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INTEGRATING HUMAN RIGHTS IN PROGRAM EVALUATION

LESSONS FROM LAW AND HEALTH PROGRAMS IN KENYA

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5

Integrating Human Rights in Program Evaluation: Lessons From Law and Health Programs in Kenya

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Abstract

Methods for assessing both the inclusion and impact of human rights within health program design and implementation are still nascent. We used human rights concepts and methods to evaluate the programs of three Kenyan nongovernmental organizations that integrate legal and health services as a means to empower key populations to better understand and claim their rights and improve their access to health care and justice. Drawing on evaluation experiences and results, this paper demonstrates that the systematic application of human rights principles and strategies can support the conceptualization of monitoring and evaluation objectives through logic model design, the identification and selection of appropriate evaluation measures, and the analysis of evaluation data. This evaluation represents an important step in moving human rights–related evaluation work beyond the mere conceptual and into the operational.

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The promotion and protection of human rights is widely noted as key to an effective HIV/AIDS response and to public health efforts more generally. In light of this dynamic, three Kenyan nongovernmental organizations (NGOs) utilized support from the Open Society Foundations (OSF) to integrate legal services into existing health services addressing gender-based violence and general HIV clinical care, with the ultimate aim of supporting the health and human rights of key populations.

In Kenya, as elsewhere, people living with HIV (PLHIV), survivors of gender-based violence, and women and children more generally experience human rights violations that undermine their health and quality of life. A 2008 report by the Institute of Development Studies documented a high level of violence against women in Kenya and emphasized that despite much demand, the availability of and funding for violence rehabilitation, accountability mechanisms, and appropriate medical care remained sparse (Crichton, Musembi, & Ngugi, 2008). Moreover, an assessment of legal services for PLHIV in Kenya indicated that human rights abuses, including sexual violence, stigma, and discrimination, fuel the HIV epidemic, especially among socially marginalized groups, and that access to affordable legal services is extremely limited (Kalla & Cohen, 2007).

Addressing this situation through programs that integrate legal and health services (hereafter "legal integration programs") is a strategy suggested by other initiatives that have broken new ground in the field of public health (Csete & Cohen, 2010; Ezer, 2008; National Center for Medical-Legal Partnership, n.d.). The OSF initiative established legal integration programs within three NGOs: the Christian Health Association of Kenya (CHAK), the Coalition on Violence Against Women (COVAW), and the Legal Aid Centre of Eldoret (LACE).

CHAK is a faith-based organization that operates more than 400 Kenyan health facilities and provides a broad range of HIV prevention and treatment services. In its legal integration program, CHAK trained health providers and community representatives of PLHIV to incorporate law and human rights into community outreach activities and support group meetings in several of its health facilities. CHAK also sensitized community leaders about human rights and partnered with local legal aid organizations.

COVAW is a national women's human rights organization focusing on violence against women, including how violence against women intersects with HIV. COVAW integrated health and legal services for survivors

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of gender-based violence at post-rape centers in a large referral hospital and a smaller district hospital in Nairobi. Activities included providing legal aid, training health care providers, and implementing a pro bono legal scheme.

LACE was founded by Kenyan attorneys and judges to represent people who otherwise have limited access to justice, particularly PLHIV. LACE established a legal aid office as part of the United States Agency for International Development—Academic Model Providing Access to Healthcare (AMPATH) site in Eldoret, a city northwest of the capital of Nairobi. The program provided comprehensive care and treatment to PLHIV. PLHIV with otherwise limited access to justice received training, direct legal representation, and referrals to pro bono services.

Findings discussed in this paper, and published separately, point to legal integration activities being associated with a number of desirable outcomes with implications for health and well-being. These included the provision of legal aid to clients, referrals to other needed resources, and training of groups of clients and health care providers on legal and human rights issues (Gruskin et al., 2013). Discrimination, land and property ownership, housing, child support, and sexual and gender-based violence were all issues that clients commonly addressed through the legal integration programs. It is estimated that the three legal integration programs collectively delivered services to more than 500 individual clients in the time period covered by this evaluation.

This evaluation experience notably provides insight into the potential contributions of human rights paradigms to evaluation science. Developing and implementing the evaluation protocol and instruments suggest a number of issues that may be relevant to others seeking to address social justice issues through evaluation, and is synergistic with growing recognition of the need to measure the impact of human rights–based programs and how to apply human rights concepts in evaluation (World Health Organization, 2013). Building this knowledge base will contribute more generally to clarifying the role of evaluation in promoting social justice, in part by calling attention to inequalities and power imbalances among social groups.

