

SECTION FIVE

PARTICIPATION

Rights of participation. Fundamental freedoms include rights of people to meet with others, organize assemblies and speak freely. These are universal rights, and their exercise is essential in securing all other rights in development processes, as well as crucial in building civil society in social, economic, political and legal terms.¹

Participation is a manifestation of the indivisibility of rights. Participation ensures that groups and individuals play a role in the realization of economic and social rights through the expression of the popular will. Participation is also recognized as a key concept in the Declaration on the Right to Development. That Declaration requires that the ‘human person’ has a say in decisions that affect the realization of rights and that genuine and meaningful participation guarantee that the benefits of development are shared more equitably.

Participation is therefore an integral part of a human rights approach to development assistance and has to be built in at every level of the development process. It is a major objective for any development program.

The challenge for development practitioners is to ensure that participation is more than a token process with little chance of affecting outcomes and that those who participate are as far as possible and practical representative of the stakeholders in development. The identification of participating groups and individuals thus becomes critical if participation is to be meaningful.

It is important to distinguish between ‘genuine and meaningful participation’ as it is used within the human rights framework and a participatory *process*. While the two are most often interlinked, the latter is already part and parcel of development practices particularly in the implementation of community-level projects. Participation in the rights sense emphasizes an expectation that participation can make a difference in the decision-making process. In this it is an essential step on the road to democratization.

Participation in this sense is valuable for development assistance programs in that it sensitizes all the stakeholders to the value of political involvement in decision-making in a non-confrontational way. Not only does this lead to greater sustainability but it accords with most policies on good governance and democratization.

¹ *Integrating Human Rights with Sustainable Human Development: A UNDP policy document*, United Nations Development Programme, New York, January 1998. (See Appendix A)

1. WHO PARTICIPATES?

While the widest possible level of participation is called for at every stage, it is obviously impossible to involve every stakeholder in every decision. Not only would this be unworkable, paralyzing the whole process, but it is not demanded by the stakeholders themselves.

- The guiding principle for participation is that people should be involved and consulted in decisions that affect them at the most immediate level.

This principle of subsidiarity can ensure that realistic limits are placed on the process. This does not relieve governments of the responsibility of consulting as widely as possible but it does mean that every effort should be made to identify responsible representatives of interested parties to take part in the participatory process at the appropriate level.

A rights approach recognizes that relevant information and wisdom is not limited to the professionals in the donor government agencies but that the professionals can benefit from experience and input of local people.

1.1 In the situational analysis

Accurate human rights country mapping cannot depend solely on government sources and official statistical information. It requires as well the participation of

- domestic human rights NGOs
- domestic development NGOs
- sectoral interest groups, including
 - women's organizations
 - indigenous organizations
 - children's rights groups
 - advocates for the urban poor
 - social welfare groups
- framers of alternative reports to UN organs.

This is particularly the case in repressive situations where freedom of expression is curtailed. The challenge for donors in such difficult circumstances is still to initiate the participation of the various sectors of civil society. Concerns for the security of those consulted must be paramount. However the protection of diplomatic initiatives must be exploited, not only to gather information but also hopefully to provide a measure of legitimacy to these sectors in the eyes of the recipient government. In many instances, if protection cannot be assured, it is necessary to draw on expatriate groups to participate in the provision of information for the analysis, and this process should not be avoided by donors for reasons of political expediency.

1.2 In goal and standard setting

Participation in the situational analysis will expose the most pressing human rights objectives for a specific country. The purpose of the analysis is precisely to establish priorities and strategies for the realization of the most pressing rights for the most at-risk groups.

Meaningful participation requires more than simply acquainting the stakeholders with decisions taken on their behalf by the donors and recipient governments. The process of influencing these decisions must be accessible to at least representative sections of society.

In the formulation of the country strategy the donor must seek national level participation of the stakeholders. This must be promoted through the policy dialogue.

1.3 In the design and implementation of program and projects

Section Three outlines a possible mechanism for ensuring continuing participation at the national level in the implementation and review of programs by means of an In-Country Representative Team. This would consist of,

- senior officials of the donor and recipient governments
- officials from departments or regions most relevant to the program
- representatives of communities who are to benefit from the development assistance
- representatives of national-level human rights/development NGOs.

Those participating at the project level ought to be made aware of their rights so that they can transform themselves from beggars to claimants.²

Participants at the project level will include

- community representatives including
 - women
 - minorities
 - the poor
- NGOs
- local experts.

