Workshop Report

Bridging the gap between human rights advocates and scientists: improved measurement of the realisation of ESC rights

"If you cannot measure it, you cannot improve it." Lord Kelvin

Introduction

On 12 and 13 August, HURIDOCS and the Geneva Academy of International Humanitarian Law and Human Rights convened a workshop to discuss the so-called IBSA procedure for more effective monitoring and implementation of economic, social and cultural rights. The workshop was chaired by Eibe Riedel, Chair of Human Rights at the Academy and member of the UN Committee on Economic, Social and Cultural Rights (the Committee). The Permanent Mission of the Netherlands to the UN in Geneva provided financial support for the workshop, and the Academy hosted it at Villa Moynier.

IBSA provides a framework for accountability of State actors when reporting on their progress on implementing ESC rights, through a process of better structuring State party reports with the help of Indicators as well as state-proposed Benchmarks as implementation targets. These benchmarks are fine-tuned by the reporting State party and the Committee during a period of Scoping, finally leading to an Assessment of the State party’s performance. IBSA is designed to complement the existing report mechanism and has the potential to reshape and specify the focus of State Party reports, bringing state public policies closer to their human rights commitments. It can considerably simplify and streamline the task of State reporting by prioritising a select few problem areas. It is also an opportunity for States Parties and the Committee to intensify and improve their practice of constructive dialogue.

The workshop was a logical follow-up from previous workshops and meetings which were held in Mannheim (2006), Heidelberg (2008) and Berlin (2009). In June 2010, the Friedrich-Ebert-Stiftung had convened a related workshop, during which the IBSA framework was discussed with States Parties to the Covenant on Economic, Social and Cultural Rights (ICESCR).¹

The particular aims of the workshop were to:

- update civil society representatives on the process and to reinforce their participation in the discussions
- identify how indicators can be contextualized at country level, and
- identify how civil society can and should contribute to the IBSA process in order to enrich the constructive dialog and advocate for the rights of the most marginalized and disadvantaged populations groups.

The majority of the about 30 participants of the workshop represented international non-governmental organisations (NGOs) working on ESC rights. Also representatives of UN Specialized Agencies, academic institutions and Permanent Missions took part in the workshop.

Contents and methodology of the workshop

The workshop consisted of a series of presentations on experiences with the IBSA process and on the development of indicators in relation to particular rights. Each presentation was followed by an open discussion among the participants.

The workshop was opened by Eibe Riedel and Daniel D’Esposito, Executive Director of HURIDOCS. Jan-Michael Arend and Ana Maria Suárez Franco gave a brief introduction to the IBSA process. This was followed by the presentation of the pilot projects focusing on the right to food, which had been undertaken in three countries:

- Spain, presented by Andreu Honzawa Puig, Universitat Pompeu Fabra,
- Colombia, by Ana Maria Suárez Franco, FoodFirst Information and Action Network (FIAN) and
- Ghana, by Jan-Michael Arend, formerly of the University of Mannheim

The Friday morning session was chaired by Sandra Ratjen of the International Commission of Jurists. It included presentations on the use of indicators with regard to specific rights:

- Indicators on the right to housing, on basis of monitoring in Kenya, by Agnes Kabajuni, Africa Office of the Centre for Housing Rights and Evictions (COHRE)
- Indicators on the right to maternal health, on basis of monitoring in Guatemala, by Sally-Ann Way, Centre on Economic and Social Rights (CESR)
- Indicators on the right to health, by Helena Nygren-Krug and Annet Mahanani, World Health Organization
- Indicators on the right to sanitation sanitation, as a fundamental dimension of the right to health, by Maike Gorsboth, Secretariat of the Ecumenical Water Network (EWN) at the World Council of Churches

The question of the meaning and implications of the phrase “the maximum of available resources” (art. 2.1 of the ICESCR) was introduced by Prof. Eibe Riedel2. He commented on the CESCR practise and interpretation of State parties’ obligations on this issue according to the statement approved in 2007 by the Committee. He emphasised that the State Party determines the resource allocation, while fulfilling its legal obligations to implement the ICESCR.

Main Issues

Several relevant issues were discussed in the debates that followed each presentation. The main points raised were the following:

For various ESC rights, and in particular the right to food and the right to housing, much substantial work has already been done with regard to developing a list of core content of human rights indicators. Future work should focus on developing the process of benchmarking and scoping in the context of these two rights at Committee level. For other rights, such as the right to water and sanitation,

2 On the basis of the Statement by the Committee: An evaluation of the obligation to take steps to the "Maximum of available resources" under an optional protocol to the Covenant (thirty-eighth session; E/C.12/2007/1), available on-line at http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf
sanitation, more substantial work on defining a list of core content indicators is still required, while ensuring that a human rights approach is followed. It is important that the process of formulating indicators is well structured and transparent.

On basis of inputs provided by different academic institutes, the Office of the High Commissioner for Human Rights has produced a total of 14 tables of structural, process and outcome indicators, covering civil and political rights as well as economic, social and cultural rights. The tables are mainly based upon the Treaties and other norms, while the General Comments of Committees constitute a secondary source. The indicators identified by OHCHR has been the subject of a validation process involving national and international human rights stakeholders, including members of the different human rights treaty bodies, UN special rapporteurs, UN agencies, National Human Rights Institutions, statistical agencies and civil society indicators.\(^3\)

Generally, indicators should be developed on the basis of existing data sources and should be defined and explained with precision (including a methodological note explaining data gathering and measurement techniques used in each indicator). Some participants felt that certain indicators appear to be desirable but collecting them would require very substantial resources. In such instances, the selection of indicators and of disaggregations for each right should be guided by feasibility rather than by desirability. Others were of the opinion that the (core) content of rights should guide the selection of indicators. If a state does not have any data on a certain issue the indicator representing that issue is still valid as it exposes a deficiency in state policies.

**Benchmarks** are to be self-proposed by States Parties which on the basis of their sovereign policy choices have to define ambitious yet realistic targets to reasonably meet ICESCR obligations on the progressive realisation of ESC rights. Benchmarks are appropriate for the individual rights under articles 6 to 15 in the Covenant, and seek to close the distance between public policies and states’ human rights obligations. Core obligations, including the principle of non-discrimination, are immediate and should therefore not be benchmarked.

