



Booklet on the right to participation of people living in poverty

The Socio-Economic Rights Project (SERP) of the Community Law Centre was formed in 1997 with the aim of promoting the effective implementation, monitoring and enforcement of the socio-economic rights enshrined in what was then the Interim Constitution. SERP was actively involved in a broad-based civil society campaign to ensure the inclusion of socio-economic rights as justiciable rights in the Bill of Rights in the 1996 Constitution. The Project works towards ensuring that socio-economic rights are accessible and enjoyed by everyone, particularly those groups and communities afflicted by poverty.

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1. What does participation mean?

Participation means giving poor or disadvantaged people an opportunity to be heard by the government during the time of taking a decision that may affect their lives. Poor or disadvantaged people are not only to be listened to, but their suggestions or views must form part of the laws or policies that affect their lives.

2. Why is participation important for poor or disadvantaged people?

Generally, people who are poor or disadvantaged do not also have power and as such they are excluded from taking part in decisions that may affect their lives. Also, lack of power can lead to poverty. Poverty does not merely mean lack of income but can be caused by lack of power, being treated differently or without respect, excluded or unable to have access to material goods. Lack of power by the poor can occur in different ways but the most important effect is denying people in poverty an opportunity to participate in issues affecting their lives. In most cases decisions are made by the rich, educated or powerful in society, who do not understand the problems or needs of poor people.

3. What are the problems that may affect participation by the poor or disadvantaged in decision-making?

Several reasons may make it difficult or impossible for the poor or disadvantaged to contribute to issues that may affect their lives. Some of these include economic situation, social, structural, and legal problems. Because the poor lack financial resources or political power their voices may not be heard when important decisions are made that may affect their lives. Also, due to fear, distrust, lack of income, being looked down upon or treated without respect people living in poverty are discouraged or prevented from making their views heard by those in authority.

Sometimes because of lack of power, people living in poverty face other challenges such as corruption or being forced to submit to those in authority. In some situations, people living in poverty or members of their families may be exposed to danger or violence if they speak out on important issues affecting their lives. Lack of economic or political power denies people living in poverty from participating in decision-making and may further lead to inequality. **Indeed, the greater the inequality the less the participation and the less the participation the greater the inequality.**

4. Are human rights useful in ensuring the participation of the poor and disadvantaged?

Human rights help in reducing inequality and differences in society so as to contain oppression and prevent a situation where the poor or disadvantaged groups are treated unequally or not consulted before important decisions are made. Human rights also help in promoting the decision-making powers of disadvantaged groups and the respect for dignity of every individual. In other words, human rights help in preventing the powerful from taking advantage of the less powerful in decision-making. Human Rights create a level playing field for all- rich or poor- to have a say in matters affecting their lives. More importantly, human rights prevent a situation where will or decisions of powerful members of society are imposed on the weak, poor or disadvantaged.

One of the important advantages of a rights-based approach to participation is that it ensures that the voices and views of the poor and disadvantaged can be heard. This in turn promotes equality, non-discrimination, dignity and respect for autonomy. Also it allows for the poor and disadvantaged to be meaningfully involved in the planning and implementation of policies and programmes affecting their lives. Evidence exists to support the fact that where the poor and disadvantaged are meaningfully involved in decision-making that affect their lives, the outcomes can lead to positive developments such as effective reduction in poverty, capacity building of people and organizations unity and strong democratic culture.

5. What are the relevant human instruments in relation to participation of the poor?

The following are some of the relevant human rights instruments in relation to participation

Universal Declaration on Human and Peoples Rights (arts 21 and 27)

International Covenant on Civil and Political Rights (art 25)

International Covenant on Economic, Social and Cultural Rights (arts 13.1 and 15.1)

Convention on Elimination of All forms of Discrimination against Women (arts. 7, 8, 13(c) and 14.2)

International Convention on Elimination of Racial Discrimination (art. 5(e)(vi))

Convention on the Rights of the Child (arts 12 and 31)

Convention on the Rights of persons with Disabilities (arts. 3(c), 4.3, 9, 29 and 30),

International Convention on the Rights of All Migrant Workers and Members of their Families (arts. 41 and 42.2)

United Nations Declaration on the Right to Development (arts. 1.1, 2 and 8.2)

United Nations Declaration on the Rights of Indigenous Peoples (arts. 5, 18, 19 and 41).

6. What does a human rights-based Approach to Participation imply?

This implies the application of human rights principles to participation of the poor in decision-making that affect their lives. It envisages a situation where participation of the poor is grounded in human rights standards. The following are some of the human right principles applicable to participation of the poor.