1.4 In monitoring and evaluation

At the program level the ICRT should play a key role in monitoring and evaluation. Section Four outlines a possible grievance procedure in cases where a country strategy or the direction of the program needs changing, where there are breaches of the contractual obligations of any of the parties and where the question of remedies for some breach might arise. At the more immediate level contribution should be sought as matter of course from

- community representatives including
 - women
 - minorities
 - the poor

² See *The Rights Way to Development: A human rights approach to development assistance*, Human Rights Council of Australia, Marrickville, 1995

- NGOs
- local experts.

1.5 Non-governmental and community based organizations

It is appropriate here in dealing with participation to state again the benefits gained from involvement of non-government and community-based organizations outlined in Section Three.

Where they exist NGOs and CBOs may represent community opinion and/or have particular experience and expertise in addressing the issues that will be the focus of development program and of particular projects.

NGOs and CBOs can bring to the development process

- particular skills and a capacity for effective action in areas such as community participation and grass roots development
- the ability to operate in areas an official development cooperation program is unable to reach for reasons of conflict, remoteness or other causes
- an emphasis on people-to-people contact through partnerships with local organizations or development networks to empower the most needy sections of developing countries so they are better able to help themselves
- alternative delivery mechanisms which can be used in circumstances where mainstream development activities may be curtailed
- efficient and effective poverty alleviation activities based on grass roots experience.

NGOs and CBOs should be involved both at the program and project level of the development program, as recognition of their valuable place in society, as a check that the positions of government and experts are reflective of the diversity of views and as a practical measure in itself to strengthen civil society.

Donor and recipient governments may need to take special measures to facilitate this participation including the provision of necessary information to enable informed consent. These measures are likely to vary from country to country.

The issue of the representative nature and accountability of NGOs needs to be taken into consideration when planning participation in analysis, objective setting and implementation. Issues that need to be addressed include

- Who represents the community affected most directly and how will their input be enabled ?

- Are there significant individuals who have the pulse of the community (for example, village elders, religious leaders, sectoral representatives) and how can they be ensured a voice?
- Is there a body of thematic expertise among local specialist NGOs (for example, people living with HIV/AIDS, women's groups, ethnic communities)?
- Is there a body of expertise that can contribute to the analysis among expert NGOs who may not be directly representative such as national human rights groups?
- In case of differing interests among the community, how are the contribution of each to be included?

Thailand and the UN

The UNDP and a number of donors were involved in the drafting of the Eighth Five-Year Development Plan by the Thai Government using a participatory process.

UNDP contributed US\$500,000 to the consultative process. This process began with a convocation of over one thousand people at a meeting in Bangkok which split into one hundred participatory workshops to discuss the Plan. Further consultations were held in the nine regions of Thailand charged with debating the vision of the Plan and projects arising from it that would need to be implemented.

The National Economic and Social Development Board appointed three working groups (human and social development, rural and natural resource development, economic management) to draft the Plan which was finally approved at a meeting of fifteen hundred representatives of the various sectors including representatives of the Prime Minister.

The UNDP has now been formally invited to assist with the implementation of the Plan with the establishment of the Thailand-United Nations Collaborative Action Plan (Thai-UNCAP) which is an attempt for the UN system to work with the Thai Government to address "the key development issues" in the Eighth Plan. The partnership is being developed under six joint Theme Groups: suitable economic development, equity and poverty eradication, human and social well-being, sound governance and development management, gender/women development, HIV/AIDS.

Prior to commitment of resources at the country program level, communities likely to be identified as stakeholders need to participate in identifying their needs. In practice CBOs and/or NGOs may be the community representatives but the participation of elected representatives (for example where power has been decentralized) or traditional elders should also be sought.

While the identification of representative individuals always presents a challenge to donors, that challenge must be met. In most cases at the national level there will be senior NGO figures who have the respect of sectors of civil society as well as that of the recipient government.

One way of addressing the nature of representativeness in the broader community is to involve a greater number of individuals at various levels of society. This may be time-consuming and sometimes frustrating to donor professionals but a commitment to a human rights approach demands both patience and inventiveness. The drafting of Thailand's Eighth Five-Year Development Plan (see box above) is an example of widespread community participation which served to add credibility to a participatory process leading to the incorporation of human rights as a prominent framework for the plan.

2. PARTICIPATION IN THE SITUATIONAL ANALYSIS

Participation at the analysis stage means a genuine involvement of those affected in choosing how, when and where international development can assist in the realization of rights. These choices need to be free and informed. This requires that a number of conditions be satisfied and cooperation between donor and recipient governments in meetings these conditions.