The **Scoping** process involves a constructive dialogue between a State Party and the Committee regarding the contents and the targets of the benchmarks proposed by the State and the ways in which they can be realised. Specialised Agencies and other stakeholders are to be involved in the scoping, and are also to make suggestions to the Committee on how it can best be undertaken towards a prompt realisation of rights.

During the final **Assessment** phase, the results of IBSA at national level as well as the process itself are evaluated after a period. This phase is the appropriate moment to define if the goals were achieved, and to analyse the reasons for possible non-achievement. Once these causes are identified, the Committee will be able to formulate recommendations to the State Party, which could set new benchmarks. In this way the IBSA cycle would reinitiate. It means IBSA would be a continuous process of assessment, benchmarking and scoping, towards better public policies, allowing the realisation of ESC-Rights.

In particular developing countries face various problems even in collecting basic data, for example on causes of death. National Statistical Offices are a valuable provider of data, and can make useful contributions to the IBSA process. They should be made aware of IBSA, and these Offices and NGOs

\(^3\) For an overview of the work done by the OHCHR on indicators, see [http://www2.ohchr.org/english/issues/indicators/index.htm](http://www2.ohchr.org/english/issues/indicators/index.htm). Updated tables of indicators are available upon request at [hrindicators@ohchr.org](mailto:hrindicators@ohchr.org).
should seek to collaborate in developing mechanisms for the provision of precise and reliable information, with both qualitative and quantitative indicators, on the realisation of ESC rights. Additional work is required on the disaggregation of data, as technically and sociologically appropriate in each Member State. Specialized Agencies and other bodies are to be involved as strategic partners in providing advice on setting appropriate benchmarks.

The Committee has in principle agreed that the IBSA process makes a useful contribution to its monitoring efforts. The next steps involve a formal request for implementing IBSA to about five states which have or have taken part in the indicators testing phase or indicated an interest to apply the procedure. On the basis of these experiences, the process will be fine-tuned and then applied to a larger number of states.

Developing countries are concerned about the resource implications of IBSA, and their participation needs to be enhanced through financial support and technical assistance through international cooperation.

The work of the Committee involves assessing the impact of its recommendations. It should in particular seek to pinpoint regression of human rights situation and actual implementation in a Member State, and identify reactive and pro-active measures, in order to evaluate outcomes.

NGOs should follow the IBSA process and enrich it with their experience and expertise. Among others, they can investigate whether indicators are appropriate, present cases which are not in accordance with statistics presented by the State Party, and illustrate the situation of vulnerable groups. They can and should participate in the elaboration of alternative reports to be submitted to the Committee, in particular when they consider that a State Party’s reports and its sources (National Statistics Office, Ombudsman) are not sufficiently precise or accurate.

In order to work with the IBSA process, national NGOs require training through national and regional workshops. Main issues to be tackled are the relationship between actual violations and issues related to State Party obligations, and basic issues related to monitoring economic, social and cultural rights.

The participants expressed support for the IBSA process as a useful method for monitoring. In order for NGOs to employ IBSA and monitor how States Parties work with IBSA, they require, in the first instance, information material. A manual on IBSA is being finalised and will be published before the end of 2010. In general, information about IBSA should be available in an understandable form, and adapted to each target group.

The principle of participation of “other stakeholders” in the IBSA process has been adopted by the Committee. NGOs are expected to participate at all levels: providing comments to State Party reports, compiling alternative reports, and be involved in the setting of benchmarks and scoping. In the longer term, the IBSA process could also be used for monitoring by other parts of the UN human rights system, such as other treaty bodies, or even within the context of the Universal Periodic Review.

The final session of the Workshop was a scanning exercise, during which all participants made their concluding remarks.

It was agreed that the support of NGOs is essential for the process of accompaniment and capacity building at the national level. This is a key component of the pilot projects, which focus on benchmarks and scoping.
The Centre for Economic and Social Rights (CESR) has developed *Visualizing Rights*, a series of brief fact sheets focused on a country and its economic, social and cultural rights obligations⁴. These are useful because they contain many relevant facts for a normative human rights approach. CESR indicated its willingness to provide assistance through basic training on ESC rights or more in-depth training on the use of quantitative data.

The World Health Organization is willing to provide technical service and support.

HURIDOCS is willing to continue its role as facilitator, bringing various actors together. It is also interested to be part of capacity building on ESC rights.

For FIAN International, it is important to continue supporting the process in the field of the Right to Food, contributing with its contacts at national level in countries where the process will be tested. It will also continue to coordinate capacity building and information activities, as it has been doing during the entire process.

Annexes:
- Workshop programme
- List of participants
- Eight Powerpoint presentations: IBSA – the road to Geneva; negotiating benchmarks for the right to food; country-level piloting in Colombia, Ghana, Spain; housing rights in Kenya; right to maternal health in Guatemala; WHO and health indicators.

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Workshop  
**Bridging the gap between human rights advocates and scientists: improved measurement of the realisation of ESC rights**  
Geneva, 12-13 August 2010

**Programme**

### Thursday 12 August

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<tr>
<td>14.00 – 14.30</td>
<td>Opening, welcome and introduction of participants (Eibe Riedel and Daniel D’Esposito)</td>
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<tr>
<td>14.30 – 15.30</td>
<td>Introduction to the IBSA framework (Eibe Riedel, Jan Arend, Ana Maria Suarez)</td>
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<td>15.30 – 16.00</td>
<td>Coffee break</td>
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<td>16.00 – 18.00</td>
<td>Country pilot studies – presentations on monitoring the right to food in Spain (Andreu Honzawa Puig), Colombia (Ana Maria Suarez) and Ghana (Jan Arend) Followed by discussions</td>
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### Friday 13 August

