidence on the state of knowledge and implementation of the right to education. Furthermore, it was essential for getting the target group interested and involved in the issue from the start. The participatory nature of the strategy has proven to be a crucial factor for creating ownership.

Complementing this approach with targeted work with rights-holders, in particular children and parents of indigenous communities, and promoting mutual encounters between rights-holders and duty-bearers, would further promote human rights principles, such as participation, transparency and accountability.

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Adequate housing: Urban development planning in Brazil & participation, habitability and accessibility

Background

Fortaleza, a port city situated on the north-eastern coast of Brazil, has about 2.5 million inhabitants and is the fourth largest city in Brazil. It is situated in the state of Ceará, which is one of the least developed regions of the country. Various factors have contributed to an enormous shortage of adequate housing in Fortaleza. Because of periods of drought many people migrate from the countryside to the city. They construct slums – “favelas” – in areas that are not adequate for settlement due to periodic flooding or landslides. These settlements in areas at risk have grown rapidly over the last fifteen years. One third of the population of Fortaleza now lives under legally, sanitary and structurally precarious conditions. In addition, a small number of investors dominate Fortaleza’s real estate market and since tourism is now a growing sector, land prices are soaring. As a result, more and more people living in informal settlements are forcibly evicted from certain areas, especially from those close to beaches.

City authorities are under pressure to provide social housing and predominantly construct one to two-story houses in the periphery. However, these houses are not environmentally sustainable: Building small houses rather than larger ones seals more of the surface needed for the climate and water cycle. In addition, housing estates in the

periphery further urban sprawl. Work places are far from these settlements and public infrastructure and transport is either deficient or not in place.

It is against this background, that the German Development Service (Deutscher Entwicklungsdienst, DED) supported two partner organisations:

1. NUHAB, a network of non-governmental actors, fostering participation of people affected by the preparation of a municipal urban development plan, called “plano diretor” (master plan),
2. the Municipal Agency for Social Housing in Fortaleza, “Habitafor”, revising the standard typology for newly constructed social housing and supporting the technical preparation of an Inner City Regeneration Plan.

The objective of both projects was to facilitate sustainable local development processes to achieve human living conditions for the urban poor.

In Fortaleza, DED seconded an architect to support the work of the municipal agency for social housing Habitafor, from 2007 to 2009. In addition, DED supported NUHAB with a local journalist from 2002 to 2009 and seconded an advisor on urban planning from 2005 to 2009.

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gtz Realizing Human Rights in Development Cooperation

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Towards a human rights-based approach

A human rights-based approach systematically orients development programmes towards human rights standards and principles. It does so by identifying and addressing existing gaps in human rights implementation and in the capacities of both the state as a duty-bearer to fulfil and the citizens as right-holders to claim these rights.

Human rights framework

Brazil has ratified almost all core human rights treaties and reports on progress and challenges. Adequate housing and participation in public decision-making processes relate to several human rights standards and principles in international and regional human rights covenants including the right to an adequate standard of living, to non-discrimination, the right to privacy and the right to information.

The right to adequate housing should be understood as the right to live somewhere in security, peace and dignity. It is derived from the right to an adequate standard of living ([Article 11 \(1\) ICESCR](#)). The right to adequate housing was defined in more detail in the [General Comments No. 4, 7 and 16 of the CESCR](#).

The globalization of the housing and real estate finance market and the current crisis of the housing sector have strengthened the perception of housing as a mere commodity and financial asset. This neglects the human rights dimensions of adequate housing, such as entitlements to equal and non-discriminatory access to housing and participation in housing-related decision making at national and community level. Moreover, a human rights-based approach focuses on the most vulnerable and marginalized groups, such as slum-dwellers.

Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities, empowerment, transparency and accountability.

The two projects in Fortaleza primarily address the right to adequate housing and the citizen's right to participation in housing-related decision-making. In doing so, they also work towards more transparency and the establishment of public accountability mechanisms on housing issues.

By working with both the administration as the duty-bearer, as well as the civil society – the rights-holders – , DED's contribution provided a sound foundation for a human rights-based approach, even though it was not explicitly formulated in that sense in the beginning.

Urban planning: Participation of people affected

Brazil has passed a progressive law called "Estatuto da Cidade" on urban development planning in 2001. The enforcement of this law is monitored by the Ministry of the Cities since 2003. The law requires the municipality to provide instruments that allow for participation of people affected by urban development measures. For example, every city with more than 20,000 inhabitants is obliged to set up a master plan. The plan has to be revised under participation of civil society every ten years. For this, the city is obliged to set up an advisory board with representatives of the local government and the civil society. This board is supposed to coordinate the process of revising a master plan and should advise the local government. In Fortaleza, NUHAB is represented in the advisory board.

The revision of the first master plan was to take place in Fortaleza in 2002. However, revising the plan had been a politically sensitive issue as construction industry and investors financed local election campaigns.

Visit of the UN Special Rapporteur on the right to adequate housing to Brazil

When the UN Special Rapporteur on the right to adequate housing, Miloon Khotari, was visiting Brazil in 2004, NUHAB invited him to Fortaleza and he included his findings in the report to the Commission on Human Rights in 2005. As a result, NUHAB and its work became better known in Fortaleza and in Brazil and the network's influence on the political process increased. ([Report of the Special Rapporteur, Miloon Khotari, to the Human Rights Commission, 2005](#))

Since 2001, the network NUHAB has tried to become involved in the process of revising Fortaleza's master plan. Despite being legally obliged to, the former city administration was not willing to allow for a participatory process. Therefore, NUHAB filed a lawsuit against the administration claiming that the city ignored the obligatory setup of participatory mechanisms. This lawsuit is not yet settled. Meanwhile NUHAB mobilized the public through a

campaign for more public participation: It organised forums, discussions and seminars in different districts of the city, called for demonstrations in front of the city hall and wrote letters to the deputies. The DED development worker provided advice on the campaign strategy and assisted in the organization of events. As a result of NUHAB's advocacy work, in 2004 the newly elected mayoress promised to develop a new master plan and to include all relevant stakeholders in the process.



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In 2007, a congress organized by the municipality approved a common proposal on the master plan. Hundreds of representatives of social movements, investors, the construction sector and the city administration were involved and had held long discussions and difficult negotiations. Social movements succeeded in creating areas of special protection against speculation and eviction from existing favelas, as well as the demarcation of unused public and private areas that will be used for social housing. In 2008, this common proposal was then introduced in the chamber of deputies.

However, the construction industry and real estate investors put pressure on the representatives in the chamber of deputies. As a result, the proposal met with resistance and discussions started all over again. NUHAB joined with other social movements and together they accompanied the process in the chamber. Whenever important aspects of the plan were discussed, the network mobilized people directly affected to be present in public hearings and to be involved in the discussions. Finally, the plan was adopted by the chamber of deputies in December 2008.

