

## READING 2.1 ■ SIX IMPACT CASE STUDIES

### 1. Argentina: Claiming the Right to Education with Budget Analysis and Litigation

The Constitution of the City of Buenos Aires states that the government must guarantee and fund a public and free education system that provides equal opportunities for every child older than 45 days. The Constitution also says that budget items allocated to education cannot be reallocated for other purposes.

Between 2002 and 2009 the shortage of early education facilities prevented thousands of children from beginning their education. During these years, demand for education for young children was increasing but no new early education facilities were added. By 2008 almost 8,000 children were excluded. More than half of the excluded children lived in the city's six poorest districts, and less than 15 percent lived in the six wealthiest districts.

The nongovernmental organization, Civil Association for Equality and Justice (ACIJ), became aware of the problem through its other education work in the very poor areas of the city. The organization gathered testimonies and evidence, issued a report that included information on budget expenditures, and produced a film to raise public awareness of the problem. It also prepared a draft bill aimed at resolving some of the problems.

Government did not respond to these actions. Therefore, in 2006 ACIJ filed a class action lawsuit. ACIJ had legal expertise and experience in litigation within their staff. For this case the organization used research it had previously done on budget allocations and expenditures to strengthen their legal arguments. ACIJ had two main arguments.

- Children were being denied their right to early education because of a shortage of spaces at schools. This violated both the right to early education and the right to equal treatment, because the shortage was worse in the poorer parts of the city.
- The government had been under-spending the budget allocated to school infrastructure and maintenance. The money was thus available, but was not being used to meet the need and fulfill the right.

ACIJ regularly faced the problem that necessary budget information was not publicly available. The organization in this case used the city's Freedom of Information Act, requesting information on the total number of schools offering early education, the number of students who had applied for early schooling from 2001 to 2006, and the number of children placed on waiting lists in each school. It also requested information about all budget allocations to school infrastructure between 2001 and 2005, and detailed spending data on construction and maintenance for these years.

At first the government refused to provide the data, but in 2006 the court forced it to do so. The data provided allowed ACIJ to prove that for five years the city's government had failed to fully spend the budget allocated for infrastructure, building, and maintenance of early education facilities, and that between 2002 and 2005 an average of 32% of the allocated budget was spent. ACIJ asked the court to order the government to comply with its constitutional obligations, and to design and implement urgent measures to correct the situation.

In its counter-argument, the city government pointed to a number of infrastructure works being done in respect of school facilities. However, it did not try to refute the budget analysis.

In August 2007 the court found in favor of ACIJ. It said that the government had failed to guarantee early education. It said that the court could not tell government how to comply with its obligations, but it could (and did) order government to prepare and submit a plan showing how it would do so.

The city government appealed against the court's ruling. While the High Court was making its decision, ACIJ had discussions with government. These discussions were encouraged by a Ministry official who believed it would be good to reach agreement outside the courts. Also at this time a new Minister of Education took office and the new Minister was more willing to discuss a solution. The High Court encouraged the dialogue.

After seven months of negotiations, ACIJ and government presented a draft agreement to the High Court. The city government agreed to take action to meet all space needs at existing early educational facilities, and to prioritize districts with the highest demand. Government also agreed to a work plan to create new spaces. Deadlines were set. Government also agreed to ensure that an adequate budget was allocated to fulfill the promises. In response to ACIJ's request, the High Court organized a public hearing to discuss the agreement. The hearing gathered all relevant actors in the education community, and support for the draft agreement was almost unanimous.

## **2. Tanzania: Quality of Education Reforms: The HakiElimu Campaign of 2005-2007**

Between 1996 and 2004 the Government of Tanzania implemented various programs to increase primary and secondary school enrollment. As a result, primary education enrollment increased from 90.5 percent of the relevant age group in 2004 to 97.3 percent in 2007. The number of primary school leavers who went on to secondary school increased from 147,490 to 448,448 over the same period.

However, enrollment was not the only problem in the education sector. In 2004, HakiElimu, a non-governmental organization that focuses on education, partnered with the Tanzania Teachers' Union to survey teachers on their living and working conditions.