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<th>Time</th>
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| 09.00 – 10.30 | Presentations on indicators on the right to  
  - Case study on the right to housing in Kenya (Agnes Kabajuni)  
  - Case study on maternal health rights in Guatemala (Sally-Ann Way) Followed by discussions |
| 10.30 - 11.00 | Coffee break                                                            |
| 11.00 – 13.00 | Presentations  
  - Indicators on the rights to health (Helena Nygren-Krug)  
  - Indicators on the right to water and sanitation (Maike Gorsboth) Followed by discussions |
| 13.00 – 14.30 | Lunch at Restaurant Layalina                                            |
| 14.30 – 15.30 | Presentation  
  - CESCIR statement on resource allocation (Eibe Riedel) Followed by discussion |
| 15.30 – 16.00 | Coffee break                                                            |
| 16.00 - 18.00 | General discussion on capacity building to strengthen the role of civil society in setting, applying and evaluating indicators and benchmarks. Increasing collaboration between experts, scientists and NGO advocates: planning the next steps. |
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In 2004, a research project was initiated with the task of identifying human rights indicators for the right to food as a first step to put IBSA into practice. (Obligations, principles and legal content attributes)

- The project ended in 2006, producing a list of 37 quantitative and qualitative indicator proposals.
Selecting the indicators – main criteria

- 3 categories were identified and agreed: Structural – Process – Outcome
- Including quantitative and qualitative indicators
- Taking indicators which were used at national level (Brazil)
- Target: limited number of so-called key indicators in accordance with the core content of the right to food
- Fine tuning by adding sub-indicators and disaggregation (gender, age groups, ethnic minorities, marginalised and disadvantaged population)

2nd phase on the practical applicability of the selected indicators. (2007-2009)

- Streamlining and fine-tuning the indicator list (which after first check with national experts was reduced to 28 indicators)
- Testing the validity and applicability of the indicators in three pilot studies on the ground in Colombia, Ghana and Spain – 6 months period
- Preparing a handbook on the use of IBSA with regard to monitoring the right to food at the national level.
- In order to promote the formulation by the CESCR of a generic General Comment on the IBSA procedure, as well as a revision of the Reporting Guidelines and

Characteristics of the testing phase

- Pilot studies conducted by national experts from the test countries
- Country specific analysis of the strenghts and weaknesses of the current list of indicators
- Participation and networking: Involving relevant national stakeholders working on or interested in the preparation of the state report, including government representatives.
**Benefits**

- Awareness raising on the RtAF
- Dialogue among competent state authorities, NHRIs, & other experts.
- International discussion infused into the national debate and vice versa
- IBSA reflected indicators which have being used at national level

**Outcomes**

- From 37 to 23 indicators: Merging, modification, elimination (balance & coherence)
- Better descriptions but all elements.
- Better illustration of rationale (avoiding conflicting data)

- More precise disaggregation criteria
- Gender mainstreaming
- Clearer methods of measurement
First Outcomes

- IBSA Methodology paper
- Draft Handbook on IBSA

To be approved by the CESC

Validation with 40 experts – Berlin June 2009
- Confirmed the importance of HRI for Committee Work
- Recognized the adequacy of IBSA indicators as human rights based indicators, the importance of national piloting experiences developed by the IBSA Team and indicator descriptions
- Highlighted the need to continue developing the BSA

Follow up

- Developing BSA
- Implementing IBSA
- Further publication of the IBSA Manual after Committee’s approval
The process of negotiating benchmarks for the right to food

- Eibe Riedel -

Geneva, 12 August 2010

Indicators and Benchmarks: Distinguished

- The concept of Indicators involves the State Party accepting relevant indicators, as agreed upon through close cooperation with relevant specialized agencies and NGOs, which contribute to the effective mainstreaming of human rights in their respective domains.

- Indicators thus form the basis of a more focused state reporting process. But, in isolation indicators are limited to merely providing information/data that reflects the status quo of the implementation of the right to food.

"IBSA"

(1) Human Rights Indicators: human rights indicators involve the State Party acceptance of relevant indicators as agreed upon through close cooperation with relevant specialized agencies, like FAO, that contribute to the effective mainstreaming of human rights in their respective domain.

(B) Benchmarks: subsequently set by States Parties which enable a differentiated approach to the vastly differing situations in which most countries find themselves.
**Scoping:** involves a discussion of the State Party-established benchmarks with the Committee, in order to arrive at a consensus about them;

**Assessment:** the previous three steps form the basis for the final assessment step that occurs during the dialogue stage between the State Party and the Committee in preparation for the drafting of the latter's Concluding Observations.

This new approach is premised on the assumption that Art. 2 (1) ICESCR places an unequivocal duty on all States Parties, the intensity of which is balanced against the objective situation in which States Parties find themselves.

Benchmarks: An Overview

- Right to food benchmarks may be defined as goals or targets determined by the State Party that reflect the food situation in individual countries.
- Benchmarks are used for measuring the progressive realization and the availability of resources under the Covenant.
Benchmarks do not apply equally to each and every state; their main focus is on the specific circumstances prevailing in a particular State. This is in line with the Committee's general practice of a country-by-country approach, rather than using a comparative approach.

Benchmarks thus are set by the State Party itself; outlining aims and targets to be achieved at the national level.

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**Scoping: An Overview**

As the process of benchmarking is undertaken by individual States Parties, it is highly desirable that a mechanism exists to ensure that established goals are set neither too high nor too low.

If national benchmarks are set too low, State Parties could avoid being held in breach of their ICESCR obligations, and could go so far as to claim CESCR praise for limited progress of little value.

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In order to avoid such undesirable consequences, State Party proposed benchmarks should be scoped, an objective that can be reached through a constructive State Party/Committee dialogue that strives towards reaching a consensus concerning said nationally set benchmarks.
Example:
literacy rate as indicator and benchmark

State Party A, Group of most highly developed countries
State Party B, Group of least developed countries
Both failed their benchmark in the year 2005

Benchmarks & Scoping:
A Two-Step Procedure
Step 1: Proposal of benchmarks
• Having received a set of right to food indicators, the task of the State Party is to submit to the Committee (via the Secretariat) proposals for clearly defined benchmarks for each indicator.
• The Committee then evaluates the proposed benchmarks with the help of UN Specialized Agencies (and relevant civil society actors) before again contacting the State party (via the Permanent Mission) in order to finalize the benchmarks.

Step 2: Scoping the Benchmarks
In scoping the benchmarks, the task for the Committee is to evaluate whether the benchmark:

(1) Reflects true commitment by the State party towards better implementing the right to food; and,
(2) Is in line with the principles outlined in article 2 ICESCR, whereby the Committee’s task is to guarantee that benchmarks are set as high as possible ensuring that States parties allocate the “maximum available resources” to progressively realize the rights in question.