Thus, the existing obstacles for public participation in the formulation of a new master plan were addressed by NUHAB with support of the DED project through fostering empower-

ment, transparency and the claiming of accountability.

Adapting architectural typologies

In 2007 the municipal agency for social housing (Habitafor) initiated a revision process concerning the architecture of standardized social housing in Fortaleza. The DED supported this initiative by seconding a German architect. He became a member of the special working group on this issue. The secondment aimed at providing technical housing expertise and supporting the integration of the perspectives of marginalized and vulnerable groups.

During the first stage, the team evaluated technical shortcomings of the existing typology for social housing. It also documented the conditions in public social housing estates build during the past five years. In order to do so, they held on-site interviews with inhabitants. Thus people living in the estates felt included in the process, taken seriously by Habitafor and gave recommendations of what needed to be improved. This enabled the working group to suggest adjustments to the existing architectural typology. The suggestions were subsequently submitted to external evaluation. In the end, the team presented two new typologies for social housing projects based on inhabitants' recommendations. These were passed on to Habitafor's department of implementation in 2009.



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The proposals take into account the necessities and socio-economic reality of the people that are dependent on social housing. They provide for adequate housing in a location which allows access to employment and services. Buildings based upon the new typology should allow people to interact with their surroundings. For example, collective facilities, areas for shops, parking for bikes and ambu-

lant market stalls and access to sanitation were explicitly provided for in the proposals. And some flats provided bathrooms suitable for wheelchair-users.

Impact

NUHAB and its member organisations successfully prevented a technically deficient draft master plan from entering into force and helped enact a better plan with the participation of civil society. Thanks to the campaign a continuous dialogue on the master plan was established between the city administration and the network NUHAB. It is expected that this positive experience will have an impact on the interaction of rights-holders and duty-bearers in the future. The administration, for instance, increased the number of public hearings on the master plan.

With regard to the most vulnerable groups, special areas protecting existing favelas against speculation and eviction were created. Moreover, parts of unused public and private property were assigned for future social housing.

Other community agencies and the Brazilian Ministry of the Cities complimented the Fortaleza stakeholders on their participatory and high-quality master plan. Some of the member organizations of NUHAB have a seat in the national cities council and are part of the regional and national forum for urban reform, a network that fights for housing rights and participation in urban development.

Challenges

The 2004 local elections represented a major challenge for NUHAB's initiative: The newly elected mayoress appointed many of her former fellows of the social movements as members of the new administration. On the one hand, this prompted a positive attitude

change within the administration. But it also resulted in a brain drain from the social movements. It was only after some time that the network was able to resume its watchdog role and put pressure on the new city administration – their former fellows.

The implementation of the master plan is still pending. Landowners still oppose the plan, so continuous mobilization of civil society is necessary. In order to ensure implementation, NUHAB and similar actors will have to develop the necessary capacities for monitoring and mobilisation. To achieve this, sustainable internal management structures need to be prioritized over the next years. The DED ended its programme in Fortaleza in 2009, due to the fact that the German development cooperation finished its engagement in that focal area. Currently NUHAB is searching for new cooperation partners and funding.

Lessons learned

Taking into full account all aspects of the right to housing is a challenge for all parties, duty-bearers and rights-holders alike. The participation of both civil society and those people affected by urban development measures has proven essential for a successful process. Their inclusion highlighted human rights-based aspects of housing such as legal security of tenure, availability and accessibility of services, affordability, and cultural adequacy.

Rights-holders – in this case social movements – need to build their professional capacities on the issues they advocate for, especially on technical aspects of urban planning. Those aspects have to be tackled to realize improvements for people with respect to their right to adequate housing. Only then they can engage the public administration on an equal footing and function as multipliers.

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Local governance: Accountable public services in Indonesia

Background

As a vast country with a population of over 240 million, spread out over about 6,000 inhabited islands, Indonesia faces enormous challenges with the provision of equal access to quality services. Decentralization has shifted the responsibility for most public services to about 500 districts and municipalities.

The provision of primary services such as education, health, access to clean water and sanitation continues to present daunting challenges. Twenty-three percent of the population have no access to an improved water source and only 55 % are using improved sanitation. Health services show highly unequal distribution, while on average 100,000 people share 13 physicians. Primary education is free, but raising the quality of education remains a fundamental task pending solution.

The government acknowledges the need to increasingly inform and involve the public in improving service delivery and has issued related laws and bylaws. However, implementation remains difficult due to a rather inflexible bureaucracy and distrust between citizens and administration. Further obstacles to customer friendly services are intransparent procedures and a weak internal control system.

The Support for Good Governance (SfGG)

project aims at increasing the accountability of the public sector, supporting the creation of a performance-based civil service and promoting anti-corruption initiatives – with strong efforts to strengthen civic involvement. Since 2000, SfGG is jointly implemented by the State Ministry of Administrative Reform and GTZ. Cooperation partners include civil society organizations, local governments, and the National Institute of Public Administration (training centre of the administration). The overall goal of SfGG is the improvement of public service delivery for all Indonesian citizens. It has three strategic areas of operation:

1. improvement of public services through civil society participation,
2. civil service reform including anti-corruption measures, and
3. enhancing control function of watchdog NGOs regarding public services.



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Towards a Human Rights-Based Approach

The access to affordable and adequate basic resources and services such as sanitation and education are human rights. One of the main objectives of SfGG is to strengthen the demand side in public service delivery, leading to more participation and empowerment of the citizenry, to greater transparency and accountability and less corruption.

To that end, SfGG and its partners developed a participatory method for the identification and analysis of weaknesses in service delivery. The method targets the Service Unit as lowest level of service provision. Service units at the national, provincial or district/ municipal level have applied this method. The approach consists of three simple steps:

1. Participatory development of a representative complaints questionnaire during a 2-day-workshop with service users (80%) and service unit staff (20%) led by trained facilitators,
2. Complaint survey conducted by service units with a minimum of 80% of service users. Communication of the results of all steps to the public through various means (posters, newspaper advertisements, radio etc.), followed by
3. Joint complaints analysis by service unit/ sectoral agency and service users that distinguishes between problems that can be solved by the unit itself and those that need support from higher levels of responsibility (2-day-workshop).

Outcomes of this process are a Service Charter, publicly signed by the head of the service unit, and Recommendations directed at political decision-makers. Follow-up surveys monitor the progress being made.



Photo: Participatory complaints survey

The process involves multiple stakeholders. The political leadership initiates the process

by allocating a budget and putting together two teams, one within the local administration for the overall coordination and quality control, and one within the service unit to actually carry out the complaint survey.

Human rights framework

The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes a number of human rights related to public service delivery, such as the right to the highest attainable standard of health (art. 12), the right to water and sanitation (art. 11 with art. 12) and the right to education (art. 13 and 14).

