

Transformative governance: Leadership, responsibility and agency

Dr Michael Cosser



What is transformative governance?

- **Governance to transform society, to enable all South Africans to realise their socioeconomic rights as spelled out in the Constitution**
- **Transformation of the ways in which government governs, to ensure that governance is effective, efficient, transparent, and inclusive**



What is a Transformative Governance Index (TGI)?

- **An index comprising a set of indicators designed**
 - **to measure the extent to which the socioeconomic rights in the Bill of Rights have been realised; and**
 - **to accelerate the realisation of those rights by all South Africans**



2017/18: Focus on section 26 and 27 rights

- **Right to access to:**
 - **Adequate housing**
 - **Health care services**
 - **Sufficient food and water; and**
 - **Social security**
- **'The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights'**



Qualified nature of section 26 and 27 rights (1)

- If ‘The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights’,
 - What are ‘reasonable legislative’ measures?
 - What are ‘other measures’?
 - What resources are ‘available’ to the state?
 - What is the timeframe for the ‘progressive realisation’ of these rights?



Misinterpretation of ‘progressive realisation’

‘The concept of progressive realization is sometimes misinterpreted as if States did not have to protect economic, social and cultural rights until they have sufficient resources. On the contrary, the treaties impose an immediate obligation to take appropriate steps towards the full realization of economic, social and cultural rights. A lack of resources cannot justify inaction or indefinite postponement of measures to implement these rights. States must demonstrate that they are making every effort to improve the enjoyment of economic, social and cultural rights, even when resources are scarce. *For example, irrespective of the resources available to it, a State should, as a matter of priority, seek to ensure that everyone has access to, at the very least, minimum levels of rights, and target programmes to protect the poor, the marginalized and the disadvantaged*’ (emphasis added).



Office of the United Nations High Commissioner
for Human Rights, Fact Sheet 33

What form will the Index take?

Right	Indicator	Indicator dimension				
		Legal	Institutional			Measurement
			Public sector	Private sector	NGO sector	



Example: Right to access to health care services

Right	Indicator	Indicator dimension				
		Legal	Institutional			Measurement
			Public sector	Private sector	NGO sector	
Access to health care services	Access to essential treatment	South African case law – e.g., Soobramoney Act(s) of Parliament Regulations International law	Government department Responsibility in relation to right Financial management Representivity Inclusivity Transparency Accountability Institutional capacity Integrity			What are 'reasonable legislative and other measures'? What resources are 'available' to the state? What is the timeframe for 'progressive realisation' of this right?

TGI project 2017/18 – Report outline

1. Introduction
 - a. Summary background to the project and need for a governance index
 - b. Outline of sections in the report
2. Background to transformative governance index
 - a. National problem that gave rise to the project
 - b. The need for a governance index
3. The Constitution and socioeconomic rights (SERs)
 - a. SERs and the Constitution
 - b. Mining the gap between SERs and their realisation
4. Theoretical framework for the establishment of a governance index
 - a. Literature review and conceptual framework



TGI project 2017/18 – Report outline

5. Methodological framework for the establishment of a governance index
 - a. Derivation of methodological approach
 - b. Framework for establishment of index and construction of indicators
6. Public perceptions of access to basic rights as measured by the South African Social Attitudes Survey (SASAS)
7. TGI indicators
 - a. Housing
 - b. Health care
 - c. Food
 - d. Water
 - e. Social security



TGI project 2017/18 – Report outline

8. Development and operationalisation of governance index
 - a. Overview: development and operationalisation through partnerships
 - b. Identification of social partnerships
 - c. Report on engagements initiated with social partners
9. Monitoring & evaluation framework
 - a. Short-term (one to two-year) goals
 - b. Medium-term (three to five-year) goals
 - c. Long-term (beyond 5 year) goals
10. Conclusion and recommendations



TGI project 2018/19

- Refine indicators developed in first phase, through further research and consultation with stakeholders working in the area(s) of 'first level' rights
- Classify all rights in the Bill of Rights into first,- second- and third-level rights
- Scope work that needs to be undertaken in developing indicators for, and drafting accompanying narratives around, second-level rights
- Populate indicator framework (Index) with indicators as per the three dimensions specified in the indicator template: legal; institutional; and measurement



TGI project 2018/19

- **Extend indicator development for the five basic rights to include the private sector and NGO / volunteer sectors within the institutional dimension**
- **Populate as many of the indicators developed in the course of 2018/19 – beginning with the indicators for the five basic rights – with the most recent data derived from national and international sources**
- **Devise, in consultation with role-players and stakeholders in the public, private and NGO / volunteer sectors, short-, medium-, and long-term targets for indicator measurement**
- **Engage with identified role-players and stakeholders around the development, refinement and measurement of second-level indicators**



TGI project 2018/19

- **Partly through such engagement and partly through targeted approaches to government departments, seek ways to embed the indicators and the activities required to measure progress against them into existing governance structures**
- **Problematised, and workshop, public-private-NGO/volunteer sector partnerships in a range of project implementation and service delivery areas conventionally considered the exclusive domains of the public sector**
- **Refine the monitoring & evaluation (M&E) framework developed in the first phase of the project, advise social partners on its implementation, and propose data collection strategies and plans that can be implemented in the first quarter of 2019**



Leadership and responsibility

- Four years ago a child drowned in a pit toilet at school. This week another one did
- Equal Education is taking the Minister of Basic Education to court over this, 'to have definite timelines for the department to rid itself of bad infrastructure' (*Sunday Times* 25 March 2018)
- In 2013 the Minister committed to ensuring that all schools had sanitation by 2016. They don't ...
- The President has given the Minister three months to roll out basic sanitation. Equal Education says she's seized with a sense of urgency, not out of concern for schoolchildren but to avoid being fired
- We may not be in leadership positions or have direct responsibility ...

BUT WE HAVE AGENCY

