

Environment-Democracy Governance Exchange
The EDGE Roundtable Series

Session 5: April 4, 2001

***Translating into Success:
DG 101 for Environmental Colleagues***

Presenters:

Jim Vermillion, Deputy Assistant Administrator, USAID/G/DG
Gary Hansen, Civil Society Team Leader, USAID/G/DG
Neil Levine, Governance Team Leader, USAID/G/DG
Michael Miklaucic, Rule of Law Advisor, USAID/G/DG

1. Introduction

Geared to the needs of our NGO and USAID colleagues working on environment and conservation issues, this EDGE session aimed to clarify why work on DG issues would help to make environmental and conservation programs more effective. We focused on Democracy/Governance (DG) terminology, concepts and USAID programming related to the areas of civil society, governance and the rule of law. It was co-sponsored by USAID's Center for Democracy and Governance (G/DG) in the Global Bureau.

2. Presentations

Jim Vermillion (USAID/G/DG)

Jim Vermillion, Deputy Assistant Administrator for the Center for Democracy and Governance (G/DG) at USAID (jvermillion@usaid.gov) provided an *overview of DG programming and the history of DG donor programming for USAID*. Current DG programming focuses on political transformation and democratic consolidation. Although these goals are relatively new areas for USAID, there has been support for civil society and judiciary training in the 1960s and administration of justice training, human rights court work and clean bidding practices in the 1970s and 1980s. Vermillion observed that these programs had positive results but they did not result in systemic governance reforms. With the fall of the Berlin Wall and the break-up of the Soviet Union in the late 1980s, donor assistance programs in this area underwent a big shift in DG programming. The Clinton Administration placed a high priority on international DG assistance, appointed a strong democracy proponent as the new USAID administrator (Brian Atwood) and supported the creation of the Global Bureau's Center for Democracy and Governance in 1994. For the first time, political development was placed on equal footing with social and economic programs for foreign assistance.

DG programs are not a fad and are here to stay. Now, almost every donor, including the World Bank, works on politics in one form or another. Since the early 1990's, donor approaches to democracy assistance and political development work have been evolving. These programs have had real impacts and successes. Now the question is which investments yield the most progress? Today, only seven percent of USAID's DG budget is spent on elections and political

parties and the balance is spent on civil society, governance and rule of law programs. Sectoral programs that do not deal with politics will have less impact and natural resource issues are inherently political. Corruption frequently involves natural resources (e.g., Haiti's charcoal export industry, Cambodia's natural resource concessions to different political factions in the provinces) and is now a fundamental issue for many donors.

Gary Hansen (USAID/G/DG)

Gary Hansen, *Civil Society* Team and Senior Technical Advisor for G/DG (ghansen@usaid.gov), defined some key terms and USAID approaches:

- The broader concept of “civil society” embraces many types of NGOs, from labor unions to athletic clubs.
- “Civil society organizations” include groups that focus exclusively on a DG reform agenda and also NGOs that work on this type of agenda, in addition to their sectoral agenda. Reform advocates also have included student organizations (Indonesia and Thailand) and some moderate Islamic organizations (Indonesia).
- Given the definition above, some, but not all, environmental organizations are CSOs. Hansen noted DG reform work by environmental NGOs and activists in Bulgaria, Eastern Europe and the Former Soviet Union and Thailand.
- USAID civil society programs support NGOs involved in advocacy, media, labor and civic education. Under very repressive regimes, USAID begins civil society programs by working on sectoral activities with NGOs, such as environmental NGOs.

Hansen characterized current DG programming in civil society as the fourth wave of democracy funding. International donors are now pressing governments for systemic governance changes and supporting CSOs (the subset of NGOs that are advocating for an agenda of systemic governance reforms and democratization). Without systemic change, three earlier waves of DG programming had less impact than expected (i.e., legal education in the 1960s, the human/women's rights and community participation foci in the 1970s and court and legislature institution building and elections in the 1980s). Graduates of donor-funded law schools did not always become champions of democracy, participation in community development did not always translate into political participation and elites retained control of institutions and elections.

When deciding how to work with civil society, environmental organizations may benefit from tools and approaches used by DG. USAID-funded civil society activities are based on standardized DG assessments that identify country-specific DG goals. Gary referred to a systematic, five-step diagnostic process specific to civil society programming. It is described in his 1996 USAID/CDIE publication, “Constituencies for reform: strategic approaches for donor-supported civic advocacy programs.” The process begins by identifying problems, an appropriate reform agenda and CSO types. These three identification steps are conducted for systemic DG problems and can also be conducted for sectoral issues, such as environment. Problems could include lack of checks and balances, centralized bureaucracy, limited rights of association, etc. For example, a systemic reform agenda might be reform of the entire legal system, whereas the ENV sectoral reform would consist of stronger environmental regulations and enforcement. The final two steps involve assessing the capacities/assets of CSOs and identifying appropriate arenas and mechanisms for reform at both national and international

levels (e.g., public hearings, initiatives, legislatures, regional organizations, international courts, etc.).

