Defending Dignity

A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights

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Defending Dignity: A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights

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Foreword

Poverty, inequality and deprivation are not an inevitable tragedy; they result from deliberate and conscious actions by decision makers that fail to respect, protect and fulfil economic, social and cultural rights. Sometimes the failure is glaring. More often, however, the failure is difficult to pin down. It is a failure to create the conditions in which people can enjoy their rights. Effective monitoring is essential for ensuring accountability in such cases. Monitoring can uncover the ways in which laws and policies create, perpetuate or exacerbate deprivations of economic, social and cultural rights.

As independent bodies – officially established by legislation or constitution with a specific mandate to protect and promote human rights – national human rights institutions (NHRIs) have a number of unique institutional characteristics that can enable them to effectively undertake this kind of policy monitoring. Establishing that policy failures amount to a violation of the obligation to fulfil economic, social and cultural rights, however, can be a challenge. As enshrined in international law, these rights are subject to "progressive realization", according to a State's "maximum available resources". The conditionality of this language, combined with the complexity of public policy, can make it difficult to trace patterns of preventable rights deprivations back to policy failures.

Producing strong, compelling and methodologically-sound reports to establish whether there has been a failure to fulfil economic, social and cultural rights requires a broad range of competencies. These include legal analysis; collecting and analysing primary and secondary data; interpreting economic, including budgetary, statistics; community consultation; and communication.

Defending Dignity: A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights aims to strengthen the capacity of NHRIs to hold the State and its institutions accountable for the fulfilment of economic, social and cultural rights. It also provides an eclectic mix of learning tools to help Commissioners and staff of NHRIs deepen their knowledge and develop the skills necessary to effectively monitor these rights.

We trust this Manual will be a valuable resource for NHRIs and others working for human rights in the Asia Pacific region and other parts of the world.

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List of abbreviations

AAAQ	Availability, Accessibility, Acceptability, Adequate Quality
APF	Asia Pacific Forum of National Human Rights Institutions
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESR	Center for Economic and Social Rights
CPI	consumer price index
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ESCR	economic, social and cultural rights
GDP	gross domestic product
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IMF	International Monetary Fund
MDGs	Millennium Development Goals
NGO(s)	non-governmental organization(s)
NHRI(s)	national human rights institution(s)
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
SMART	Specific, Measurable, Ambitious, Realistic, Time-bound
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
USD	United States dollars
VAT	value-added tax
WHO	World Health Organization

Introduction for users

The Asia Pacific Forum of National Human Rights Institutions (APF) and the Center for Economic and Social Rights (CESR) are pleased to present *Defending Dignity: A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights*.

Despite significant economic growth in recent decades, poverty levels in the Asia Pacific remain unacceptably high. While governments have committed to progressively realize economic, social and cultural rights (ESCR), these commitments are yet to become a reality for the 1.8 billion people in the region who live in poverty. Their lives are continuously threatened by lack of food, the risk of disease, hazardous work and precarious living conditions.

National human rights institutions (NHRIs) across the Asia Pacific – in emerging economies such as India, Indonesia, the Philippines and Thailand, as well as in transitional countries such as the Maldives, Nepal and Palestine – have been vocal advocates for the adoption of a human rights-based approach to development. However, for such an approach to be meaningfully implemented, governments must be held to account when their development plans or socio-economic policies fail to address patterns of preventable human rights deprivations, such as hunger, illiteracy, unsafe drinking water, lack of basic health services, social discrimination, physical insecurity, and political exclusion.

Effective monitoring is essential for ensuring accountability. It can highlight when laws and policies cause, continue or worsen deprivations of ESCR. However, this kind of policy monitoring requires close examination of areas that were, until relatively recently, considered to be beyond the reach of human rights law. As a result, there has been limited guidance for NHRIs on how to address these issues.

BACKGROUND AND RATIONALE

NHRIs in the Asia Pacific have expressed a strong need for additional support on how to monitor socio-economic policies and development plans from a human rights perspective. In a training needs assessment conducted in March 2010, APF members identified human rights monitoring and ESCR as priority areas for capacity building.

Between January 2012 and December 2014, the APF and CESR piloted a project to strengthen the capacity of APF members to more effectively monitor socio-economic policies and development plans from a human rights perspective. The project included technical cooperation visits with three NHRIs: the Malaysian Human Rights Commission (SUHAKAM), the New Zealand Human Rights Commission (NZHRC) and the Independent Commission for Human Rights of Palestine (PICHR). The visits consisted of a two-day training workshop and planning sessions with Commissioners and staff. Following the visit, each NHRI conducted a pilot monitoring activity to test how the tools and techniques covered in the training might fit the particular priorities and strategies of the NHRI.

The materials prepared for these pilot projects were progressively updated based on feedback provided by participants in the training workshops. This Manual draws from and significantly expands these materials, while also broadening their scope in order to be relevant to NHRIs across the region. It was developed in consultation with a reference group comprised of Commissioners and senior staff from a number of APF members. The reference group provided invaluable feedback and guidance at every stage of the Manual's development, from initial concept through to final draft.
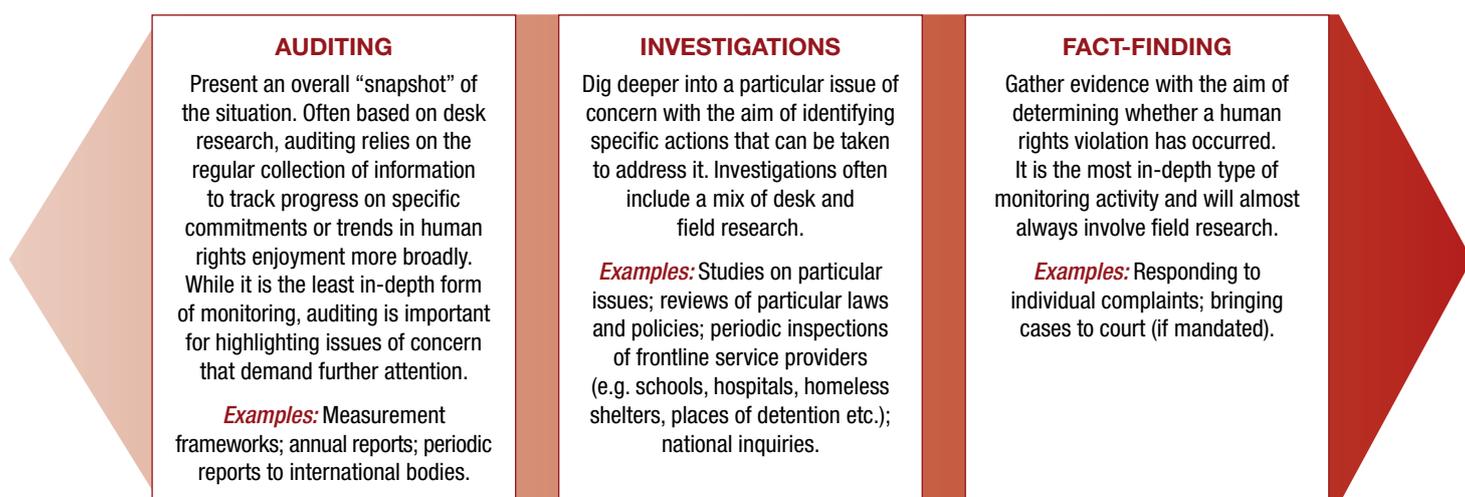
LEARNING GOALS AND OBJECTIVES