Step 2: Scoping the Benchmarks

- In order to ensure this, the Committee cannot rely exclusively on the expertise of its members, but should consult UN Specialized Agencies, as well as relevant civil society organizations.
- In line with the Committee’s non-comparative approach, scoping will be done on an individual country-by-country basis.
- Scoping: Who, How and When?
- Clearly the initiative will rest on the SP.

Step 2: Scoping the Benchmarks

The CESCR will

(a) examine the proposed benchmarks, say 4 - 6. This will be done by the Country Rapporteur (CR), who will inquire from other sources (specialized agencies, civil society) whether the benchmarks were set realistically.
(b) If, for example, the CR finds that of the 6 benchmarks 4 are acceptable, but on information received, 2 are set too low and that at least one benchmark ought to be replaced by a different one, he/she will engage in Scoping negotiations with the SP’s Permanent Mission in Geneva.

(c) Once agreement has been reached, usually after reference back to the SP capital, the scoped benchmarks will then be utilized in the next report.

Consensus Breakdown?

- While in most instances, a cooperative spirit prevails between the Committee and the State Party, in extreme cases where benchmark consensus can not be reached, the CESCR might revert to the article by article analysis of Covenant obligations at the List of Issues/Dialogue stages.
- In practice, the constructive dialogue approach of the CESCR will seek consensus with the State party, to avoid unnecessary conflict. This would ultimately be reflected in clear questions posed in the list of issues six - nine months prior to the actual dialogue with the Committee.

The Time Line for Scoping

1. The benchmarking suggestions should arrive at the Committee Secretariat say 2½ years after the last periodic report.
2. Ideally, the scoping exercise should then be completed during the next 6 months.
(3) The country rapporteur (CR) then examines the benchmarks, seeks additional information from other sources, and presents his findings to a pre-sessional working group.

(4) The CR then negotiates with the Permanent Mission of the SP the scope of benchmarks suggested by the SP.

(5) If agreement is reached, the SP will integrate the agreed Benchmarks in the next periodic report.

The Time Line for Scoping

(6) If no agreement is reached on some issues, the CR will report back to the CESCR or to a pre-sessional working group to find a solution.

(7) The negotiated benchmarks then need approval from the SP capital.

(8) If no agreement is reached, say on 2 of 6 benchmarks, then those points may form part of the List of Issues.

(9) The benchmarking and scoping exercise is geared to facilitating assessment of the SP performance in the reporting cycle under review.
The Time Line for Scoping

(10) Agreement of the CESCR should be sought on how much time in the dialogue with the SP is to be devoted to the benchmarked issues. Possibly 50 – 60% should be devoted to key concerns with agreed targets, using benchmarks and indicators where they exist. 40 – 50% of the time available should be reserved for other questions on individual Covenant rights.

(11) In the initial trial phase, less time may be devoted to the IBSA process.

Assessment

(12) The assessment leading to concluding observations will follow, utilizing the scoped benchmarks.

(13) If targets set are met, the SP may be invited to set new benchmarks for the next reporting cycle.

(14) If targets are not met, the SP may be asked to use the same benchmarks for the next cycle.

(15) The CESCR suggestions/recommendations integrating the benchmarked areas will form part of follow-up questions in the next SP dialogue.
Country-level Piloting of Right to Food Indicators – Spain
IBSA II

Berlin, 12-13 June 2009      Updated Geneva 12 August 2010
Andreu Honzawa Puig

Prosalus

Context

✓ 1st reference to the Rights of the individual: Constitution of the 2nd Republic in 1931.
Creation of the first Tribunal of Constitutional Guarantees.

✓ After Franco’s dictatorship Spain initiates a process of commitment to the international instruments of Human Rights

✓ Constitution of 1978:
- decentralized State
- Chapter III: Principles Governing Economic and Social Policy (the right to the protection of the family, health protection, consumer and user protection, information on consumption and regulation of commercial products).

National Human Rights Plan, December 2008

With respect to Economic, Social and Cultural Rights, includes actions on the right to education, the right to housing and the right to health including measures in the area of food security such as the Food Security Strategy and the Food Security and Nutrition Law; and the right to work, the rights of handicapped people and the rights of the Child.

The recognition of the right to water as a human right will also be promoted.
Country-level Piloting of Right to Food Indicators - Spain

Indicator validation methodology

The validation process was done in two phases:

1. Initial analysis of the indicators and possible sources of information
2. Validation of the indicators through their sources

- Oral interviews
- Written interviews
- National workshop

Criteria:
1. Validity,
2. Availability of information,
3. Relevance, and
4. Relation to other rights

Obstacles and problems

- Indicators seem to be aimed at countries with:
  - Significant rates of hunger and malnutrition
  - An agriculture-based economy/agriculture is the main source of income/labour/food.
- The administrative structure of the State
- Food safety/food security/Right to Food
- Statistics are not Right to Food-based

Benefits of the validation process

- The process has favoured relations between such wide-ranging institutions.
- The process has served therefore to increase awareness of the right to food and its interdependence on other rights.
- The process has been useful and interesting in terms of awareness obtained in relation to the right to food in Spain and to the work done by the institutions in this respect.
(A) Indicators which should be remain unaltered

- Legal recognition of the right to adequate food and related rights
- Existence of an independent national human rights institution working on ESC-rights
- Nutrition and nutrition adequacy legislation
- Mechanisms to ensure a functioning market system
- Program for disaster/emergencies management
- Percentage of population covered by public programs on nutrition education
- Percentage of malnourished population (undernutrition)
- Percentage of malnourished population (iodine/iron/vitamin A)
- Percentage of malnourished population (overnutrition)
**Country-level Piloting of Right to Food Indicators - Spain**

### (B) Indicators which should be eliminated

The main reason for suppressing indicators is specific to the country:

- Instruments for ensuring cultural and traditional nutrition and food
- National agricultural production policy
- Protection and increase of the access to land
- Percentage of food aid from domestic sources
- Estimate of the access to adequate food supplies of women and children within the home
- Coverage of programs to guarantee access to productive resources
- Percentage of population lacking access to land
- Percentage of per capita available food from domestic production, net food imports and food aid.

### (C) Indicators that should be modified

Disaggregation of vulnerable groups identified at national level and disaggregation of gender for each group.