1. The first and foremost is that people have adequate information so that they can be involved meaningfully in analyzing conditions within the context of the realization of human rights. While there is no question that communities are well able to ascertain their basic needs and that this has been the basis of much community development activity in donor programs, meaningful participation enables the formulation of demands and the setting of priorities in order to fulfil rights.
2. Stakeholders must be aware of the policies and priorities of individual donors so that these demands may be formulated in ways that development assistance can respond to.
3. Meaningful participation in analysis also requires that participants have the freedom to express themselves without fear or intimidation and reprisals. This becomes the responsibility of both donor and recipient governments.
4. Participants need to have some kind of undertaking that their voice will be taken into account. All too often the process involves consultation, the outcome of which is ignored in the final analysis. If people have something to contribute to research and analysis this should be provided in the expectation that their contribution will affect whatever transpires.

2.1 Free access to relevant information in a timely and appropriate manner for all participants

All involved must have access to information on current recipient government policies and the legislative and administrative framework in which they are pursued as well as relevant statistical data to ensure informed participation. Donors can offer assistance to disseminate this information in regions and sectors in which they are interested, either through recipient government programs or directly.

2.2 Awareness by participants of the policies of the donor and recipient governments (poverty focus, environmental concerns, gender equity etc.)

Donor and recipient government policies need to be both transparent and understood by recipients participating in decisions on how they would like to be assisted in realizing their rights. This awareness can be developed in a number of ways,

- through policy dialogue that is publicly reported
- through the diplomatic mission's public information program
- through information sessions and workshops tailored to the needs of different participants.

It is important that the provision of information is framed by the human rights objectives and policies of both governments.

2.3 The ability to participate

For the representatives of the most marginalized or disadvantaged communities - the focus of most country programs - the ability to participate in the country analysis may be affected by resource issues, guarantees of physical security and timing among other factors. Donor and recipient governments need to make genuine and demonstrable efforts to help overcome these factors and to ensure participation. This may mean setting aside provision for travel support, the hosting of forums by the diplomatic post to protect participants and patience in seeking input from these communities.

2.4 The ability to affect outcomes

There needs to be a clear and demonstrable commitment that participation can affect outcomes. There is also a need to design indicators agreed to by both governments to monitor that this takes place.

The ultimate hope is that the component sections of civil society will be able to voice their needs and expectations in terms of the realization of human rights. Accordingly the responsibility lies on development assistance professionals to take every opportunity to enhance and develop awareness and understanding of the human rights framework.

These opportunities present themselves at various stages during research and analysis and underscore the need for these professionals to be familiar with the principles, terminology and law of human rights³. Equally important is the need for evaluation to be measured in terms of human rights outcomes.

³ These are spelt out in terms adapted for use by development professionals in *The Rights Way to Development: A human rights approach to development assistance*, Human Rights Council of Australia, Marrickville, 1995

3. PARTICIPATION IN GOAL AND STANDARD SETTING

The participation developed through the country analysis process needs to be built on in the course of developing and agreeing on the broad country strategy. It is important that all parties with an interest be involved, particularly those in the recipient country.

Given the diversity of individuals and organizations likely to have an interest, it is important that levels of participation for different sectors be clearly articulated. These levels of participation are likely to vary but should be based on the following principles:

- those who are most immediately affected by the development process must be guaranteed a voice in the decisions that affect them, although they should not be forced to do so
- communities and their representatives most affected by development assistance proposals should have the highest level of participation, including the right to call for an independent review of plans at certain key stages and in case of non-compliance a grievance procedure
- where a broader public interest is concerned, efforts should be made to encourage donor and recipient country NGOs to be involved where they can demonstrate their status as interested parties to a project or program.

The process of developing and agreeing on the broad strategy should be used as a further opportunity for high level dialogue between donor and recipient government officials to see human rights as the objectives of programs.

The process for ensuring participation at this stage will vary depending on the circumstances. Some recipient and donor governments will agree,

- to meet officially with representative civil society organisms
- to meet informally
- to allow the donor to circulate information and to discuss goals and the policy dialogue with appropriate NGOs
- to accept that a third party host a consultative meeting
- to accept written submissions from civil society groups.

The Office of the High Commissioner for Human Rights or the resident representative of the United Nations Development Programme may be prepared to use their good offices to host a forum attended by representatives of both governments, donors and senior NGO representatives. Whatever mechanisms is available, the expectation should be that any Memorandums of Understanding will be made available for public comment and - if warranted - public criticism without fear of retribution.

