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STRENGTHENING DELIBERATIVE BODIES

REFERENCE PAPER



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Cover Photo: A community member from Garut, West Java, Indonesia signs an agreement to collaborate with the community and National Parliament Member Hon. Yahya Sacawiria at the inauguration of a Riung Warga, while Hon. Yahya looks on. A Riung Warga is a community forum in which community members convey their concerns to policy makers. Hon. Yahya participated in the USAID/ProRep managed JABAT program, designed to facilitate closer relations between communities and their MPs.

Cover photo by: Josh Estey/USAID Program Representasi

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INTRODUCTION AND OVERVIEW

This paper was drafted in response to USAID Task Order AID-OAA-TO-00026 under the Deliberative Bodies IQC. It presents eight case studies addressing the following topics under the Task Order: (1) Cross-Sectoral Strengthening Programs (multi-sector projects which include a parliamentary focus); (2) Cross-Sectoral Programs: Economic Growth (economic growth programs which worked with parliaments); (3) Accountability and Transparency (programs with a focus on parliament, and accountability); and (4) Implementation and Evaluation (implementation of programs with a major, or exclusive parliamentary focus). Case studies cover programs in Indonesia, Vietnam, Mongolia, Kosovo, and Rwanda.

This introduction and overview briefly addresses questions raised in the Task Order, providing a quick review of some of the developments in legislative programming since the late 1980s, identifying some of the distinctive features of USAID legislative programs, and selectively commenting on possible impacts of USAID Forward and the 2013 USAID DRG Strategy on legislative programming (for a thorough review of legislative program over the past 15 years, please see Democracy Reporting International, *Global Mapping and Analysis of Parliamentary Strengthening Programs*, 2015). The major portion of the paper comprises the case studies, and is followed by a brief conclusion covering some key observations and recommendations.

Early Programming Years

The field of legislative strengthening and approaches to legislative programs have evolved considerably over the past three decades. USAID's Handbook on Legislative Strengthening captured and recorded the state of the art 15 years ago, and many of the handbook's objectives, strategies, and recommendations remain relevant (Center for Democracy and Governance 2000). But developments in the field since then, especially USAID's new approaches to democracy, rights, and governance (DRG) programming, make USAID's decision to publish an up-to-date handbook timely.

USAID legislative programming began in earnest in the late 1980s and early 1990s. The focus in those early years was building the technical capacities of legislatures – introducing computers and computer information systems, and training staff in skills like legislative research and bill drafting. First generation USAID programs worked through universities like the State University of New York and Florida International University, as well as through the non-governmental organization (NGO) Center for Democracy. In the years between the opening of the Berlin Wall and the collapse of the Soviet Union (1989 – 1991) USAID programs were under way or developing in Central America (e.g., Costa Rica, Guatemala) and South America (e.g., Chile). Simultaneously, the Frost Task Force, working with the US Congressional Research Service (CRS), began a technical assistance program for several Central and Eastern European parliaments.¹ As in Latin America, programs provided technical assistance designed to help the parliaments function as modern legislatures. USAID parliamentary assistance, similar to other public sector assistance, attempted to steer clear of “politics.” The hope and assumption was that improved information management systems, better equipment, and enhanced skills in budgeting, bill drafting, research, etc., would lead to legislatures and legislators making better policies more responsive to peoples' needs.

¹ The Frost-Solomon Task Force partnered with the parliaments of Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Albania, Bulgaria and Romania. The program lasted from 1990 through 1996.

Building Links to Civil Society

Some of those early programs were quite effective (e.g., Frost Task Force support to Poland), others less so, and from the mid-1990s onward USAID put a growing emphasis on linking legislatures with society – especially civil society. Building a legislature’s technical competence would not necessarily make it more open and responsive to societal needs, and USAID increasingly emphasized legislative openness, responsiveness, and accountability. Programs helped civil society organizations to better understand and interact with legislatures and their Members. The geographic scope of USAID programming also expanded to Africa and elsewhere. Beginning around 2000, USAID initiated a growing number of programs in conflict, post-conflict, and challenging states, including in the Middle East, the Balkans, Afghanistan, Pakistan, and Iraq, and in countries of the former Soviet Union.

USAID Leads in Beginning Legislative Strengthening

USAID was the first development agency to make major investments in legislative strengthening. Several other bi-lateral, and some multi-lateral donors followed, but not all remain active. The UK Department for International Development (DfID) has on its own, and in partnership with USAID, provided institutional strengthening support to parliaments (e.g., Kenya, Tanzania). Canada’s CIDA supported parliaments in Ethiopia and Cambodia, AusAID has assisted parliaments in its Asia/South Pacific region (e.g., Indonesia and Papua New Guinea), and Scandinavian countries have aided parliaments in Africa. The UNDP (currently the world’s largest implementer of parliamentary strengthening programs) has funded several long-term parliamentary institutional strengthening programs (e.g., Timor Leste, Indonesia, and Vietnam), and both UNDP and the World Bank Institute (WBI) have published and made available training materials, such as orientation handbooks for Members. The WBI has provided technical support to international parliamentary associations, such as the Commonwealth Parliamentary Association and SADC Parliamentary Forum. And the International Republican Institute (IRI) and the National Democratic Institute (NDI) conducted several parliamentary programs, large and small, worldwide – many with USAID funds.

A number of factors have distinguished USAID legislative strengthening programs. USAID generally subcontracts its legislative projects to both for-profit and not-for-profit implementing partners, and these are overseen closely by expert mission staff to ensure effective implementation. USAID also incorporates legislative strengthening programming as components of larger, multi-sector projects (ProRep and GIG, in this report, e.g.). Finally, USAID’s approach to legislative strengthening, as in other DRG fields, continues to evolve. The recent USAID Forward initiative and the 2013 DRG Strategy showcase its interest in responding to our changing world with new and more effective strategies.

Some donors focus on one or a few world regions. USAID’s focus has been worldwide.

Impact of USAID Development Policies: USAID FORWARD and 2013 USAID DRG Strategy

USAID Forward is USAID’s reform agenda for achieving President Obama’s vision of an empowered and robust U.S. Agency for International Development that could lead the world in solving the greatest development challenges and, ultimately, meet the goal of ending extreme poverty in the next generation. (See USAID Forward reform areas below.)² To achieve these goals, USAID missions develop and then

² USAID Forward main areas of reform are (1) Deliver results on a meaningful scale through a strengthened USAID (through a focused, results-oriented approach, which includes enacting a world-class evaluation policy); (2) Promoting sustainable development through high-impact partnerships and local solutions. This includes supporting the institutions, private sector partners, and civil society organizations that serve as engines of growth and progress for their own nations. USAID Forward

implement coherent, integrated, collaboratively (with the host country) developed five-year Country Development Cooperation Strategies (CDCS).³ USAID’s 2013 DRG Strategy⁴ is integral to achieving the development objectives (DOs) of the CDCSs.

USAID Forward and the USAID DRG Strategy impact the design and implementation of USAID legislative programs and activities in several ways. Their focus on results requires that program designers be clear on objectives and targets. Programs are to be partnerships with host institutions, and results should be sustainable. Strengthening legislative institutions is not a sufficient end in itself, but program documents should make clear how a stronger legislature contributes toward achieving other higher level objectives. What benefits to public health, environment, etc., will result from a more effective legislative research or budget office, for example? Programs should emphasize participation and inclusion by supporting bottom-up strategies giving civil society and marginalized groups a voice in policymaking and oversight, in addition to improving technical capacity in the legislature. They would support activities integrating the work of citizens and experts in priority mission areas (such as health, education, economic development, etc.) with legislative committees and members; and they would support citizen-legislative interactions that will help secure the human rights of marginalized groups.

This paper comprises eight short case studies of USAID-Chemonics legislative strengthening projects, or projects which involved some aspects of legislative strengthening. They range from “pure” or “traditional” legislative programs focused exclusively on the legislature, such as Vietnam LRP, to projects which had a substantial program focus on the legislature (e.g., Indonesia ProRep, Rwanda JSP) to those in which the legislature was key to enacting USAID-supported policy changes and where the project invested a good deal of time and focus (e.g., Mongolia EPRC). Each case study concludes with observations and recommendations which should be useful for USAID personnel and development practitioners who will be designing interventions, responding to proposals, and implementing programs that seek to strengthen or engage legislatures.

Case Studies at a Glance
•Indonesia Program Representasi (ProRep) (2)
•Vietnam Governance for Inclusive Growth (GIG) (2)
•Mongolia Economic Policy Reform and Competitiveness Project (EPRC)
•Kosovo Business Enabling Environment Program (BEEP)
•Rwanda Justice Strengthening Project (JSP)
•Vietnam Legislative Research Program (LRP)

embraces new models for public-private partnerships and increased investment directly to partner governments and local organizations; and (3) Identify and scale up innovative, breakthrough solutions to intractable development challenges, including strengthening work with scientists, researchers and universities, investing in new technologies to source and scale game-changing solutions, and supporting mobile solutions to dramatically expand opportunity. <https://www.usaid.gov/usaiddforward>

³ Strategies are based on a sound development hypothesis, explain how the proposed investments from USAID and others will collectively lead to achieving the development objectives, emphasize sustainability and local capacity development, and focus resources to ensure meaningful results and long-term impact. <https://www.usaid.gov/sites/default/files/documents/1870/201.pdf>

⁴ The goal of USAID’s Strategy on Democracy, Human Rights and Governance is to “Support the establishment and consolidation of inclusive and accountable democracies to advance freedom, dignity and development.” Key points: (1) *The strategy replaces a 20-year-old set of categories that says what we are accomplishing, not what we are doing.* [Earlier strategic approaches emphasized core institutional components of democracy (including legislatures). The new strategy focuses on higher-level objectives]. (2) *The framework refocuses traditional DRG activities into objectives on participation, inclusion, and accountability.* [Earlier programs focused on governance, civil society, etc. The new strategy seeks to empower reformers and citizens from the bottom up, while shifting the incentives of the ruling elite by enhancing accountability systems]. (3) *The strategy establishes Agency objectives for integration and human rights.* [Democratic governance is important to achieve USAID’s broader development goals - prioritizes the integration of DRG into sectors such as health, economic growth, etc.]. (4) *The strategy captures a country-based approach with guidance on transitioning away from DRG assistance.* [Strategic approaches will vary depending on the kind of state (authoritarian, hybrid, etc.), what it is experiencing (conflict, transition, etc.). USAID will need to define the point at which DRG assistance is no longer needed]. https://www.usaid.gov/sites/default/files/documents/1866/USAID%20DRG_%20final%20final%206-24%203%20%281%29.pdf

TOPIC 1: CROSS-SECTOR STRENGTHENING PROGRAMS

1a. USAID/INDONESIA PROGRAM REPRESENTASI (ProRep) 2011 - 2016

Background/Purpose of ProRep Project

Indonesia is the world's fourth largest country, the largest economy in Southeast Asia, and home to the world's largest Muslim population. Having emerged from a long period of authoritarian rule in the late 1990s, Indonesia has a burgeoning economy and is a stable, independent democracy. Yet USAID's 2009 RFP for Program Representasi (ProRep) noted that "weak rule of law, relatively low levels of transparency and accountability, inadequate representation, often dysfunctional intergovernmental relations, and a political system heavily influenced by money politics" threaten to upset the country's progress. ProRep was thus tasked with contributing "to the consolidation of democratic governance by improving representation, [and] legislative and policymaking processes," a central tenet under USAID Indonesia's 2009-2014 Country Strategy.