- Percentage of population living in poverty or extreme poverty
- National strategy on implementing the right to food
- Food safety and consumer protection legislation
- Number of right to food-related complaints filed, investigated and adjudicated in courts and other relevant institutions
- Percentage of claimants in right to food related claims benefiting from legal aid
- Percentage of civil servants dealing with affairs relating to the right to food that have not received specific information about Economic, Social and Cultural Rights (in particular the right to food)

### (C) Indicators that should be modified

- Proportion of population without access to improved sanitation
- Proportion of population without access to an improved water source
Country-level Piloting of Right to Food Indicators - Spain

Indicators analysis

(D) Indicators validation issues of concern

- Data is sometimes inexistent or obsolete, not available at the national level, or not available periodically over time (strong commitment of National Statistics Institutes required)
- Sometimes data is not digitalized or cannot be effectively turned into practical statistical account (need to focus on fewer indicators)
- Data breakdown by disadvantaged groups not always available (not all disaggregations possible, trade off required)
- Undocumented migrants not always captured by official statistics (minority groups need specific surveys to monitor their situation)

(D) Indicators that should be added

-“Non-monetary indicators of deprivation” related to the right to food should be included. About the quality of food: sufficient quantity of nutrients and sources.
- Breastfeeding quality and quantity, and compliance with UNICEF Baby Friendly Hospital Initiative
- The right to food entails international cooperation obligations in donor countries (FAO 2004 Guidelines).
The right to food is not included as such in the legal instruments available to the Spanish state. In many ways and with a free interpretation of the 1978 constitution it is included in the right to a dignified life.

Demographic changes in Spain in recent years due to immigration oblige the incorporation of questions related to multiculturalism and other aspects such as the status of the person.

Need to have a methodological note for each survey, which should remain unchanged to ensure data reliability and comparability over time.

The disaggregations proposed are not always relevant to Spain or presumably to other countries with similar conditions. Those indicators for which information has not been obtained because they are irrelevant have been marked in the analysis. In some cases it would be desirable to maintain them for the most disadvantaged groups.

The focus on institutionalized populations and their relation to the Right to Food.

Need to focus the monitoring on the most disadvantaged groups rather than in national or regional averages.

Thank you!

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andreuh@hotmail.com
www.derechoalimentacion.org
Structure of the presentation

1. Short presentation of the general situation of Human Rights in Colombia and specifically of ESC rights
2. Short presentation of the methodology during the test phase
3. Difficulties in the test phase and how to overcome some of them
4. Advantages and positive side effects of IBSA’s approach
5. Conclusions and recommendations.

Human Rights general situation in Colombia

Paradoxes of Human Rights situation in Colombia:
- A humanitarian crisis due to violence, a protracted armed conflict, breaches of humanitarian law by armed actors and human rights abuses by state officials: thousands of summary executions or forced disappearances and millions of internally displaced persons.
- Deep social inequalities.
- But a somewhat sophisticated legal system and a stable and functioning democratic political system.
- A "dangerous democracy in danger".
Situation of ESCR in Colombia

Strong legal recognition of ESCR:
- Constitutional provisions.
- Main Human Rights Treaties have been ratified and are internally binding to authorities.
- Important judicial implementations of ESCR, specially by the Constitutional Court.

Precarious enjoyment of these legally recognized ESC rights.

2- Methodology of Colombian test: the phase of gathering information

Secondary sources: Revision of official and non official statistics (quality of life surveys) and almost all relevant studies on the right to food and nutritional situation in Colombia.

Primary sources: Interviews with key informants in:
- Governmental authorities, specially those in charge of reporting about human rights (Vicepresidencia).
- Human Rights National Institution (Defensoria del Pueblo)
- NGO’s and social organizations that work on ESCR and specially on subjects related to the right to food.
- Academicians that work on indicators to monitor policies with a human rights perspective.

Workshop with FIAN on the right to food with NGO’s and government officials.

2- Methodology of Colombian test: the evaluation of the indicators.

Discussion of some criteria to decide which indicators should be kept, discarded, modified or which new indicators should be introduced.

Some of these criteria were: reliability, validity, availability of information, relevance and relation with other ESC rights.

Evaluation of the 28 IBSA proposed indicators and subindicators, and discussion of possible new indicators.

Discussion of the results within Dejusticia and some other academicians and drafting of the report.

Workshop at Manheim and revision of the report.
3) Obstacles in the process and how to overcome them.

- Some advantages in Colombia:
  - Colombia has already an important experience on monitoring public policies with a right based approach. For example, the monitoring of Colombian Constitutional ruling on internally displaced persons or the monitoring of public policies by the NIHR with a ESC rights approach.
  - Important academic discussion.

- But many difficulties:
  - Lack of a rights based approach to monitor food-related policies. Predominance of a development approach with global (and not disaggregated) indicators.
  - Need and possibility to use information in development indicators for IBSA’s indicators.
  - Absolute lack of information in relation to certain indicators; in other cases, lack of periodicity for certain data.
  - Political polarization that affects the reliability of the data.

3) Some discussions about the usefulness of IBSA

- Relevance of certain indicators to evaluate the right to food:
  - Some academicians argue that IBSA has a too large interpretation of the right to food.
  - Other experts, on the contrary, argued that some indicators were missing, specially one about “food insecurity in households”.
  - Other do not see the importance of a rights based monitoring compared with a development approach.
  - Lack of consideration of certain specificities of Colombian situation, for instance the problem of displaced persons.
4) Advantages and positive side effects of IBSA’s approach

- IBSA’s approach has contributed to the Colombian debate on how to evaluate with indicators advances or drawbacks in human rights situation and how to evaluate government policies with a rights based perspective.
- IBSA’s approach and the use of indicators can be extremely useful in polarized situations because of its “technical nature”.
- These advantages are still limited because of the limited scope of the test phase (just one right, just to test a methodology).

5) Conclusions and recommendations for the future of IBSA process.

- Continue to promote interdisciplinary dialogue, specially between human rights specialists and economists and development specialists
- Continue to promote dialogue of the usefulness of indicators between human rights activist and governments.