4. PARTICIPATION IN PLANNING AND PROGRAMS

Following on from the country analysis, recipient government officials, independent experts, community representatives and other stakeholders should continue to be involved in the strategy-building process and in the formulation and design of programs and projects.

Continuing involvement of some participants may have its own benefits in terms of building capacity and expertise and thereby contributing to the development of civil society but it is also important for reaffirming both donor and recipient agencies' commitment to genuine and broad participation.

4.1 To ensure participation at the program planning stage

The ICRT (see Section Three) is the obvious mechanism for ensuring a degree of participation at the program planning stage. The outcome of exchanges in the policy dialogue to establish the program should be made accessible to interested parties and be readily available to those most directly affected.

If the circumstances in the recipient country are favourable, the level of participation at this stage could be developed further through

- sectoral workshops at the local, regional and national levels
- local, regional and national conferences
- other culturally appropriate processes.

The agenda of such consultations would need to include commentaries on the nature and priorities of the program, probably guided by the terms of the outcome of high level meetings and the MOUs between recipient and donor governments.

In line with the insistence of an expectation that the participatory process can affect outcomes, donors and recipients must be prepared **not** to proceed with projects/programs where the popular will is opposed to them being implemented. Such a step of course would only be taken following policy dialogue between governments.

4.2 Transparency

Donors and recipients both have the responsibility of ensuring transparency throughout the development assistance program. Governments in countries that are not yet democratic will be reluctant to accept the value of keeping the population informed about such matters. The donor's explicit human rights policy will ensure that no misunderstanding can occur and should be followed up in the day-to-day diplomatic exchange as well as through the policy dialogue.

Donors can assist by making draft documents available publicly. They can overcome reluctance of some recipient governments by funding the process of participation with stakeholders.

4.3 To ensure and enable the participation process at the implementation stage

The ICRT will again be involved in the implementation stage. At both program – including sectoral programs - and project level, participation will become meaningless without an adequate information flow and stakeholders able to have an input into the production of information.

Not only should progress reports, term evaluations, program and project reviews and team assessments be freely available to the stakeholders but the stakeholders must be involved in their preparation with the expectation that their input will be recognized through action.

A program of consultations should be built into every significant planning document nominating those to be involved, the timetable, the frequency of contact and the nature of the participatory process. The process might consist of round tables, workshops using recognized participatory methods or local conferences. Any discussion must be firmly grounded in the human rights objectives of the respective program or project.

5. PARTICIPATION IN MONITORING AND EVALUATION

The ICRT will be involved in continuing monitoring and evaluation. And as noted above, the stakeholders will be kept engaged in the review of program and project.

In such a participatory process differences and disagreements may arise, for example between donor or recipient government officials and national level NGOs, between a national NGO and a CBO, or between development professionals and CBOs.

Where differences over specific objectives or priorities persist, there needs to be an agreed process for arbitration and resolution. This process should be based on

- a shared commitment to achieve human rights outcomes
- recognition of the rights of individuals and communities to determine their own development
- opportunities for individuals and communities to appeal for independent reviews of decisions they believe will be adverse to their rights
- the provision of compensation and other appropriate forms of redress for individuals and communities adversely affected by development projects that proceed in accordance with the above principles.

The Independent Monitoring and Inspection Panel is described in the previous Section. The IMIP is a mechanism that enables grievances to be resolved in a non-confrontational way. While the IMIP will be in a position to address a broad range of issues and suggest solutions, the parties must still ensure that beneficiaries can participate in the monitoring and evaluation processes at every stage.

However, those who do not wish to be involved must be free to remain outside the process. So for example at the project evaluation stage, there ought to be every effort made to involve the targeted beneficiaries who in most cases will have a stake in participating. The evaluation should not necessarily be seen as invalid if they elect to refrain.

6. HUMAN RIGHTS PLANNING AND REPORTING

This Manual has argued that drafting national human rights action plans is a valuable exercise as a way of setting human rights objectives for both the recipient and donor governments. The Office of the High Commissioner for Human Rights is prepared to provide assistance in this and the Fourth UN Human Rights Workshop in Asia (Teheran 1998) again encouraged Asian governments to draft these plans.

To be credible these plans must be the outcome of a participatory process. Taking each of the rights in the International Bill of Rights and other human rights instruments in turn, it should be possible to engage the various sectors that are most directly affected by the realization or otherwise of each right.

Section One and Two of this Manual provide an indication of which interest groups would most likely be consulted in drafting such a plan. Similarly, drafting reports to the UN human rights committees will involve the same interest groups and organizations.