The goal of the Manual is to support staff and Commissioners of NHRIs to effectively monitor socio-economic policies from a human rights perspective. Specifically, the Manual aims to foster:

- **Interest in and commitment to the topic:** Readers will develop a clear understanding of what monitoring is and a strong appreciation of why ESCR are an important topic for their NHRI to monitor.

- **Knowledge acquisition:** Readers will gain expertise on fundamental ESCR standards and principles and how they have been interpreted, especially regarding the scope of States' obligations under international law.

- **Skills development:** Readers will build their capacity to apply a coherent analytical framework when assessing their State's compliance with its obligation to fulfil ESCR and will increase their familiarity with how to use key tools and techniques for monitoring.

The Manual also introduces "OPERA", an analytical framework for ESCR monitoring developed by CESR that groups human rights norms around four dimensions: Outcomes, Policy Efforts, Resources and Assessment. The framework features different tools and techniques that can be used for measuring each of these norms, such as identifying indicators, analysing data and evaluating budgets.

WHAT DO WE MEAN BY MONITORING?

Monitoring is a very broad term. The United Nations Office of the High Commissioner for Human Rights (OHCHR) describes it as the "active collection, verification and use of information to address human rights problems".[1] Because of its breadth, monitoring has tended to be used as a catch-all term to describe a diverse collection of investigative approaches. For this reason, it covers a wide range of activities that NHRIs commonly undertake as part of their mandated functions. One helpful way of thinking about these different monitoring activities is to picture them along a spectrum, based on how in-depth each activity is. Although these categories may not neatly capture every type of monitoring activity, having a clear sense of the different types of monitoring activities can help NHRIs decide which methodological approach will be most appropriate to support their particular area of study.

AUDITING

Present an overall "snapshot" of the situation. Often based on desk research, auditing relies on the regular collection of information to track progress on specific commitments or trends in human rights enjoyment more broadly. While it is the least in-depth form of monitoring, auditing is important for highlighting issues of concern that demand further attention.

Examples: Measurement frameworks; annual reports; periodic reports to international bodies.

INVESTIGATIONS

Dig deeper into a particular issue of concern with the aim of identifying specific actions that can be taken to address it. Investigations often include a mix of desk and field research.

Examples: Studies on particular issues; reviews of particular laws and policies; periodic inspections of frontline service providers (e.g. schools, hospitals, homeless shelters, places of detention etc.); national inquiries.

FACT-FINDING

Gather evidence with the aim of determining whether a human rights violation has occurred. It is the most in-depth type of monitoring activity and will almost always involve field research.

Examples: Responding to individual complaints; bringing cases to court (if mandated).

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1   OHCHR (2011), *Manual on Human Rights Monitoring*, at p. III.

The evidence that NHRIs gather through their monitoring activities is crucial in their work to protect and promote human rights. For example, an NHRI might draw on the findings of its auditing activities to increase public awareness about particular human rights or to advise the Government on its obligations. It might also submit the findings of an investigation to a parliamentary review. Accordingly, deciding what kind of monitoring activity will be most appropriate for a particular issue will depend on the audience to be reached, which in turn will depend on the broader social change the NHRI is seeking to achieve.

This Manual makes the distinction between two methodological approaches to monitoring:

- **Events-based monitoring:** This is often associated with seeking redress for individuals who have suffered a human rights violation which is attributable to specific incidents or events. It focuses on gathering and corroborating primary evidence from victims and witnesses.

- **Policy monitoring:** This is often associated with advocacy to address chronic human rights violations that result from systemic policy failures and that affect a range of individuals or groups. It commonly uses a "macro" – or "big picture" – approach in its analysis.

The focus of this Manual is on policy monitoring. It seeks to equip NHRIs with the knowledge, tools and skills needed to carry out effective policy monitoring in the socio-economic and development spheres.

HOW SHOULD THE MANUAL BE USED?

The Manual is designed to be a resource for Commissioners and staff of NHRIs as they undertake monitoring activities related to ESCR. It provides guidance on each phase of the monitoring cycle: initial planning, research, reporting and advocacy. However, it does not provide a blueprint for every monitoring activity to be followed every time. The needs of each NHRI – and, indeed, of each monitoring activity – are unique and so it will always be necessary develop a specifically tailored approach.

Accordingly, the Manual is structured so that readers can draw on the information that is relevant to their interests and needs. We encourage readers to use the Manual as a resource when they embark on each new monitoring activity. Even though the Manual presents the monitoring process as consecutive phases, the process is iterative; for example, as you learn more about the topic you are researching, you may change your mind about what your main advocacy objectives should be. As a result, you may find yourself going back and forth between phases. To help you do this, the chapters in the Manual are cross-referenced throughout.

HOW IS THE MANUAL ORGANIZED?

In keeping with the key phases of the monitoring process, the Manual is divided into four parts:

Part I: Defining the issues to be monitored
Every monitoring activity begins with a question. Chapter 1 explains how a human rights-based approach can be used to frame questions about poverty and socio-economic deprivation in a way that holds the relevant actors responsible for human rights violations. Chapter 2 sets out the obligations of those actors under international human rights law. In particular, it discusses the normative standards and principles that relate to ESCR. Chapter 3 introduces the OPERA framework as a way of organizing research questions around these norms and standards, while Chapter 4 explains the role of indicators and benchmarks in framing research questions.

Part II: Collecting and analysing data
After defining the right question to ask, the next step is to collect the data that can help answer that question. Chapter 5 discusses the particular advantages of integrating quantitative data in research. Chapters 6 and 7 explain how to gather data from secondary and primary sources. Chapter 8 introduces some basic principles for analysing data with spreadsheets.