Half of the 1,383 teachers surveyed said that they would stop teaching if they found another job. More than three-quarters said the salary was too low. More than half said that they paid more than 15 percent of their salary for accommodation. About 41 percent of teachers in urban areas and nearly 80 percent in rural areas said that they received their salaries late.

HakiElimu used media to educate the public and foster debate on the problems in Tanzania's school system. It used radio spots and also produced and distributed 44 popular publications.

In September 2005 the government issued an interdict against HakiElimu, and told all regional and local government authorities that the organization was banned from activities in schools. Ironically, this government action helped to raise further public awareness about the organization and campaign.

In December 2005 a new president came to power in Tanzania. After a meeting with teachers, the new president formed a task force to investigate teachers' problems. HakiElimu tried to contribute to the investigation. For example, HakiElimu contacted the finance minister with a proposal on how to solve the delays in teachers' salaries.

However, at about the same time, the Prime Minister's Office issued a letter banning HakiElimu's publications and advertisements on the grounds that they were contrary to public interest. This banning led to a debate in Parliament and further media coverage. In 2006 HakiElimu published a booklet that contained 32 articles, 10 editorials in national newspapers, 22 letters to the editor, 16 statements from civil society organizations, and 23 news stories about the interdict.

In February 2007 representatives of HakiElimu went to the capital city, Dodoma, to meet with several ministers, including the Prime Minister and Education Minister. After the discussions, the Education Minister agreed to lift the ban on HakiElimu.

Subsequently, the government introduced some reforms that addressed problems highlighted by HakiElimu's campaign. In January 2007 the government increased the minimum wage for teachers. Since 2007 teachers' salaries have been paid on time. And between 2005 and 2008 the number of teachers employed in primary schools increased from 135,013 to 154,895, the number of government primary schools increased from 14,257 to 15,673, and the number of secondary schools from 1,202 to 3,039.

### 3. India: Budget Tracking to Give Dalits a Fair Share of Development

In India Dalits were historically seen to have low social status, because they fall outside the four recognized castes. Because of this, Dalits were treated as “untouchables,” forced to do low status work, and were not permitted to own land or attend school.

The Indian Constitution of 1950 prohibited discrimination against Dalits. However, Dalits continued to be disadvantaged in a number of respects, including in terms of poverty and illiteracy. To help address the situation, in 1980 the Government of India introduced the Scheduled Caste Sub-Plan (SCSP). The SCSP said that at least 16% of the government’s development spending must directly target Dalits, because Dalits make up 16% of the population.

In 1995 the government introduced a budget code 789 to categorize SCSP funds in budget documents. However, many national and state governments did not use this code.

In 1998 a group of Dalit activists, intellectuals and writers established the National Campaign for Dalit Human Rights (NCDHR). In 2006 the NCDHR started working with another civil society organization, the Centre for Budget and Governance Accountability, to develop a methodology to track and analyze code 789 expenditures.

NCDHR filed a court case against the government on the grounds that the government had not allocated the required 16% of the budget to programs for Dalits. However, NCDHR was forced to withdraw its case, because the government had not used budget code 789 consistently, with the result that there was insufficient information to back the court claim.

NCDHR then used the Right to Information Act to ask the Delhi state government why it was not using the 789 code. It also disseminated its research to Members of Parliament, the Auditor General, the Planning Commission, and other relevant institutions. It ran workshops around the country to train activists to do similar budget analysis in their own regions. It also organized a demonstration called "The Bounced [Check] Rally" to protest against the failure of the government to deliver the necessary funds for Dalit communities.

In 2008, before the Right to Information request had been finalized, the Delhi government instructed all its departments to use code 789. This was the first big budget victory.

In 2010 the Commonwealth Games were held in New Delhi. There were many allegations of high- level corruption in connection with the Games. The Housing and Land Rights Network, which had worked to expose the corruption, found a document that suggested that SCSP funds had been used to help pay for the event. The Network passed on this information to NCDHR.

NCDHR used its knowledge of budgets to confirm that the SCSP funds had been used to pay for the Games. After it publicized its findings, Parliament discussed the issue for two days. During the debate in Parliament, the Minister of Home Affairs admitted that government money was being unfairly diverted from one of the most deprived social groups.

Subsequently, the government made it compulsory for all departments to use code 789 in the 2011/12 budget, and the Planning Commission set up a taskforce in June 2010 to revise the guidelines for the SCSP. This was a further budget victory for Dalits.

