



Statistics and Human Rights: A Long-standing Relationship? Existing Roads towards Human Rights Indicators

Nicolas Fasel,* Grace Sanico Steffan

Office of the United Nations High Commissioner for Human Rights, Geneva, Switzerland
nfasel@ohchr.org, gsteffan@ohchr.org

Abstract

Human rights matter for statistics, and statistics matter for human rights. This paper discusses the interdependence between human rights and statistics, their mutual benefits, but also the tensions that may arise between the two. It builds on a series of initiatives launched by statistics and human rights actors and the work of the Office of the United Nations High Commissioner for Human Rights on human rights indicators. As the world embarks on new Sustainable Development Goals, and calls for a data revolution to support their measurement, critical human rights challenges and opportunities arise. The paper suggests practical steps for the development of indicators to measure human rights and the implementation of the Post-2015 agenda, consistent with commitments under the Universal Declaration of Human Rights and international human rights treaties. Highlighting the legal and practical relevance of international standards to official statistics and, the paper outlines a human rights approach to statistics and urges for more exchange and cooperation between statistics and human rights communities.

Keyword: accountability, governance, sustainable development goals, data revolution

1. Introduction

Why measure human rights? The question might look incongruous or misplaced. Some would say that it is not possible to measure human rights. They argue that codified legal standards cannot be reduced or captured through quantitative techniques, and attempts often suffer from weak, if not dubious, methodologies. However, there are clear and imperative reasons to measure human rights, starting with morale justifications and legal commitments enshrined in national and international agreements.

The main question therefore is not why, but how human rights can be measured, and what can be the role of official statistics in this context. In a world experiencing a proliferation of indices of all kinds, there is a risk of using indicators that are not sufficiently reliable or valid, namely not measuring what they are claiming to measure. The risk is particularly true in human rights, where traditionally the use of international indices quantifying the opinion of selected experts or observers has been predominant. Many consider that only these indicators are able to capture the various and complex dimensions, especially qualitative, of human rights. They also put forward the lack of official statistics that are reliable and relevant to human rights. It is the latter that the present paper proposes to address, seeking to highlight and strengthen the role of official statistics in human rights measurement.

The paper refers to official statistics as statistics compiled and analysed by governmental and other public bodies, in particular national statistical offices, using data collected via population surveys and administrative records, to inform public policies and to fulfil peoples' right to information on the state

of society.¹ In support of the role played by official statistics in the realisation of economic, social, political, civil and cultural rights, the paper proposes the articulation of a human rights approach to statistics that builds on previous experiences and emerging practices, including the work of the Office of the High Commissioner for Human Rights (OHCHR) on human rights indicators.

2. Human rights standards provide legal and practical guidance to official statistics

One of the first human rights provision relevant to official statistics, according to statisticians themselves,² is the obligation to be registered immediately after birth.³ This obligation, which facilitates indeed the task of statisticians of inferring proportions and trends about populations, is also critical to the realisation of many human rights. In many contexts, children not registered are denied access to education, health care or social security, and therefore unable to enjoy their basic human rights. The fact that children are not counted and remain officially invisible also interferes in holding States accountable for not fulfilling their human rights obligations in public policy terms.

In general, invisibility of populations in statistics, often the most vulnerable, marginalised or discriminated, is a serious obstacle to the realisation of human rights. Statistical invisibility tends to be interpreted as a lack of willingness to take measure to improve populations' living conditions, and to be held accountable for failing to meet its human rights obligations. At international level, the rights are enshrined in a number of legal instruments, including the Universal Declaration of Human Rights (UDHR) and nine core human rights treaties.⁴ The provisions of these instruments form the essence of the human rights normative framework of the United Nations. International human rights mechanisms, such as the Treaty Bodies mandated to review the compliance of the States that have ratified these treaties⁵, have developed practical guidance on the content of human rights, relevant for their measurement by statistical systems.⁶