Evaluation Background

Human rights concepts and methods have been used to improve health processes and outcomes worldwide through advocacy, through use of the courts, and in health programming. A widely recognized tenet in much of this work is that health outcomes can be linked via causal pathways to underlying factors in the physical and social environment such as those relating to an individual's housing, educational opportunities, income-generating opportunities, and experiences of discrimination. Notably, these underlying factors also are manifestations of the realization or denial of

human rights such as the rights to housing, education, an adequate standard of living, and freedom from discrimination (Baral et al., 2009).

In other words, advancing an individual's right to education, for example, can be not only an end in itself but also a means of advancing that same individual's right to health. Therefore, while some health and human rights initiatives focus only on aspects of health systems or health services, others seek to improve health outcomes primarily through non-health pathways (Pronyk et al., 2006).

In the legal integration programs that were the focus of our evaluation, clients brought forth issues with extensive implications for health and well-being. Helping a client whose HIV-positive status was the basis for termination from a job was understood to advance that person's right to health, illustrating the demonstrated correlation between financial status and health status (Commission on Social Determinants of Health, 2008). The legal integration programs were integrated into conventional health programming, but the focus of this evaluation was strictly the value of the legal integration programs in and of themselves.

Public health leaders and practitioners recognize the elements of what is termed a human rights–based approach (HRBA) and how this approach can strengthen the effectiveness of public health programming (Gruskin, Bogecho, & Ferguson, 2010). Key human rights definitions and concepts agreed upon by evaluators at the outset of this evaluation process are presented in Table 5.1.

Despite the potential of human rights to inform health policies and programs, evaluation methods and indicators that specifically capture human rights concerns are not well developed and those that exist are often used inconsistently (Gruskin & Ferguson, 2009). International health and development organizations that have been applying human rights–based approaches to the design and implementation of programs are increasingly interested in monitoring and evaluating the impact of this work (International Center for Research on Women, n.d.; Oxfam America & CARE USA, 2007). The World Health Organization recently assessed governmental efforts to improve women's and children's health through various rights-based interventions and found evidence of health-related gains (World Health Organization, 2013).

Within this context, the evaluation of the Kenyan legal integration programs sought to: (a) assess program achievements, including those related to human rights concepts such as empowerment and nondiscrimination, and (b) examine whether integrating human rights norms and standards improved the delivery of services. An important benefit has been to shed light on the experiences of disenfranchised people in different types of settings within Kenya. Kenyatta National Hospital, the site of the COVAW legal integration activities that were evaluated, is one of Kenya's largest public hospitals. As such, it serves a broad cross-section of Nairobi's poorest residents. Many of the LACE program's clients similarly were referred by

Table 5.1. Key Human Rights Definitions and Concepts Utilized for the Evaluation

Human rights	Human rights are universal legal guarantees enshrined in international human rights treaties that create legally binding obligations on the nations that ratify them and have the status and power of international law. International human rights law is about defining what governments can do to us, cannot do to us, and should do for us (Office of the United Nations High Commissioner for Human Rights, n.d.).
Rights-based approach to health	A rights-based approach to health is explicitly shaped by human rights principles, including attention to the key elements of the right to health; participation; equality, and nondiscrimination; the legal and policy context; and accountability (Gruskin, Bogecho, & Ferguson, 2010).
Key elements of the right to health: (3AQ)	As stated in General Comment 14 of the UN Committee on Economic, Social, and Cultural Rights, a state's obligations under the right to health include ensuring the availability, accessibility, acceptability, and quality of health facilities, goods, and services (Committee on Economic, Social and Cultural Rights, 2000). *Availability*: Functioning public health and healthcare facilities, goods, and services, as well as programs, have to be available in sufficient quantity. The precise nature of the facilities, goods, and services will vary depending on numerous factors, including the level of development within the society. *Accessibility*: Accessibility has four overlapping dimensions: nondiscrimination; physical accessibility; economic accessibility (affordability); and information accessibility. *Acceptability*: All health facilities, goods, and services must be respectful of medical ethics and culturally appropriate, that is, respectful of the culture of individuals, minorities, peoples, and communities; sensitive to gender and life-cycle requirements; and designed to respect confidentiality and improve the health status of those concerned. *Quality*: Health facilities, goods, and services must be scientifically and medically appropriate and of good quality (Committee on Economic, Social and Cultural Rights, 2000).
Participation	The right of individuals and groups to participate in decision-making processes is an integral component of any policy, program or strategy developed to discharge governmental obligations under the right to health. Promoting health thus involves effective community action in setting priorities, making decisions, and planning, implementing, and evaluating (Gruskin, Bogecho, & Ferguson, 2010).