#### **4. Pakistan: Earthquake Reconstruction: Case Study of the Omar Asghar Khan Development Foundation**

On 8 October 2005 a large earthquake shook the Hazara region of Pakistan. The earthquake destroyed many homes and livelihoods as well as lives in a very poor part of this poor country.

Donors promised large amounts of aid to help the country recover from the earthquake. The Government of Pakistan established the Earthquake Reconstruction and Rehabilitation Authority (ERRA) to manage reconstruction and the funds.

The largest part of the money – R1.5 billion – was allocated for building houses for families whose homes had been destroyed. President Musharraf said that about 400,000 families would each receive a subsidy of US\$3,300 to help them build “earthquake-proof” houses.

ERRA presented four detailed “earthquake-resistant” designs for the houses. People from the affected region expressed concerns about the designs. Their concerns were at first not acted upon, but after further pressure ERRA accepted some designs that used more appropriate materials.

Less than two years after the earthquake, ERRA claimed that housing grants had been given to 600,000 people, 99 percent of those eligible. However, the evidence gathered by the Omar Asghar Khan Development Foundation and its allies contradicted this claim.

The Foundation’s main ally was the People’s Coalition of Hazara, which brought together more than 300 people’s organizations, lawyers, workers and the media. The Foundation worked with these allies to conduct analysis, outreach, and advocacy. The Foundation also decided to become an executing agency for ERRA in one union council (the lowest level of local government). This work gave the Foundation a detailed understanding of ERRA’s approach.

The Foundation also asked experts to help it analyze data released by ERRA. The experts concluded that ERRA had achieved much less than claimed.

The Foundation trained 150 community members from the affected communities to help people in 57 villages identify their needs and priorities. It also conducted a small survey of recipients of the housing subsidy to compare the time and money costs of accessing the subsidy with the amount received. The survey showed that the amount paid was less than had originally been promised, and that, on average, subsidy recipients’ costs were US\$299 more than the value of the subsidy. In addition, by 2008 inflation had halved the real value of the subsidy. The Foundation used the media – and especially television – to disseminate the findings of its research.

In October 2008, on the second anniversary of the earthquake, about 200 activists staged a sit-in in front of the Parliament and the President’s Office in Islamabad to publicize the problems in the reconstruction effort. TV coverage of the sit-in pressured ERRA officials to visit the protesters, who demanded to see ERRA’s top official.

ERRA’s top official agreed to meet with three Foundation officials. After the meeting, ERRA agreed to 1) pay all outstanding housing subsidy payments immediately; and 2) speed up reconstruction of roads, health, education, and water supply facilities. Analysis of subsequent data from ERRA showed that reconstruction started happening more quickly after the protest and meeting.

## 5. India: Samarthan's Campaign to Make Real the Right to Work

India's economy has grown at an average annual rate of more than 7% over the last decade, but the country still has more poor people than any other. Rural households are the worst off. In 2005 the government of India passed the National Rural Employment Guarantee Act (NREGA), which said that every rural household was entitled to 100 days per year of unskilled employment on public works projects. The Act was a bold step to address the widespread poverty.

The NREGA says that each of India's local councils, the *gram panchayats*, must make a list of needed public works projects such as digging wells, contouring land, horticulture, toilet construction and road construction. Village officials must also work with officials at higher levels to prepare a labor budget for the year. Any rural resident adult who submits a simple application form to the local official must then be given work within 15 days. If no work is given, the person must instead be given an unemployment allowance.

One problem with the scheme is that many eligible people are not aware of it. Also, many poor families do not have the "job card" they need to participate. For those who do apply, there can be bureaucratic problems: The *panchayat* secretaries do not always give a written receipt for the job application. The *panchayat* officials also sometimes choose to use machinery rather than human labor. The village secretaries sometimes delay giving approval for labor and materials. Local officials sometimes work with bank and higher-level officials to allocate money to "ghost" workers, so that they get the money instead.

There are also delays in payment. Payments are made into bank accounts, and sometimes there are no branches of the bank nearby. Sometimes, when poor people travel to the bank to get their money, bank officials say that they are too busy to help them. All these problems encourage poor people to migrate in search of work rather than to participate in the program near their rural homes.