Supporting representation by working with CSOs, think tanks, and representative bodies, the program was designed to support groups working to aggregate and articulate citizen demands, and to assist institutions responsible for legislation and policymaking. It aimed to strengthen both demand and supply, working upward from the citizen level, and downward through and with Parliament. It was intended to align with other USAID/Indonesia Assistance Objectives and to support CSOs representing constituencies with concerns about health, education, and environment, advancing legislative and policy agendas in U.S. government (USG) priority areas.

ProRep Overarching Objectives

- (1) To improve representation by increasing the inclusiveness and effectiveness of groups, networks, and institutions that seek to represent people's views, interests, and aspirations to government.
- (2) To improve the responsiveness, effectiveness, and transparency of legislative processes.

Implementation and Laying the Foundation for Cross-Sectoral Programming

ProRep immediately ran into obstacles at implementation as the Speaker of the House of Representatives (DPR) prohibited the DPR Secretary General from working with foreign organizations.⁵ His prohibition continued throughout the life of ProRep. Despite this, ProRep succeeded in working with the Secretary General and her staff, and in implementing a robust program in the DPR. The focus of this case study, however, is how ProRep developed its explicit, cross-sectoral program, and relevant lessons.

During its first phase (2011-2014), ProRep implemented along its first three components:

1. Strengthened the representational capacity of membership and constituency-based CSOs
2. Built the capacity of selected universities, think tanks, and CSOs to conduct and disseminate policy-relevant research and analysis on key policy and governance issues
3. Supported more effective, responsive, and transparent legislative processes in the DPR

⁵ Speaker Marzuki Ali, who took office after USAID had released the ProRep RFP, ejected the UNDP's parliamentary development project from the DPR. Despite requests from the project, and from USG officials, he never met to discuss the ProRep program. He ordered the Secretary General and DPR institutional staff (essentially the permanent, non-political staff) not to work with ProRep. Greg Power describes some of the reasons Speakers often oppose parliamentary strengthening projects in his chapter on Mapping Institutional Power in *The Politics of Parliamentary Strengthening*.

Targeting CSOs, think tanks, and Parliament under one project, ProRep’s structure proved to be an excellent foundation for developing a distinctive cross-sectoral “policy cluster” approach. ProRep’s initial institution-building activity worked with each target sector individually. But as ProRep began its second year, the project began bringing two, then three components together for project programs and events, laying the foundation for future collaboration as follows:

- Organized by ProRep, staff from partner CSOs, think tanks, and Parliament attended a presentation by former CRS staff, followed by a discussion on how the three could collaborate on legislation. Some of the discussion – especially by CSO leaders critical of Parliament – was heated. But most was constructive as they exchanged ideas on strategies for influencing legislation.
- ProRep supported Parliament’s Public Accounts Committee to conduct a public meeting on the use of teacher certification funds. Budget oversight CSO partners had a “place at the table” making a presentation and interacting with the committee, the Inspector General in the Education Ministry, and officials of Indonesia’s Supreme Audit Agency.
- ProRep convened partner CSOs, think tanks, MPs, and staff on several occasions to collaborate on improving the process for developing the joint parliament-executive legislative agenda. Several CSO recommendations, many supporting USAID health, education, and environment policy positions, became recommendations of the DPR legislation committee.

The friend of my friend is my friend: Trust developed through relationships *within* each project component enabled ProRep to facilitate trust-building *between* each component, building a foundation for cross-sectoral work. These sectors had not collaborated well in the years immediately prior to the project, and attitudes toward the Parliament had ranged from indifferent to hostile. ProRep became a platform for relationship building, providing venues, events, and projects to encourage collaboration on policy change.

The Transition to Policy Clusters or Policy Communities

Rachel Kleinfeld quotes management thinker Henry Mintzberg as saying, “You don’t plan a strategy, you learn a strategy.” She calls the process for planning and implementing projects in the political arena an “iterative” process (Kleinfeld, R. (2015), p. 33). This was ProRep’s experience in developing policy clusters.

The development of policy clusters. A new USAID Indonesia Country Development Cooperation Strategy (CDCS) required the project to adjust its strategy toward the end of its third year (i.e., early 2014). Indonesia’s 2014 – 2018 CDCS ended support to Indonesia parliaments, while support to civil society and think tanks continued. Building on its initial three-year foundation, ProRep is spending its last two years building multi-sector policy communities or “policy clusters” (see text box below). Policy clusters consist of CSOs, policy experts, and decision-makers who convene to discuss and work toward change in specific areas of policy or implementation. The policy areas were articulated in USAID’s new CDCS, and specific policies were selected in collaboration with the DRG, health, education, and environment offices.

In its iterative process, Pro-Rep and the DRG Office first collaborated in designing the policy cluster concept. ProRep then worked with Indonesian counterparts in several policy areas, gathering information to use in determining which policies to focus on, and later conducted detailed discussions with USAID’s offices of health, education, and environment. The specific steps included the following:

- January- March 2014: ProRep conducted assessments and focus groups with USAID, other projects, and stakeholders to discuss seven potential policy areas for program focus.

- March: Met with USAID’s DRG office and reduced policy areas to four: maternal and child health, environment, education, and border issues.
- April: Issued a request for concept papers for grant proposals in each area. Subsequently reduced these to three areas – health, environment, and education – corresponding to USAID Indonesia offices.
- June- August: Issued 11 policy-related grants. ProRep shared preliminary grant proposals with USAID education, health, and environmental offices, received their direction and feedback, and adjusted the grants to better target USAID priorities.
- Ongoing: Coordinated with the DRG office to involve staff from the education, health, and environment offices in policy cluster events.

“Policy Clusters”

Policy clusters are groups of CSOs, policy experts, and decision-makers in legislative and executive branches of government with interests in specific policy areas.

ProRep will combine grants to CSOs and research organizations; short-term technical assistance; support for focus group discussions, meetings, and parliamentary hearings; etc. These will bring together stakeholders and policymakers to assist them in making decisions and conducting activities to improve policy, or policy implementation, in selected policy-focus areas. Policy clusters are designed to (1) be inclusive, involving multiple stakeholders, (2) be evidence based, using the results of research, and, (3) involve the media, so that clusters positions have an impact on the opinions of decision-makers and the public.

Policy clusters were unlike the more sector-specific approaches usually taken by sector offices, and it was important that these offices understood their purpose and how they supported Mission objectives. DRG’s close collaboration with the sector offices was critical to their understanding and supporting this cross-sectoral approach. ProRep used “The Case for Policy Clusters,” an appendix to this report, to explain the clusters.

Initial Policy Clusters and Communities - Activities and Results

ProRep issued 11 policy cluster grants in project Year 4, and 24 in Year 5. The environment office awarded ProRep additional funds to expand its environmental policy work in Year 5. Grants focus on changing policies, mostly at the national level, and local work is designed to have national-level policy impact. Most grantees from Year 4 received follow-on grants in Year 5, building on their programs and strengthening existing policy communities. As a member of the “policy community” each grantee participates in policy community meetings and events designed to (1) help policy grantees better understand how to bring about policy change, (2) bring them together with MPs, ministry staff, and professional staff of the DPR (through ATAP, the Association of Expert Staff of the Parliament), (3) provide venues and events to help partners better collaborate among themselves and their wider policy communities to ensure greater policy impact, and (4) provide partners with targeted communications support, including assistance with media engagement and developing communications strategies. Each policy community works somewhat differently.

Environment. Most CSO and research policy organizations comprising the environment cluster (whose cluster goals are to promote policies for forest conservation and sustainable environmental protection and management) are made up of young professionals who collaborate on environmental programs. Their community collaboration events are quite informal. A community member organization played the lead role in structuring Indonesia’s newly combined Environment and Forestry Ministry. The restructured ministry combines the resources of the former ministries, making possible more effective collective actions against environmental degradation. Other grantees are working on effective transfer mechanisms of environmental funds to local areas, providing incentives for local communities to protect their forests.

Education. Members of the education cluster or community (whose aim is to improve the quality of education through enhancing citizen/expert/CSO participation in teacher deployment, school

management, and budgeting) have formed themselves into a formal policy/lobbying association - the Civil Society Coalition on Education Transformation. This coalition is led by ProRep grantees, but includes dozens of additional organizations focused on education reform. It now has an established relationship with the Education Minister and his leading staff, and collaborates on several USAID-supported reforms, including fairer distribution of teachers nationwide (better-qualified teachers are concentrated in urban areas) and improved, more transparent budget allocations among schools.

Health. The health cluster seeks to improve health policies and their implementation through enhanced public participation, monitoring, and feedback to health policy decision-makers. It is made up of CSOs specializing in public participation and a health research group. The cluster collaborates on increasing citizen input and impact on local health facilities and policies.

Accountability. Members of the Democratic Rights and Governance Cluster, formed earlier this year (2015), have together selected a lead organization to coordinate cluster activities. Details are provided in this paper's section on Accountability and Transparency.

Observations and Recommendations

Observations

- *Policy cluster grants commit partners to collaborate and advocate for specific, agreed upon policy goals.* They strengthen policy alliances, increasing the likelihood of impacting policy.

Recommendations

- *Start with institutional support.* ProRep started with support to the DPR. As MPs and staff saw that ProRep supported their institutional objectives, they were willing to allow other ProRep partners including CSOs and think tanks, to collaborate with them on policy reform. As a result, Parliament developed long-term relationships with outside partners who continue to collaborate with policymakers on specific reforms.
- *Train non-government stakeholders in advocacy techniques specific to their political context.* ProRep programs brought together MPs, former MPs, civil society, and think tank representatives to discuss how policies are made and the how, when, and where so that CSOs and think tanks can impact the process. In developed countries, advocates learn their advocacy techniques and how to work within the systems they are trying to impact. This training process should be replicated when projects work with CSOs, think tanks, and other interested parties on legislative programs in the developing world.

1b. USAID/VIETNAM GOVERNANCE FOR INCLUSIVE GROWTH (GIG) 2013 - 2018

GIG is USAID's primary activity for cooperation with the public and private sectors in Vietnam to enhance areas of governance expected to facilitate broader-based growth, with an emphasis on the legal framework and systems for accountability. The development hypothesis underlying this project is that enhanced governance will facilitate broad-based, sustainable growth. Achieving such growth requires establishing a clear legal and regulatory framework which provides citizens and the private sector with a predictable, transparent set of rules by which they may make their own contributions to growth and development. More important than particular rules is the evolution toward a transparent, inclusive policy process capable of creating high quality laws and regulations and capable of evolving over time so that all members of society can benefit.

GIG is intended to be a catalyst in enhancing the capacity of the government of Vietnam (GVN) to advance its policymaking processes through improved information for decision making, greater citizen participation, increased transparency, and more effective accountability mechanisms. The project approach is both horizontal and vertical, working with government and Parliament to improve policy-making and accountability mechanisms, and working with civil society and the private sector to help incorporate their voices and perspectives into the policymaking and accountability processes.

GIG Project Objectives

- (1) Increased Trade and Investment
- (2) Enhanced Private Sector Competitiveness
- (3) Strengthened Rule of Law and Judicial Effectiveness
- (4) More Effective Public Administration and Financial Management
- (5) Greater Social Inclusion and Equality of Opportunity for All Citizens.