- Refine and reduce indicators but perhaps incorporate very few others, specially the one about “food insecurity in households”.
- Find a balance between a broad understanding of the right to food and preserving its specificity.
- An obvious solution: the idea of some indicators common to all ESC rights and some specific to each right.
- Test other countries and other rights?
TESTING OF IBSA INDICATORS
REPORT FROM GHANA

Prof. Kenneth A. Attafuah, Ph.D., BL
Paa Kwesi Hagan, BL
Martin Kpebu, BL
Justice & Human Rights Institute
Accra

Political, Social & Economic Context
• Political Independence since March 1957
• Stable constitutional democracy since 1993
• Liberal Democratic Governance framework
• Moderately High Literacy Levels
• Vibrant civil society
• Conflicts over land ownership and land use
• Since 2007: Dawn of the “oil era”

Legal and policy framework

a) Legal context:
- Specific constitutional provisions non-existent: art. 15 and 33 (5), however, open the gate for human rights not explicitly included in the constitution.
- State party to the ICESCR since 2000; no transformation into domestic law as of yet.

b) Policy context:
- MDG treaty with the U.S. in 2006; according to the U.S. State Dep., Ghana is on track to achieve MDG 1 (extreme poverty)
- Livelihood Empowerment Against Poverty (LEAP) in 2008
- School Feeding Program
Key Influences on Right to Food Include:

• Right to food significantly affected by:
  – Vagaries of weather and climatic changes
  – Key problems in traditional land tenure system, title to land and access to land
  – Issues of Gender and food production
  – Government policies & legislation

Methodology Employed

1. Review of Relevant Literature on R2F including statistical research and analysis
2. Interviews with Relevant Stakeholders

A. Review of Relevant Literature

1. PATTERN AND TRENDS OF POVERTY IN GHANA (1991-2006),
2. PRELIMINARY REPORT ON MONITORING THE SITUATION OF CHILDREN & WOMEN
3. LIVELIHOOD EMPOWERMENT AGAINST POVERTY (LEAP) SOCIAL GRANTS PILOT IMPLEMENTATION DESIGN: SUMMARY REPORT
B. Key Agencies Interviews

1. CHRAJ
2. MOFA
3. GSS
4. FAO
5. UNICEF

C. VALIDATION WORKSHOP

• Validation workshop held on July 8, 2008
• Funded by FEF
• Given wide media publicity
• Attended by key stakeholders including:
  – Representatives from Government agencies
  – NGOs
  – Subsistence and commercial farmers
  – Development partners

Workshop Participants (Governmental)

• MINISTRY OF FOOD AND AGRICULTURE
• GHANA STATISTICAL SERVICES
• MINISTRY OF TRADE AND INDUSTRY
• MINISTRY OF WOMEN AND CHILDREN'S AFFAIRS
Workshop Participants (Non-Governmental)

- The World Health Organization
- ACTIONAID-GHANA
- FOODSPAN
- GRAMEEN GHANA
- GAWU (Agricultural Workers Union)
- SEND
- AAG
- FFP
- IFEJ

KEY FINDINGS

1. Most of the indicators considered useful in monitoring the right to food

2. At least 50% of the indicators currently being used to monitor the right to food

3. Limited knowledge of the right to food among relevant stakeholders

Key recommendations

- Government should take steps to pass local legislation to clarify and outline the right to food; constitutional provision desirable? Parliamentary ratification of ICESCR essential for individual claims, as Ghana is a dualist state, i.e. even though the President has ratified the ICESCR, it is only internationally binding.

- Government should be urged to commit more resources to ensure the fulfilment of the right to food through the expansion of such social safety net mechanisms as LEAP and the School Feeding Programme.
Housing Rights Situation in Kenya

By Agnes Kabajuni

On Housing Rights and Evictions (COHRE)

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**Poverty and housing**

- Proportion of population living in poverty: 56% live in absolute poverty. Proportion of women living in absolute poverty.
- Access to land and natural resources: majority depend on land and resources for livelihoods, housing.
- Existence of natural and man-made disasters, including drought, wild fires, floods, landslides and conflicts. Strategies to mitigate the impacts on housing, water, sanitation, alternative lands.
- The impact of HIV/AIDS and housing; Strategies to minimise property violations including loss of homes and lands.

---

**Rapid Urbanisation and Housing**

- Rural populations – poor quality housing – access to land by the marginalised, and indigenous populations.
- Supply of housing: high demand, low supply.
- Population of urban population living in slums and informal settlements; Land occupied.
- Access to infrastructure, services and Security of slum population.
- Upgrading targeting improving tenure security and quality housing.
- Relocation plans and dialogue to communities living in public lands; railway, pipelines, power line etc.
Non-discrimination & gender equality

- Equal access to land by women, men, girls, disability and those in extreme poverty
- Levels of literacy between men and women; access to employment
- Number of women owning housing—only 32.8% women owned shanties
- Women accessing loans for meaningful business
- Persisting cultural norms, practices and traditions that perpetuate gender based inequalities in housing

Women and housing

- Population of women in slum and in poor housing conditions compared to men
- Linking high prevalence of HIV among women to housing; tenure security, affordability, accessibility
- Linking domestic violence to housing
- Existence of shelters for abused women

Forced Evictions in Kenya

- The occurrence of evictions in urban and rural areas
- Number of evictions where proper standards were adhered to;
- Forced evictions due to conflicts are resettled either in new lands or in original lands
- Vulnerable communities protected from land grabbers and individual developers
- Availability of justice to victims of forced evictions
- A moratorium on forced evictions?
Legal framework on adequate housing
- The New constitution
- The National Housing policy
- The Land policy
- The employment Act
- The Labour Act
- The Succession Act (excludes Muslim women)

Legal reforms in pipeline
- The Housing Bill
- The Human Rights Bill
- The Matrimonial Property Bill
- Family protection Bill
- Marriage Bill
- Forced Eviction guidelines

Institutions
- KNHRC; monitor and advise the government
- Anti corruption commission
- Land Commission
- The Gender Commission
- The presence of a vibrant NGOs and its close collaboration with government; Task force on eviction guideline, Land policy implementation, railway eviction relocation process
Programmes on housing

- Slum upgrading programme; participation of beneficiaries by gender, meaningful consultations, inclusion of the poor, the issue of ownership and non-discrimination

- The vision 2030: Unemployment Especially In Youth – Most jobs in informal sector; Income Redistribution – Inequality; Rapid Urbanization; Low Saving Ratio; Pro-poor interventions
Monitoring the fulfilment of the right to maternal health in Guatemala

A methodological framework for assessing compliance

IBSA workshop – Geneva 13 August 2010
Sally-Anne Way, CESR
www.cesr.org

Aims: to assess compliance with key HR obligations and principles by measuring...