Further, rights codified in the International Covenant on Civil and Political Rights (ICCPR) have an immediate bearing on local governance, such as the right to liberty and security of person (art. 9) or the right to take part in the conduct of public affairs (art. 25). All of these rights are concretised in General Comments.

Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities, participation and empowerment, transparency and accountability.

Civil society organisations are always part of the managing team. They also act as watch dogs and advocate for marginalized groups to make sure the process is transparent and inclusive. In most cases more women than men took part in the process.

External facilitators trained by SfGG support the teams. Once local teams have gained experience with the process, they can repeat the process without external facilitation.

The service unit is responsible for implementing the Service Charter and conveying the survey results to the head of the administration for further action. The latter communicates the recommendations for political decision-makers to the respective authorities at district and national level.

Facilitation and communication are important for complaints to be understood by all sides and for a constructive discussion thereafter. First, service users need to be informed about their rights and the duties and functions of the service units as well as principles of good governance. Second, mediation between complainants and resistant service unit staff is important. For instance, doctors in particular are often reluctant to accept critique, even

if it is founded on evidence. Third, intensive communication with the public through advertising workshops, public display of survey results, use of radio, TV, internet, and other means mobilises service users to get actively involved.

Scope of application: A significant number of districts and municipalities (74 out of about 500) have applied this participatory method so far, reacting to the complaints of 380,000 respondents. Of the 485 service units involved, 82% provide basic services such as health (29%), education (51%) and water (2%). A fair number of districts and municipalities continue to expand the approach into new sectors, often at own cost. A few service units at provincial and national level (the customs bureau) have also successfully applied the method.

Example: Health Services

1. Typical complaints about services of Local Health Centres (PusKesMas)

The following complaints have been among the top complaints in 60 service units:

- lack of medical personnel,
- lack of discipline/skills/information sharing of medical personal,
- lack of medication, variety, intransparent pricing, medication too expensive.

2. Typical content of a Service Charter:

- To counter the lack of doctors, the service unit will revise the schedule of doctors and create on-call services.
- To counter the lack of discipline, the service unit will publish a schedule of doctors' availability.
- To counter the lack of certain medication, the service unit will expand its ordering.

3. Typical content of Recommendations:

- Request to the Head of District/ Municipality for further staff allocation from the national government.
- Request to increase budget allocation for procurement of medication.

Achievements and Impact

Changing power relationships. In the process, citizens became more aware of their entitlements to adequate services. They experi-

enced that their opinion mattered and that their complaints led to actual changes. They were empowered from recipients to right-holders.

On the supply side, political decision-makers and service providers learned to be accountable to citizens but also experienced the benefits of receiving regular feedback and suggestions, which help them to seek improvement and prioritize action. Increased public control is a strong motivator for public providers to actually fulfil the demands.

The survey results also helped local authorities to back their arguments for more support from central government. By proving the actual need the public water supply company in Pematang, Central Java, for example, succeeded in convincing the Ministry of Health to provide it with additional funds for the expansion of the clean water system to achieve the related MDG indicator.

Improved basic services. Repeated complaints surveys in selected service units showed that customer satisfaction with public service delivery has improved: the average rate of complaints per question sank from 36% to 24%. More importantly, service users complained even less about those issues that had been the main cause for concern during the first survey and had been tackled by Service Charters and Recommendations (average complaint rate sank by 18 percentage points from 44% to 26%). Crucially, marginalized and underserved groups also benefited from improvements.

Improved governance practices. While the brunt of complaints related to service quality, about 15% of all complaint statements were directly targeting poor governance such as lacking access to information, discrimination in service provision or illegal fees. Repetition surveys have shown that service users complained on average 10 percentage points less about related problems, from 26% down to 16%. Another result of the method is that all involved service units established complaints handling teams that continue receiving and following up on complaints after the survey had been completed. Because of greater transparency, elite capture and corruption were impeded and available funds were invested more needs-oriented.

In most cases, facilitators succeeded in convincing stakeholders of the benefits of the participatory approach and of committing themselves to increased transparency and accountability. That civil society organizations

were often invited to take part in the implementation of the complaint surveys is an indication of increased reciprocal trust.

Local ownership of mechanism. A number of districts and municipalities has expanded the implementation to new sectors or has reserved funds in their budgets for applying the method in 2010, after the project will have phased out. Districts and municipalities can now contract facilitators directly from the National Institute of Public Administration or some NGOs.

National political endorsement. The positive effects were also perceived at national political level. In 2004, the Ministry of Administrative Reform officially endorsed the method in a Circular Letter promoting it throughout Indonesia. A 2009 Ministerial Regulation has further upgraded the legal status by instructing all service providers at national, provincial or district/ municipality levels to improve their services through this complaints-based method.

In addition, the Ministry included citizen participation and control also in other directives and bills regarding public services.



Photo: Satisfaction feedback counter at the exit door a local Water Supply Company.

Challenges

The method, in order to produce lasting change, requires active involvement of citizens and a change of mind set on the side of the administration. Overcoming mutual distrust was a major issue.

Hence main challenges for moving ahead are:

- Service units retain the flow of constant communication with their clients beyond the facilitated application of the method.
- Service units involve critical advocacy groups rather than more convenient NGOs in the whole process to hear the perspective or marginalized and under-served groups.
- Civil society takes a more active role in monitoring the improvements that have been promised.

Lessons learned

Citizen control is a powerful instrument for improving the governance and the actual quality of public services. Participatory complaint surveys are an effective method for citizens to monitor public service delivery, provide feedback to service units and create a culture of citizen engagement and government accountability.

The method is not without prerequisites. Facilitating a meaningful exchange between right-holders and duty-bearers requires solid background knowledge on the scope of services, trust of all sides and strong facilitation skills. Training sufficient facilitators within governmental and NGO partners is a critical requirement for ensuring application beyond the project lifespan.

It was fundamental working concurrently with both right-holders (citizens) and duty-bearers (public service providers) to achieve the desired change in behaviour and power relations, which in turn resulted in better public services. Using a facilitated dialogue on complaints as an entry point to improving services reduces the fear of criticism on the side of service providers – even in a harmony-oriented Asian cultural context. It has led many service units to revamp their complaints systems and use complaints as a positive impetus for improvement.

Assuring political backing of the approach at an early stage (through a Ministerial Circular Letter) was instrumental for promoting the approach and enabling service providers to allocate their own funds for the application of this method.

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Health – A patients' rights charter in Cambodia

Background

Since the civil war and the Khmer Rouge era services within the public health sector remain insufficient, especially for the poor. As a result Cambodian children have the lowest life expectancy at birth in Asia. The utilisation rate in most public health facilities is low because facilities are poorly equipped, lack drugs and are of generally low quality. Medical staff is inadequately qualified, underpaid and often behave in a discriminatory way towards poor people. As compared to private clinics treatment fees are lower but lack transparency.