A major project focus is on strengthening capacity of the National Assembly (NA) and government institutions, including enhancing their research capacity, supporting consultations between citizens and the NA and government in the law making process, oversight/accountability assistance through training and technical assistance to the NA and the State Audit Office of Vietnam (SAV). The NA plays a critical role in attaining GIG's five objectives, and the groundwork and relationships established under USAID's earlier assistance to the NA facilitated a relatively rapid and smooth start to the work in that institution.⁶

Vietnam, of course, is not a representative democracy, but that does not mean that government decisions and policies are made without discussion or competition among different actors. USAID's 2007 DG assessment, quoted in the GIG RFP, acknowledges that while government decision-making systems are distinct from those in the West, competition exists within the Party, among party organs, among and within ministries, and within the NA. The Assembly, despite its limited capacities, representativeness, and roles, is beginning to draft legislation and conduct limited oversight over government, and its role is evolving in a positive direction. According to the RFP, "Work with the NA . . . continues to represent a beacon of hope in the governance area."

The GVN's commitment to achieve aggressive economic growth rates, and to implement a comprehensive program of governance reform, has made possible the rapid legal and bureaucratic changes under way in Vietnam. GIG partners are under pressure to quickly reform several laws, regulations, practices, and systems, and they have allowed GIG to play a major facilitating role.

This section reports on GIG's Component 1 (improving legal and regulatory frameworks) and Component 3 (improving inclusion and equality for marginalized groups). GIG's Component 2 (improving accountability for public institutions) is covered under Topic 3: Accountability and Transparency (p. 15).

Implementation of Cross-Sectoral Activities

GIG Component 1 activities are designed to help improve the quality of Vietnam's laws and regulations by addressing deficiencies in the flow of new regulations and the stock of existing regulations. GIG supports Vietnam's efforts to reform its laws and law making, and to expand meaningful participation of stakeholders in the process. Just completing its second year, GIG seeks to build a transparent and participatory law-making and regulatory process; enhance competitiveness and the business environment; and improve trade facilitation and prepare for the Trans-Pacific Partnership (TPP).

⁶ USAID Vietnam Legislative Research Project (LRP) was a focused, institutional-building program with the NA Institute for Legislative Studies. This 18-month project (2011 – 2013) ended just 9 months before GIG began. See the LRP case study on page 23 of this report.

Component 1 activities in Year 2 include support to the General Department of Vietnam Customs that resulted in the first comprehensive blueprint for customs reform, the framework Customs is using to comply with WTO's Trade Facilitation Agreement (TFA) requirements. GIG advised the GVN on quality, hygiene, and safety for import and export of food under the Ministry of Health, and helped the Ministry of Planning and Investment (MPI) develop a holistic assessment of Resolution 19 implementation (the resolution setting Vietnam's targets for World Bank Doing Business indicators) for the Prime Minister. The project facilitates several major reforms under way, provides technical assistance, including workshops, policy guidance, legal review, and recommendations on the Law on Laws; assistance with the TPP (trade), the WTO's TFA, Civil Code, and the State Budget and Procurement Law.

Through Component 3 (improving inclusion and equality for marginalized groups), GIG helps identify and reduce legal and regulatory barriers to growth and welfare for women, ethnic minorities, and other vulnerable groups. Component 3 activities and grants also help disadvantaged populations exercise greater influence in policy making and governance arenas. Specific Year 2 objectives are to mainstream inclusion into law making and governance processes; address policy and legal barriers to equal development for marginalized groups; increase the exercise of citizen rights through awareness and accountability; and pursue inclusive business approaches among government, business, and civil society.

GIG promoted dialogue between the GVN and traditionally disadvantaged groups in public discussions on the Civil Code – incorporating the concerns of transgender individuals, CSOs, academia, ministries, private sector and professional medical doctors in the deliberation of the law. The requirement for such participation is being codified in law: the newly enacted Law on Laws requires inclusion of social organizations and individuals in discussions of draft laws. Gender budgeting provisions, recommended by GIG, are included in the new State Budget Law. The draft Civil Code, submitted for NA review in May, has, for the first time, opened the law making process to include social groups – a GIG recommendation. This more participatory model of law-making will benefit a broader cross section of society, vulnerable groups in particular.

Because GIG works with all of the major actors involved in Vietnam's key legal and institutional reforms, the project has been able to integrate issues facing women, ethnic minorities, and other traditionally disadvantaged groups into reform laws and regulations.

Implementation. Ministries are quite open to international assistance, and this is even more the case in the NA. The new constitution and broader political trends allow the NA to play a larger role in legislation and in overseeing government performance. Several MPs and staff are eager to be exposed to different perspectives, especially from external experts and foreign legislative bodies, and to incorporate new ideas into policy development and oversight practices. Growing numbers of parliamentary staff have studied abroad and are more open to international cooperation and institutional change. Government bodies commonly retain recently retired officials as consultants, a practice which often retards change as older officials are often wedded to the status quo. But a number of former deputies consulting in the NA are excited about the recent changes, some finally having the opportunity to share long-held ideas they could not act on earlier.

USAID's earlier Legislative Research Program (LRP) opened doors for GIG and facilitated a warm welcome and relatively quick start in the NA. Friends and colleagues from the Institute for Legislative Studies (ILS) introduced the GIG team within the NA, helped GIG understand NA functions and operations, and encouraged the project to provide a broader program of support.

There are, of course, implementation challenges. Typical to legislative programs, some relate to the high turnover of MPs. NA staff remains much longer, but without a tradition of strong professional staff, many play administrative or support roles and do not engage in policy analysis or constituent engagement. As a result, the NA depends on information and guidance provided by the government. A stronger NA will require a greater investment in developing staff.

GIG supports several institutions within the NA. These include the Deputies Affairs Commission (which is designing a training plan for new deputies), the Petitions and Complaints Commission (which facilitates the processing of citizen ideas and grievances), the Oversight Department (which supports NA oversight activities), and the Public Information Department (charged with establishing protocol for relations with the media), among others. In addition, individual committees seek to play a more assertive law-making role, and conduct more aggressive government oversight. GIG works with individual committees on staff capacity, working to formalize training processes. The ultimate goal is to enable reform-minded MPs to assert the role of the Parliament as an independent body.

Traditionally, the NA has been closed to all but a few outside groups, and some members and staff – not accustomed to working with NGOs and CSOs – raised concerns about their “aggressiveness” and have been reluctant to engage with them. Attitudes vary among different units. Both the NA Library and ILS have been open to working with CSOs; GIG created a directory of CSOs useful for library research, and invites CSOs to ILS events. GIG repeatedly reminds NA partners that the information well-informed CSOs provide can be useful in conducting oversight and making policies, and that some can serve as sounding boards for Member and staff ideas, providing perspectives more diverse than those of the Fatherland Front.⁷ Receptivity to CSOs varies widely, but is growing. At a recent legislative forum, GIG invited a CSO to provide comments on the law to demonstrate its usefulness to the Law Committee. With the Budget Committee, GIG is making the case for CSO-developed tools which could be used to validate public support for the state budget. These efforts have been helped by clauses in the constitution and the newly-passed Law on Laws which endorse public consultation.

GIG's approach has been gradual engagement, but engagement in which CSOs are honest and informed, demonstrating that differing perspectives can be useful to the National Assembly.

Providing legislative support in Vietnam’s unique one-party system impacts project implementation in some interesting ways. For one, there is a single, clear list of topics to avoid, such as elections and voting, macro organizational structure issues, religion, or the system itself. Another is that with only one party, there is no danger GIG will be seen as “captured” by a particular party. And there is some assurance of continuity in partners from election to election (with a number of the full-time MPs tending to continue in office). There are also challenges. For example, the institutionalized process for promotion tends to limit, though not eliminate, the potential for advancement for those who challenge authority (which can also be an issue in multi-party legislatures). Another challenge relates to delays in approvals of program activities or changes. Final decision authority rests with high-level leaders, and approvals may be long in coming.

Finally, GIG’s comprehensive cross-sectoral scope and the wide array of government and non-governmental actors with which it works facilitates inclusion of marginalized groups and understanding of proposed reforms in the NA. Legal reforms GIG works on with government, business, and civil society and marginalized groups through other project components eventually arrive at the NA as proposed legislation. MPs are therefore able to benefit from the expertise, contacts, and range of views GIG’s earlier work provides. The diversity of sources, recommendations and views – from CSOs, ministries, marginalized groups, and the business community – exposes MPs to ideas and views they may not have been exposed to previously.

⁷ The Vietnam Fatherland Front (VFF) has special status in the constitution and key legislation to serve as a conduit between citizens and government.

Observations and Recommendations

Observations

- *Don't make assumptions about the political system based solely on its structure.* Ten years ago, a USAID legislative project in Vietnam would not have been possible. Assistance requested by the NA's ILS in 2009 indicated that change was taking place in the NA and Vietnam. Though still a one-party state, Vietnam's recent legal reforms and openness to outside involvement in its reforms – particularly in the NA – indicate that the political system is opening up.
- *Small focused programs in legislative strengthening can lay the foundation for future, larger investments.* USAID's early investment in institutional strengthening through Vietnam LRP facilitated GIG's introduction into parliament.

Recommendations

- *Develop DRG projects with the goal of serving as a facilitator of change among stakeholders.* GIG and ProRep play similar roles in very different political systems and contexts. Indonesia is a competitive, multi-party democracy; Vietnam is a one party state slowly opening. Both projects use the relationships they establish *within* each component area to facilitate dialogue *across* component areas. Both facilitate civil society participation with parliament and government. Because GIG supports institutional and legal reforms in government, parliament, and society, it can help move reform and include actors across the entire process.

TOPIC 2: CROSS-SECTOR PROGRAMS: ECONOMIC GROWTH

2a. USAID/MONGOLIA ECONOMIC POLICY AND REFORM AND COMPETITIVENESS PROJECT (EPRC) 2003 - 2011

Background and Purpose of EPRC

The dissolution of the Soviet Union in 1991 and the termination of Soviet assistance shortly thereafter pushed Mongolia toward rapid economic and political reforms to survive the shock of independence. For 70 years, the centrally-planned Soviet economy supported Mongolia in trade and aid, managed by the Mongolian People's Revolutionary Party (MPRP) as a one-party state. In the wake of the USSR's collapse, public demonstrations for political pluralism pushed the MPRP to resign and declare the end of one party rule. With communist neighbors to the east and west, Mongolia aligned itself with the US early in its transition to a market economy and democratic society, calling the U.S. its "third neighbor."

The first decade of multi-party politics included nine elections, three each at the local, parliamentary, and presidential levels. Peaceful turnover of government promised entrenchment of democratic processes; indeed, Parliament passed laws quickly, advancing democratic reforms and incorporating transparency and accountability into policymaking. Yet the parliamentary structure was weak; the policy process rarely invited public debate or research to support reforms, and there was minimal enforcement of laws and regulations. This trend impacted and impeded the growth of the economic sector, burdening regulatory frameworks with a multitude of often contradictory policies as government implemented privatization programs through the late 1990s and early 2000s.

According to USAID/Mongolia’s country development strategy published in 2003, Mongolia EPRC was designed to advance the CDCS’s Strategic Objective 1: To accelerate and broaden sustainable, private sector-led economic growth. EPRC would do this by “improving the enabling environment for private sector growth, increasing competitiveness of industries and sectors, and expanding economic opportunity for marginalized Mongolians.” (See project objectives in box.) In 2003, 75 percent of Mongolia’s economy was in private hands, up from less than 1 percent in 1990. With EPRC, USAID sought to continue the trend of privatization and reduce policy constraints to competitiveness. EPRC sought to meet these goals through four project components: economic and trade support, energy sector reform support, improving financial markets, and building consensus among political elites and citizens through public education and a national dialogue.

EPRC Primary Objectives
(1) To accelerate and deepen the policy liberalization process
(2) To promote increased competitiveness in the Mongolian economy

Though not a parliamentary strengthening project per se, EPRC as an economic growth project bears the characteristics of an unintended, but successful, cross-sectoral program. Designed to reform the business enabling environment, the project was also tasked with strengthening Parliament’s ability to commit to and carry forward reforms throughout the life of EPRC and beyond.

