

Progressive realization



Article 2 & Governments' Budgets

*Benefits of increased expenditures
not reaching the most vulnerable*

The case in brief

Guatemala is a poor country with one of the highest rates of hunger and malnutrition in Latin America. Over the course of decades successive governments have introduced a series of food supplement programs to address the problem. While some of the programs have succeeded in improving the situation of food-insecure populations, most have failed to make a significant dent in the hunger, and instead have been plagued with problems of political manipulation and corruption along with a failure to institutionalize and regularize them. The Vaso de Leche Escolar (School Glass of Milk, VLE) program was one such initiative.

VLE began in 2005 and continued until 2008. The Centro Internacional para Investigaciones en Derechos Humanos (CIIDH), which had earlier done extensive research and advocacy on malnutrition and hunger in Guatemala, undertook an in-depth analysis of VLE in 2007. It found that while each year the government was devoting increased funding to the program—a fact that definitely looked good on paper—VLE was failing to reach many children in the most food-insecure regions of the country.

This unfortunate result was the product of a series of government decisions not all of which were driven by human rights considerations. CIIDH learned, for example, that the government had contracted with private milk-producing companies to transport the milk, but the latter had little capacity to reach remote areas. The deliveries were also erratic, did not reach all schools every day, and the milk was too often sour. Moreover, the cost of the VLE rations was higher, on a *per capita* basis, than were other government-run food supplement programs. Ironically, milk was not even part of the staple diet of the indigenous peoples in Guatemala, many of whom are lactose-intolerant.

When a new government came into power in 2008, it decided to suspend the VLE program while it considered alternatives that would be more effective in reaching the most food-insecure groups in the country. (Subsequent programs have, unfortunately, been similarly ill-fated.)



The human rights issue

Guatemala is party to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the Protocol of San Salvador), article 12 of which guarantees the right to food. In addition, it has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which in its article 11 guarantees the right to adequate food and to be free from hunger.

General Comment 12 of the UN Committee on Economic, Social and Cultural Rights elaborates on the right to food guarantees in ICESCR article 11. In addition to stressing the importance of targeting the most vulnerable in the population, it points out that the right to food means that food must be physically accessible, of good quality and culturally appropriate. It also calls upon States Parties to regulate third parties, including companies, whose actions may interfere with people's right to food.

The human rights argument

Funding for the VLE was increased from 2005 to 2007, which would have seemed to indicate that the Government of Guatemala was progressively realizing children's right to food through the program. However, the program failed in important ways to meet its central purpose, which was to provide essential nutritional supplements to the most food-vulnerable children in the country, many living in remote rural areas.

Specifically, analysis of data on the VLE uncovered the fact that the milk was delivered irregularly, with days going by when students received no milk. On other occasions, the milk that arrived was sour, thus failing to meet the standard of adequate quality. Moreover, milk was culturally inappropriate for many children, in that a large part of the indigenous population of Guatemala, who make up the vast majority of the most food-insecure, suffer from lactose intolerance.

Most importantly, the analysis revealed that the most vulnerable, for whom the program was specifically designed, were receiving less milk than those in least need. In other words, despite the fact that during the years 2005 to 2007 the government annually increased funding for VLE, it failed through the program to meet its obligation to progressively realize the right to food of the most food-insecure children in Guatemala.

Case study in detail

Hunger in Guatemala

Guatemala is one of the poorest countries in Latin America. As of 2006 more than half the population was considered poor. The indigenous population was twice as likely to be poor as the non-indigenous, and more than three times as likely to be extremely poor. Poverty is especially concentrated in the rural areas.

Guatemala has one of the highest rates of child malnutrition in the world. The country's National Policy on Food Security and Nutrition (PSAN) provides a good framework for tackling this problem, having as one of its goals to ensure the availability of a continuous, adequate supply of food of a decent quality for the population. Another goal is developing and strengthening mechanisms to prevent nutritional problems, with priority given to groups that are at higher risk due to age, area of residence, socioeconomic status, and cultural identity, among other factors.