Part III: Assessing resources

Governments are obliged to dedicate "maximum available resources" to the fulfilment of ESCR. For this reason, it is especially important to consider questions about the way in which resources are generated, allocated and spent. Chapter 9 introduces the policy areas that are relevant to consider when assessing resources, while Chapters 10, 11 and 12 explain how budget analysis approaches can be used to investigate how resources are allocated, generated and spent.

Part IV: Communicating findings

The most tangible "output" of any monitoring activity will generally be a report. This part of the Manual examines the factors that make a compelling report that can contribute to effective advocacy. Chapter 13 looks at how to contextualize quantitative data with qualitative analysis. Chapter 14 discusses how to organize findings and recommendations. Chapter 15 introduces data visualization as a way to present evidence. Chapter 16 looks at how reporting can support broader advocacy strategies.

A number of learning tools are also featured throughout the chapters:

HELPFUL TIPS

In different chapters, links are provided to external resources that can be used for specific tasks.

CASE STUDIES

The Manual features examples that illustrate how APF members have incorporated different methods and approaches into their monitoring activities.

IN PRACTICE

This section asks readers to think through how they might apply in practice the methods and approaches introduced in the chapter. In particular, the sections recommend using specific project management tools, such as a problem map, research matrix, research plan and advocacy plan.

EXERCISES AND QUESTIONS FOR REFLECTION

The exercises encourage readers to think through how they might apply in practice the skills introduced in the chapter. The questions for reflection aim to prompt critical thinking on how to integrate these skills in day-to-day scenarios. Answers to the exercises are provided at the end of the Manual.

INTRODUCING AHN

Ahn is an officer at a fictional NHRI who is currently undertaking a monitoring activity on maternal health. At the end of each chapter, there is a section that describes how she has applied the various tools and techniques in the Manual to her particular monitoring activity. It encourages readers to identify similar issues that they face and how they might apply different techniques in their own monitoring work. By featuring one case study throughout the Manual, the aim is to help readers see how the different phases of the monitoring process fit together, with OPERA providing an overarching framework.

ACKNOWLEDGEMENT OF SOURCES

This Manual has been inspired and informed by many other publications, papers and reports, although the ideas and perspectives have been adapted, combined and modified substantially to explore the key themes of the Manual in relation to the role and functions of NHRIs. References are listed as further reading at the end of each chapter. Where a particular source has provided core ideas for a chapter, it is acknowledged at the end of that chapter.

Part I:
Defining the issues to be monitored

Chapter 1:
Poverty development and human rights: Making the connections

KEY QUESTIONS

- Why should NHRIs prioritize economic, social and cultural rights?

- What is a human rights-based approach?

- How can a human rights-based approach advance gender equality?

- How can the human rights framework be useful in analysing development plans and socio-economic policies?

INTRODUCTION

For many people in the Asia Pacific, the right to live a life of dignity remains out of reach. Despite significant socio-economic gains across the region over the last few decades, too many people have been left behind. The Asia Pacific is home to two-thirds of the world's poor. Extreme socio-economic inequality – put simply, the gap between rich and poor – is a reality in countries at all levels of development across the region. However, viewing poverty as a denial of ESCR provides us with a deeper understanding of the dimensions of poverty. With this insight, NHRIs are better equipped to propose more comprehensive policy approaches that can address the root causes of poverty and promote the fulfilment of people's human rights, as both a means and a goal of poverty eradication.

Human rights provide a normative framework to analyse development plans and socio-economic policies. They can shine a spotlight on whether these plans and policies are creating or combating deprivation, marginalization and exclusion. As discussed further in Chapter 2, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights enshrine rights to food, water, shelter and education. By seeing deprivations of these goods as denials of *rights*, rather than an inability to meet basic *needs*, a rights-based approach views poverty as an injustice, not fate. It focuses on the relationship between the State and its citizens (and others within its jurisdiction), in order to hold decision makers accountable for the actions they take that cause, continue or worsen poverty.

This chapter seeks to answer the question: why should NHRIs prioritize ESCR? It argues that ESCR are deeply linked to human well-being, as well as being essential to achieving substantive equality for women and girls. It introduces the concept of the "human rights-based approach" and explains how it can be used to investigate whether development plans and socio-economic policies are supporting or hindering the realization of ESCR.

1.1. HOW IS POVERTY A DENIAL OF HUMAN RIGHTS?

The lives of people living in poverty are continuously threatened by lack of food, the risk of disease, hazardous work and precarious living conditions. They may experience all types of violence, including discrimination, harassment, humiliation, physical attacks and sometimes even threats of death, often just because they are poor. Every day, thousands of children, women and men die silently from easily preventable illnesses associated with poverty, including starvation, diarrhoea, malaria, tuberculosis, pneumonia, measles and death in childbirth.

> *Poverty is a human condition characterised by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.*
>
> Statement by the Committee on Economic, Social and Cultural Rights, 2001, U.N. Doc. E/C.12/2001/10

Poverty is also increasingly "feminized". In other words, a growing proportion of the world's poor are female. Economic, demographic and socio-cultural factors all overlap and contribute to the disproportionate impact that poverty has on women. Women commonly have less access to power, education, training and productive resources. Because of the gendered division of labour and responsibilities for caregiving, women also bear a greater burden in managing household expenses. Poverty can also force women into situations in which they are vulnerable to sexual exploitation.

Nevertheless, poverty is not always treated as a human rights issue. In fact, it is often seen as a tragic but inevitable reality. Indeed, poverty is frequently blamed on those who suffer from it; they are portrayed, at best, as unfortunate or, at worst, as lazy, undeserving or even criminal. There is little effort to look beyond this narrative to examine why poverty persists in a world that is richer than ever. Viewing poverty through the lens of human rights demands a shift in our consciousness and our understanding of it. It focuses on empowerment; giving voice and power to those who are poor and otherwise unable to claim their rights.

Of course, poverty is not always, in and of itself, a human rights violation. The violation occurs when certain (usually government) actions or inaction breach human rights *obligations* in a way that causes, continues or worsens poverty. These obligations are discussed further in Chapter 2.

The remainder of this chapter introduces the human rights-based approach, a concept that has been used in the development field over the last two decades as a way of referring to the integration of human rights principles and perspectives into policymaking. A number of NHRIs in the Asia Pacific have also used the language of a rights-based approach to engage decision makers on questions relating to ESCR.

1.2. HOW IS A HUMAN RIGHTS-BASED APPROACH DEFINED?

It is now widely accepted that advancing human rights is essential for human development. Recognizing this, international organizations and national governments have increasingly demonstrated a commitment to apply a human rights-based approach to socio-economic policies. This approach seeks to integrate the norms, principles, standards and goals of the international human rights system into the process of developing and implementing socio-economic policies.