Neil Levine (USAID/G/DG)

Neil Levine, *Governance* Team Leader and Senior Technical Advisor for G/DG (nlevine@usaid.gov), defined governance as “making government institutions more responsive to the will of the people.” It is “government by, of and for the people.” It is these qualities that differentiate “governing” from “ruling.”

At USAID, governance programs include civil-military relations, local government, anti-corruption, legislative strengthening, decentralization and implementing policy change.

USAID programming follows the priorities of the field offices. A number of field offices are linking DG and ENV programming and making joint program investments. For environment, the areas of overlap with DG relate to civil society and advocacy for governance reform. USAID/Washington is now working out how it can best support cross-sectoral efforts in the field. Neil focused on anti-corruption, local government and decentralization, and policy change:

- Anti-corruption work focuses on supply and demand. When governments have the political will to reform, donors can help by providing technical assistance for government-sponsored accountability institutions. The demand for reform can be bolstered through donor support for government watchdog NGOs (e.g., Transparency International). Donors can also help strengthen legislatures and legislative processes so that they are more representative and democratic.
- Particularly with recent decentralization reforms, local governments need the capacity to respond to citizen demands. Local governments are concerned with raising revenues, accounting for resources and service delivery. There are often local-national struggles over resources and revenue. To help local government officials have more voice at the national level, USAID has helped local government leaders (i.e., mayors) to form associations.
- While many donors focus on passing policy, far fewer support activities to improve policy implementation. Donors can help stakeholders to plan and assign responsibilities for policy implementation.

Michael Miklaucic (USAID/G/DG)

Michael Miklaucic, *RULE OF LAW* specialist and team member for G/DG (mmiklaucic@usaid.gov) opened by saying that the “rule of law” is a notion of governance that has no universally accepted definition. The term, “rule of law” is norm-bound. Amongst DG specialists at USAID, the term, “Rule of Law” is typically used to promote democracy and good governance. However, countries with undemocratic systems have also had rules of law (e.g., communist regimes, South Africa under apartheid, etc.). The rule of law also refers to the legal and regulatory framework at the national and local level. Sometimes, the term, “the rule of men” is used to differentiate the rule of law from earlier notions of the divine rights of kings.

Donor programs for the rule of law usually include: 1) improving legal frameworks and codifying human rights, 2) strengthening justice-sector institutions, and 3) increasing citizens’ access to justice. Human rights work builds upon post-WWII universal declarations and conventions, are oriented toward the rights of individuals and represents a more limited subset of the rule of law.

Justice-sector institutions include the courts, prosecutors, public defenders and civil society organizations (e.g., bar associations, media, educational associations, etc.). “Administration of justice” refers to the operations of justice-sector institutions.

Michael presented a tool to categorize a country’s fundamental issues related to the rule of law. Five issue areas constitute the basic rule of law elements of democratic governance:

- 1) establish public order and personal security,
- 2) prevent excessive concentration of political power (e.g., checks and balances),
- 3) prevent abuse of official power (e.g., accountability, corruption, police brutality),
- 4) provide equal treatment, access and protection under the law (legal framework and citizen access issues such as cost, language and distance),
- 5) provide fair and efficient dispute resolution.

Using the framework above, ENV folks may decide that a desirable rule of law objective would be to uphold good environmental governance. Sub-goals would include preserving biodiversity and making sure the public is included in biodiversity conservation. Therefore, it would be important to review the legal framework with these goals in mind and also make sure that all stakeholders legally have access to environmental decision-making. For many ENV issues, rule of law interventions may require more systemic reforms of the rule of law (e.g., logging in Cambodia, oil drilling in the Niger Delta and wildlife trade and international treaty adherence efforts in Madagascar).

3. Discussion

What rule of law issues should ENV colleagues tackle first? The first step is to conduct or review available DG country assessments. You need to first identify the rule of law *status quo* (including the national consensus on the basic rules of the game and consensus on nation-state identity as in Somalia), identify appropriate DG-related goals and tangible, manageable projects. Again, presence of the rule of law does not necessarily mean that it is a just rule of law. This big picture approach can help ENV organizations and their host country partners think through the best levers for change and avoid wasting time and effort on less-important activities.

Assessment Tools. DG country assessments have the capacity to collect information on environmental governance problems and environmental CSO assets. ENV may have some room to address DG issues via country ENV policy reviews (EPIQ project) and routine environmental impact assessments for USAID projects. However, these assessment teams do not usually involve cross-sectoral representatives and they have not yet been harmonized.