The Programme "Support to the Health Sector Reform Programme" is implemented by GTZ in collaboration with CIM and DED, and started in 2003. GTZ supports the Cambodian Ministry of Health (MoH) in implementing a countrywide health reform to improve health services, working with both the MoH and several of its key departments in two of the 24 provinces. The Programme's objective is: The poor and non-poor have improved access to affordable quality health care. It has three pillars:

1. quality assurance of health care,
2. human resource development, and
3. social health protection, including social health insurance.

The Programme aims to improve the quality in health centres and hospitals by supporting medical treatment guidelines, workplace descriptions, adequate staff training and regular performance checks against uniform quality standards.

Human rights framework

Art. 12 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) establishes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". This is further specified in General Comment Nr. 14 from 2000, which states that health care must be available, accessible, acceptable and of an appropriate quality.

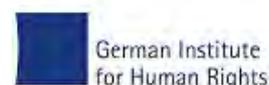
Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities, participation and empowerment, transparency and accountability.

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Towards a human rights-based approach

The Cambodian health strategy 2003 - 2007 makes reference to the human rights treaties ratified by Cambodia. The strategy's key goal is:

"Fostering changes in attitudes and behaviour toward effective health service delivery and greater empowerment of the Cambodian people".

It identifies underlying major problems: A lack of awareness of both health care users and providers of their rights and responsibilities is a cause of inadequate standards in health care. This leads to lack of trust which in turn causes under-utilisation of medical facilities by the population. Taken together, this contributes to unnecessary high morbidity and mortality.

Therefore, the notion of clients' and providers' rights was incorporated in the implementation plan of the strategy. The GTZ programme supported this initiative and facilitated the development of a charter on clients' and providers' rights.

The Charter reflects the cultural notion that every individual holds both rights and duties and focuses on a fair and balanced relationship between clients and providers.



Photo: Chhom Rada

Process

In February 2004, a participatory rapid appraisal revealed deficits in implementation of existing client rights. In July 2004, a multidisciplinary working group of specialists was established. They were tasked to draft a charter on clients' and providers' rights and accompanying operational guidelines together with codes of conduct and ethics for health care providers.

In a number of consultative meetings a broad array of stakeholders reviewed, revised and

finally adopted the draft charter. Meetings involved the MoH, NGOs, patients' representatives, the nurses' association, the medical doctors' association, trade unions, lawyers and human rights groups.

Yet, a baseline survey in February 2006 still revealed a lack of knowledge and implementation of clients' and providers' rights. This changed only after the MoH officially endorsed the Charter in May 2007. With support from GTZ, the MoH started dissemination activities: workshops were held for MoH officials, health care providers and communities and posters displayed in all public health centres and clinics in the two pilot provinces. It is planned to upscale the initiative nationwide.

The process was based on the premise that access to health care is a fundamental right. Though no explicit reference was made to the human rights standards and their interpretations (nor to national law), the Charter and the process of its elaboration de facto applied human rights standards and principles.

Impact

During formulation and dissemination of the Charter health care clients and providers became more aware of their rights and duties. Changed behaviour helped improve the client-provider relationship.

In areas where the Charter was widely known it helped to improve services. Staff treated patients, including the poor, in a more respectful and professional manner, and patients developed trust. Demand for services in public clinics increased. The higher utilisation rate generated higher revenues for the public clinics, which were partly distributed as bonuses among staff and improved their motivation.

Objective of the Charter on Clients' Rights and Providers' Rights-Duties

- Improve client-oriented service of health providers.
- Promote awareness among the population of rights to health and appropriate health-seeking behaviour.
- Promote awareness among health providers of rights and responsibilities in delivering health services.
- Improve ethical practices of health service providers.

Patients, especially members of the health insurance scheme, also demanded better quality in services. Efforts have started to include poor people in the insurance scheme.

The participatory and consensus-oriented process in developing the Charter helped the stakeholders to understand and respect each others positions and interests. Communication between them has sustainably improved, also facilitating other decision-making processes in the health sector.

Challenges

Effective mechanisms for creating transparency and accountability still need to be developed. These can include, for example, citizen score cards or independent health watch committees that monitor and report on the performance of health centres. The health administration is still lacking a mechanism that provides redress for legitimate complaints. Clients' feedback, if collected more systematically, could support monitoring and help identifying shortfalls in health care provision.

A more explicit reference to the international human rights standards could possibly have helped to create a greater sense of obligation and accountability from the government side.

The Charter mainly focuses on behavioural change, it does not and cannot address other structural problems in the health care system that also limit access and quality of health services for instance that many poor people still cannot afford health care and that public medical staff is grossly underpaid.



Photo: Chhom Rada

Lessons learned

Increased rights'-awareness on the side of right-holders and duty-bearers can lead to empowerment and behavioural change which in turn can result in improved public services.

The demand and supply sides need to be addressed concurrently to achieve impact.

Cambodian Charter on Clients' Rights and Providers' Rights-Duties

Clients' Rights

- Right to equality, and to be free from all forms of discrimination
- Right to information and health education
- Right to health care and treatment
- Right to confidentiality
- Right to privacy
- Right to choice and informed consent
- Right to express opinion and to participation

Providers' Rights-Duties

- Right and duties to ask and receive information according to medical techniques
- Rights and duties to provide health care and treatment
- Rights and duties in confidentiality
- Rights and duties to decide on intervention

Participation of a wide range of stakeholders is essential for the quality and broad ownership of the outcome. Support by higher levels of political responsibility – here the MoH – is crucial. Being an outsider, GTZ can facilitate the process. In order to effectively realise rights and shift power towards the right-holders, accountability mechanisms such as participatory monitoring and reporting, and complaint mechanisms are needed.

Human rights issues can be addressed constructively in a sensitive political context, since they provide concrete and dialogue-based solutions in seemingly technical areas.

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Eschborn, August 2009

Health – Reproductive health and rights Youths' access to information in Yemen

Background

Yemen has one of the highest rates of population growth in the world. Health indicators including those for reproductive health are among the poorest in the Arab world. Among other causes – such as economic and geographical factors – this is mainly due to poor quality of health services and a lack of information on reproductive health issues, services and rights resulting in low demand. Capacity development and institutional strengthening of the Yemeni Health System is therefore on the one hand essential, on the other hand however, empowerment of current and future users of health services, women and men alike, is required to increase demand for quality services.

The Yemeni-German Reproductive Health Programme (YGRHP) is implemented in cooperation with the Yemeni Ministry of Public Health and Population (MoPHP) by the German Technical Cooperation (GTZ), the German Development Service (DED), the International Centre for Migration and Development (CIM), and Marie Stopes International, funded by KfW (German Development Bank).