Implementation – Cross-Sectoral Programming

At the start of the project, Mongolia was two years into its transition from a centrally-planned economy and had enacted several laws to support a market economy and democratic society. Mongolia had macro-economic stability, with low inflation, a steady exchange rate, and slow but positive growth. Nevertheless, high corporate taxes and interest rates, and licensing, inspection, customs, and tax policies stymied growth, discouraging entrepreneurs and foreign and domestic investors.

Mongolia’s unstable, anti-business environment can be attributed, in part, to its shaky political transition process. Shifting from a centrally-planned economy to a market economy is rarely a smooth, linear process, and the experience of this former Soviet state was no exception. After enacting the new constitution in 1991, the MPRP continued to control Mongolia’s transition, paying lip service to economic reform. In 1996, the MPRP faced its first real challenge with the formation of the Democratic Union, a coalition of parties that managed to wrest control of Parliament from the MPRP for the first time. Though the Democratic Union won on a platform of economic reform, at implementation the proposed policies were both painful and unsuccessful, and the country experienced a steep uptick in crime, unemployment, and taxes. The public responded by voting an MPRP candidate into the office of president, dividing the executive and Parliament along party lines. Between 1998 and 2000, political control shifted back and forth, as presidents and prime ministers rotated through office, enacting contradictory reforms as they went. The project kicked off in 2003, after the public had returned the MPRP to power in 2000.

From the start, EPRC emphasized creating working relationships with all major parties, betting against any party or coalition remaining in power for the long term. Forging ties and developing relations with representatives from the ruling party was a fundamental of EPRC’s implementation strategy.

USAID’s workshop report “Taking Forward the Integration of Governance into Development Aid”, notes that “governance has a role in every sector of development programming, and lasting progress often requires institutional changes.” EPRC’s twin goals of promoting increased competitiveness and accelerating the policy liberalization process reflect this idea of integrating programming objectives. The project’s tax reform intervention showcases practical application of this idea.

Why Tax Reform?

EPRC prioritized tax reform because the tax system's inefficiencies prevented Mongolia from leveraging its comparative advantages in the world market. Exports of raw materials such as metals and minerals supported the economy, but the value of other exports was minimal. The government of Mongolia (GOM) recognized that a reformed tax system was needed to promote private sector-led economic growth and to make Mongolia's economy more competitive.

Prior to reform, Mongolia's tax system discouraged investment and growth by burdening tax payers and small businesses with inconsistent and, often, contradictory regulations and provisions developed piecemeal by successive post-Soviet governments since 1991. Discouraging economic development, the system encouraged a shadow economy, acted against job creation, and discriminated against domestic businesses. The GOM was determined to enact and implement a 'competitiveness-based' tax reform package, with the following six interrelated objectives:

1. Increase country competitiveness by lowering the tax burden on businesses, enabling job creation
2. Expand the Mongolian economy by reducing the tax burden and labor costs on wage earners
3. Simplify tax administration procedures to reduce compliance costs and arbitrariness, reducing the size of the shadow economy and expanding the tax base
4. Support domestic investors by removing discriminatory tax provisions and adjusting taxes to favor domestic production
5. Shift the tax burden from investment/production toward consumption/ownership
6. Preserve a sound fiscal environment

In its first year, EPRC led a review and analysis of the tax system, identifying the reforms needed to improve country competitiveness. Through a series of interviews with public and private sector stakeholders, including ministry staff, policy advisors, representatives of international NGOs, and the heads of large private corporations, the project gathered information on potential challenges to a tax reform process. These challenges included political dynamics that might not have been noted in reports and papers on the subject. For example, in one interview, the economic policy advisor to the Prime Minister stated, "It is not easy to carry out economic and political reforms together [and] because they compromise the election manifestos of both parties. However, both parties have made a commitment to reduce taxes." Former EPRC chief of party Fernando Bertoli attested to this as well. According to Bertoli, the Ministry of Finance, headed by a member of the Democratic coalition, was responsible for writing tax legislation, but the MPRP-controlled Parliament received it for passage, amendment, or rejection. Given the competing political priorities between government and parliament leaders, EPRC's main challenge was to facilitate moving tax reform through both government and parliament.

The project created a matrix and work plan at the end of project Year 2, prioritizing the proposed reforms based on their impact on job creation, formalization of employment, and competitiveness. Over the course of several months, EPRC engaged the GOM in considering the review in its economic policy reform agenda. Throughout this process, Bertoli emphasized that it was crucial for EPRC to empower the counterparts in government and the legislature to take ownership of the reform process through communication. In spring 2005, EPRC addressed this by producing "A Communications Strategy to Support Tax Relief" for the GOM to engage the public in the reform process. This plan identified the lack of political unity between and within the government and legislature as a hurdle to implementing tax reform. According to Bertoli, the project realized that the only way to move forward was to encourage the legislature to accept the legislation proposed by the MOF, and to address their concerns through amendments. This would require expert diplomacy and the development of trust, not just with regard to technical issues, but with regard to contentious political concerns as well.

In the first quarter of FY2006, EPRC's role expanded beyond providing technical assistance to acting as a facilitator of tax reform. The project arranged the first of five weekend retreats to review and discuss objectives of the reforms and the elements of successful tax reform. Over the course of three months, EPRC assembled working group members to develop amendments to the proposed tax package and move reform forward. The project ceded ownership of the discussion to a different member of the working group for each session. This ensured that the project maintained a strong, but neutral, relationship with working group members, and emphasized that this was a relationship of trust. Bertoli says that just by dedicating a time and place for reviewing and discussing legislation, and encouraging Parliament and ministry staff to collaborate by providing refreshments, EPRC gained favor and respect from all involved in the working groups. During these months of intensive discussion, EPRC provided technical assistance to collect and analyze data to assess the economic and fiscal impacts of different tax scenarios, and assisted the working group in drafting tax legislation. Finally, in 2006, Parliament passed a total of 120 amendments to the tax package.

Successful Implementation

The project's successful tax reform intervention hinged on its focus in engaging Parliament in the reform process. Engaging with members of Parliament, rather than just ministry staff, enabled EPRC to adapt to political shifts throughout the life of the project. In 2004, just one year into implementation, Parliament's party make-up shifted again, this time to a more equal balance of power between the MPRP and the Democratic Union coalition. As a result, parliamentary and government leadership positions were shared rather than being held by just one party. The power sharing agreement resulted in a total of 17 Parliament members holding cabinet positions.

In the project's midterm review, the review team commented on EPRC's success in continuing to facilitate the tax reform process throughout Mongolia's shifts in political power. According to the midterm report, EPRC's strategic decision to engage with Parliament helped facilitate communication – and the reaching of agreements – among the institutions and individuals who had to agree if tax reforms were to be enacted. Though perhaps unintentional, the project made decisions along the same lines as those recommended in USAID's integrated programs workshop. The workshop report proposes that a political economy analysis highlight areas where governance deficiencies impede programs. As recommended by the workshop, the project took stock early on of the different actors that would be involved in the tax reform process and built relationships with all of them. This choice reflects EPRC's recognition that this economic reform, though drafted by ministries, could not move forward without the buy-in and continued support of the legislature. EPRC realized that the legislature would need a sense of ownership of any proposed reforms, and that this would involve their discussing, amending, and committing to pass proposed legislation.

The impact analysis of the first three years of implementation, included in EPRC's final report, showed that the reforms uniformly and measurably met their objectives. The tax reform code simplified laws and regulations, improved access to a legible tax code, expanded the tax base, and increased tax revenue. Broad political consensus and close collaboration among all parties brought the Mongolian tax code in line with best practices and delivered measurable and distinct benefits to the economy. From a legislative strengthening perspective, the tax reform intervention was continually referenced throughout project reports as an example of successful parliamentary engagement.

Observations and Recommendations

Observations

- *In democracies, successful economic reforms are built on successful political processes.* Without the facilitation role played by Mongolia EPRC, Mongolia's tax reform might not have occurred, or might have been partially complete and less successful.

Recommendations

- *Consider trust and relationship incentives.* EPRC analyzed the political power dynamics, both of those in government and in opposition, and developed relationships with multiple actors (government, legislature, majority parties, and opposition parties). It drew on these relationships of trust to continue pushing economic reform forward despite changes of parties in power.
- *In cross-sectoral programs, focus on engaging with the legislature and defining its role from the start.* Encourage engagement by creating opportunities for parliament's involvement and delivering on promises to train and facilitate parliament's role in a reform process.
- *When possible, use follow-on projects to ensure continued adherence to institutional changes.* USAID/PFD successfully incorporated the LID into programming and into program strategy. The project continues to upload policy and record policy processes in the LID, and stakeholders and parliamentary members report regularly using the LID.

2b. USAID/KOSOVO BUSINESS ENABLING ENVIRONMENT PROJECT (BEEP) 2010 - 2013

Background and Purpose of Kosovo BEEP

In recent years, Kosovo has demonstrated strong commitment to and progress in maintaining overall macroeconomic stability while transitioning to a market-based economy. Yet advances made are threatened by two realities: an unemployment rate of approximately 40 percent (more than 50 percent for youth), and the paucity of large economic enterprises. Kosovo's economy is dominated by small and micro-enterprises; more than 99 percent of the registered businesses employ fewer than 50 persons. USAID/Kosovo determined that job creation was critical for the country's development. Accordingly, it made private sector growth a priority with the Business Enabling Environment Program (BEEP), launched in July 2010, leading the effort. BEEP's overall objective was to create a business-enabling environment in Kosovo that reduces barriers to business growth and promotes market liberalization.

Implementation and Project Objectives and Accomplishments

Kosovo BEEP was an economic growth project, aimed at stabilizing and improving the enabling environment for business development. Working primarily at the national level, the three-year program included four project components:

1. Improved rules and regulations
2. Lower trade barriers
3. A more efficient financial sector
4. More transparent tenders

BEEP was not a parliament-focused project. But the program design and implementation choices made by the BEEP team led to parliamentary improvements. Most work with the Kosovo Parliament took place

through project Component 1, improved rules and regulations. Working at both the national and municipal levels, Component 1 activities were designed to remove barriers to business by simplifying and streamlining the regulatory frameworks, including statutes, regulations, rules, and procedures governing business operations in Kosovo. Though a privatization program was well under way when BEEP began, and the government of Kosovo (GOK) had committed to developing a fully-fledged market economy, rules and regulations in place reflected an attitude of control toward the private sector, rather than facilitation.

In USAID’s project scope of work, the Mission noted that given Kosovo’s natural disadvantages (small size and geographical position), the economy could not afford to wait for long-term economic growth plans to materialize. The project was tasked, therefore, not only with improving the environment for business, but offering a more competitive environment than its larger, better-situated EU neighbors.

Initiated not long after Kosovar independence in 2008, BEEP was designed to swiftly improve Kosovo’s system of economic governance and thus catalyze the new nation’s economic growth and sustain it over time.