It is important to recognize that a human rights-based approach is not monolithic. In other words, there are a variety of ways in which a rights-based approach may be put into practice. For this reason, it is more accurate to refer to human rights-based approaches, rather than one single approach. Generally speaking, however, such approaches share common features; namely, that **human rights standards guide the *goals* of human development, while human rights principles guide the *process* of development.**

> **FREQUENTLY ASKED QUESTIONS ABOUT A HUMAN RIGHTS-BASED APPROACH**
>
> A human rights-based approach is a **conceptual framework** for the process of human development that is **normatively based** on international human rights standards and **operationally directed** to promoting and protecting human rights. It seeks to **analyse inequalities** which lie at the heart of development problems and **redress discriminatory practices** and unjust distributions of power that impede development progress.
>
> Source: OHCHR (2006), *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*

1.2.1. Human rights standards define the *goals* of development

Put simply, a human rights-based approach asserts that the main objective of development-related policies, legislation, regulations and budgets should be to fulfil human rights. Such an approach assists governments to translate the *normative standards* set out in global human rights instruments, conventions and other internationally-agreed commitments and standards into *time-bound and achievable results*.

Human rights are grounded in the principle of **universality**. This means that all people have an entitlement to all rights. It **does not mean**, however, that **all problems facing all people must be tackled at once**. The resource constraints that all governments face mean that prioritization will be inevitable. However, policy trade-offs should avoid exacerbating inequalities, leaving people destitute, backsliding on the fulfilment of human rights (unless strictly justified) or concentrating losses and gains among one particular group.

1.2.2. Human rights principles guide the *process* of development

When adopting a human rights-based approach, human rights principles should apply at all stages of the policy cycle: assessment, analysis, planning, implementation, monitoring and evaluation. These principles are often referred to as "PANTHER", developed by the UN Food and Agriculture Organization (FAO) in 2006.

PANTHER

P – Participation
A – Accountability
N – Non-discrimination
T – Transparency
H – Human dignity
E – Empowerment
R – Rule of law

Equality and Non-discrimination: A human rights-based approach demands that those suffering discrimination and disadvantage in any given context be given **priority attention**, especially the poorest of the poor and those experiencing multiple forms of discrimination (e.g. rural women of an ethnic minority).

Participation and Inclusion: A human rights-based approach requires the active, free, and meaningful participation in, contribution to, and enjoyment of development policies. **Participation is a human right**, enshrined in the International Covenant on Civil and Political Rights, and is closely linked to other rights, such as the right to information and the right to freedom of assembly. However, participation should be genuine and meaningful, not done as a token exercise. When participation is "instrumental", people may be involved in discussions but have no genuine decision-making power or ability to influence decision makers. To ensure that participation is truly "transformative", concrete steps must be taken to empower people so that decision makers are willing to listen to and respect their views.

Transparency and Accountability: A human rights-based approach emphasizes that duty bearers are obliged to respect, protect and fulfil human rights. In this regard, they must comply with the legal norms and standards set out in international human rights instruments. Where they fail to do so, aggrieved rights holders are entitled to appropriate redress.

THE UNITED NATIONS COMMON UNDERSTANDING, 2003

All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the international human rights instruments.

Human rights standards and principles guide all development cooperation and programming in all sectors and in all phases of the programming process.

Development cooperation contributes to the development of the capacities of duty bearers to meet their obligations and of rights holders to claim their rights.

Source: United Nations Development Group (2003), *Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming*

1.3. WHAT DOES A HUMAN RIGHTS-BASED APPROACH TELL US?

One of the most fundamental principles of human rights – and, consequently, of a human rights-based approach – is that every human being is a **rights holder** and that every human right has a corresponding **duty bearer**. A rights-based analysis strengthens traditional policy analysis by focusing explicitly on the impact of policies on people's actual enjoyment of their human rights, as well as who is accountable for those rights.

A human rights-based analysis therefore asks the following questions:

- Who has been left behind and why?
- What are they entitled to?
- Who has to do something about it?
- What do they need to take action?
- How should action be taken?

Who has been left behind and why? Asking "who" helps identify persistent patterns of discrimination, exclusion, impunity and powerlessness. For example, a particular policy decision might affect people differently because of their age, gender, geography, ethnicity or sexual orientation. Asking "why" is a form of causality analysis and helps identify immediate, underlying and root causes of exclusion. For example, a particular policy decision might discriminate against people intentionally; it might not be intentionally discriminatory but have a disproportionate impact on some people; or it might impact people in the same way but fail to take the special measures needed to address entrenched patterns of discrimination and disadvantage.

What are they entitled to? This question emphasizes that the human rights norms contained in international conventions are not just words on a page, they are **applicable standards**. Achieving these standards is necessary for expanding the freedoms and opportunities that underlie human development. For example, a particular policy decision might set out the entitlements of people in relation to housing, social security, water and sanitation.

Who has to do something about it? It is important to identify, in concrete terms, who are the duty bearers – those with obligations to act – for a specific human right and to define what is expected of them. For example, a particular policy decision might regulate the behaviour of public servants, businesses or certain individuals.

What do they need to take action? This question helps identify critical capacity gaps that prevent action. These capacity gaps will nearly always involve gaps in legal, institutional, policy and budgetary frameworks. A knowledge gap on human rights awareness is also common. In this question, "they" refers to both rights holders and duty bearers. For example, a particular policy decision might give public servants too many discretionary powers, or it might not provide enough money to service providers, or it might not give people an avenue to lodge complaints.

How should action be taken? A key characteristic of the human rights-based approach is that the *process* is just as important as the *outcome* of development. For example, a particular policy decision may not have been taken in a way that is transparent, participatory and empowering for those who will be affected by it.

THE COMPLEXITY OF POVERTY

We build solutions based on how we see and identify the world around us. If one argues that a man is hungry because he has no food, the solution is to give him food. If one argues that a man is hungry because he is unable to get sufficient food from his small plot of land, then the solution will imply increasing the amount of land available or its output. If we add in extra information, i.e. that the plot is too small because most of the village land was taken over by a government farm then the solution is different again. If we also identify that he is in fact more likely to be a she, and that being a woman she was not eligible to the government scheme of redistribution of land then the complexity deepens further. Simple solutions may thus scratch only the surface of the reality that makes up poverty.

Source: Danish Institute for Human Rights (2007), *Applying a rights-based approach: An inspirational guide for civil society*

1.4. HOW IS A HUMAN RIGHTS-BASED APPROACH DIFFERENT TO OTHER APPROACHES TO DEVELOPMENT?

Traditionally, a country's level of development was conceptualized narrowly, with an almost total focus on economic growth (i.e. the rise in a country's gross domestic product or GPD). In recent decades, however, a broader view of "human development" has taken root. This conceptualization sees development as the improvement in people's capabilities and standard of living, which is measured by indicators such as life expectancy and literacy rates, as well as income and poverty levels.