(*Continued*)

Table 5.1. Continued

Equality and nondiscrimination	Any discrimination in access to health care and the underlying determinants of health is proscribed, as well as to the means and entitlements for their procurement, on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, (Committee on Economic, Social and Cultural Rights, 2000).
Accountability	Governments are accountable to their populations and to the international community for their actions which impact on health and development. Accountability mechanisms should exist at local, national, regional, and international levels to monitor compliance and support governments in fulfilling their human rights obligations. Any person or group victim of a health-related violation should have access to effective judicial or other appropriate remedies at all levels. All victims of such violations should be entitled to adequate reparation, in the form of restitution, compensation, satisfaction or guarantees of non-repetition (Schrecker, Chapman, Labonté, & De Vogli, 2010).

Source: Adapted from Gruskin et al. (2012).

an HIV clinic that seeks to make health services accessible to poor residents of Eldoret, a city of 300,000 people near Kenya's western border with Uganda. Both of the CHAK evaluation sites are health clinics with large caseloads of patients who lack the resources to pay out-of-pocket for health care: one in Mombasa, a major commercial center on Kenya's east coast, and one in Naivasha, a rural agricultural community 90 kilometers northwest of Nairobi.

Evaluation Overview

We assessed legal aid interventions aimed at improving health services and underlying determinants of health such as access to employment and education. A logic model was created by identifying legal integration activities, outcomes, and human rights principles relevant to the work of each organization. We identified quantitative and qualitative methods to capture each structure, process, and outcome component of the logic model. We then integrated human rights principles such as participation, non-discrimination, accountability, and empowerment into all instruments developed [instruments available upon request].

Data collection for the evaluation took place in 2010–2011. Data were collected through meetings, site visits, interviews, and focus group

discussions with the organizations' legal and health staff, patients, and clients. The organizations' existing client records and other routine data were obtained to calculate quantitative and outcome indicators of onsite legal service provision, referrals, and case outcomes.

Client records were entered into a database and quantified to capture indicators of interest. Data from the questionnaire, case review worksheets, and interview and focus group discussion transcripts were entered into qualitative analysis software (NVivo 9). A qualitative analysis plan was established. Thematic content analysis was used to code data, focusing on the generation of key words, phrases, and themes concerning programming, legal and human rights issues, and the HRBA elements from the logic model. Comparisons were drawn between control and intervention groups of clients and staff where possible.