The legal and practical guidance stemming from the international human rights normative framework is relevant to the production of official statistics in essentially two respects. First, it provides fundamental safeguards to statistical work. Data protection and confidentiality, self-identification for collecting data by ethnicity, involvement of surveyed populations in statistical planning, access to information, are critical parameters in data collection and maintenance processes. Secondly, international human rights standards provide indications on what should be measured by statistics. Upon ratification of international human rights treaties, States have an obligation to monitor their implementation and use relevant statistical information, indicators and benchmarks. The content of human rights, such as the rights to life, education, liberty and security, health, participation in public affairs, housing, fair trial and non-discrimination is elaborated in treaty provisions and in the jurisprudence of international human rights mechanisms. For instance, the general comment on the right to education adopted by the Committee on Economic, Social and Cultural Rights⁷ elaborates on the meaning of free and compulsory primary education, accessibility (i.e. economic, physical and non-discriminatory) to secondary and tertiary education and on the quality of education, providing concrete information for statistical measurement. The critical role that statistics and data collection play in the realisation of human rights was explicitly recognised and enshrined in the Convention on the Rights of

¹ The right to information is anchored in the United Nations Fundamental Principles of Official Statistics (A/RES/68/261, Principle 1) and an attribute of the freedom of expression enshrined in the Universal Declaration of Human Rights (Article 19) and core international human rights treaties ratified by States.

² Cain M., Claude R.P and Jabine T.B (1992).

³ International Covenant on Civil and Political Rights, Article 24.

⁴ See www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx

⁵ <http://indicators.ohchr.org/>

⁶ Information on Treaty Bodies accessible from: www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx

⁷ See Committee on Economic, Social and Cultural Rights (1999).



Persons with Disabilities adopted by the United Nations in 2006. Article 31 of the treaty requires States to collect statistical data to ‘formulate and implement policies to give effect to the treaty’, and ‘to help them assess the implementation of their obligations’.

The process of translating human rights standards into concrete statistical indicators and measurements tools at country level would benefit however from further practical guidance. This is the main purpose of the work of OHCHR on human rights indicators, which involves collaborations between human rights, statistics and development practitioners. Before outlining the main features of a human rights approach to statistics, it is useful to clarify the notion of ‘human rights indicators’ and its implications for official statistics.

3. Human rights indicators – notion and implications for official statistics

Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women stipulates that the measures to be taken by the State to eliminate discrimination against women in the field of education shall include ‘the reduction of female student drop-out rates.’ Thus, if a human right indicator was defined as a statistical indicator explicitly cited in a human rights treaty, then the female student drop-out rate would qualify. This simple definition of human rights indicator would however leave out many relevant indicators that are not explicitly mentioned in human rights treaties or in the jurisprudence of international human rights mechanisms. While there is no universally accepted and unique definition of human rights indicator, the following working definition could be more useful: *a human rights indicator is specific information on the state or condition of an object, activity or event that can be related to human rights standards; that reflects human rights concerns; and that can be used to assess the realisation of human rights.*⁸

With this definition, many indicators, which belong to the category of statistics commonly developed by national and international official statistical systems, can be considered as human rights indicators. Homicides rates, under-five mortality rates and maternal mortality ratio, for instance, are indeed indicators relevant to the measurement of the realisation of the right to life (UDHR, Art. 3) or the right to the highest standard of physical and mental health (UDHR, Art. 25). These indicators, per se, cannot assert if a State has failed to fulfil its obligations and violated these rights. However, they indicate that there were victims of premature or preventable deaths, who could not enjoy their rights to life or health, or in other words, who experienced *prima facie* a violation of their rights.