Nevertheless, even the human development approach tends to be utilitarian, measuring development outcomes based on overall aggregate or average levels. Development professionals have tended to be economists and social scientists and their agenda is set through commitments made at international summits, such as the Millennium Development Goals (MDGs), poverty reduction strategies, economic policies and sector-based policies.

A human rights-based approach, on the other hand, is normative – some would argue idealistic – and focused on individuals. Professionals working on human rights have tended to be lawyers and political scientists, who base their work on the human rights standards set out in international, regional and national laws, along with national human rights plans. While debates about how to better integrate human rights and human development have advanced a lot from these stereotypes, there are still some notable differences, as outlined in the following table from OHCHR.

Being aware of these distinctions can be helpful when building relationships with development actors, such as planning ministries and finance ministries, especially as they have not traditionally been interlocutors for many NHRIs. Emphasizing the normative goals of a human rights-based approach is also important because it helps guard against a reductionist or technocractic understanding of a rights-based approach.

The "human development" approach	The "human rights-based" approach
Needs are contextual and open-ended. Hierarchy of needs.	Rights indivisible and interdependent, though practical prioritization may be required.
Beneficiaries deserve help.	Beneficiaries have universal and legally established claims and entitlements to enforceable rights.
Passive beneficiaries – *can* be invited to participate.	Beneficiaries are active participants, *by right*.
Pragmatic ways to work with structures.	Power structures must be effectively changed.
Development is technocratic – for experts.	Development should transform behaviour, institutions and empower rights holders.

Source: OHCHR, *HRBA Training Materials* (not dated)

1.5. WHAT IS THE ADDED VALUE OF A HUMAN RIGHTS-BASED APPROACH?

There are two main rationales for adopting a human rights-based approach to development:

1. The **intrinsic rationale**, acknowledging that a human rights-based approach is the right thing to do, both morally and legally
2. The **instrumental rationale**, recognizing that a human rights-based approach leads to better and more sustainable human development outcomes.

A human rights-based approach stresses obligations and requires that all duty bearers, including States and intergovernmental organizations, be held accountable for their conduct. Accountability is increasingly recognized as central to sustainable development.

When understood holistically, a human rights-based approach puts respect for individual human rights, dignity and gender equality at the heart of any civil, political, social *and* economic agenda. In this way, it encourages policymaking that strikes a balance between competing socio-economic and political dynamics in order to achieve the overall objective of realizing human rights. By encouraging development that is people-centred and sustainable, a rights-based approach also helps overcome traditional divisions between the different categories of rights.

This also means that a human rights-based approach can provide a solid foundation for achieving gender equality. Rather than viewing women's advancement as important for economic development, the improvement of women's political, social, economic and health status are considered inherently important ends. Given its particular attention to issues of discrimination, equality, equity and vulnerability, as well as its recognition that these issues vary depending on context, rights-based approaches can also be valuable in identifying the gendered dimensions of a particular situation.

1.6. WHY IS MONITORING IMPORTANT FOR A HUMAN RIGHTS-BASED APPROACH?

Human rights standards do not tell us exactly what policies need to be enacted to improve the human rights situation. Policy decisions need to make trade-offs between competing priorities. By themselves, human rights standards can rarely resolve these complex policy choices. However, as highlighted previously, they do place conditions on how these decisions should be made. This is significant because it helps ensure that decisions on trade-offs are made following adequate consultation (through a participatory, inclusive and transparent process); comply with the principles of equality and non-discrimination; and do not result in weaker human rights protection.

The information gathered through monitoring can be used to determine whether the priorities and trade-offs of a particular policy are acceptable. Specifically, monitoring can uncover whether:

- The process of setting priorities involved the meaningful participation of all stakeholders
- Any trade-offs have caused or exacerbated disparities in the enjoyment of human rights
- Any alternatives would realistically allow for the sustainable enjoyment of human rights
- The benefits of a particular policy are concentrated among already advantaged groups.

As discussed in the following chapters, monitoring development plans and socio-economic policies is crucial for ensuring that decision makers are held accountable for their choices when they do not comply with human rights principles and standards.

Further, as OHCHR outlines,[2] many important results can be achieved through monitoring activities. Specifically, monitoring can:

- Indicate whether a State is meeting its obligations and provide a basis for holding the State accountable
- Show where the State is meeting its obligations and where it is falling short
- Identify the source and nature of human rights violations, as well as problems in realizing ESCR
- Identify priorities for action and suggest where resources need to be allocated
- Support legislative, advocacy and policy formulation, as well as public awareness and education campaigns
- Promote principled policy making that incorporates a human rights perspective and processes that facilitate public accountability
- Be used to pursue actions to obtain remedies
- Provide the basis for reports and submissions to national or international bodies.

CASE STUDY: NATIONAL INQUIRY ON LAND RIGHTS OF INDIGENOUS PEOPLES IN MALAYSIA

Between 2010 and 2012, the Human Rights Commission of Malaysia (SUHAKAM) conducted a national inquiry into the land rights of indigenous peoples in Malaysia, in response to the persistently high number of complaints it received on the issue. SUHAKAM noted that abuses of indigenous peoples' land rights often occur in the pursuit of development and accompanying economic activities. These can include encroachments on land; evictions or transfers to less suitable areas; and the overall disruption of a community's traditional way of life. The inquiry revealed a lack of communication between authorities and indigenous communities in relation to the issue of development. A human rights-based approach to development was a strong theme in the inquiry's recommendations. For example, borrowing language from international human rights frameworks pertaining to development, SUHAKAM emphasized the importance of addressing land rights abuses against indigenous persons. Recommendation 10.36 states: "In line with international standards, the State and Federal Governments must adopt such a human rights-based approach to development and adopt a [Free, Prior and Informed Consent] law outlining consent-making processes that ensure effective participation of affected indigenous communities".

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2   OHCHR (2005), *Economic, Social and Cultural Rights: A Handbook for National Institutions*, at p.57.

1.7. IN PRACTICE: GETTING STARTED ON A MONITORING ACTIVITY

The first step when starting a monitoring activity is to identify the issue or issues that will be the focus of your work. In many cases, NHRIs will identify priority issues in their strategic planning process. Another reason to initiate a monitoring activity might be that complaints statistics show a worsening trend in a particular pattern of rights violations. In other cases, issues might arise unexpectedly or the NHRI might need to respond to a request from the Government or from civil society groups to inquire into a particular issue.