Incorporation of Human Rights Into the Evaluation

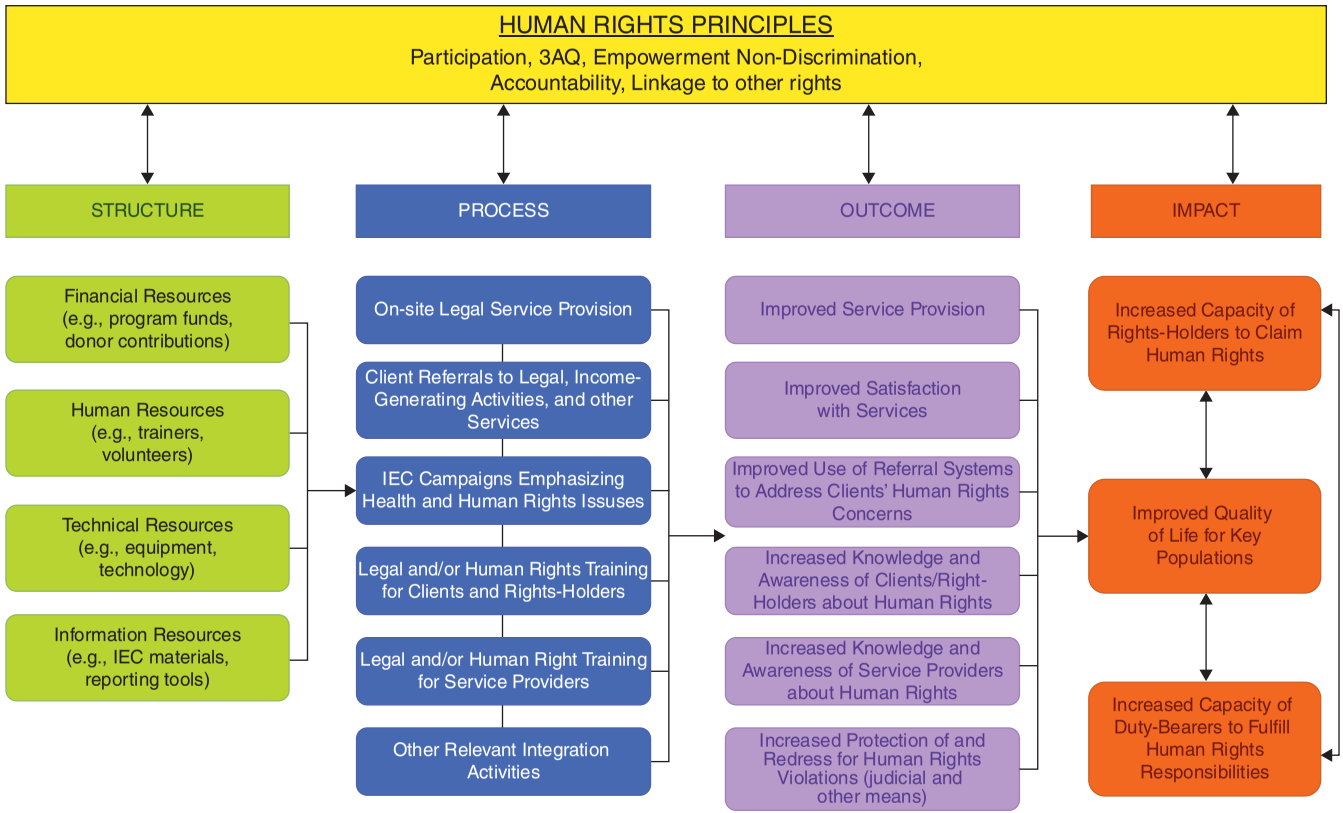
Human rights were systematically applied to support evaluation objectives through the logic model design, the identification and selection of appropriate measures, and the analysis of evaluation data, as described in the following subsections. The inclusion of human rights principles in the evaluation process provided a vehicle to promote social justice not only through programming objectives but also in relation to how the value of the projects was assessed.

Human Rights in Logic Model Development

Logic models, commonly used in health programming to understand associations between program activities and objectives, assess assumptions underlying change, and elucidate programming strengths and weaknesses (Affi, Makhoul, El Hajj, & Nakkash, 2011; Hawkins, Clinton-Sherrod, Irvin, Hart, & Russell, 2009; Holliman, 2010). They are seen as particularly useful for program monitoring and evaluation (W. K. Kellogg Foundation, 2000).

We developed our logic model by combining a conventional structure-process-outcome-impact evaluation framework with elements commonly understood to form part of a human rights–based approach to programming. Figure 5.1 depicts the logic model used for the evaluation. The structure components are based on resources employed by the three NGOs in their legal integration work. The process components are based on common organizational activities to integrate legal support into their health services. Program outcomes relate to health and the underlying determinants of health for people living with and affected by HIV and gender-based violence. Drawing on the UN Common Understanding of a Human Rights–Based Approach (United Nations, 2003), impact was defined as building the capacity of rights-holders and duty-bearers to claim and fulfill rights.

Figure 5.1. Human Rights in Logic Model Development



Note: IEC = information, education, and communication.
3AQ = availability, accessibility, acceptability, and quality of services (the core components of the right to health).

In developing the logic model, we identified human rights principles deemed common and relevant to all three legal integration programs and their programming objectives. These included: five elements of a human rights–based approach to programming (participation, accountability, nondiscrimination, empowerment, and linkage to other rights) (Open Society Institute and Equites, 2009; United Nations, 2003); the core components of the right to health; and rights relating to information, education, an adequate standard of living, justice, and security of person. Attention to these rights and principles was ensured by conceptualizing measurable processes and outcomes to capture both programming goals and human rights dimensions.