At the start of the project, Kosovo was ranked at 113/183 countries in the World Bank’s Doing Business (WBDB) survey, a very low base from which to begin tackling unemployment and job creation. Together with the GOK, the project used the WBDB survey as a ready-made needs assessment, and set a goal of achieving a “top 40” ranking by 2014, one year after BEEP would end. Setting this goal helped establish a foundation for developing an economic growth plan with the government called the Economic Growth Vision 2014. In our interview with BEEP chief of party Terence Slywka, he said that the project did not simply respond to the WBDB recommendations; it used them to illuminate the underlying legal framework and institutional practices that gave rise to similar problems not captured by the WBDB indicators. The project used this analysis to identify specific issues to be addressed through BEEP, and to identify targeted, comprehensive reforms that must be addressed to resolve the issues underlying Kosovo’s economic problems. Successfully responding to these recommendations would, it was hoped, improve Kosovo’s WBDB ranking, focus international attention on Kosovo’s reform process, and thus incentivize further reform. WBDB became a reference point for the GOK and BEEP in their discussion of reforms, and BEEP leveraged the empirical evidence of other countries who had responded to WBDB recommendations as support for reform.

The government was anxious to move swiftly forward with its plan, and BEEP responded by producing an analysis of the Doing Business recommendations and beginning an inventory and analysis of laws and bylaws for amendment. While conducting its analysis, BEEP realized that parliamentarians and private sector stakeholders were unable to identify all normative acts restricting the business environment. The government’s only resource was a disorganized and out-of-date database called the Official Gazette. The Official Gazette did not present laws in an organized and systematic format, was not current, and was not user-friendly for either parliamentarians or the public. As a result, businesses and interested parties had to go to extraordinary lengths to search for information on how to legally register and operate their businesses, and to know their legal rights and obligations. Without a system and framework for knowing the parameters of already-enacted laws, policymakers could not develop cohesive legal regulatory frameworks, build on existing frameworks, or conduct necessary research on policy.

Collaborating with the Legal Office, the Ministry of Public Administration, and the Office of the Official Gazette of the Office of the Prime Minister, BEEP assisted the government in determining that an organized database would stimulate reform and growth. BEEP sponsored a retreat attended by the Prime Minister and other ministry heads at which they confirmed their commitment to increase transparency through the development of a legal database. Use of this database was codified through the introduction of legislation that mandated that all future regulations adopted by the government be searchable in the database to have legal force. BEEP then co-sponsored a working group to review the regulations and

make recommendations for establishing and maintaining the searchable legal database. BEEP served as a facilitator for the process, sponsoring the working session that reviewed and identified 370 of the 1,500 Administrative Instructions to be uploaded into the legal database.

Challenges to implementation. Project assistance was stymied by several challenges, namely internal and external power dynamics, personal incentives, poor administrative capacity of counterparts, and concerns about sustainability of the Legal Information Database (LID) and its role and utility in policymaking.

Kosovo's politics were enveloped in the larger international dynamic surrounding their independence, and throughout project implementation the United States was progressively withdrawing support from Kosovo's supervised independence. This complicated BEEP's goals and the functions of the GOK. According to Slywka, politicians in all branches of government were sensitive to remaining independent in their policymaking. As a USAID project, BEEP worked delicately to implement on behalf of the United States, building relationships with individual counterparts in government and Parliament. Securing those relationships helped position the project to encourage reform from within, removing the appearance of threatening Kosovars' independence and patriotism.

Further complicating the plan were concerns that ministry heads would react strongly as BEEP and the committee reviewing legislation slashed excess regulations, sub-normative acts, legal permissions, inspections, and permitting and licensing processes. The incumbent system allowed corruption and special interests to flourish, leading to concerns that the project's proposed reforms would be seen as disrupting the status quo. Additionally, many parliamentarians relied on permits and licenses to raise revenue, thus reform that reduced and simplified permitting and licensing was not necessarily welcome. To counter the entrenched system, BEEP would rely on the steadily growing political will from beneficiaries and counterparts.

Because the LID would become a legal service and fall under the Office of Legal Services (OLSS), BEEP relied on administrative support from the OLSS. BEEP also needed support from the Official Gazette as the new database would be building on and incorporating some existing features of the old system. Even though the head of the OLSS had expressed great satisfaction with the cooperation between BEEP and the OLSS, implementation moved slowly due to the OLSS's limited administrative capacity.

Another challenge cited early on was the possibility that the new LID might still be inaccessible to the public and might not be updated regularly. This had happened in the past with the Official Gazette, and without any policy requiring legislators to update the database, the LID would likely fall into the state of its predecessor. To counter this, the project proposed accompanying legislation in the form of the Law on Normative Acts, which mandated that all legal acts be uploaded to the LID before entering into legal force. This law included guidance on the legal drafting process, as well as a mandate for all legal acts to undergo a period of public notice and comment. Without it, the LID had no political weight.

Accomplishments. By building relationships between counterparts and the project, and committing strongly to the role of technical advisor and neutral facilitator, BEEP managed to overcome challenges to implementing the LID. In June 2013, the GOK, with BEEP assistance, successfully launched the LID. The process, which lasted over the three years of project implementation, finally came to fruition in the last month of the project, leaving the follow-on project to report on results. USAID's Partnerships for Development (PFD) continues to work with Ministry staff and parliamentarians to upload and use the resource. Arben Krasniqi, Legal Officer in the Ministry of Public Administration reports, "I am directly and positively affected by these reforms, incorporation of sub-legal acts in the Legal Information Database will help all interested actors, civil servants [at] central and local [levels], citizens and businesses [have] easier, faster, and accurate access in legal information." With regard to BEEP's goal of

helping Kosovo improve its world ranking on WBDB indicators, Kosovo's moved from number 113 in 2010, to 85 in 2013.

Observations and Recommendations

Observations

- *The analysis of a country's economic environment for an economic project can identify governance shortcomings to be addressed through DRG programming.* Assessing the economic environment for doing business revealed fundamental gaps in the regulatory and legal frameworks that the project could address. One example was the legal information database, a necessary tool for any functioning parliament and government. Inadvertently, the project became a parliamentary strengthening project as well as an economic growth project, working as a facilitator between the Executive and Parliament to develop an essential resource for evaluating laws and regulations and propose alternatives.

Recommendations

- *When appropriate, use international standards as tools to leverage political will.* The WBDB indicators helped motivate economic governance and Parliament reforms in Kosovo, Mongolia, and Vietnam. Leveraging the WBDB tool, Kosovo BEEP created a shared plan for development with its counterpart. This created an accountability system between the counterpart and the project that was not only project specific, but was also important for the country's global standing.

TOPIC 3: ACCOUNTABILITY AND TRANSPARENCY

3a. USAID/VIETNAM GOVERNANCE FOR INCLUSIVE GROWTH (GIG) 2013 - 2018

Background and Purpose of Vietnam GIG

This is the second of a two-part case-study on the five-year USAID Vietnam Governance for Inclusive Growth (GIG) project. Part 1 described the background and purpose of the project and focused on GIG Component 1, improving legal and regulatory frameworks and Component 3, improving inclusion and equality for marginalized groups. (See GIG Cross-Sectoral Case Study.) This case study examines GIG's Component 2, improving accountability of public institutions.

Recognizing that effective policy implementation requires effective oversight, GIG seeks to help improve the accountability of public institutions on policy implementation through improved oversight, citizen participation, and increased transparency. GIG's accountability charge is to increase access to information by the public about government programs, activities, and performance; and to create a "citizen watchdog function" through training of the press, citizens, and the business community to report on accountability and inclusiveness of public institutions.

Implementation - Project Challenges and Accomplishments

Under its Component 2, GIG supports the NA, Ministry of Finance, the State Audit Office of Vietnam (SAV), and citizen groups to (1) strengthen government oversight processes, (2) strengthen citizen participation in monitoring and evaluating policy implementation, (3) increase the effectiveness of transparency on policy implementation, (4) improve the quality of information and analysis for evaluating policy implementation, (5) improve the quality of the media's reporting on policy implementation. Year 2 GIG activities supporting the accountability component include the following:

Strengthen government oversight processes. GIG supports the NA and its Standing Committee, the Law Committee, the Oversight Department, and the SAV to help strengthen their oversight processes. Recent changes in law have expanded and clarified the oversight roles of these institutions, and GIG support is especially timely as it is designed to assist them with the regulatory changes needed to implement the legal changes, to help them develop necessary systems and processes, and train Members and staff in fulfilling their expanded mandates. GIG Year 2 support includes, among other activities:

- Developing regulations and details of oversight activities of the NA and its Standing Committee
- Helping the Standing Committee with resources and developing procedures for managing information requests, complaints, and petitions
- Assisting the NA Law Committee to conduct Q&A sessions (deliberative hearings)
- Coordinating with the Oversight Department on developing oversight procedures and rules
- Conducting an oversight training needs assessment for NA deputies and staff
- Supporting the development of public procurement mechanisms
- Supporting SAV in finalizing the draft revised State Audit Law
- Developing a model of operational divisions in units performing audit operations
- Providing organizational consulting on SAV's structure and roles of departments
- Conducting a needs assessment and providing training for staff of the new NA Oversight Department
- Analysis of laws on state audit institutions, harmonization on the State Budget Law, a roundtable on improving transparency in the state budgeting process
- Conducting a workshop with NA's Oversight Department to review proposed revisions to the Law on Oversight
- Developing regulations on the order, sequence, and details of oversight activities of the NA and its Standing Committee – this includes introducing gender mainstreaming

To strengthen citizen participation in monitoring and evaluating policy implementation, GIG is initiating a constituent engagement pilot program to inform MPs on how to process constituent requests under current laws and regulations. GIG activities to increase transparency on policy implementation include (1) supporting law implementation and tool development to enable citizens to provide feedback on how effectively laws are being implemented; (2) working with the Public Procurement Agency (PPA) to improve public procurement mechanisms; (3) assessing e-procurement practices in Vietnam and developing a roadmap for possible improvements; (4) organizing budget review training for Committee staff; (5) convening regular law forums for stakeholder, citizens groups, and GVN representatives to discuss and provide recommendations on foundational draft laws; and (6) supporting the revision of the State Budget Law.

GIG works to improve the quality of information and analysis for evaluating policy implementation effectiveness by, for example, reviewing and enhancing the NA Library's capacity to support legislative forums and dialogues. And GIG is supporting the improvement of the quality of the media's reporting on

policy implementation by conducting a needs assessment and drafting and implementing an action plan to improve NA media relations, build staff capacity, develop tools (such as a website), and train spokespersons.

Implementation issues. Not surprisingly, there are challenges associated with facilitating the implementation of so many profound changes. Both the NA and SAV were given expanded oversight powers in the revisions to the 2013 constitution, and a number of leaders in both institutions are hesitant to exercise their authorities and act independently. The SAV is highly centralized and each activity with an international group must be approved by the Auditor General’s Office, which can lead to delays.

The NA comprises full-time, and part-time MPs – in some ways similar to the system of ministers, deputy ministers, and back-benchers sitting in many Commonwealth models. Part-time MPs actually work for government, and therefore have limited incentive to oversee the government they serve. GIG has been able to identify key NA committees, led by full-time MPs, who are interested in pursuing an oversight agenda. GIG has also started working with NA staff to improve the quality of oversight actions. By identifying key actors with the proper authority and political will to oversee the government, GIG has helped the NA begin to improve its oversight of government.

The approval system for GIG’s work plan and activities is a work in progress. The Ministry of Justice (MOJ) is the government agency responsible for approving GIG work plans and activities, and the project is working to build greater efficiencies in the approval process. NA activities must be approved by the NA focal point and by the MOJ – a two-step process many in the NA do not understand. Approvals for new activities not in the work plan face significant delays, and GIG is still working with the MOJ on the issue of whether activities with non-government groups must be included in the work plan.

Vietnam has a few influential CSOs with access to key decision-makers, but these tend to be very conservative when it comes to making recommendations to decision-makers⁸. To encourage greater CSO impact, GIG, in its role to support the review of laws and policies, has been able to engage a number of additional citizen groups and provide their recommendations to the drafters.

