



Development Assistance Committee (DAC)
DAC Network on Governance (GOVNET)
Governance Assessments Conference

OECD DAC GOVNET Conference on Governance Assessments and Aid Effectiveness

London, 20-21 February 2008

Governance Assessments in Practice – Case Studies

5A NEPAL/MALAWI

Theme: Thematic governance assessment – the Human Right to Food

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Introduction

In today's world of fast-paced economies and information super-highways, more than 850 million people suffer from hunger every day. In many countries, up to 40% of the population is chronically hungry. In a world with more than enough food to feed itself, something is clearly wrong. The Food and Agriculture Organization of the United Nations (FAO) reports that the Millennium Development Goal to reduce the number of hungry people by half by 2015 will not be met without stronger commitments by states and an accelerated pace of targeted activities.

The Story: Why and how the assessment was undertaken

In 2004, the FAO adopted "Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of Food Security at the National Level" (the Guidelines) as a follow up to the World Food Summit series of conferences. Despite the unwieldy title, the Guidelines represented a significant achievement as the first negotiated consensus on an economic or social right, outside of the UN's human rights system. The Guidelines provide a roadmap for states wanting to apply the human rights framework to hunger eradication strategies and to better implement obligations undertaken when they ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR).

For civil society organizations that had participated in the World Food Summit and the subsequent Guidelines negotiation process, there was great interest in ensuring that they led to on-the-ground assessments of persistent food insecurity, its causes and appropriate solutions. It was for this reason that Rights & Democracy¹ undertook two assessment missions to Malawi in 2006 and to Nepal in 2007.

The Guidelines were a useful basis for the missions because they were the product of a recent intergovernmental consensus that itself evolved directly from the ICESCR, a treaty widely ratified by both donors and recipient countries.² While not an assessment methodology on their own, the Guidelines informed the approach used during the missions by grouping the wide range of issues that affect access to food into workable categories and by providing a set of associated indicators.

The missions in Malawi and Nepal had two objectives: to encourage state accountability with respect to human rights obligations; and to empower the "rights-holders" to claim their entitlement. The approach that was developed to meet these objectives can be characterized as an effort to measure the gap between the human right norm and actual enjoyment of the right at the national level. In other words, the baseline for the assessments was the norm itself.

Procedurally, the assessment methodology consisted of five broad steps: issue scoping, mapping of the legal and policy framework, gathering of field data, analysis, and reporting. In structuring the inquiry process, the mission teams relied heavily on the normative principles of the human right to food - adequacy, accessibility and availability. In reporting the results of the assessment, that information was presented in its relation to the different levels of state obligation – respect, protect and fulfil.³ We attempted throughout to apply the

¹ Rights & Democracy is an independent institution created by an Act of the Parliament of Canada. Its mandate is to defend and promote the International Bill of Human Rights. See www.dd-rd.ca

² The ICESCR has been ratified by 156 states. The most notable exception among donors is the United States, although it has accepted certain obligations as a signatory.

³ See General Comment 12 on the Human Right to Food, UN Committee on Economic, Social and Cultural Rights, 1999, www.ohchr.org/english/bodies/cescr

over-arching human rights principles of universality, non-discrimination, indivisibility and accountability.

The assessments in both Malawi and Nepal were civil society driven. Mission teams were made up of representatives from both national and international non-governmental organizations. In the Nepal case, assessment teams also included observers from the FAO Unit on the Right to Food and from the Office of the UN Special Rapporteur on the Right to Food. The assessment methodology emphasized community-level interviews that most often took the form of group meetings in villages accompanied by individual interviews with district officials and local civil society organizations. Interviewees were asked to describe their access to food in their own words and to introduce influencing factors they felt were most relevant.

Local level interaction was supplemented by formal meetings with government officials and donor country representatives in the capital cities of Lilongwe (Malawi) and Kathmandu (Nepal). The information collected through interviews was later supplemented by secondary data obtained through online research, particularly from UN sources.⁴

The preliminary findings of the missions were disseminated at the conclusion of each mission via a media release, press conference and the public seminar which accompanied each mission and which welcomed representatives of civil society, government and UN and donor agencies. The final reports, issued approximately three months after the mission, were widely distributed via the Internet and in hard copy to all stakeholders as well as at various events and conferences.

Tensions, dilemmas and issues:

Many challenges faced by the assessment teams resulted from use of the human rights framework and emphasis on the related treaty obligations of the state as appropriate indicators. Although all states involved in the assessments (both donors and host) had recently adopted the Guidelines and the majority had also ratified the ICESCR, in practice there was considerable reluctance to reinforcing a human rights approach for hunger eradication policies and programs. This reluctance extended also to UN agencies, including the FAO representatives themselves, who were only vaguely aware of the Guidelines existence.⁵ Furthermore, because the UN Development Assistance Framework (UNDAF) in both Malawi and Nepal emphasized a human rights framework for development policy, the assessment teams had expected that the initiative, although civil society driven, would complement the more formal country assessments conducted as UNDAF evaluations. This was not the case.