In 2002 half of the children living in rural areas of Guatemala suffered from chronic malnutrition and stunted growth, whose debilitating effects normally last a lifetime. Between 1986 and 2001 this stunting could be seen in the changing heights of children. In areas of

high vulnerability, children on average lost height, while in areas of low vulnerability, they gained it.

Since the 1980s the various governments in the country have implemented school feeding programs, which have had as a goal tackling this problem of child malnutrition. These programs, which have consisted of food supplements, such as fortified beverages or cookies, school breakfasts and lunches, have been administered by the Ministry of Education (MINEDUC) or the Ministry of Agriculture, Livestock and Food (MAGA).

While these school feeding programs have reached a large number of schools and students, they have regularly been plagued with problems of inadequate financing, political manipulation, poor implementation and lack of institutionalization, sloppy record-keeping, and inadequate outreach. One result is that they have not had the significant impact on child hunger and malnutrition that is among PSAN's aims.

Vaso de Leche Escolar (VLE)

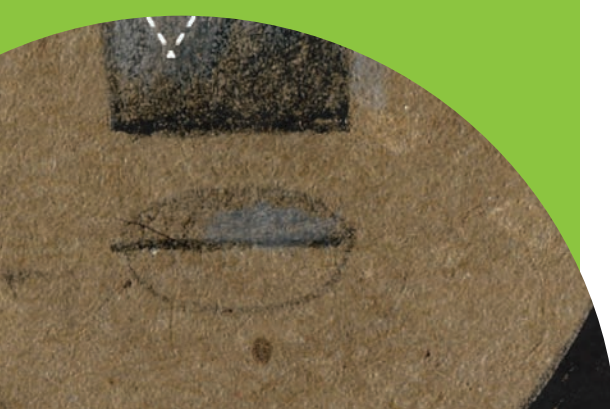
The VLE program, established in 2005 as a pilot project and administered by MAGA, was the brainchild of Guatemalan commercial milk producers and the Chamber of Commerce. It was intended not simply to provide a nutritional supplement for children, but also to help revive the domestic dairy industry with a view to enabling it to compete internationally.

In 2005 the pilot program reached 1,108 schools in 35 municipalities in five departments and two areas of the capital city. It became a regular program in 2006 and by 2007 had been extended to 100 municipalities, serving 3,525 schools. In 2005 the government spent approximately Q33 million (33 million quetzales or US\$2.3 million) on the VLE program; in 2006, Q61 million (US\$ 7.7 million); and in 2007, Q107 million (US\$ 13.47 million).

Problems with the VLE

In 2007 CIIDH decided to look more closely at the VLE. Using information from MAGA, it developed the following table on the distribution of VLE rations in 2007. Organized by Department (equivalent to a province), the chart provides data on the number of schools and students in each Department to whom VLE rations were to be provided as well as the number of VLE rations that were actually administered through the program. The most telling figures here, however, are the percentages. These show, for example, that while Huehuetenango—an area with very high food-insecurity—had 4.18 percent of the children who were supposed to receive the VLE, only 0.81 percent of the rations of milk reached the schools in that region.

Even when an increase over time in a government's budget for an ESC rights-related program is necessary for the program to progressively realize more people's rights in a fuller fashion, the increase in itself does not meet the government's obligation of progressive realization of ESC rights. In order to assess whether progressive realization is being achieved, it is necessary at the same time to look at additional indicators, ones not directly related to the budget. In the case of the VLE, for example, a telling indicator would have been rates of hunger in schools attended by children at high risk of hunger and malnutrition.