An initial challenge when starting a monitoring activity that seeks to tackle poverty-related deprivations using a human rights-based approach is how to define the focus of the study. Because of the interconnected nature of these deprivations, it can sometimes be hard to know where to start. For this reason, the first step in any monitoring activity is to define what the focus will be. Often, it will make sense to focus on one *priority right* and several other *related rights*. For example, take the issue of forced eviction. As well as being a violation of the right to housing, forced eviction may involve acts of violence or arbitrary arrests. It might also result in the loss of schooling or livelihoods. A related consideration is *who* to focus on; are there individuals or groups who are particularly vulnerable to deprivations of the right or rights that your study will examine?

A second crucial step is to have a clear sense of what concrete change you want your monitoring activity to achieve and how your monitoring activity can help make that change happen. Monitoring should always have a clearly articulated objective; it should pressure, persuade, educate or mobilize an audience. Audiences can either be:

- **Decision makers:** those who have the power, either formally or informally, to make or block change
- **Pressure makers:** those who have the power to influence or persuade decisions makers.

Identifying your audience is discussed in more detail in Chapter 16. However, from the very start of your monitoring activity, it is important to have some of these questions in mind because it will help determine the most appropriate methodology to be adopted.

UPDATE FROM AHN

Ahn lives in a lower-middle-income country. The country has enjoyed a long period of robust economic growth. Nevertheless, the benefits of its economic success have not been shared equally. Poverty rates are particularly high in the rural northern part of the country, where the population is mostly indigenous. This has resulted in an increased sense of injustice among the population and heightened political instability. Gender equality is a particular challenge facing the country.

The country's National Development Plan, *Vision: 2020*, prioritizes improvements in education, health and other social sectors. Ahn's NHRI reviews progress made under the Plan in its annual reports. She and her colleagues have noted that, in recent years, there has been no improvement in some key health indicators, especially in the maternal mortality ratio.

Ahn's NHRI has recently committed itself to strengthening its institutional capacity to promote and protect ESCR. During a recent strategic planning process, the NHRI also recognized its role and responsibility to protect women's ESCR. For this reason, she and her colleagues decide to start a project investigating women's rights to sexual and reproductive health and, in particular, indigenous women's health.

QUESTIONS FOR REFLECTION

1. Does your NHRI have a mandate to address ESCR? Do you have the same functions and powers to address ESCR as civil and political rights? What are the differences?

2. If your NHRI does not have a mandate to work on ESCR, how do you bring these issues into your work? For example:,

   • Through the lens of non-discrimination?

   • As part of the national development agenda?

   • When interpreting relevant legislation (e.g. related to workplace relations, tenancy, social security, public health)?

3. Does your country have a national development plan? If so, to what degree does it demonstrate a human rights-based approach?

4. Is your commission involved in monitoring the plan? If so, how?

REFERENCES AND FURTHER READING

This chapter is based on *Poverty and Human Rights: A Conceptual Framework*, published by OHCHR in 2004.

The following references are also recommended for further reading:

Amnesty International (2005), *Human rights for human dignity: A primer on economic, social and cultural rights*

CESR and OHCHR (2013), *Who will be Accountable? Human Rights and the Post-2015 Development Agenda*

Danish Institute for Human Rights (2007), *Applying a rights-based approach: An inspirational guide for civil society*

Guiding Principles on extreme poverty and human rights, adopted by the Human Rights Council in resolution 21/11, September 27, 2012 U.N. Doc. A/HRC/21/L.20.

International Center for Research on Women (2006), *A Rights-Based Approach to Realizing the Economic and Social Rights of Poor and Marginalized Women: A Synthesis of Lessons Learned*

International Human Rights Internship Program (2000), *Circle of Rights: economic, social and cultural rights activism – a training resource*

OHCHR (2006), *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*

OHCHR (2005), *Economic, Social and Cultural Rights: A Handbook for National Institutions*

Chapter 2:
Economic, social and cultural rights standards

KEY QUESTIONS

- What are economic, social and cultural rights?
- How are economic, social and cultural rights defined and interpreted in international and domestic law?
- What are the obligations of States in relation to economic, social and cultural rights?
- When will a State be in breach of its obligations?

INTRODUCTION

Economic, social and cultural rights (ESCR) are rights that relate to people's standard of living. They include the rights to education, work, food, shelter, health care, social security and cultural development. Although human rights are recognized as "universal, indivisible, interdependent and interrelated",[3] ESCR have historically received less attention than civil and political rights. For many years, they were pushed to the margins of the international human rights agenda on the grounds that they were too vague to be "justiciable". In other words, they were not seen as legal rights that could be enforced by courts.

Developments over the last two decades have demonstrated that this is a misconception. As discussed in this chapter, ESCR are not open-ended, aspirational goals to be achieved at some undefined time in the future. Under international law, States have obligations – immediately and over the longer-term – to take action to respect, protect and fulfil ESCR. Over the past two decades, these obligations have been elaborated in greater detail by courts, international human rights bodies and other experts. As a result, there is now greater clarity about what States are expected to do in order to meet their commitments under international human rights conventions.

2.1. HOW ARE ECONOMIC, SOCIAL AND CULTURAL RIGHTS FRAMED INTERNATIONALLY?

The Universal Declaration of Human Rights, adopted in 1948, did not make a distinction between the nature of civil and political rights and ESCR, recognizing both equally. In the following decades, as negotiations over the development of a legally binding treaty on human rights unfolded, Cold War politics prevented consensus. The result is that, somewhat arbitrarily, two separate treaties were developed: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both adopted in 1966. Together with the Universal Declaration of Human Rights, these instruments are often referred to as the "international Bill of Rights".

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3   *Vienna Declaration and Programme of Action*, Adopted by the World Conference on Human Rights in Vienna, 25 June 1993, U.N. Doc. A/CONF.157/24, at para.5.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the most comprehensive articulation of ESCR in international law. As outlined below, its provisions protect human rights relating to the workplace, family life, community life and cultural life. In addition, other international treaties set out the rights of particular groups and also contain relevant provisions on ESCR. These include the:

- Convention on the Rights of the Child (CRC), especially articles 23-32
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), especially article 5
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Part III
- Convention on the Rights of Persons with Disabilities (CRPD), especially articles 23-28
- Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW), especially articles 27-31.