Looking ahead: GIG will work with a well-regarded CSO to develop the template and guidelines for the “Citizen’s Budget.” The project will recommend its official use to the NA and the Ministry of Finance.

As for public participation, GIG is working with citizen groups to align their work with the objectives of the government. This is not to diminish the value of civil society, or to suggest that civil society only exists to serve government objectives. Instead, by demonstrating the value of civil society ideas and contributions, GIG hopes to encourage the government to solicit greater input from citizens during a time when matters of association, public information, and demonstrations are the subjects of new laws currently being drafted.

Observations and Recommendations

Observations

Institutional understanding fosters accountability. One of the chief obstacles to effective accountability practices is a lack of a full appreciation (on the part of both the government and the NA) of the role of the other. Working with both, GIG is able to bridge that gap in understanding. Working with several government counterparts can allow a project to connect programs with government and with

⁸ The Vietnam Fatherland Front (VFF), for example, has special status in the Constitution and key legislation to serve as a conduit between citizens and government.

accountability institutions through shared events. Partnering with four ministries, the NA and SAV allows GIG to connect its programs with government and with accountability institutions through shared forums, training, and consultations.

Recommendations

Direct technical assistance should be favored over budget sharing or direct payments. In providing direct technical assistance on GIG, rather than budget sharing or direct payments to the government or government officials, the project had greater leverage in facilitating change than would occur through budget support. The USAID approach has focused project partners on the specific consultations and assistance provided, rather than on money transferred or the size of the program's budget. As a result, GIG has been able to more substantively engage the government than it otherwise would.

3b. USAID/INDONESIA PROGRAM REPRESENTASI (ProRep) 2011 - 2016

Background and Purpose of ProRep

ProRep is a five-year DRG project that has existed under two USAID/Indonesia CDSCs. During ProRep's three-year base funding period, the project provided institutional support to – and strengthened links and working relationships among – Indonesian CSOs, research institutions, and the Parliament. Toward the end of its base period and into the project's fourth year, ProRep built on the base year program and developed and then implemented a policy cluster, or policy community, approach. (See Indonesia ProRep Cross Sectoral Case Study: The Evolution of Cross-Sectoral Programming in the ProRep Project for details on the country context, why ProRep was established, and how it developed its policy cluster approach.) Briefly, ProRep developed its policy cluster approach in 2014, bringing together CSOs, policy experts, and policymakers to pursue policy reforms in education, health, and environment. ProRep's objective is to connect people, experts, and policymakers to improve public policy and representation. Early in 2015, USAID requested that ProRep use its Strategic Activities Fund (SAF) to develop a new anti-corruption focus to its program.

Developing the Democratic Rights and Governance Cluster

Indonesia is known both for its high levels of corruption and for the effectiveness of its anti-corruption agency, the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK). Established in 2003, the KPK is among the most aggressive anti-corruption agencies in the world. It has a 100 percent conviction rate in bribery and graft cases related to government procurement and budgets, and these convictions have resulted in several high-level government officials spending years behind bars. Not surprisingly, this has led to pushback by political elites who benefit from this corruption.⁹ Indonesia's National Police have, in the past, arrested KPK deputy chairmen on charges of bribery and extortion, but have stepped up their attacks on the KPK – even against anti-corruption civil society actors – since the election of President Jokowi in 2014. In January 2015, they arrested Deputy Chairman of the KPK Bambang Widjojanto after Bambang named the chief candidate selected to lead the National Police a corruption suspect. Activists argue that the anti-corruption pushback intensified as KPK commissioners started collecting evidence of corruption within the lucrative mining, oil and gas, and forests sectors, and that a more resolute opposition - including police, military, politicians, and businessmen - developed.

⁹ According to Carothers and Brechenmacher, some governments, while they “have rhetorically embraced the value of accountability, transparency, participation and inclusion,” they “remain fiercely opposed to incorporating” them. (Carothers and Brechenmacher, *Accountability, Transparency, Participation, and Inclusion: A New Development Consensus?* Washington, D.C., 2014, Carnegie Endowment for International Peace, p.2.) In Indonesia, it is more accurate to say some parts of government are fiercely opposed to incorporating these principles, and chief among them has been the National Police.

Given increased opposition, USAID/Indonesia’s desire to provide the KPK and the anti-corruption movement with additional support,¹⁰ ProRep’s success with its policy cluster program in 2014 and early 2015, and the availability of a flexible SAF to support anti-corruption activities,¹¹ USAID DRG requested that ProRep quickly develop a Democratic Rights and Governance Cluster. The cluster would protect the civil society movement from pushback by the National Police and other organizations in the government, and bolster their anti-corruption program.

Program response. A robust and well-established civil society anti-corruption movement already existed in Indonesia, so the week after receiving the request from USAID, ProRep invited several organizations involved in anti-corruption efforts to a focus group discussion to learn about the challenges they were facing, and to discuss

Anti-corruption activists in the focus group appreciated ProRep’s policy cluster approach that dedicated resources and would assign responsibilities (based on the agreement of the activists) for overall coordination of the new effort.

program approaches and activities they would find most effective. The focus group was facilitated by the Director of Transparency International Indonesia (TII) and attended by staff of the KPK, USAID, and several CSOs involved in anti-corruption activities. Participants made several recommendations and suggestions for bolstering public opinion in support of the KPK and the ongoing anti-corruption fight, and specifically for countering the recent “criminalization” efforts of police who were attempting to weaken and discredit anti-corruption officials and activists. Based on the findings of this focus group discussion, and a subsequent coordination workshop with a wider group of stakeholders, ProRep designed its program. The project began implementing some program activities during the next several weeks, while the bulk of the program began with grant awards.

The Democratic Rights and Accountability Cluster Rights and Accountability Cluster is, primarily, a horizontal program – based in civil society, but with a vertical reach – dealing with policy and national-level policymakers as well. The first of the two areas comprises grants and activities to strengthen and enlarge the anti-corruption network, and funds (1) consolidation workshops for the network, (2) parallel workshops to develop implementation plans, (3) management and coordination of the anti-corruption coalition (for daily operation of the coalition, coordination meetings, publishing a book and/or documentary films regarding the anti-corruption movement), and (4) targeted public education and campaigns to help extend the anti-corruption campaign. This includes support for activities exposing engineered “criminalization” cases (i.e., where police falsely arrest, charge, or harass anti-corruption officials or activists) in 10 cities around the country. The project also supports public information campaigns in religious boarding schools as a means of changing public attitudes toward corruption.

Advocacy and policy efforts relate to the selection of new KPK Commissioners (current commissioners’ terms conclude in December) and policy research and advocacy with government and Parliament. It is difficult to overstate the importance of selecting honest, courageous KPK commissioners to Indonesia’s anti-corruption fight, and their appointment is hotly contested. It is critical that the anti-corruption coalition has a voice and some influence in the process. Support here is facilitating the Indonesia Corruption Watch (ICW)-led coalition of CSOs who are assisting selection panel members by “tracking” candidates (i.e., conducting extensive research on their backgrounds), monitoring the “fit and proper” test in Parliament, and supporting the public education campaign related to the process.

¹⁰ Rachel Kleinfeld notes in *Improving Development AID Design and Evaluation* that political reform programs are different than other forms of development programming, and one aspect of that difference is that there is an opposition fighting back. It is important for donors to have plans for dealing with counter-reform (pp.12-13).

¹¹ Component 4: Providing timely assistance for special initiatives needed to protect or advance democratic governance. ProRep will enable USAID to respond flexibly and rapidly to address other unanticipated needs and opportunities pertaining to the protection and advancement of democratic governance in Indonesia. ProRep Contract, p. 38

On the policy front, ProRep is providing grant support to the Institute for Criminal Justice Reform (ICJR), and the alliance of CSOs it leads to ensure that their positions are factored into the debate on the Bill of Criminal Code in 2016. This sweeping legislation will, among many other provisions, define crimes, determine in which courts they will be prosecuted, and amend human rights provisions. Under current law, corruption crimes are prosecuted in the Corruption Court. Experts fear that prosecuting these crimes in other courts – as proposed in draft legislation – would likely reduce convictions. ProRep will facilitate CSO interaction with expert staff of DPR (parliament) Commission 3, helping CSO experts package and time the delivery of their policy papers for greatest impact, and ensure the greatest possible hearing for their proposals. The project is doing the same in preparation for other anti-corruption related legislation in the upcoming 2016 Prolegnas – the joint executive-legislative legislative agenda. ProRep links into the DPR and relations with the professional staff – developed during the program’s first phase – enables ProRep to better assist CSO partners in their interactions with the DPR, especially through ATAP.¹²

Recommendations

Recommendations

- *Build financial flexibility into project design to counter political pushback.* Responding to the political realities, USAID asked ProRep to add a new governance and accountability policy cluster to support civil society groups, expose pushback, and ensure that legislation didn’t weaken anti-corruption provisions. This was financed through the SAF, a mechanism which gives USAID the flexibility and resources to counter likely pushback against political reforms and reformers.
- *Leverage existing societal associations or movements to ensure an appropriate response to the political context and sustainability.* With reform movements already in place, working with them is much more efficient than making something new.¹³ Getting in step and working with Indonesia’s anti-corruption movement allowed for quick start up and, likely, greater sustainability. The policy community approach requires that all grantees in the community collaborate, work together in making decisions, and support one another’s advocacy work. Giving partners a voice in the shape, direction, and even resource allocations can also strengthen collaboration. ProRep’s experience has been to trust senior local staff, rather than expatriates, as interlocutors and main drivers of that processes.

TOPIC 4: IMPLEMENTATION AND EVALUATION

4a. USAID/VIETNAM LEGISLATIVE RESEARCH PROGRAM (LRP) 2011 - 2013

Background and Purpose of LRP

In May 2009, Dr. Dinh Xuan Thao, a Member of the National Assembly and President of the Institute for Legislative Studies (ILS), contacted USAID and requested its assistance to strengthen the ILS. U.S. – Vietnam relations were warming. For Vietnam, better relations with the United States would mean the U.S. serving as a counterweight to a rapidly growing China, and American support in Vietnamese economic expansion and trade. But because of U.S. pressure on human rights, and a suspicion that the U.S. wanted Vietnam to end Vietnamese Communist Party (VCP) rule, Vietnam remained cautious. For the United States, Vietnam plays a key role in the rebalance of the current administration toward the Asia

¹² ProRep helped to establish ATAP, the association of professional staff of the Indonesia Parliament, during project phase one.

¹³ See Kleinfeld, p. 32. “. . . funders must engage locals who are more passionately dedicated to the cause than the outsiders are, and who have local support.”

Pacific region. Vietnam had enjoyed one of the world's fastest economic growth rates, and the U.S. wished to deepen and expand its ties to Vietnam and support Vietnam's economic growth. To do so would mean helping Vietnam deal with challenges in rule of law, regulatory frameworks, human rights, corruption, low accountability, and limited human and institutional capacity.

A one-party state ruled by the VCP allows most forms of personal and religious expression, selectively cracking down on dissent. While the role of the VCP is dominant in politics and society – setting general directions for policies – the details of their implementation are generally left to the state bureaucracy and the NA. The Assembly has slowly increased its influence over the past several years and is no longer just a rubber stamp (see box). Vietnam's leadership is trying to counter the VCP's declining influence, a key problem being rampant official corruption. Given the U.S. interest in establishing ties with GOV, improved relations with the NA could play a useful role.