6.1 Respect for dignity, autonomy and agency

Dignity is a foundational human right that is linked to other rights. Ensuring that people living in poverty participate in decision-making can help to reclaim their human dignity and autonomy by recognising them as active participants with responsibilities in decisions that affect their lives. All participatory processes must be grounded in respect for human dignity and autonomy. Participation should emphasize on the recognition of individuals as a valid speaking partner with valuable knowledge to contribute.

6.2 Non-discrimination and equality

The principle of equality and non-discrimination implies that every individual should have the opportunity to make their views known to other members of society and to be part of decision-making process. More importantly, efforts should be made to ensure that certain categories of people-women, children, ethnic minorities, persons with disabilities and people living with HIV- due to historical disadvantage are given equal opportunities to express their views, including by assigning specific resources, mechanisms and strategies for this purpose.

Generally, people living in poverty experience discrimination on the grounds of poverty itself. Also, people living in poverty may as a result of their membership of disadvantaged groups, including indigenous people, person with disabilities and persons living with HIV, further experience some form of discrimination. States must give special attention to differences and power relations that exist between men and women in society. They must also recognise the different forms of discrimination women experience and take appropriate steps to address them. The principle of equality and non-discrimination requires states to adopt affirmative action in order to ensure that every one has equal opportunity to participate in decision-making. Therefore, efforts must be made to remove any barriers to participation of vulnerable and marginalised groups in decision-making process.

6.3 Transparency and access to information

Transparency and effective access to information are key to the realization of the right of people living in poverty to participate in decisions-making that affects their lives. People living in poverty must be assured access to information to enable them assess and question the quality of policies and laws being adopted and implemented by the government. This implies that information should conform to the principles of accessibility, acceptability and adaptability and must specifically address the needs of the most marginalized and vulnerable in society. It is important that the process and procedures leading to

the making of a decision are clearly explained to participants and there must be an assurance that their views will be considered before decisions are reached. Moreover, when decisions are reached all participants and the public as a whole must be informed timely about this.

6.4 Accountability

Accountability is an essential element of a rights-based approach to participation. It implies that people living in poverty and the public can seek redress from the government for failing to respect, protect and fulfill the right to participation. To this end, government must ensure that there are effective complaints mechanisms. In particular; people living in poverty must be assured access to effective grievance mechanisms in order to hold decisions-makers accountable if they feel dissatisfied with the participatory process. Complaint and grievance mechanisms must be sufficiently funded by the government and must be culturally appropriate and designed to encourage the broadest participation possible by vulnerable and marginalized groups, particularly women.

Participation of people living in poverty in decisions that affect their lives is an obligation and not a choice. Therefore, states must ensure that no one is deliberately excluded from the participatory process even if such persons hold different opinions from others. In addition, states must adopt laws and policies and establish institutions that will enable people to enforce their right to participation or challenge hindrances to the realization of such a right.

6.5 Empowerment

The right to participation can be instrumental to empowering and building the capacity of people living in poverty. For participation to be empowering, decision-making must not be predetermined but rather must allow for ideas to emerge from bottom up. For people living in poverty to participate meaningful in decision-making their capacity must be strengthened. Therefore, human rights education and other forms of training must be provided to people living in poverty prior to any decision-making process. More importantly, people living in poverty must be allowed to set the terms of discussion and choose topics for discussion. Although civil society groups have an important role to play in promoting the right to participation of people living in poverty, this should not be mistaken for making decisions on behalf of the poor or disadvantaged. At all times people living in poverty must be allowed to make their own decisions without any influence.

6.6 What must states do to ensure participation of the poor in decision-making?

States general are obligated to respect, protect and fulfill the right to participation of people living in poverty. For this to happen, states must embark on the following:

1. Create an enabling environment for participation through adoption of appropriate laws and establishment of institutions
2. Set and enforce minimum standard for participatory process, particularly for people living in poverty and other marginalized and disadvantage persons.
3. Allocate adequate resources to facilitate participatory processes, particularly with regard to people living in poverty and other disadvantaged groups.
4. Design and implement participatory processes that will take account of gender differences and other forms of inequalities that may hinder active participation of vulnerable and marginalized groups in decision-making.
5. Adopt and implement legislative reforms that will guarantee free flow of information on decision-making processes and ensure that appropriate institutions and department to enforce this are well-funded.
6. Ensure that participatory processes have in-built complaints mechanism that will enable people living in poverty and other disadvantaged groups to seek redress if they feel agitated.
7. Recognize and support the role of civil society groups in facilitating participation of the people living in poverty in decision-making process.