Right	Description	Provision
Adequate standard of living	The right to an adequate standard of living for individuals and families includes adequate health, food, clothing and housing. It also includes access to safe drinking water and sanitation.	ICESCR: Article 11 CRC: Articles 16 and 27 ICERD: Article 5 CEDAW: Article 14 CRPD: Articles 2, 5, 9, 19, 22 and 28 ICMW: Article 43
Cultural rights	Cultural rights protect an individual's or a community's lifestyle. This includes an individual's or a group's traditions, language, art, knowledge and values.	ICESCR: Articles 13-15 CRC: Articles 14, 28 and 29 ICERD: Article 5 CRPD: Article 30 ICMW: Articles 12, 31, 43 and 45
Education	The right to education includes free and compulsory primary education. Schools must meet minimum educational standards. A parent has the right to choose their child's school based on a particular moral or religious education.	ICESCR: Article 13 CRC: Articles 28 and 29 ICERD: Article 5 CEDAW: Article 10 CRPD: Article 24 ICMW: Articles 30, 43 and 45
Health	The right to health includes the right to physical and mental health. This includes access to necessary medical and social services.	ICESCR: Article 12 CRC: Article 24 ICERD: Article 5 CEDAW: Articles 12 and 14 CRPD: Article 25 ICMW: Articles 28, 43 and 45
Housing	The right to housing includes access to adequate living arrangements, including safe drinking water, sanitation and energy. It also includes a degree of security and safety from threats, such as harassment or forced eviction.	ICESCR: Article 11 CRC: Articles 16 and 27 ICERD: Article 5 CEDAW: Article 14 CRPD: Articles 2, 5, 9, 19, 22 and 28 ICMW: Article 43

Right	Description	Provision
Social security	The right to social security includes assistance and protection for all. Social security benefits should support all citizens, especially individuals experiencing unemployment, disability, ill-health, maternity or old age.	ICESCR: Articles 9 and 10 CRC: Article 26 ICERD: Article 5 CEDAW: Article 11 CRPD: Article 28 ICMW: Article 27
Water and sanitation	The right to water and sanitation includes access to safe drinking water and affordable sanitation services.	ICESCR: Articles 11 and 12 CRC: Article 24 ICERD: Article 5 CEDAW: Article 14 CRPD: Article 28
Work	The right to work includes an individual's right to employment. It also includes rights at work, such as fair wages, safe working conditions and the right to join a union.	ICESCR: Articles 6-8 ICERD: Article 5 CEDAW: Article 11 CRPD: Article 27

At the regional level, human rights mechanisms have been established in Africa, the Americas and Europe. Although not directly applicable in the Asia Pacific, these mechanisms have also produced jurisprudence which has contributed to the normative development of ESCR.

2.2. HOW ARE ECONOMIC AND SOCIAL RIGHTS FRAMED DOMESTICALLY?

ESCR are widely recognized in domestic legal systems, although not always to the same extent as civil and political rights. There are a number of ways that national constitutions can and do address ESCR.

The constitutions of numerous countries in the Asia Pacific explicitly recognize as least some ESCR as **fully justiciable rights**. This means that individuals can go to court when their rights have been violated. The right to own property, the right to form trade unions and the right to freedom from discrimination, for example, are commonly justiciable, including in India, Indonesia, Japan, Jordan, the Maldives, Mongolia, Nepal and Papua New Guinea. In some cases, an even larger number of ESCR, including healthcare, education and social security are justiciable.

In other countries, the protection and promotion of ESCR are included as **general State duties** under the constitution. This is the case in Afghanistan, Bangladesh, Bhutan, India, Malaysia, Oman, Pakistan, the Philippines, Qatar, the Republic of Korea, Sri Lanka and Viet Nam, among others. General State duties impose obligations on the Government in relation to ESCR but do not give individuals the right to go to court if the Government fails to meet these obligations. Nevertheless, some courts have been willing to incorporate ESCR standards when defining the scope of justiciable civil and political rights. For example, the Indian Constitutional Court has interpreted the right to life to include the right to an adequate standard of living.

In addition, virtually all countries in the region have **general laws** that incorporate elements of ESCR, even if they are not explicitly framed in human rights terms. For example, urban planning legislation affects the rights to housing and to water and sanitation, while laws governing pensions and unemployment benefits have an impact on the right to social security. Depending on how these laws are framed, individuals may have the right to go to court to dispute particular issues. Similarly, anti-discrimination laws are often justiciable and can be used to advance the ESCR of particular groups.

2.3. INTERPRETING THE INTERNATIONAL TREATIES

In the past two decades, significant progress has been made in clarifying the legal content of internationally recognized ESCR.

The Committee on Economic, Social and Cultural Rights is the treaty body mandated to oversee the implementation of International Covenant on Economic, Social and Cultural Rights. The Committee adopts "general comments" that give an authoritative interpretation of the Covenant's provisions, as well as "concluding observations" on States' periodic reports that make recommendations on how States can improve their performance to implement the Covenant. The comments and observations are **not legally binding** but they do carry **considerable legal weight**.

HELPFUL TIP

The **Committee on Economic, Social and Cultural Rights** has adopted 21 general comments which interpret, among other things, the rights to education, to work, to adequate housing, to water, to adequate food and to the highest attainable standard of health.

These general comments are available at:
www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx

Similarly, other treaty bodies have adopted general comments in relation to their respective conventions that serve as a useful reference in interpreting ESCR issues. The reports of special procedures mandate holders on issues related to ESCR also articulate how general principles might apply to various dimensions of rights.

Likewise, expert groups have helped clarify the normative standards relating to ESCR by adopting guidelines and principles. These include the:

- Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1987)
- Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997)
- Montreal Principles on Women's Economic, Social and Cultural Rights (2002)
- Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2007).

Again, while not legally binding, these guidelines and principles are widely considered and cited as authoritative clarifications of binding international norms.

The decisions of national courts have also helped to expand our understanding of ESCR. The growing body of national jurisprudence has given greater clarity to important ESCR standards and principles, such as progressive realization and non-retrogression, which will be discussed below.

HELPFUL TIP

The **International Network on Economic, Social and Cultural Rights** (ESCR-Net) maintains a case law database that makes pleadings, commentary and decisions related to ESCR available to human rights defenders and activists from a range of countries, legal traditions and languages (Spanish and English).

See: www.escr-net.org/caselaw

In interpreting the State's obligations in relation to ESCR, courts have developed tests to judge legislative or administrative action. These are commonly framed using concepts such as "reasonableness", "adequacy" and "proportionality".

In December 2008, the United Nations General Assembly adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Optional Protocol establishes mechanisms for hearing individual complaints, for inter-State communications and for addressing grave or systemic violations of ESCR. It came into force in May 2013. Once the Committee on Economic, Social and Cultural Rights begins to issue decisions under the Optional Protocol, these will offer another source of jurisprudence on ESCR.