More than 80 percent of parliamentarians are VCP members, yet in recent years the Assembly has vetoed Cabinet appointments, forced the government to revise major commercial legislation, and successfully demanded an increase in its powers. These include the right to review each line of the government's budget, the right to hold a no-confidence vote, and the right to dismiss the President and Prime Minister.

How the project came to be. In his May 9, 2009, letter to USAID, Dr. Thao said, “We propose a project of capacity-building activities . . . focusing on improving the capacity of staff, both in research skills and practices, study visits, exchange of research materials, support to build a comprehensive database for members of the National Assembly, skills to collect, analyze and provide information to the NA members. . . We would like to inform you that as of this meeting session of the National Assembly on May 20, 2009, we will take over the functions and tasks of the ONA (Center for Information, Library and Research Service) in delivering all information services to members of the National Assembly.”¹⁴ USAID responded and contracted MSI to field a team of experts, led by former CRS staff person William Robinson, to conduct an assessment of ILS needs and appropriate program activities to strengthen ILS. The team was fielded in January 2010, delivered their report the following month, USAID released the RFP in March 2011, and Chemonics signed the contract in September.

Implementation – Project Objectives and Accomplishments

LRP was a tightly defined and focused parliamentary project. Over the 18 month period, the four program components intended to:

1. Assist the ILS in creating a five year strategic development plan
2. Improve the relevance of the information, research, and analytical services provided by the ILS
3. Build the skills, capacity, and expertise of ILS staff to provide high quality legislative research and policy analysis
4. Improve the organization and management of the ILS

The project's overall goal was to assist the ILS to become the Vietnamese National Assembly's leading center of information, legislative research, and policy analysis – and it did. LRP organized 14 institutional strengthening seminars, seven legislative skills workshops, six national policy symposia (and separate, but related, staff workshops), and an ILS study tour of the Polish Sejm's Bureau of Legislative Research. These activities drew more than 1,200 participants, almost all of whom were ILS and NA legislative staff and Members of the NA. A survey conducted by LRP at the conclusion of the project showed that 74 percent of the NA Members participated in at least one of the project's events and 99 percent rated the activities as “worthwhile” or “very worthwhile.” According to chief of party Reginald Todd, these events

¹⁴ Letter from Dinh Xuan Thao, President of ILS to Mr. Frank Donovan, USAID Vietnam Representative, May 9, 2009.

were successful because they were jointly designed and conducted by LRP and the ILS (and thus had “buy-in” and the full support of the ILS), and because the activities were based on the needs of the ILS as identified in a human and institutional capacity development (HICD) assessment conducted by LRP early in the project’s development.

LRP assistance helped the ILS improve its services to NA Members. In a February 2012 LRP survey, NA Members indicated that they were very pleased with the quality and relevance of ILS’ work, but that not all of their requests had been answered in a timely manner, and that almost one in four of their requests (23 percent) had received no answer at all. To address these concerns, LRP and ILS staff analyzed the critical path of Member requests from the time they were received to the time they were answered and made a number of adjustments in the process to improve the response rates. In 2013, LRP’s Member survey showed that the ILS had responded in a timely manner to 95 percent of all document requests (up from 84 percent in 2012); 100 percent of all requests for quick-information (up from 86 percent); and 91 percent of all in-depth legislative research requests (up from 63 percent the previous year). The ILS had also responded to 100 percent of all Member requests for policy analysis (up from 73 percent in 2012).

The project procured 20 computers, three laser printers, and three high-speed photocopiers for the ILS. A survey of ILS computer and office equipment undertaken as part of the project’s HICD assessment found that only 32 (62 percent) of 52 ILS full-time professionals had direct access to a computer. Even more surprising was that most of those without computer access were ILS information specialists and legislative researchers. The new equipment gave 20 ILS staffers direct access to the Internet – and to each other. They no longer have to lease computers.

A former LRP staff member, now working with the NA on the USAID Governance for Inclusive Growth (GIG) Project, says that MPs now routinely go to the ILS for research assistance. ILS staff can recount the specifics about what they learned in LRP training, understand the importance of keeping their briefings short, and know how to focus on the key issues. GIG continues to support policy analysis training for ILS.

Project Challenges

Securing formal commitment from the National Assembly. Given the NA’s specific, formal request for assistance with the ILS, a lack of buy-in from the broader institution may seem odd. In fact, Dr. Thao’s request to USAID for development assistance with the ILS was his request, not the wider National Assembly’s. Prior to USAID agreeing to fund this project, Dr. Thao had promised that the Prime Minister’s office would officially approve it, but at the end of the project’s life the approval had still not come. After the contract was awarded, the beneficiary had little incentive — and neither the Mission nor the contractor have the leverage — to aggressively pursue official project approval or substantive commitments to the project. Although the lack of government approval or a letter of understanding did not prevent implementation of any work plan activity, it did prevent a proper launch of the project and delayed start-up because the ILS, USAID, and the project team were all hesitant to begin work without an official blessing. Lack of formal government approval can also be problematic on administrative issues, such as reimbursement of value-added taxes. A letter of understanding details the commitments and clearly establishes the roles and responsibilities of the host-country government, USAID, and the contractor. It also allows the contractor to be decisive in implementing work plan activities because activities have been pre-approved by the two principal parties.

On the other hand, it is revealing to see how much latitude an individual member of the NA had in developing and implementing this program without formal approval from the Prime Minister’s office, particularly in a one-party state. Greg Power reminds us that, “... parliaments are rarely monolithic or coherent institutions, but are frequently in a state of flux as competing and shifting sets of interests seek to shape how the institution is run, and how it takes (or avoids taking) decisions.” (Power, G. 2011, p. 15). A

number of parliamentary projects have been initiated without initial agreements with host parliaments,¹⁵ and it is often the case that MPs other than Speakers are the leaders in building the powers of parliaments (Power 2011, p. 15).

ILS not receiving funding directly. Another challenge, quite intense when it arose, had to do with ILS disappointment that USAID funds were not provided to them directly (as it was with the UNDP parliamentary project). After ILS managers realized that this was standard USAID operating procedure and would not be changed, they participated wholeheartedly in the project's development and were very pleased with its results. At the close-out ceremony in March 2013, ILS director Dr. Thao, reviewed the program's accomplishments, and complimented ILS and LRP staff on their unusually "smooth and successful collaboration." He said jokingly that the two teams had worked so closely, in fact, that it was hard for him to know who worked for ILS, and who for LRP!

Observations and Recommendations

Observations

- *Small institution-building projects can provide important leverage for building larger, comprehensive projects.* The 2012-2013 USAID Legislative Research Program (LRP) built trust in the NA, and GIG was able to build on that to quickly build relations and trust needed for a larger NA program.
- *USAID implementation methodology helped ensure project accountability and deliver results.* USAID's unilateral approach in contracting a US-based firm specializing in legislative strengthening for project implementation with strict requirements and Mission supervision increases the chances of project success and also reduces the opportunity for patronage and corruption. In contrast, the approach used by international development organizations such as the World Bank and UNDP, in which the recipients of support manage legislative strengthening activities on their own with little effective oversight from a single international technical advisor, seem to be more prone to misallocation of resources.

Recommendations

- *Closely collaborate with partners in assessing needs, developing plans, carrying out activities.* LRP started with a comprehensive needs assessment developed in close collaboration with the beneficiary. Adoption of a Strategic Institutional Development Plan by the ILS guided project implementation and helped to prevent gaps in program coverage and duplication of effort by other donors. Involving the ILS in the development of the detailed work plan gave the ILS a vested interest in the implementation of project activities and helped ensure success. Allowing for adjustments to the plan during project implementation can help ensure that the activities will continue to be relevant to the beneficiary's needs, or as Kleinfeld states, "engage local partners to take on the mission as their own" (Kleinfeld, R. 2015, p. 32) and "state goals clearly, but maintain flexibility and expect programs to be altered." (Kleinfeld, R. 2015, p.33)
- *Leverage partner coordination for success.* Good working relationships with other projects on the ground can reduce confusion and ensure coordination. LRP worked very closely with the international technical adviser to UNDP's legislative strengthening program and with other international organizations to avoid duplication of effort, particularly with respect to the selection of themes for national policy symposia. On one occasion, learning that a similar request for a symposium on proposed anti-corruption legislation had been received by UNDP, and that work on the

¹⁵ USAID's legislative programs in Mexico in 1998, and in Kenya in 2000, for example.

activity was well underway, LRP consulted with the ILS and organized a symposium on decentralization instead. Something similar had occurred a few months earlier when it was discovered that the World Bank had been asked offer a symposium on Urban Planning, which LRP had also been asked to do.

4b. USAID/RWANDA JUSTICE STRENGTHENING PROJECT (JSP) 2009-2011

This case study examines challenges related to implementing legislative strengthening activities in a tightly controlled, post-genocide, one-party state.

Country Context and Project Background

Rwanda is a small, land locked, East African nation. Relations between Rwanda’s majority Hutu (85 percent) and minority Tutsi (15 percent) had been conflictual throughout the country’s post-independence history, but in 1994 Hutu extremists led a genocide and mass murder of political opponents, killing approximately 800,000 Tutsi and moderate Hutu. In response, the Tutsi-led Rwanda Patriotic Front (RPF) attacked and quickly defeated Rwandan government forces, ending the genocide and establishing RPF control over the nation. Subsequently, the RPF consolidated its authority over Rwanda’s political life. A new constitution was approved in 2003, President Kagame was elected, and a “national unity” political system was established, opposing ethnic, regional, racial, and divisive tendencies, and making “divisionism” a prosecutable offense. Freedom House gives Rwanda a “Not Free” rating. It was in this restricted political context that the Rwanda Justice Strengthening Project (JSP) was conducted.

The primary focus of JSP, as the name suggests, was to strengthen the justice system. The genocide had crippled an already weak system, killing or exiling skilled judges and lawyers, and leaving Rwanda with few experienced legal professionals (see box). Under the new government, Rwanda now needed to draft laws adhering to international standards in three languages (English, French, and Kinyarwanda), and the difficulty was compounded as Rwanda began integrating common law and reliance on legal precedent in court decisions. JSP was one of five Millennium Challenge Corporation Threshold Programs supporting the government of Rwanda’s (GOR’s) efforts to raise its Ruling Justly indicator scores. The project had two objectives:

In the years leading up to the project, the Rwandan government made several legal reforms to improve its justice system, yet serious capacity and systems problems remained. Legal drafting staff in the Ministry of Justice were few, there were no dedicated drafting staff in Parliament, and the training they needed was almost non-existent.
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- Objective #1: Strengthen the professionalism, impartiality, effectiveness, and independence of the judiciary by building its institutional capacity
- Objective #2: Facilitate and extend the GOR’s legislative reforms to promote judicial independence and to enhance civil liberties, voice and accountability, and political rights in Rwanda

JSP worked with both the justice sector and the Parliament, with the greater share of resources dedicated to justice reform. JSP’s chief of party, Pat Noonan, led justice reform activities, and deputy chief of party, John Bosley, led the efforts with Parliament.

Implementation – Project Challenges

JSP had considerable success in achieving its objectives in strengthening the justice sector. To name just a few: judges trained by the project trained every other judge in Rwanda in judgement writing using materials developed collaboratively with with project experts; the Supreme Court adopted a revised form

of judgement in use by all Rwandan judges; the Supreme Court created the office of Inspector General of Courts; the project established a successful partnership with the Peace Corps for training judges in English; and ICT solutions supported capacity-building, improved transparency, and increased civil society access to legal processes. Staff in the Justice Ministry and Parliament found training useful and helpful, the quality of judgement writing improved, and society was granted greater access to legal processes and information.