<table>
<thead>
<tr>
<th>OUTCOMES</th>
<th>core obligations – right to health (GC14)</th>
</tr>
</thead>
<tbody>
<tr>
<td>the extent to which women are deprived of the right to maternal health</td>
<td>disparities in the enjoyment of this right (eg on grounds of ethnicity and socio-economic status) non-discrimination (ICESCR, GC14, GC16, GC20)</td>
</tr>
<tr>
<td>disparities in the enjoyment of this right (eg on grounds of ethnicity and socio-economic status)</td>
<td>progress over time in enjoyment of this right (and in reducing disparities) progressive realization (ICESCR, GC3)</td>
</tr>
<tr>
<td>progress over time in enjoyment of this right (and in reducing disparities) progressive realization (ICESCR, GC3)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>POLICIES</th>
<th>obligation to “take steps”, legislative and other (ICESCR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>the legal and policy commitments the state has made to give effect to the right to maternal health</td>
<td>the adequacy of its policy efforts to prevent MMM</td>
</tr>
<tr>
<td>the adequacy of its policy efforts to prevent MMM</td>
<td>whether MMM-related decision-making processes are participatory and ensure accountability</td>
</tr>
<tr>
<td>whether MMM-related decision-making processes are participatory and ensure accountability</td>
<td>right to participation and remedies (GC14)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RESOURCES</th>
<th>maximum available resources (ICESCR, GC3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>whether resources are being used to fulfill progressively the right to maternal health of all – i.e. is problem lack of resources or lack of will?</td>
<td></td>
</tr>
</tbody>
</table>

1. Measuring MM outcomes in light of HR principles

<table>
<thead>
<tr>
<th>What does the data on MM outcomes tell us about:</th>
<th>Relevant principles</th>
<th>Outcome indicators</th>
<th>Benchmarks/comparisons</th>
</tr>
</thead>
<tbody>
<tr>
<td>...the extent of deprivation of the right to maternal health?</td>
<td>Aggregate MMR</td>
<td>core obligations</td>
<td>• MMR of countries at comparable level of resources</td>
</tr>
<tr>
<td>...disparities in the enjoyment of this right?</td>
<td>Disaggregated MMR</td>
<td>non-discrim</td>
<td>• Average MMR • Disparities in comparable countries</td>
</tr>
<tr>
<td>...progress in the enjoyment of this right over time?</td>
<td>MMR over time (aggregate/disaggregated)</td>
<td>progressive realization + non-discrim</td>
<td>• Progress in comparable countries • National MDG target</td>
</tr>
</tbody>
</table>
Example: Guatemalan women are deprived of minimum essential levels of the right to health on a massive scale

- Guatemala’s MMR (adjusted) is the joint highest in Latin America along with Bolivia, one of the poorest countries in the region. It is far greater than that of countries with similar or lower incomes (eg Costa Rica or Nicaragua).

Huge ethnic and regional disparities call into question commitment to non-discrimination

- 3 of every 4 women who die are indigenous. Ethnic disparities are wider than in other countries with large indigenous populations.
- Women in Alta Verapaz are 4 times as likely to die than women from Sacatepequez, near the capital.

Apparent rise in MMR points to lack of progressive realization

- Guatemala now has same adjusted MMR as Bolivia. Yet Bolivia has made far greater progress since 1990, despite lesser resources. National data suggests Guatemala will fall short of its MDG goal by at least 25%.
- Disaggregated data reveal even slower rates of progress for rural indigenous women. Progress has only benefited the better-off.
2. Assessing MMM policy commitments AND efforts

<table>
<thead>
<tr>
<th>Questions to assess</th>
<th>Related principles</th>
<th>Indicators and benchmarks</th>
</tr>
</thead>
</table>
| What legal and policy commitments have been made to guarantee and give effect to the right to maternal health? | Obligation to take legislative and other steps (ICESCR) | • Ratification + incorporation of relevant HR treaties  
• Constitutional guarantees and domestic legislation  
• Int’l commitments on MM (eg Cairo, MDGs)  
• Rights framing of national reproductive health policies |
| Do policies and programs ensure relevant services are Available, Accessible, Acceptable and of good Quality? | “Essential elements” of right to health (GC14) + non-discrimination | • Indicators on 3 critical interventions:  
– Emergency Obstetric Care  
– Skilled birth attendance  
– Family planning services  
• Benchmarks: int’l guidelines on EmOC  
• Indicators on indirect determinants of maternal health |
| Are policy processes participatory + accountable? | Right to participation, right to remedies | • Availability and use of mechanisms for participation and accountability |

Guatemala – the deadly gap between policy commitments and policy/programming efforts

Guatemala has an exemplary framework of legal and policy commitments - eg:

- Constitution guarantees the right to health
- Peace Accords included a pledge to reduce MM
- Reproductive health policy explicitly based on human rights principles

But in practice there has been little progress in 3 critical areas:

- Lack of access to emergency obstetric care: availability of emergency care facilities is well short of UN guidelines on Emergency Obs Care.
- Very low proportion of births (41%) attended by skilled personnel: on par with Sierra Leone.
- Poor access to family planning services: Guatemala has the highest adolescent fertility rate and unmet contraceptive need in Lat. Am.

Eg: Availability of obstetric services (left) is lowest where MMRs are highest (right)

“Adela had lost a lot of blood. She knew she had to go to hospital but she didn’t want to – it’s 75km away and we couldn’t afford the transport. She said it was cheaper for her to die at home than to be brought back dead from the hospital.”

CESR interviews, Senahú, Alta Verapaz, 2008
• Services in these facilities are not **culturally acceptable or appropriate**: failure to respect traditional birth practices dissuades many indigenous women from giving birth in public facilities.

> “I couldn’t have my baby in a health centre because they force you to give birth lying down. They treat you bad if you don’t speak Spanish.”