Where do ENV issues and NGOs fit into DG priorities? When should DG prioritize the ENV sector over other sectors for DG work? When should sectoral DG work be prioritized over systemic DG work? When do ENV organizations focus on larger systemic DG agendas? When do systemic DG organizations adopt ENV issues and join ENV coalitions? For example, some people argue that ENV should be the primary sector for DG promotion in Africa (and other rural-based economies) because control over natural resources is the main source of wealth and power. However, in general, DG folks make decisions on a case-by-case basis about which sector to focus on, when they will begin with a focus on sectoral issues and which NGOs have sufficient capacity to do reform work. In Africa, DG activities are driven by one strategic objective focused on cross-sectoral collaboration and just 5 of the USAID’s 50 DG officers are posted to this region.

However, more program managers from both ENV and DG are recognizing the importance of cross-sectoral work. A number of ENV organizations already work on DG issues and with civil society organizations. Illustrative activities include support for civil society organizations as part of National Environmental Action Plans in Madagascar and elsewhere, anti-corruption work on logging concessions by Global Witness in Cambodia, and anti-pollution and mining related work by WALHI in Indonesia. USAID program managers for civil society have supported ENV activists working on democratic reforms (e.g., Thailand, Russia and Bulgaria), particularly in countries where political activists have found a safe haven in the ENV sector.

Firewalls I – Tactics for ENV governance reform. DG and ENV funds can be used in countries to support different NGOs with different environmental advocacy strategies. In some places, like Indonesia, it has been useful to use USAID DG funds to support more outspoken ENV reformist NGOs (i.e., WALHI) while the ENV funds go to NGOs with a more centrist agenda. This can be a useful tactical strategy to polarize ENV issues and make space for a moderate majority, particularly on issues like property rights that have individual benefits. In this way, more issues can be put on the agenda for policy debate. Sometimes, the more centrist groups are able to make greater progress because they appear more collaborative in contrast to the other groups.

Firewalls II – Environmental Governance vs. Environmental Management? When does good environmental governance equal good environmental management and is there a difference between the two? Recent experiences from Indonesia and elsewhere suggest that this separation between ENV governance and management is somewhat of a false dichotomy. However, ENV folks have created this firewall to permit ENV programs to work on less-controversial activities, particularly under repressive conditions. By emphasizing management over governance, ENV NGOs have sometimes avoided the risks associated with being perceived as too partisan or of being misused by political groups for a larger political agenda. However, as repressive conditions abate, ENV organizations may find themselves alienated from other civil society organizations engaged in reforms.

Barriers for USAID cross-sectoral co-funding. In general, people have been thinking too narrowly about results and about money. “Stove-piped” organizational frameworks and results reporting are important cross-sectoral programming barriers (see Hal Lippman’s 2000 report for CDIE). In contrast to DG, ENV projects have tended to focus on quantitative results (e.g., numbers of hectares, trees) more than on process-oriented outcomes. It would be helpful if the results of joint activities were reportable in both sectors.

Cross-agency, cross-sectoral possibilities. USAID and State/OES have been working over the last year or so to cooperate on DG-ENV linkages. One possible area of broader collaboration includes environmental crime. This sector is now the largest growth industry for organized crime and brings in US\$ 21 billion per annum. INL (International Narcotics and Law Enforcement) Department at State is interested in cooperating with OES and USAID ENV and DG folks and this collaboration would also benefit from US Department of Justice and US EPA involvement. Both civil society and the media could play important roles in problem analysis and communication.

Regionalism and globalism. ENV and biodiversity conservation folks are working frequently on cross-scale activities, i.e., watershed, eco-regions, multi-country regional and international bodies. Regional bodies such as the European Union and the newly revived East Africa Regional Community (including Kenya, Tanzania and Uganda) have parliaments and courts of

justice that provide new opportunities for environmental advocates. Regional bodies may have more success than in-country reformers with raising DG issues on national agendas.

Most USAID DG funds are typically allocated to countries but some funds (i.e., ESF and G/DG core grants) are allocated from Washington for regional activities or bodies. For regional civil society, there has been some DG support for multi-country networking, e.g., DEMNET in Eastern Europe and the Former Soviet Union but other efforts at regional work have had to become national in scope due to regional conflicts (i.e., the Clinton-supported regional Great Lakes Justice Initiative in Africa). As a result of globalization, some new civil society alliances are forming that are influencing host country reforms (e.g., international-local NGO alliances, host country NGOs and concerned citizen, issue-based constituencies located in other countries). For rule of law, most work is still focused on legal frameworks and institutions at the national level because regional governments must contend with limited jurisdiction and questions of national sovereignty. However, at the international level, there is important work to be done for global norm-building related to international covenants and treaties (e.g., similar to work done for the human rights declarations after World War II).