In spite the project's successes in one branch of government, other reforms stalled. The GOR did not establish the Law Reform Commission (LRC) during the project's life (but did subsequently), so planned assistance in setting up the LRC could not be delivered; and at project's end, the Legislative Drafting Support System (LDSS) for use by the executive and legislative branches, had not yet been formally adopted by the Ministry of Justice and the Parliament. Parliament had not submitted any documentation to be included in the system. And neither the Parliament nor the Rwanda Governance Advisory Council had demonstrated any interest in opening the legislative process to civil society and the public. Work with parliamentary committees, developing a legislative agenda with government, and with civil society did not advance well. Introducing new technology or systems can, but need not, lead to changes in institutional behavior.

Implementation issues with Parliament. Interviews with COP Pat Noonan and DCOP John Bosley essentially agree with the *BTI 2010 — Rwanda Country Report*, at least with regard to the Parliament.

“Formal institutions are part of an effective and efficient authoritarian system. “Democratic” institutions only exist as a façade and are under the control of the RPF leadership. Several state bodies also serve for cooptation of potential opposition politicians. There is some room for controversial debate when it comes to technocratic issues. Parliament proves to be even more enthusiastic than the government in the over-interpretation of divisionism. . . . Political culture remains largely authoritarian and – due to the social structure – parochial, since the country and its citizens have never experienced liberal democracy.” (Rwanda Country Report, Gütersloh: Bertelsmann Stiftung. 2009, p. 8)

DCOP Bosley believes that uncertainty and disagreement about Parliament's roles, having no official counterpart for the project to speak on behalf of Parliament, and fear of appearing to challenge the government kept Members and staff from taking advantage of project resources to build a stronger institution. While the Ministry of Justice identified a point person early on in implementation, Parliament did not. Additionally, according to Bosley, MPs and staff were not sure whether they wanted to focus on representation, on legislation, or on improving their physical space. “They said they wanted to learn how to be a modern legislature open to the public, and so you would ask them to meet with CSOs and then they wouldn't do it. They were very confused. The legislature wanted to be the government. They wanted to make all the decisions rather than passing the laws. They paid lip service to public meetings and public dialogue. The project tried to develop a roster of CSOs for inclusive policy making, but the legislature did not hold a meeting with them, did not really reach out – they didn't see any value in it.” (John Bosley, interview, 2015)

Parliament had not identified a point of contact for the project, and no member was willing to take on that role. Therefore, no person could commit the institution to act, which hindered planning and implementation of project activities. Per DCOP Bosley, “The Secretary General of the Senate was elected on a *pro tem* basis, but he didn't actually ‘speak’ for the institution. Nobody could commit the institution for work and planning, etc. They had some very smart people who wanted to make the government work, but they just couldn't make it happen. In contrast, there was a government focal point who was the official counterpart supporting the project's work with government.” (John Bosley, interview, 2015)

Observations and Recommendations

Observations

- *Without commitment, projects fail.* Commitment from counterparts and beneficiaries is a basic requirement for projects to have impact. The commitment was lacking in Rwanda, and the legislative portion of the project made minimal progress. In Vietnam, Dr. Thao's commitment, vision, and involvement in LRP were critical to its success.
- *Technology can support, but does not guarantee institutional growth.* When project partners have specific reform goals and objectives, and have identified how technology or other tools can be used to reach those objectives, counterparts may use them effectively, and this may result in institutional change. Rwanda's parliament lacked such goals, but were concerned about the implications of transparent policymaking that the technology facilitated; thus, they did not make full use of the LDSS.
- *Recognize that concern for political safety might impact political will.* It is important to identify agents of change within institutions and counterparts and to empower them. But recognize that such people may be quickly marginalized. It is also important to understand the political and personal safety risks our partners might face as a result of our work, and that these risks might constrain their participation.

Recommendations

- *Consider crafting different strategies and expectations for engagement.* The legislative strengthening portion of this project was an adjunct to a justice strengthening program, and their progress was very uneven. One partner was a hierarchical arm of government with a clearly defined mission. The other was non-hierarchical, unsure of its role, with members and staff who were afraid to do anything that might show them challenging the government.

CONCLUSION

Our recommendations and observations range from commenting on the project’s role in a country, to responding to internal and external government and country dynamics, to leveraging program design to address political realities. In this section, we make a few broad recommendations from the case studies. These fall into the following categories:

- Parliamentary/DRG projects as facilitators and relationship builders
- Suggestions for strategic project design

Projects as Facilitators/Relationship Builders

A recurring theme throughout these case studies has been a project’s ability to take on the role of facilitator, supporting reforms and advancing legislative goals by leveraging relationships with in-country partners – projects as conveners and trusted outside partners. The most significant successes of EPRC, BEEP, ProRep, GIG, and LRP came through leveraging relationships among in-country partners. Further, project relationships *with* stakeholders facilitated the project supporting relationships *between* stakeholders.

From the beginning of the project, Mongolia EPRC worked to establish good relations with both government and opposition parties, and as power shifted back and forth between parties, EPRC was able to bridge the chasm between them, and between government and parliament, to facilitate tax reform. EPRC played a “legislative relations” role, ensuring that tax reform moved forward, a role later lauded in the project’s mid-term review. Similarly, Vietnam GIG developed relationships of trust with government ministries, the National Assembly, and with Vietnamese civil society organizations. When helping to advance reform, GIG leveraged these trust networks to smooth the process, amplifying the voices of marginalized groups, encouraging cooperation between the Assembly and civil society, and facilitating coordination between parliament and government. In each case, close collaboration, and serving in the role of facilitator, paved the way for the cooperating country to ultimately own project activities. Institution-building support for partners in parliament, government, and civil society – partners whose support was needed to enact meaningful reforms – laid a foundation for these relationships.

This suggests several implications for developing and implementing programs, among them:

- DRG is uniquely placed to leverage substantive policy changes, in ways other sector offices in missions are not.
- Cross-sectoral projects, involving parliament, government, and civil society actors can be especially effective in facilitating substantive policy changes. They will be most effective when they are designed to facilitate interactions among these actors.
- In selecting leadership staff for such projects, skills in facilitating relationships among different institutional actors may be even more important than deep technical expertise in reform areas.
- Train project participants in country-specific advocacy and media skills, ensuring that they understand policymakers’ calendars, how to package and present information to them, what motivates them, and how to work with decision-makers in government and parliament.
- When designing projects, be specific about facilitation roles they should play, making it a part of project design.

Suggestions for Strategic Project Design

The second set of recommendations addresses project design, factors that influence project design, and the importance of thoroughly understanding a country's political economy for building successful projects. In preparing this reference paper, we were encouraged to view the case studies through a political economy lens, analyzing and discussing the power dynamics and the economy of incentives within political society and systems. And this is consistent with USAID's new DRG Strategy, which states that strategic approaches should be "country-based" (i.e., specific to the needs of the host country) and will vary depending on the kind of state (authoritarian, hybrid, etc.) and what it is experiencing (conflict, transition, etc.).

Determining political will. Our case study conclusions stress the importance of political will as a foundation for institutional change and significant reform. When it is absent, or when counterpart commitment wavers, projects are unable to meet their goals. The political economy analysis conducted in preparation for Vietnam LRP and Vietnam GIG recognized that despite Vietnam being a one-party state, the NA was beginning to play a greater policymaking and oversight role – and that the NA might be ready for parliamentary support. And Dr. Thao's direct request for USAID support for the ILS was clear evidence of political will.

In our other one-party state case study, Rwanda, the country was still traumatized from the genocide and its aftermath. Political space was very tightly controlled and, to our knowledge, no Parliament leader had requested assistance. The work in Parliament was an adjunct to the requested justice reform assistance. Judicial reform was quite successful, but parliamentary reform efforts were not. There was political will for building an independent judiciary (the government had requested this support, and JSP was one of a number of US-supported judicial reform projects). But political will to strengthen a legislature, capable of challenging President Kagame and the RPF, was a very different matter. The project's goals served the vertical power structure of the judiciary, whereas the project's goals for Parliament threatened to expose fissures in the horizontal power structure of the legislature.

DRG projects should be designed to work independent of those they are trying to influence. GIG and Vietnam LRP chiefs of parties contrasted USAID's system of project implementation to donor programs where parliaments received and controlled project funds. Both COP's stated that the USAID project structure gave them more ability to leverage change than their counterparts from other donors enjoyed. USAID's system allows projects to play a neutral, outside facilitator role – convening actors from different organizations to enable their reaching agreements on reforms – they could not play if funding was controlled locally.

The power of "report cards." National commitments to improve their standings in World Bank Doing Business (WBDB) Indicators leveraged not only policy changes, but changes in the ways parliaments and governments interacted in Kosovo, Mongolia, and Vietnam. More broadly, this speaks to the policy and institutional changes nations are willing to make in order to gain membership in EU or regional trade pacts etc. for economic gain, and how legislative programming can leverage this desire in developing programs to be more responsive to political economy context.

APPENDIX 1: THE CASE FOR POLICY CLUSTERS

Why are they needed? Policy and law-making in Indonesia, as in many nations, tends to take place within ministries and parliament, with little if any interaction with other sectors. This occurs without taking into account evidence-based policy recommendations made by policy experts and local constituents’ policy interests represented by CSOs. Neither tends to have sufficient understanding of how policies are made, or how to be effective advocates for policy change. These policy communities have been designed in this context to bring together policymakers, experts, and advocates to help them collaborate more effectively in shaping/ influencing specific policy changes.

They are designed to strengthen the hand of policy reformers by:

- Bridging the communication gap between policymakers and policy advocates
- Stimulating the establishment of powerful policy alliances among relevant policy actors that build upon the individual and institutional strengths, capacities, and knowledge of the policy communities’ members
- Helping develop shared advocacy goals and a common vision toward specific policies which should keep the policy communities sustainable after the life of the project

Why now? A new government and parliament are now taking office, and with them scores of new ministers, deputy ministers, secretaries general, committee chairpersons, and others. Now is the time to begin working and developing relationships with new leaders and their staff. Reformers in government and parliament have asked that CSOs and policy experts apply expert and media pressure as a counterweight to vested interests opposed to reforms.

How Were They Developed? During ProRep’s base period, the project increasingly brought together CSOs, policy experts, and policymakers to work together for policy reforms. Building on this experience, and recognizing that achieving many of the objectives of USAID’s new Country Development Cooperation Strategy would require national and local level policy changes, the USAID Democracy and Governance Office and ProRep collaborated to develop the policy cluster concept.

Policy Community/Cluster Grants

Education Policy Community	<ul style="list-style-type: none"> • Ensuring more equitable deployment of Indonesian teachers • Evaluating and proposing improvements to the teacher certification program • Proposing improvements to the School Operational Assistance (BOS) program
Environment Policy Community	<ul style="list-style-type: none"> • Enactment of stalled implementing regulations on the 2009 environment law • Promulgation of regulations on Constitutional Court rulings No. 45/2011 on forest borders, and No. 35/2012 on indigenous forests • Design a local level institutional framework of a benefit sharing mechanism (BSM) of forestry revenues for indigenous peoples. • Supporting the strengthening of the Green Economy Caucus in the DPR
Health Policy Community	<ul style="list-style-type: none"> • Strengthening national health promotion policies in relation to the accreditation of <i>puskesmas</i> (local clinics) and certification of health promotion personnel • Improving <i>puskesmas</i> services by developing local regulations through multi-stakeholder collaboration • Improving policies related to the implementation of the new national health insurance program (JKN) and support efforts to reduce maternal mortality by developing a multi-stakeholder action plan based on a case study of midwives

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