The YGRHP is aligned to the Yemeni National Reproductive Health Strategy and the National Strategy for Children and Youth, and its overarching objective is: “The population is

better protected against risks associated with pregnancy, childbirth and HIV/AIDS“. It started in 2004 and is expected to run until 2013. The Programme operates in seven governorates and comprises four components:

- reform of the health sector and improvement of management at central MoPHP level,
- quality improvement of basic health services with emphasis on reproductive health,
- promotion of reproductive health and health education with and for special target groups, in particular for youth and rural communities, and
- social marketing of modern family planning methods and behaviour change communication.

On the provider side the MoPHP is supported in setting up a quality improvement programme for first-line health services with emphasis on reproductive health.

On the demand side well established and innovative approaches like community-based promotion, peer education and the generation dialogue methodology are piloted with the goal of empowering young people and the poor rural population to assume their role in



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demanding for quality services. Once tested and approved, new approaches are fed into policy level where the Programme supports the Health Sector Reform process.

Human rights framework

Yemen has ratified almost all core human rights treaties and reports on progress and challenges. Several human rights are relevant to reproductive health, including the right to non-discrimination and equality before the law, the right to privacy, the right to be protected from violence and harmful practices, the right to information, and the right to the highest attainable standard of physical and mental health. The right to information on reproductive health issues is also specified for particular groups, including youths and women (Convention on the Rights of the Child, Articles 13, 17; Convention on the Elimination of All Forms of Discrimination against Women, Articles 10 (h), 14 (b), 16 (e)).

Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equal opportunities, participation and empowerment, transparency and accountability.

Towards a human rights-based approach in the programme

Specifically, the Programme addresses the right to access health related education and information, including on sexual and reproductive health, and participation of the population in all health-related decision-making.



Photo: GTZ

Listening to youth

Nearly one quarter of the Yemeni population are youths of 15 to 24 years. They have next to no knowledge about reproductive health issues, and there are no specific services catering to this age group. In general, youths do not have much of a voice in Yemeni society and their perspectives are bleak.

Building on a model originally developed in Tanzania the Programme supported the development and the production of a booklet series with and for young people on topics related to reproductive health, family life and healthy life styles. The intention is to hear and to answer youth's real questions concerning sexual and reproductive health.

"Facts of Life" Booklets

The project started from more than 8.000 questions collected from students in 26 secondary schools in the YGRHP target area. After selecting and clustering the questions, teams of young people, experts and religious authorities developed draft answers. They made sure that answers were scientifically sound, culturally acceptable, and in youth-appropriate language.

The topics include Q&A on

- Growing up & Puberty
- Marriage and Building a Family
- Family Planning
- Pregnancy, Breastfeeding and Delivery
- HIV/AIDS and Sexually Transmitted Infections
- Smoking & Qat (a narcotic shrub used on a daily basis by a vast majority of the Yemeni population and consuming a growing proportion of scarce water resources and household incomes)

An impressive intersectoral, cross-generational and intercultural negotiation process evolved, and resulted in a widespread network of individuals and organizations. In selected secondary schools peer educators were identified and trained for the distribution and discussion of the booklets with support from health educators and specifically trained teachers.

The questions youths raised revealed the unmet need for information as shown by two examples:

- More than 500 questions were related to early marriage, a practice which is still widespread and considered culturally appropriate and in the line with Islamic spirit in Yemen.
- Many questions, particularly raised by boys, were related to relationships between boys and girls during puberty and before marriage.

These two examples show that youths' questions might reflect social change, e.g. a trend towards later marriage for boys (supported by prohibitive costs and unemployment) while at the same time living in a largely gender-segregated society with limited possibilities of engaging in relationships before marriage.

To ask youths about their information needs was an important first step to foster participation. Including them in all stages of the production of the booklets not only enabled them to access reproductive health related information but also offered them the opportunity to make themselves heard and to participate in a meaningful way in their immediate social environment, e.g. by joining the group of peer trainers in their school.

Allowing for „informed choices“

By involving experts on medical as well as social and religious aspects in the process of developing the answers an attempt was made to bring together religious advice, evidence based medical information, socio-psychology and human rights rather than juxtaposing these views.



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The booklets thus offer not only comprehensive but also legitimate information in the Yemeni context, and can thus be the basis for “informed” choices.

First Results

From early 2007 to September 2008 a total of nearly 600,000 booklets have been distributed, mostly in secondary schools in the YGRHP target area, but also to other national and international organizations outside the Programme.

The processes related to the development of the booklets and the results ensuing from the booklet project were documented. The documentation showed that the booklets are widely accepted and utilized not only by students but also by health workers, teachers, parents, and in particular by religious authorities. Feedback was mostly affirmative and there is ongoing demand for the booklets.

A second revised edition of the booklets was produced in early 2009 in another complex exercise of stakeholder dialogue and the revision was based on the feedback of the students and other stakeholders.

A study is under way to investigate the impact of the booklets on changes in knowledge and attitude.

Challenges

In view of the dire need for reproductive health information on all levels of society targeting secondary school students can only be a first step. Under a risk and human rights-based approach the most vulnerable groups need to be addressed, too. These would include out-of-school and illiterate youths, especially those in remote rural and in marginalized urban areas.

The information given in the booklets may spark opposition by radical Islamic groups.

Access to information allows for “informed” choice but due to the slow pace of social change in Yemen there are still few choices people can make – in particular young girls.

In order to achieve sustainability a transfer of the booklet project to local partners is required. Their continuous engagement for supervision, training and re-training of peer educators and replacement of drop-outs will be crucial for the future of the project.

In addition, mechanisms for regular review and update of the booklets need to be defined in order to respond to changes in the knowledge and interests of young people in Yemen.



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Lessons learned

Involving religious leaders was a key success factor to address a very sensitive and taboo-laden topic like reproductive health. Their influence cannot be overestimated in a conservative Muslim society, and securing their support was essential.

Carefully facilitated negotiation is a key factor for any transfer between English and Arabic thinking, especially concerning sensitive issues like reproductive health and rights.

In the future parents and other adults need to be addressed systematically. Some adults felt offended by the booklets and therefore did not allow their children to read them or punished them for doing so. An introductory advocacy programme for parents, teachers and community leaders should be developed and implemented before peer education activities can start on a large scale.

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Eschborn, August 2009

Islam, HIV and AIDS and Human Rights in Tanzania

Background

The HIV epidemic in Tanzania poses a major threat to the national development. Although HIV prevalence has slightly dropped in recent years, 5,8% of adults aged 15-49 are infected with HIV, with higher rates among women (6,8%) than among men (4,7%). Approximately 1.05 million people, including children, are living with HIV and AIDS.

The determinants of the epidemic are multiple and include lack of knowledge of HIV transmission, inconsistent condom use and concurrent sexual partnerships. As in many other countries, gender inequalities, harmful traditional practices and violence against women and girls belong contribute to the spread the disease. Stigma and discrimination of people living with HIV and AIDS in the family, community and at the work place are still a major challenge.