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### Qualitative field research complements quantitative analysis of indicators

Interviews in rural indigenous communities in Alta Verapaz provided complementary evidence that maternal health services in Guatemala are:

- unavailable and inaccessible to the most disadvantaged
- poor quality and culturally unacceptable to indigenous women
- failure to address the structural determinants of MMM
- few opportunities for genuine participation and accountability
- suffer from a chronic lack of coordination and continuity

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### 3. Assessing use of available resources

<table>
<thead>
<tr>
<th>Questions to assess</th>
<th>Related principles</th>
<th>Indicators and benchmarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the right to health being prioritised in public resource allocation?</td>
<td>Duty to take budgetary steps</td>
<td>Duty to take budgetary steps to ensure that maternal health receives the appropriate proportion of national healthcare expenditures.</td>
</tr>
<tr>
<td>Is the prevention of MM being prioritised within health spending?</td>
<td>Public spending on health as % of GDP (regional comparisons and national guidelines as benchmarks)</td>
<td>Comparison of spending on maternal health v. other sectors</td>
</tr>
<tr>
<td>Who benefits from health spending?</td>
<td>Non-discrimination</td>
<td>Incidence of health spending in quintile and region</td>
</tr>
<tr>
<td>Is resource allocation aimed at reducing disparities?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has resource allocation evolved over time so as to progressively realize the right to health for all?</td>
<td>Progressive realization according to maximum available resources</td>
<td>Evolution of health and social spending • Evolution and incidence of tax revenues and fiscal incentives • Regional comparisons as benchmarks</td>
</tr>
<tr>
<td>Are the maximum of available resources being tapped to this end?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Example: Guatemala’s health spending is very low and does not benefit the poorest populations

Health spending is lowest in the region, and the economic crisis has meant further cuts in maternal health expenditures.

Health spending is discriminatory (left): spending per capita is far greater in the capital than in poor indigenous regions.

Tax policy is highly regressive: tax impacts disproportionately on the poor, while the economic elite blocks any attempt to raise revenues for increased social spending.

4. Overall assessment: Lack of political will, not lack of resources, accounts for poor MM outcomes

- A compelling picture of noncompliance emerges from triangulated analysis of outcomes, policy efforts and resource allocation.
- These 3 elements cannot be seen in isolation: taken together they support the conclusion that Guatemala’s persistently high and stubbornly unequal levels of MM result from a lack of will to invest available resources to progressively fulfill the right to maternal health of all Guatemalan women, without discrimination.
- Quantitative indicators can help substantiate the case, but exposing the lack of political will to tackle MMM and the structural power relations that underpin it is primarily a qualitative judgment.

Advocacy impact

- CESR/ICEFI recommendations secured govt commitment to increase social spending and push through progressive tax reforms.
- Shifted dynamics of debate around 2010 budget/tax reform. Framing issues of MM prevention and fiscal policy as human rights imperatives gave demands for reform renewed force.
- Prompted and strengthened national/local level monitoring by civil society groups, including Reproductive Health Observatory and Citizens Health Movement.
- Brought link between fiscal policy and MM to attention of CEDAW + CRC and other UN bodies.
Thank you!

Rights or Privileges? Fiscal Commitment to the Rights to Health, Education and Food in Guatemala

Visit our website: www.cesr.org
WHO work in Statistics

One of WHO functions according to its Constitution:

To establish and maintain such administrative and technical services as may be required, including epidemiological and statistical services.

WHO "Core" Indicators

Purpose of the core set:

- help countries minimize and prioritize the number of indicators
- improve and contribute to the standardization of health systems progress and performance reviews
- provide guidance to international partnerships and agencies in efforts to minimize reporting requirements

WHO "Core" Indicators

Selection criteria:

- use of the WHO framework for health systems and cover inputs, outputs, outcomes and impact of health system
- presence of indicator in internationally agreed lists such as MDG, Countdown, World Health Statistics or multi-country work
- public health and epidemiological relevance, sensitivity and specificity of the indicator in relation to change, availability of unambiguous data collection instruments and analytical methods
- availability and quality of data
- ability to set a baseline and target
MDG Indicators

- 8 Goals, 21 Targets, 60 Indicators
  (official list, effective 15 January 2008)

  "Indicators should be disaggregated by sex and
  urban/rural as far as possible"

- Health-related:
  - 6 Goals, 9 Targets, 22 Indicators

Challenges in monitoring progress

- Lack of baseline data
- Weak country health information and statistical
  systems, where monitoring is most needed
- Estimates have significant uncertainties; difficult to
  monitor trends

What kinds of statistics are we using?

- Unadjusted
  - Directly from primary data collection with no adjustments or corrections
  - E.g.: data from patient records
- Adjusted
  - Involve analytical treatment to primary data
  - E.g.: estimates from household surveys (corrected for sampling errors)
- Predicted
  - Based on statistical models
  - "forecasting" or "out-of-time" estimates (e.g. 2010 projection from previous year data)
  - "far-casting" or "out-of-place" estimates (e.g. country A estimates based on data from other, similar countries)
What kind of statistics are ideally used?

It is preferable to use **country empirical data** instead of **model-generated estimates**.

It is essential that the empirical data are of **high quality**

**VALID, COMPLETE, TIMELY, RELIABLE**

---

Data from civil registration systems form the basis of health impact monitoring

- Births
- Deaths
- Causes of deaths

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Quality of causes of death information (circa 2005)
Disaggregated Statistics for Equity Analysis

- Data on some population groups (poorest, least educated) are increasingly better-covered through surveys.
- Others are more difficult to cover, e.g. minority groups if geographically clustered, mobile or hidden population; Specific research may be necessary.

WHO Indicator and Metadata Registry

- Tool to manage, standardize and harmonize indicator definitions
- Metadata items:
  Rationale, definition, unit of measure, data sources, method of measurement, method of estimation, disaggregation, limitations, frequency of data collection and data dissemination.

Moving Forward

1. WHO (and other international agencies) continue to report on the most recent estimates for MDG and other health indicators, with increased transparency, comparability and consistency.
2. Concerted efforts are needed to support countries to enhance data availability and quality e.g. WHO is working with countries to improve data quality assessment and build country capacity in dealing with biased and incomplete data.
3. Particular emphasis on birth and death registration and certification of causes of death