Samarthan is an NGO established in 1994 to support the development of civil society groups in the state of Madhya Pradesh. It focuses on the poor and disadvantaged sections of the society. The government of India chose Madhya Pradesh to launch NREGA in 2006. Samarthan has thus been involved in monitoring the program since its earliest days.

Samarthan began by organizing social audits of the NREGA program in several districts. The social audits involved village gatherings where government records from the program were read out for everyone to hear. The records included the names of those who were recorded as working on the program. Samarthan also developed a system for tracking the paperwork and payments made. For example, it looked at the certificates issued by officials who verified the completion of public works projects. It looked at village-level records of the number of persons given work, wages paid, delays in payment, and unemployment allowances. Together with the social audits, this analysis revealed the pattern of abuses.

To address the lack of awareness of the program, Samarthan organized village youth to distribute the application forms for NREGA. The application forms were also made available in the village grocery shops. Samarthan told people that they must ensure that they got a dated receipt for their application so that they could get the unemployment allowance if they were not given work. Unfortunately, some of the

secretaries threatened the workers who asked for a dated receipt, saying that those who insisted on a receipt would only get work after 15 days, whilst those who did not would be called to work within two to three days. However, other officials appreciated Samarthan's work. One district-level official had a copy of Samarthan's pamphlet sent to all residents in the district living below the poverty line.

Samarthan discovered in its work that village-level leaders did not have the capacity to plan the necessary works projects or to budget for the work because they had not been properly trained by the government. Samarthan therefore assisted in building the skills of these officials. This assistance increased the effectiveness of the program and also helped to reduce the officials' opposition to Samarthan's activities.

In addition to the other activities, Samarthan provided the local press with evidence-based news stories. It organized a workshop of civil society organizations and the press to raise journalists' awareness of development issues, including NREGA. This press coverage angered some government officials. When this anger was worst, Samarthan staff feared to work in some villages where the worst problems had been reported.

## **6. South Africa: Civil Society Uses Budget Analysis and Advocacy to Improve the Lives of Poor Children**

In 1996, two years after the end of apartheid, the Government of South Africa established a committee to recommend a new approach to social security grants for children. This new approach was needed because the apartheid-era grant did not reach children from the majority black population despite the fact that black people were the most likely to be poor. Government told the committee that the new approach must not cost more than the old approach, although it would need to reach far more children.

The committee proposed that the old grant be replaced by a new Child Support Grant (CSG) that would cover more children but with a lower monthly grant payment. The CSG was introduced in 1998 for children up to their seventh birthday. The monthly amount was R100.

Over the following years civil society organizations advocated to improve the grant. Their advocacy included budget analysis, other research, informing and mobilizing the public, engaging with policymakers and government officials, and court cases.

Civil society groups did research, because they believed that advocacy based on evidence would be stronger than demands without evidence. Some of the organizations had developed evidence through the assistance they provided to CSG applicants in poor communities. Other organizations did research through surveys, interviews, examining documents, and budget analysis. Organizations with different skills worked together to make the advocacy stronger.

The budget-related research included calculations that showed that the value of the grant decreased in real terms (after adjusting for inflation) in the first years. Government responded quickly by increasing the size of the grant, and there have been regular increases at least once a year ever since. Other budget-related research estimated the budget that would be needed for the age of the qualifying group to be increased and the means test changed to make more children eligible.

Some of the research done by civil society organizations was commissioned by government. Some of this showed that even though there were no similar requirement to qualify for the CSG, the grant resulted in increased school enrolment and improved health and nutrition and other benefits that other countries (for example, in Latin America) reported as a result of conditional grants provided there.

In some cases when changes did not happen after the research and advocacy, civil society brought cases before the courts. For example, a court case was needed before the rules were changed to allow people without identity documents to use other documents when applying for the grant. This change was important, because government was not delivering identity documents efficiently.

Civil society's advocacy helped achieve important improvements in the grant. For example, as of 2012 the amount of the grant was R280 per month, and children could receive the grant up to their 18<sup>th</sup> birthday. The means test was also increased. As a result of all these efforts, in 2012 nearly 11 million children received the grant, compared to fewer than 2 million in 2001.