The [Tanzanian-German Programme to Support Health](#) (TGPSH) is implemented by GTZ, KfW, DED, CIM and InWEnt on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ) since 2003.

The Programme supports the health sector reform in Tanzania in achieving its goal “to improve the health and well-being of all Tanzanians with a focus on those most at risk and to encourage the health system to be more responsive to the needs of the people.”

The TGPSH focuses on six complementary areas of support:

1. District Health and Quality Management,
2. Reproductive Health,
3. Multisectoral AIDS Control,
4. Health Financing,
5. Public-Private Partnership,
6. Human Resources for Health.

In the field of HIV and AIDS the programme supports government and non-government organisations at the national, regional, district and community levels to develop, plan, implement and monitor comprehensive multi-sectoral HIV and AIDS strategies.

Human rights framework

Several human rights are relevant to HIV and AIDS, including the right to non-discrimination and equality before the law, the right to privacy, the right to be protected from violence and harmful practices, the right to information, and the right to the highest attainable standard of physical and mental health.



As of 1 January 2011:



These rights are enshrined in core human rights treaties, such as the International Covenant on Civil and Political Rights ([ICCPR](#)), the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)), the Convention on the Elimination of all Forms of Discrimination against Women ([CEDAW](#)), and the Convention on the Rights of the Child ([CRC](#)). Tanzania has ratified most core human rights treaties, and submits reports to the UN committees monitoring treaty implementation, except on the ICESCR.

[General Comment Nr. 14 from 2000](#) on the right to health specifies that health services must be culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities as well as sensitive to gender and life-cycle requirements.

Towards a human rights-based approach in the programme

TGPSH support in the area of HIV and AIDS is based on the Tanzanian National Multisectoral Strategic Framework on HIV and AIDS, which foresees the active involvement of governmental and non-governmental organisations and different stakeholders. Faith-based organisations play an important role in Tanzania, by providing guidance to their members on life styles, health information and services, as well as support to poor and ill persons. It is estimated that approximately 55% of the 39 million people living in Tanzania are Muslims, 40% are Christians and 5% belong to other communities. With the spread of the epidemic, HIV and AIDS became an issue of concern for the Muslim community and its religious leaders.

In 2003 TGPSH began supporting the training of Muslim religious leaders and religious school (madrassa) teachers at district and regional level, by equipping them with knowledge and skills on HIV and AIDS. During these trainings, participants stressed the importance of developing guidance and information material in accordance with Islamic values.

In a second step, TGPSH supported the production of a training guide on HIV and AIDS for madrasa teachers, to be used in education sessions with children, youth, men and women.

In a third step, and on request of the National Muslim Council of Tanzania (BAKWATA), the programme facilitated the development of a [policy guide on Islam and AIDS](#). A number of consultation meetings and workshops at different levels were held, involving members of the Muslim communities, religious teachers, religious leaders as well as public health experts. The policy was finalized and endorsed in a national consensus-building workshop, chaired by the Mufti of Tanzania, and launched by the Vice-President of Tanzania during the national festivity at the end of the fasting month in 2007.

Both, the training guide for madrasa teachers and the Islam and AIDS policy guide are informed by the recognition that religious values and cultural traditions should be interpreted and lived in a way that allows for prevention of HIV and respects the human rights of people living with HIV and AIDS.

While they do not question the religious legitimacy of child marriage or polygamy, they discourage the practice of having many wives and sexual partners, the inheritance of widows and early marriages of girls to elderly men as misleading and harmful practices, which contribute to the spread of HIV.



Photo: Kristina Manz 2008

BAKWATA – Islam and AIDS – AIDS Policy Guide

BAKWATA understands its mission as to contribute to the National Response to HIV and AIDS through enabling all people to have life in its fullness, through prevention and protection, provision of care and support and respecting the rights of people living positively with HIV. BAKWATA commits itself to accelerate the response to HIV and AIDS while guided by the Holy Qur'an, Sunnah and other new laws in Islam (Art. 2.5.)

BAKWATA specifically commits itself to:

1. respect the fact that HIV testing is voluntary and remains on individual discretion, to keep confidentiality concerning testing results, while encouraging beneficiaries to disclose their HIV sero-status on a voluntary basis (Art. 3.1.2);
2. respect and promote human rights and legal aid to advocate the rights of all who are affected by HIV and AIDS, to give people living with HIV and AIDS the right to participate in all Moslem faith activities, to provide care and support to people living with HIV and AIDS without discrimination (Art 3.2 and 3.4);
3. provide reproductive health education and appropriate life skills to Muslim members (Art. 3.1.1);
4. give priority and spearhead initiatives that promote equitable gender relations, human dignity in health development according to Islamic principles and discourage socio-cultural practices or life styles that predispose people to HIV and AIDS (Art. 3.1.5).

Impact

From 2003 to 2008, about 500 Muslim religious leaders have been trained. 400 madrasa teachers have attended seminars on HIV/AIDS, introducing the training guide. In all 25 regions in Tanzania, including Zanzibar, a total number of 8.000 guides have been distributed to different stakeholders, mosques and religious schools.

Since its endorsement in 2007, 30.000 AIDS policy guides were distributed by BAKWATA through its structures at national, regional and community level. Feed-back on the use of the guides and their relevance for practical work by religious leaders and teachers is very positive.

Through this participatory process a dialogue on harmonizing religious and cultural values with human rights was initiated. Key human rights standards, such as the right to privacy, the right to be free from discrimination, are integrated in the BAKWATA AIDS Policy.

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The legitimacy of human rights and religious values has been officially endorsed by the highest Muslim authority in the country. Both, the policy and the training guide furthermore give room for a flexible interpretation of Islamic norms and thus help to engage the Muslim community in a discussion on the respect for human rights and the need to overcome harmful cultural practices.

Challenges

As in other countries, Islam in Tanzania has many aspects. BAKWATA as the National Muslim Council has to unite conservative and liberal positions under one umbrella. For example, BAKWATA did not commit itself to promote the use of condoms as a way of preventing HIV, as only very few liberal religious leaders follow a pragmatic approach and advocate the use of condoms to prevent harm in society. Clients' feedback, if collected more systematically, could support monitoring and help identifying shortfalls in health care provision.



Photo: Kristina Manz 2008

Lessons learned

Promoting human rights in a culturally sensitive way to address the HIV/AIDS epidemic is a challenging but promising approach. A participatory dialogue on the balance between religious values and human rights, involving a wide range of stakeholders, including highest religious authorities, is a key success factor.

However, enough time needs to be allowed to build the necessary continued commitment at all levels in society and deepen the understanding of universal human rights across religious and cultural boundaries.