This discussion is essentially legal or judicial and perhaps of little concern to statisticians. However, indicators provide evidence to inform such discussion and the role of statisticians is to compile the most accurate human rights sensitive statistics and reveal any significant trends or disparities. This task may not always be as easy as it may look to a lay person. Statisticians may be subject to external and internal pressure for disseminating or hiding human rights sensitive information. Protecting the rights of the statisticians themselves, including by ensuring the implementation of the Fundamental Principles of Official Statistics is therefore essential to uphold people’s right to information.⁹

Applying the aforementioned definition of human rights indicators, there are indicators that will be more unique to the human rights field, compared to common socio-economic statistics. It is the case for instance of indicators on the number of victims of discrimination, torture or forced disappearances compiled by national human rights institutions or other relevant mechanisms. These indicators owe their existence first to human rights norms, cover data on both victims and perpetrators of violations, and are generally not used in other contexts. While less traditional than common socio-economic

⁸ This definition is a shorter version of the definition of indicators provided in OHCHR (2012).

⁹ Stories of statisticians who lost their lives for doing their work are mentioned in OHCHR (2012).

statistics, these indicators should constitute an integral part of the battery of information that can be generated by official statistical systems.

4. Integrating human rights in official statistics

Integrating human rights norms and principles in official statistics entails conceptual, methodological, practical and legal considerations. In this integration effort, the process of developing the indicators is as much important as the final selection of indicators. Adopting a human rights approach to processes of definition of indicators, data collection and dissemination, and analysis of populated indicators will help ensure integration of human rights in the statistics. The following features of a human rights approach to statistics and data collection draws on the on-going work of OHCHR and emerging collaborations between national statistical offices, national human rights institutions and civil society organizations.

4.1 Data disaggregation

Releasing statistics and analysis beyond national averages, to reveal deprived populations and measure disparities, is a fundamental prerequisite from a human rights perspective. The principle of non-discrimination and equality cuts across all international human rights instruments. The first article of the UDHR states that *All human beings are born free and equal in dignity and rights*. Article 2 of the Declaration specifies that *Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*. When identifying the desired levels of disaggregation, it is therefore essential to take into account all the grounds of discrimination prohibited by international human rights law.

While producing data disaggregated by all these characteristics will not be easy in practice, the constraints, in particular methodological, legal and resource-wise, should also not be overstated. Often, disaggregated data are being collected, and statistically representative, but not disseminated or analysed in a meaningful manner. Careful examination of national legislations cited to stop initiatives to collect 'sensitive' data, such as data by ethnicity, shows that existing legal safeguards often cannot be interpreted as a veto. 'Sensitive' data should be collected if adequate safeguards (e.g. data protection) are in place, if there is an explicit consent of the respondents to the processing of the data,¹⁰ and if there is a public interest consistent with human rights to collect the data.¹⁰ Finally, when national surveys (e.g. labour force surveys) have difficulties to cover and include a representative sample of population groups at risk of discrimination (e.g. minorities), it will be useful to partner with other organizations, such as national human rights institutions and civil society organizations. Such organizations may help replicate the surveys targeting populations initially excluded from official data collection.

4.2 Participation

Participation is another fundamental cross-cutting human rights principle laid down in numerous international standards, including for instance the right to participate in public affairs,¹¹ the obligation that 'civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process'¹² and the calls for 'active, free and

¹⁰ See for instance Commission against Racism and Intolerance (2007).

¹¹ Universal Declaration of Human Rights, Article 21.

¹² Convention on the Rights of Persons with Disabilities, Article 33.

meaningful participation’ in development policy¹³ or ‘free, prior and informed consent of indigenous peoples.’¹⁴ Ensuring participation of populations, in particular vulnerable, marginalised or at risk of discrimination groups (e.g. women, indigenous peoples, minorities, persons with disability, migrants) in the formulation and implementation of national statistical plan or strategy, helps improve data quality and trust in official statistics. Today, there is a growing practice of collaboration between national statistical offices, civil society organizations and national human rights institutions¹⁵, on which a human rights approach to statistics can build.