One donor country representative in Nepal explained this lack of attention to human rights as follows: "Rights-based approaches imply long term reforms and attention to equitable access. We are engaged in short term solutions". Others alluded to pressure from development banks to refrain from specific human rights approaches such as targeting. Again in Nepal, a representative of the Asian Development Bank explained to the assessment team that he approved of providing agricultural subsidies in the interests of food security, but that targeting of those subsidies to the most food-insecure would be seen as market distorting and therefore not acceptable.

Such reluctance from donors to promote human rights approaches to hunger eradication often had a dampening effect on the enthusiasm of the national government to engage in the assessment process. For example, both Malawi and Nepal are categorized as least-

⁴ Particularly useful were the UNDP, FAO, Human Rights Council and UNESCO websites.

⁵ A notable exception was the World Food Program (WFP) in Malawi.

developed countries and as such, their budgets for development depend to a great degree on financial support provided by UN agencies and donor countries.⁶ There was a concern, often expressed in interviews, that the smooth flow of resources from donors is conditioned (even if not explicitly) on compliance with economic reform measures, not with human rights treaties. For example, in Malawi, the International Monetary Fund had required that the government liquidate its grain reserves despite persistent high levels of hunger in the country. The government was then unable to provide adequate food relief when a hunger emergency hit the country the following year.

A related challenge, particularly in Malawi, was the proliferation of agricultural and food security policies. There were no less than 43 such policies in Malawi with hundreds of associated projects across the country.⁷ Implementation of the policies was complicated by poor inter-departmental coordination at the national level which also impeded the efficiency and comprehensiveness of the assessment. In Nepal, the central government was particularly weak being in transition at the time of the assessment and with the exception of the Ministry of Agriculture gave little attention to the assessment process. Both donors and UN agencies in Nepal were almost entirely focused on civil and political rights (the peace process) rather than on violations of economic and social rights (poverty and social exclusion) which the assessment team characterized as causes of the conflict.

Finally, the assessment team faced a number of difficulties in determining how to limit the scope of the assessment given the unwieldy number of factors that influence access to food. For example, issues as complex and diverse as agricultural production, forest protection, water management, economic reforms, nutrition, minority rights, commodity prices, industrial policy, gender discrimination, and access to justice can all be viewed as having an impact on the human right to adequate food. Identification of appropriate indicators for each of these areas proved to be a considerable obstacle even with the Guidelines as a roadmap. Furthermore, assessing state compliance from the perspective of continuous improvement or “progressive realization” brought additional conceptual challenges to the team. As a result, the assessment teams relied primarily on qualitative indicators and based their conclusions on common threads that emerged across interviews and from anecdotal data.

Lessons and forward-looking implications:

When evaluating effectiveness of the human right to food assessments in Malawi and Nepal, it is important to remember that each was undertaken in response to requests from national civil society organizations which had followed the Guideline negotiations at the FAO. It was their view that the presence of an international delegation, basing its approach on principles already approved and adopted by their government (the ICESCR and the Guidelines) would lend credibility to the process, increase its visibility and lead to the implementation of appropriate responses. In other words, the purpose of the exercise was to effect change.

It is certainly true that the presence of an international mission did enable interaction between a range of stakeholders who did not normally interact with each other (for example, National Human Rights Commissions, Agriculture Ministries, civil society and parliamentarians) and that dialogue has continued post-assessment. In both countries national right to food networks were created to follow-up on the assessment recommendations. Both have now launched national awareness programs and legislative initiatives. However it remains difficult to measure if, or the degree to which, the assessments will have any long term impact on the actual levels of hunger in Malawi and

⁶ More than 80% of Malawi’s budget for development and more than 60% of Nepal’s, is provided by foreign donors.

⁷ At the time of the assessment, the Ministry of Agriculture’s Technical Secretariat, funded by the European Union, was leading an innovative project to coordinate these policies within a single office.

Nepal. Certainly, without coordinated ongoing cooperation and good will between all stakeholders, there is unlikely to be any substantive improvement. This is in line with the FAO's own conclusion cited at the top of this paper, that without stronger commitments from states and an accelerated pace of activities at the national level, hundreds of millions of people will continue to experience hunger every day.

What has become abundantly clear, however, is the positive outcome of the assessments in terms of capacity building – itself a key component of improved governance. In particular, government representatives and civil society organizations in both Malawi and Nepal have been inspired by the possibilities presented by adoption of a human rights framework for hunger eradication strategies. In this sense, ongoing efforts to better understand economic and social rights, including the right to food (with attention to indicators), coupled with development of administrative and legislative responses to the assessment recommendations can be viewed as positive outcomes. What remains lacking is a vision of human rights as an appropriate overarching legal framework for assessing governance, one that brings both donor and recipient countries together in a common understanding.