Department	Schools		School population		Rations administered	
	Number	Percentage	Number	Percentage	Quantity	Percentage
Departments with very high vulnerability						
Huehuetenango	149	4.22	18,775	4.18	241,000	0.81
Chimaltenango	0	0	0	0	0	0
El Quiché	118	3.34	13,691	3.05	63,910	0.22
Sololá	180	5.10	24,654	5.49	1,136,871	3.84
Totonicapán	41	1.16	7,666	1.71	412,593	1.39
San Marcos	65	1.84	9,401	2.09	774,113	2.62
Subtotal	553	15.67	74,187	16.52	2,628,487	8.88
Departments with high vulnerability						
Alta Verapaz	315	8.93	37,760	8.41	3,063,809	10.36
Baja Verapaz	350	9.92	39,530	8.81	2,710,024	9.16
Chiquimula	372	10.54	23,176	5.16	1,574,053	5.32
Jalapa	219	6.21	20,856	4.65	1,820,369	6.15
Quetzaltenango	48	1.36	7,665	1.71	431,419	1.46
Suchitepéquez	210	5.95	31,026	6.91	2,177,313	7.36
Subtotal	1,514	42.91	160,013	35.65	11,776,987	39.81
Departments with moderate vulnerability						
Petén	164	4.65	24,014	5.35	1,805,249	6.10
Izabal	0	0	0	0	0	0

In other words, despite the increasing budget and outreach from one year to the next, in 2007 the areas of the country with very high vulnerability to hunger and malnutrition, with 16.5 percent of the school population, received only 8.9 percent of the VLE rations. Departments with somewhat less (i.e., high) food vulnerability fared better, receiving shares of milk rations more or less in line with their shares of the school population (with the exception of Quetzaltenango). At the same time, Departments with low and moderate

vulnerability generally benefitted from receiving shares of the total milk rations at or above their shares of school population (with the exception of the Department of Guatemala).

This means that the VLE was distributed least effectively where it was most needed. CIIDH's findings for 2007 did not vary significantly from its findings for the two previous years.

The obligation of progressive realization must be assessed along with the obligation of non-discrimination. Overall figures for a country or area of a country can be misleading. While statistics may show an overall improvement in nutrition, the situation may be quite different for specific groups, particularly the poor, ethnic minorities, women, children or other vulnerable groups. While looking at broader trends, it is thus essential to also look at disaggregated data to find out who is benefitting most, and who least, from ESC rights-related programs.



CIIDH learned that the reason milk delivery failed to reach many of the most food-vulnerable children was that, under an agreement with the government, the milk producers were responsible for transporting and delivering the product to the schools. The producers did not have the transport capabilities necessary to deliver milk to the more remote parts of the country, where many of the most food-vulnerable children live. Implicitly, the program was giving a higher priority to buying milk from the producers than to distributing that milk for the purpose of reducing hunger and malnutrition.

CIIDH identified some additional problems with the VLE. These included the fact that milk delivery was irregular; some days schools received no milk at all. At other times, the milk was sour when it arrived at the schools. Thus, the program was failing to provide food with the required quality.

One of CIIDH's most important findings was that the majority of indigenous people in Guatemala, who comprise most of the population in areas of very high food insecurity, are lactose-intolerant. Milk as a nutrition supplement was thus not appropriate for them. *Atole*, which is a water-based beverage prepared from finely ground corn, can be stored for a long time before consumption. As one of the staple food products of indigenous people, *atole* would have been more culturally appropriate. Moreover, the VLE was more expensive per student than other food supplement programs

underway at the same time, while *atole* would have been cheaper. That, however, would not have benefitted the dairy industry.

In other words, the Government of Guatemala was implementing a faulty program, which did not ensure access to nutrition for communities suffering most from hunger and malnutrition, was not culturally adequate, and, in practice, was applied with a discriminatory effect.

The obligation of progressive realization of ESC rights is integrally related to the obligation to use the maximum of available resources (MAR) to realize those rights. Even if a program is effective, for example, in relieving hunger among a growing population over the course of a few years, if it is doing so in a way that wastes money, then it is failing to meet its MAR obligation. Similarly, if indicators show that a program is reaching a growing number of people, but failing at the same time to reach those vulnerable groups for whom the program would be particularly important, then the government is not only discriminating against the latter groups, but also failing to meet its MAR obligation, because the program is not effective in realizing the rights of the most vulnerable.