It should be one of the objectives of development assistance programs to encourage the drafting of these plans and reports and donors should complement the efforts of the OHCHR in assisting governments with this process.

7. SUMMARIZING PARTICIPATION

The table below shows the nature of the participatory process at each stage of the development assistance program. The middle column lists those who as a minimum ought to be involved in the process; according to resources and circumstances, donors and recipients would elect to involve other groups as well. The column on the right is a non-exhaustive list of mechanisms for participation and represents the minimum for participation to be meaningful.

The table should not be seen as either comprehensive or exhaustive. Different circumstances and different programs will call for different approaches. There are always opportunities to engage more stakeholders in debates and discussions on decisions which will affect their rights and entitlements. As long as development actors have firmly in their minds the importance of meaningful participation and use imaginative techniques to bring it about, then the objectives of developing civil society and good governance will be enhanced.

In the words of the OECD Working Group on Participatory Development and Good Governance,

The development-participation-governance linkages can only be strengthened if civil society (in which women should play a key role) and the private sector are able to

advocate for needed reforms in the political and economic systems. Technocratic approaches for institutional change and legal reform fail without effective local demands for change and legal reforms fail without effective local demands for change, expressed through local constituencies and locally-based skills for building grassroots and national participation. Through policy dialogue and capacity building, donors can effectively support the strategic role of civil society.⁴

STAGE	NATURE OF PARTICIPATION	MECHANISM FOR PARTICIPATION
Formulation of donor policy	<ul style="list-style-type: none"> - national domestic human rights and development NGOs - ministry of foreign affairs - parliamentary human rights organs 	<ul style="list-style-type: none"> - preparations of >white papers= parliamentary committees - public forums - publication in recipient countries
Country research and analysis	<ul style="list-style-type: none"> - human rights NGOs - social welfare NGOs - women=s organizations - legal organizations - indigenous groups 	<ul style="list-style-type: none"> - direct contact through diplomatic post - round tables - conferences
Bilateral policy dialogue	<ul style="list-style-type: none"> - senior NGO personnel 	<ul style="list-style-type: none"> - round tables (where appropriate hosted by third party, e.g. UNDP, OHCHR)
Multi-lateral policy dialogue	<ul style="list-style-type: none"> - senior NGO personnel 	<ul style="list-style-type: none"> - Participation in multi-lateral forums - parallel consultations - consideration of written submissions
Formulation of objectives	<ul style="list-style-type: none"> - national-level NGOs - representatives of women=s organizations - representatives of civil society sectors 	<ul style="list-style-type: none"> - round tables (where appropriate hosted by third party, e.g. UNDP, OHCHR)
Country strategy		<ul style="list-style-type: none"> - publication and dissemination of the country strategy
Country strategy review	<ul style="list-style-type: none"> - senior NGO personnel 	<ul style="list-style-type: none"> - round tables - written submissions - publication and circulation of

⁴ 'Final Report of the Ad Hoc Working Group on Participatory Development and Good Governance, Part 1' Development Assistance Committee, OECD, Paris 1997

STAGE	NATURE OF PARTICIPATION	MECHANISM FOR PARTICIPATION
		proposed review
Country program design	- ICRT ⁵ (representatives of communities who are to benefit, representatives of national human rights and development NGOs)	- Meetings with donor agency personnel (where appropriate hosted by third party, e.g. UNDP, OHCHR)
Country program review	- ICRT - IMIP ⁶	- round tables with donor representatives
Program delivery	- ICRT - IMIP	- regular scheduled meetings with donor agency personnel
Program monitoring	- ICRT - IMIP	- regular scheduled meetings with donor personnel
Project design	- representatives of targeted beneficiaries, including women=s groups - NGOs	- participatory techniques (for example Rapid Rural Appraisal, Participatory and Integrated Development Approach, etc.)
Project implementation	- targeted beneficiaries - IMIP	- involvement in project implementation of targeted beneficiaries
Project monitoring	- targeted beneficiaries - IMIP	- regular consultation with donor personnel
Program evaluation	- targeted beneficiaries - IMIP	- meetings with donor evaluators hosted by a third party (e.g. UNDP, OHCHR)
Project evaluation	- targeted beneficiaries - IMIP	- regular meetings with donor evaluators
Non-compliance	- IMIP	- consultations with affected stakeholders

⁵In-Country Representative Team (See Section Three)

⁶Independent Monitoring and Inspection Panel (See Section Four)