Using Human Rights to Shape Evaluation Instruments

We integrated human rights and rights-related principles into the development of qualitative protocols and the selection of quantitative indicators for measuring processes and outcomes.

Rights concepts were addressed in qualitative work through direct questions, follow-up questions, and probes. For example, some interview protocols contained questions directly related to the principle of participation, including questions about how communities were involved in the planning and implementation of trainings.

Some quantitative indicators were specifically selected to capture human rights-relevant information, such as the proportion of clients receiving legal referrals or cases resolved through community mechanisms. Indicators were then coded for the human rights elements they reflected, in particular the 3AQ (see Table 5.1). For example, the proportion of clients receiving help with legal documents over a specified period is related to the human rights principle of empowerment and to the availability and accessibility of services. When disaggregated by sex, age, and other relevant categories, it can also capture discrimination and inequalities. Thus, social justice for particular groups was promoted throughout the evaluation process.

Capturing Human Rights in Data Analysis

We applied traditional qualitative analysis techniques to capture human rights and programming dynamics and outcomes. The analysis was organized into two coding sections with explicit attention to rights.

Based on the conceptual logic model, the first section focused on a tiered structure of data analysis with attention to human rights principles, norms, and standards: for example, differentiating human rights training of health and/or legal service providers versus clients who had received services. The second coding section captured emerging concepts and themes, related to but beyond the specific focus of the evaluation, such as in relation to "gender," "vulnerable populations," and "advocacy."

Systematic attention to human rights in data analysis brought to light important findings, including patterns within and across programs. One such example is the powerful role of informal community mechanisms, like village elders, chiefs, and assistant chiefs, in resolving noncriminal legal conflicts (for example, loss of property and disinheritance). Findings also revealed successes in using alternative dispute resolution, for example, to help clients resolve housing problems and to obtain children's school fees. Clients used formal legal channels as well, with the programs assisting in both criminal and civil cases. Legal and human rights training was an important area of activity for all programs.

Qualitative findings provide insight into how these activities were perceived by clients and providers as advancing human rights and improving underlying determinants of health, including food, shelter and education. Because of the attention given to the right to information and the principle of empowerment, the data analysis helped to qualitatively document improvements in knowledge and awareness of human rights among clients and service providers who participated in legal integration programs. For example, as compared to control groups of untrained clients, trained clients showed a more detailed conceptual knowledge of human rights and a better understanding of how to claim rights.

Challenges and Limitations

Several challenges emerged during this evaluation. The different perspectives and priorities of the research team members, program staff, and funders were particularly important. For example, while the primary intent of the research team was to develop a robust interdisciplinary evaluation methodology, the funder's main focus was to determine whether program outcomes had been achieved, and program staff sought to ensure that their work would continue to be funded. Navigating the conceptual differences and vested interests of all actors was necessary in order to reach a common understanding about both the process and the outcomes of the evaluation.

Lack of quality routine data collected by the NGOs posed significant limitations. Simple changes in routine monitoring systems could have ensured more systematic attention to a range of human rights. For instance, routinely collecting client data on gender, age, and ethnicity could have enabled disaggregation to investigate whether certain populations were utilizing the services on offer to a lesser extent than others.

The lack of control groups and the small size of some of the focus group discussions and small number of interviews also posed limitations, underscoring the importance of considering contextual factors when designing evaluations, especially the capacity of program staff to support evaluations

being undertaken within small grassroots initiatives (Habicht, Victora, & Vaughan, 1999; Victora, Habicht, & Bryce, 2004).

Conclusion

This evaluation experience highlighted important entry points for building the evidence base regarding the added value of using human rights and rights-based approaches to affect underlying determinants of health such as educational attainment, freedom from discrimination, and access to justice.

Incorporation of human rights within the logic model illustrated three important issues. First, rights can be systematically integrated into the conceptualization and definition of processes, outcomes, and impacts. Second, rights can serve as a tool to analyze linkages in a logic model, and it is possible to document how rights principles might be operating implicitly or indirectly within legal integration programs. Third, human rights can provide a strong foundation for assessing the link between rights and programming objectives in subsequent evaluation steps, including data analysis.

The approach piloted here may be especially valuable in settings where complex obstacles need to be addressed in order for marginalized populations to achieve social justice. More work is needed to increase the feasibility of combining human rights and conventional evaluation approaches, especially for small and under-resourced programs. This evaluation represents an important step in moving human rights–related evaluation work forward.

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