Dilemmas in advocacy

Findings such as the ones just described can leave civil society organizations between a rock and a hard place. While the program was not reaching many of the most food-insecure children, it was reaching others, and its elimination would have meant that those children, too, would not receive the milk supplement. At the same time, arguing for its continuation would have meant ignoring its many pitfalls and allowing continued *de facto* discrimination against the most food-insecure, almost all of whom were members of indigenous communities.

Analysis of faulty programs often gives rise to these types of dilemmas. Given the fluidity in Guatemalan public policies, however, CIIDH did not have to make a decision as to what to recommend. Shortly after it released its findings, a new government came into power in Guatemala. It discontinued the VLE program and developed other options, including a conditional cash transfer program. These, however, had faults of their own. The challenge of ensuring that the Government of Guatemala takes its obligation of progressive realization seriously continues.

Questions you might ask yourself or your government about targeting increased expenditures to the most vulnerable.

Does the government explicitly target the most vulnerable groups in its ESC rights-related policies and programs? If not, why not?

Do programs related to ESC rights include indicators and evaluation mechanisms that allow for the assessment of the progressive realization of the relevant rights?

Does the government include representation of the most vulnerable groups in the development of ESC rights-related policies and programs? If not, why not?

Does the government undertake a benefit incidence analysis prior to adopting ESC rights-related policies and programs to ensure that the policies and programs are appropriately designed to reach the intended beneficiaries? If not, why not?

Does the government acknowledge and try to address inclusion and exclusion errors in programmatic design, that is, the inclusion of people who do not need the program and the exclusion of those who do?

What structures and processes does the government have in place to monitor and assess the implementation of ESC rights-related programs to ensure that they are reaching the populations they are intended to benefit? Do these structures and processes have the resources necessary to run efficiently and effectively? Are they doing so? If not, why not?

Do these structures and processes assess the cultural appropriateness of programs? How? If not, why not?

Are the intended beneficiaries of these programs included in the monitoring and assessment of ESC rights-related programs that are supposed to benefit them? If not, why not?

Centro Internacional para Investigaciones en Derechos Humanos (CIIDH)

The International Center for Human Rights Research (CIIDH) in Guatemala was formed in 1993 to support and seek justice for victims of the Guatemalan civil war. CIIDH focused on investigating past human rights abuses and winning reparations for victims, as well as protecting political rights in the postwar era. The Guatemala City-based organization began budget work and policy advocacy in 1997, following negotiation of the Peace Accords. In addition to promoting political reconciliation under the Accords, CIIDH monitored military spending in Guatemala and has since expanded the scope of its work to include research and advocacy on fiscal policy, analysis of social spending, and the promotion of budget transparency and accountability.

CIIDH seeks to “contribute to the construction of a democratic, inclusive, just and equitable nation, with respect for human rights” with its Social Observatories (*Observatorios*), which monitor a wide range of issues in Guatemala and advocate for progressive solutions.

For more information on CIIDH, go to:
www.ciidh.org

The Article 2 Project

This booklet is part of the *Article 2 & Governments' Budgets* handbook. The handbook has been developed by the Article 2 Project, a working group housed first at the Partnership Initiative of the International Budget Partnership (IBP), and then at the Global Movement for Budget Transparency, Accountability and Participation. The project aims to enhance understanding of the implications of article 2 of the ICESCR for how governments should develop their budgets, raise revenue and undertake expenditures. The project encourages the use by civil society and governments of the legal provisions of article 2 to monitor and analyze governments' budgets. Download the complete handbook at:

www.internationalbudget.org/publications/ESCRArticle2.

The case study in this booklet is derived from Centro Internacional para Investigaciones en Derechos Humanos, “El cumplimiento del Derecho a la Alimentación en Guatemala: Estudio de monitoreo del Derecho a la Alimentación mediante la utilización de la herramienta presupuestaria,” (October 2008), available at: <http://www.oda-alc.org/documentos/1366928821.pdf>

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