Local governance: Responsiveness of local administration in Guatemala

Background

In 1996, Guatemala signed the peace accords after 30 years of internal armed conflict. Guatemala then embarked on an ambitious project of development and transformation into a democratic, inclusive and multiethnic society. Traditional conflict lines and root causes for the war such as social exclusion and lack of equal opportunities persist and perpetuate the marginalization of especially the rural, poor and indigenous population. Public institutions are weak and are yet to be reformed conforming to the country's multicultural composition. The fragmented civil society does not effectively use the participation mechanisms available to them in the municipal code and other legislation.

The Programme Municipalities for Local Development (PROMUDEL) is financed by the German Ministry for Economic Cooperation and Development (BMZ) and Swedish International Development Cooperation Agency (SIDA). It is implemented by the German Agency for Technical Cooperation (GTZ).

The Programme started in 2006 and is projected to last to 2013. Its objective is to contribute to tangible improvements in good local governance. PROMUDEL operates in four departments (Baja and Alta Verapaz, Huehuetenango and Quiché) and works mainly in the following areas:

1. capacity-building of municipal administrations,
2. citizens' participation in the civic participation mechanisms, and
3. improved dialogue between the public administration and citizens.

Human rights framework

Guatemala has ratified all major human rights instruments and reports on progress and challenges.

Local governance relates to a variety of human rights standards and principles enshrined in international and regional human rights covenants, such as the rights to participation, non-discrimination, effective remedies, water, education, health and an adequate standard of living.

Out of these, the programme addresses specifically the right to participation, enshrined in Art. 25 of the International Covenant on Civil and Political Rights (ICCPR): "Every citizen shall have the right and the opportunity (...) to take part in the conduct of public affairs (...)". Another human right relevant to the programme is the right to non-discrimination of any kind, as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other such status, which is part of all major human rights treaties.

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Human Rights standards are complemented by cross-cutting human rights principles, which are: participation and empowerment, transparency and accountability, nondiscrimination and equal opportunities.

Towards a human rights-based approach

A human rights-based approach orients development programmes systematically towards human rights standards and principles. It does so by identifying and addressing existing gaps in human rights implementation and in the capacities of both the state as duty-bearer to fulfil and the citizens as rights-holders to claim these rights.

The Guatemalan municipal code embodies several participation mechanisms for organized civil society, most notably a multi-layered system of development councils and a social auditing mechanism. In order for these mechanisms to develop their full potential, public authorities and civil society representatives need to be conscious of their respective roles, rights and responsibilities. Specifically, civil society representatives need to be competent in the matters at hand and in the procedures to participate actively and meaningfully in these mechanisms.



Photo: Andrea Kaempf

Taking this as the starting point, PROMUDEL set out to develop the capacities of both actors through various activities such as workshops, trainings, and advisory work. In addition, the programme worked on improving communication between the municipal administrations as the duty-bearers and civil society as representatives of rights-holders.

Qualitative community assessments carried out by PROMUDEL revealed a widespread dissatisfaction with public services: citizens complained about bad quality and discriminating and disrespectful attitudes of municipal

employees. The Baja Verapaz office of the National Human Rights Institution (Procuraduría de Derechos Humanos) repeatedly received similar complaints from citizens.

Working contacts between PROMUDEL and the Baja Verapaz office of the Procuraduría triggered the idea of a training course for municipal employees, addressing public service from a human rights perspective and its underlying notions of human dignity, non-discrimination and sustainable development.

This first course, developed by the Procuraduría and PROMUDEL in Baja Verapaz in 2007, was followed by a second course for civil society representatives and a third one for members of the development councils at community and municipal level in 2008.

Before the launch of the first course PROMUDEL and the Procuraduría liaised with the mayors to convince them to release their staff from work and compensate for their travel costs.

The course for municipal employees was first launched in Baja Veracruz. The single classes were held in the different municipalities of each department. The training modules for the first course for municipal employees were jointly developed by staff of PROMUDEL and the Procuraduría, reflecting the input by municipality staff with respect to their learning needs and expectations.

Course Contents

Course contents for municipal employees focussed on public service delivery from the perspective of marginalised groups such as the elderly, persons with disabilities, the indigenous population as well as young people. The course offers practical solutions for improving service delivery like alternative dispute resolution mechanisms and public management tools. At the end of the course, municipal employees develop an action plan with scheduled and resourced actions for improving human rights within their municipality.

The second course for civil society organisations was developed with a view to improving demand for human rights and quality public services and the capacity to monitor performance. The course familiarises local civil society organisations with the civic participation mechanisms provided for by the municipal code, such as the local development councils and the social auditing. It also trains participants in

developing public investment proposals and project management. Special attention is paid to indigenous people, youth and gender.

The third course focuses on members of the development councils at community and municipal level, which are deciding about local infrastructure projects.

First Results

Civil society representatives state that the course has enabled them to improve their investment proposals and their performance in the local participatory mechanisms. As a consequence their acceptance by and standing in society has improved.

Public services have improved in terms of social inclusion: Equal access to public services has factually improved: for example, municipalities now use interpreters for indigenous languages and some have built ramps to public buildings. The Procuraduría in Baja Verapaz reportedly receives fewer complaints about discriminatory attitudes of municipal employees.

Challenges

Awareness among employees of human rights has improved, yet inclusion of rights-holders in local planning through consultation and participation outside the formal mechanisms remains a long way to go. A possible way forward could be fostering dialogue and exchange between civil society and municipal employees/mayors. Interlinking participants of different courses may facilitate a common understanding of human rights problems and possible solutions.

Mayors are crucial for the implementation of the action plans which are developed at the end of the course for municipal employees. As not all mayors are participating in the courses themselves, they need to be acquainted with the action plans so that they support their follow-up and funding at municipal level. This is especially true for more complex measures such as home-bound registration, mapping of water supply coverage etc.

Last but not least, the sustainability of the course remains a challenge. A second national institution next to the Procuraduría, is needed to finance and take over the course. This is especially true since local elections usually lead to a replacement of mayors and municipality staff.



Photo: Andrea Kaempf

Lessons learned

Familiarizing duty-bearers such as municipal staff with the perspective of rights-holders and especially those which are in a disadvantaged situation can facilitate behavioral change. Human rights can take on a very practical meaning on the local level, if human rights education is connected to concrete development plans.

Course content is relevant if developed in partnership by pertinent institutions. Consultation with the target group and prior and ex-post assessment of the level of knowledge and relevance of the course are keys for successful training. Human rights standards on specific rights – such as the right to water, education, or food – need to be integrated into the training modules in order to substantiate policies and proposals and not to fall into mere human rights rhetoric.

Civil society representatives should be trained as multipliers (e.g. through training of trainers), so that they are capable to pass on the information and knowledge acquired in the course to their organisations.

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Education: Setting participation in motion for education in Peru

Background

Since 2002, Peru is developing towards a democratic, decentralized state and has accorded substantial competencies in education policy to the regional and local levels. However, comparisons show that learning achievements of Peruvian primary school students are still the second worst in the region. Teachers usually do not have sufficient methodological and substantive knowledge to adequately teach. They lack the necessary intercultural competencies to address the sociocultural aspects relevant to their students. As compared to urban areas, rural schools are particularly deficient in number and quality and mainly cater to boys.