4.3 Data collection safeguards

Participation of relevant stakeholders in decision-making on official statistics may be considered as the first safeguard for data collection. The right to privacy (UDHR, Article 12), data confidentiality and the principle of self-identification for potentially ‘sensitive’ data collections (e.g. ethnicity, sexual orientation, religion) are other examples of safeguards to be strictly protected.¹⁶ It is critical that these human rights standards are implemented to ensure that statistical work do not harm populations, given that some of the worst human rights violations were perpetrated using population data systems.¹⁷

4.4 Human rights standards

Indicators generated by official statistics should help measure the implementation of human rights standards and commitments. However, selection and definition of indicators is not a neutral exercise. Measuring, or not measuring, issues cherished by human rights norms, producing data analysis disaggregated by relevant population groups, impact on human rights progress. International human rights standards provide authoritative as well as practical guidance to the development of statistics and indicators systems.

The human rights normative framework on the right to adequate housing¹⁸, for instance, specifies that indicators should measure issues like habitability, accessibility to relevant services (e.g. water, waste disposal), housing affordability and security of tenure.¹⁹ International human rights standards on freedom from torture or cruel, inhuman, degrading treatment require statistics on conditions of detentions, the physical and mental integrity of detained persons, the use of force by law enforcement officials within and outside detention and on the extent of violence against women and other population groups.²⁰

Also, from a human rights perspective, statistical indicators should measure both outcomes (e.g. maternal mortality ratio; a relevant indicator to measure a key component of the right to health) and the means or efforts made to improve the situation (e.g. the proportion of births attended by skilled health personnel). This is consistent with the configuration of *structural*, *process* and *outcome* indicators recommended by international human rights mechanisms, and its common approach on indicators to strengthen the indivisibility of all economic, social, cultural, civil and political rights enshrined in international human rights instruments.²¹

¹³ Declaration on the Right to Development, Article 2.

¹⁴ Declaration on the Rights of Indigenous Peoples, Articles 10-11, 19, 28 and 29.

¹⁵ National human rights institutions are particularly avid of human rights sensitive statistical information.

¹⁶ See, for instance, Committee on the Elimination of Racial Discrimination (1990).

¹⁷ Anderson, M., & Seltzer, W. (2001).

¹⁸ See, for instance, the right to adequate housing is part of the right to an adequate standard of living (UDHR, Art. 25) and the Committee on Economic, Social and Cultural Rights (1991).

¹⁹ See tables of illustrative indicators in OHCHR (2012).

²⁰ See OHCHR (2012).

²¹ OHCHR (2012)



5. Conclusions

Human rights and statistics share common interests. The trust of the population, including the most vulnerable, marginalised or discriminated, in official statistical systems depends largely on the prevailing efforts to respect, protect and fulfil human rights. Official statistics play a critical role in the measurement and promotion of human rights. However, if statistical systems are not adequately designed or equipped, there is a risk that they are used to perpetuate human rights violation or denial. A human rights approach to statistics, as a way to further convergence between the roads of official statistics and human rights, and integrate human rights in the SDGs, is proposed and briefly outlined in the paper. Its formulation builds on existing work and emerging practices, involving cooperation, both at national and international level, between statistical agencies, human rights mechanisms and civil society organizations. The need to foster dialogue and systematic collaboration between the statistics and human rights communities is manifest, and we may be only at the beginning of that road.

References

Anderson, M., & Seltzer, W. (2001). The dark side of numbers; the role of population data systems in human rights abuses. *Social Research*, vol. 68, No. 2.

Cain M., Claude R.P and Jabine T.B. (1992) A Guide to Human Rights Data Sources". *Human Rights and Statistics, Getting the record straight*.

Commission against Racism and Intolerance (2007). "Ethnic" statistics and data protection in the Council of Europe countries. Council of Europe.

Committee on Economic, Social and Cultural Rights (1991). The right to adequate housing. General Comment No. 4.

Committee on Economic, Social and Cultural Rights (1999). The right to education. General Comment No. 13.

Committee on the Elimination of Racial Discrimination (1990). Identification with a particular racial or ethnic group. General Recommendation No. 8.

United Nations, Office of the High Commissioner for Human Rights (2012). Human rights indicators: A guide to measurement and implementation. HR/PUB/12/5.