The Programme for Primary Education (PROEDUCA) was implemented by GTZ between 2002 and 2007. GTZ supported the Peruvian Ministry of Education (MoE) in improving the formation of teachers and in establishing a demand-driven and decentralized educational administration. GTZ worked with the central government, regional and local authorities and actively engaged civil society in the process. The programme's objective was: Teachers execute their educational mandate professionally and thereby facilitate efficient and effective learning processes in primary schools.

It had three pillars:

1. assurance of quality education,
2. effective education management, and
3. effective and inclusive education policy at all levels.

Human rights framework

Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which was ratified by Peru in 1978 – establishes “the right of everyone to education”. Article 14 obliges states to introduce compulsory primary education free of charge for all and issue respective action plans. Education has to be available, accessible, acceptable, and adaptable. Education must be physically accessible and economically affordable to all, especially the most vulnerable persons and groups, in law and in fact. Acceptability relates to the form and substance of education, including curricula and teaching methods. They have to be of good quality, but also relevant to and culturally appropriate for students and, to a certain degree, for parents.

Adaptability entails that education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. Human rights standards are complemented with cross-cutting human rights principles: non-discrimination and equality of opportunities, participation and empowerment, transparency and accountability.

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Towards a human rights-based approach

Over the past two decades, the Peruvian government has undertaken successful efforts to increase access to primary education. According to the MDG monitor, it has achieved a 99% enrolment ratio in primary education (both sexes), with 84.5 % reaching grade 5. But poverty, living in rural areas, female sex, language and ethnic origin remain factors which exclude children from access to schools. Illiteracy is far more widespread among women, and at secondary schools the dropout rate for girls is higher than for boys. Unmarried pregnant girls are denied access to catholic schools and teacher formation institutes. Overall, discrimination against women is multiple: for example, the highest rate of illiteracy is found amongst poor, rural, indigenous women whose mother tongue is not Spanish.

A focus on bilingual teaching, intercultural issues and gender was thus the best entry point for improving access to and the quality of the education system. The Programme concentrated on the formation and training of teachers: It revised teaching materials, screening them for gender-based and ethnic discriminatory elements. To enable teachers to work with the revised materials, PROEDUCA trained them on dealing with bilingualism and interculturality and elaborated a profile for trainers at teacher formation institutes.

Process

PROEDUCA worked nationally and on the different regional and local levels, focussing on enhancing participation and making it work for education. The Programme assisted partner regions to establish regional participatory committees composed of education experts and representatives of state and nongovernmental institutions. The committees developed regional education plans that were later on discussed with representatives of civil society, parents, teachers and students as well as representatives of governmental institutions. Results were fed back into the education plans, taking into account regional particularities and needs of minorities.

Today, the functions of the participatory committees have evolved from participation in educational plans to holding school administrations to account: the committees monitor the implementation of regional education plans, and, partly, also national education policy through a previously agreed set of moni-

toring criteria and instruments. The participatory processes thus grew into increased accountability, a key variable to improve the educational system.



Photo: GTZ Programme "Basic Education PROEDUCA", Peru

PROEDUCA also supported enhanced accountability at teacher formation institutes, and collaborated in the development of a number of monitoring and evaluation instruments. These instruments take into account intercultural and gender aspects. Students shared in the development of these instruments -to evaluate the performance of all stakeholders and to record the changes achieved. Together with the Ministry of Education, PROEDUCA worked on instruments to evaluate the management at teaching institutes. One such instrument is used to diagnose and evaluate school management systems and capacities. It enables students, teachers and administrative staff at educational institutions to participate in evaluations of administration and management and to understand the results.

At the same time, the programme expanded the capacities of regional governments to better fulfil their duties. This included trainings, planning of regional projects and the elaboration of specific criteria as a basis for ensuring a quality system for teacher training and formation by the regional offices of the Ministry of Education. The quality system introduced is transparent and adapted to regional needs. Teacher formation institutes have evaluated it which will help to ensure and further improve the quality of teacher formation in Peru.

Impact

Participation has increased in many ways on different levels. Women are more involved on the decision-making level in educational institutions, and more teacher formation institutes are trying to attract men as prospective teachers for pre-primary and primary education. More parents are aware of the importance to let girls and boys complete school.

Issues such as HIV/AIDS, sex education and hygiene, and sexual abuse at teaching institutes are included in curricula. Education programmes are designed in a culturally adequate manner, practice-oriented and free from discriminatory elements, making education more acceptable and accessible at the same time. The intercultural teaching materials developed by PROEDUCA are being used nationally and internationally.

Finally, the participatory processes around the regional education plans have not only demonstrated that education systems can fit local needs but also improved communication between state and civil society players on the regional level. The PROEDUCA experience served as a model for a large number of other administrative regions (departamentos) in Peru and other countries in Latin America.



Photo: GTZ Programme "Basic Education PROEDUCA", Peru

With regard to the teacher formation institutes, a process has been initiated for increased and better participation in terms of quality for staff and students. Management has become more efficient, transparent, effective and accountable. Together with students, staff and management of the institutes set annual goals, and monitor their achievement through accessible systems. Information on decisions regarding the allocation of resources, on teaching goals and respective results are now more transparent and management decisions have thus become comprehensible. From these processes flowed engagement in local politics: for example, the regional participatory committees of Madre de Diós and Piura reported on the monitoring process, its progress and challenges and elaborated proposals for its improvement. The reports were made public and handed

over to the regional government.

What locally adapted education systems had set in motion was fed in to the National Education Plan, developed under the auspices of the National Education Council and other educational institutions. Basic features of the National Education Plan included access to educational institutions without discrimination, their availability and the design of educational content of high quality that take account of gender and intercultural issues.

Challenges

The crucial challenge is to institutionalize such processes within the relevant institutions in the long run. Quality participation is not an isolated occurrence, but needs to be repetitively practiced with regard to different topics, which are important to the communities. This holds true for individuals on the receiving end of the educational system, that is, students and parents, and the staff of the institutions and organisations involved, that is teachers, administrative staff, and civil society. In addition, achieving broader-based quality participation amongst the different actors and institutions requires a legal framework that secures participation. This is important if participation is to move beyond the immediate educational context, turning into political mobilization of citizens.

Lessons learned

Active participation of formerly excluded and marginalized groups and the improvement of transparency and accountability mechanisms can contribute to significant progress in the realization of the right to education for underprivileged children and youth. However, these gains need time beyond a programme framework of a couple of years and continued support and backstopping in order to institutionalize the processes that were set in motion. The related institutional and personal learning processes are extremely complex and varied. Therefore, experts experienced in accompanying such complex learning processes in a development context should be available in the long run in order for changes to be sustainable.

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