2.4. WHAT ARE STATES OBLIGED TO DO IN RELATION TO ECONOMIC AND SOCIAL RIGHTS?

The right to health does not mean that individuals have a right to be healthy, nor does the right to housing imply that the State should provide everyone with a house. However, rights do impose *obligations* on the State about *how it should act*. Article 2(1) of ICESCR spells out in general terms what States are expected to do to advance ESCR. Many regional treaties and national constitutions use similar formulations. The elements of article 2(1), which have been further clarified through the interpretations of courts, international human rights bodies and other experts, are outlined below.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, ARTICLE 2(1)

Each State Party to the present Covenant undertakes to **take steps**, individually and through international assistance and co-operation, especially economic and technical, to the **maximum of its available resources**, with a view to **achieving progressively** the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2.4.1. Three levels of obligations

It is widely recognized that ICESCR imposes three levels of obligations on States: to respect, to protect and to fulfil. Failure to meet any one of these obligations constitutes a violation of the Covenant. By understanding these different types of obligations, it becomes easier to identify different types of violations and to also demonstrate that meeting ESCR obligations is not always resource-intensive.

Obligation to respect

This obligation requires States to refrain from interfering with the enjoyment of ESCR. It prohibits the State from taking any action or imposing any measure that is contrary to the rights guaranteed in law. For this reason, it is sometimes referred to as a "negative" obligation. For example, arbitrary forced evictions by the State would violate this obligation.

Obligation to protect

This obligation requires States to prevent violations of ESCR by other actors, such as businesses. Business activity can expose people to danger (e.g. from pollution), to exploitation (e.g. by denying fair wages and decent working conditions) or to marginalization (e.g. by displacement caused by large-scale projects). For example, if the State fails to take action when businesses pollute water sources, or if it fails to enact occupational safety laws that ensure safe labour conditions, it will violate this obligation. The State also has a duty to regulate the actions of individuals. For example, if the State fails to stop landlords rejecting tenancy applications on the basis of ethnicity, or if it fails to take action to prosecute perpetrators of domestic violence, it will violate this obligation.

Obligation to fulfil

This obligation requires States to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of ESCR. Elements of this obligation include duties to:

- **Facilitate:** take measures to facilitate access to and use of goods and services
- **Promote:** inform people of their rights and how to claim them
- **Provide:** provide goods and services to people when, for reasons beyond their control, they are unable to obtain them.

The remainder of this chapter examines in more detail the obligation to fulfil. A clear understanding of the concepts that underpin the obligation to fulfil is important because, as discussed further in Chapter 3, these concepts establish the criteria for analysing socio-economic policies and development plans.

The elements of the obligation to fulfil are summarized in the following table.

ELEMENTS OF THE OBLIGATION TO FULFILL

- **Duty to take steps:** to adopt legislative, judicial, budgetary, administrative and other measures to fulfil ESCR.

- **Maximum available resources:** must be provided to the steps taken to fulfil rights, including both resources that can be mobilized domestically and those that can be provided through international cooperation.

- **Minimum core obligations:** an immediate duty to prioritize achieving minimum essential levels of rights enjoyment universally.

- **Non-discrimination:** a duty to ensure substantive equality in the enjoyment of rights and in steps taken to fulfil rights.

- Duty to ensure that relevant services needed to fulfil rights are **available, accessible, acceptable** and of **adequate quality (AAAAQ)**, without discrimination.

- **Progressive realization:** duty to move swiftly towards increased levels of rights enjoyment, with no deliberate retrogression.
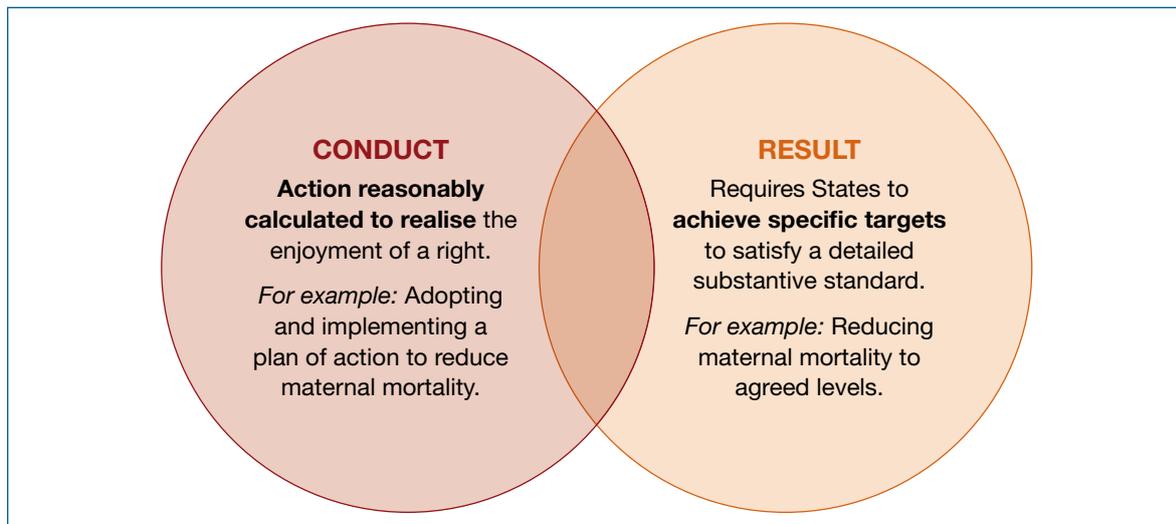

2.4.2. Obligations of conduct and obligations of result

The various elements of all obligations – to respect, protect and fulfil – can be broadly categorized as being either "obligations of conduct" or "obligations of result".

Obligations of conduct relate to the actions that the State is expected to take. To meet its obligation to fulfil, the State is expected to take action "reasonably calculated to realize" the enjoyment of a particular right.[4] For example, the adoption and implementation of a plan of action to reduce maternal mortality is a type of action that can be taken to fulfil the right to health.

Obligations of result relate to the outcomes that the State is expected to achieve, usually to decrease the rates of deprivation of a right or to increase the enjoyment of it. Taking again the right to health as an example, the State would be expected to prioritize the achievement of minimum essential levels of enjoyment of the right to health universally in order to meet its obligation to fulfil. The Committee on Economic, Social and Cultural Rights has held that this includes access to sexual and reproductive health services. The specific target in relation to universal services included in the Millennium Development Goals (MDGs) is a time-bound commitment reflecting this core human rights obligation.

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4   International Commission of Jurists (1997), *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, Adopted in Maastricht, January 26, 1997, at para.7.

Distinguishing between obligations of conduct and obligations of result is especially important in relation to the *fulfilment* of ESCR. This is because of the principle of "progressive realization". In general, **obligations of results can be achieved *progressively* but obligations of conduct are *immediate***. States must move "as expeditiously and effectively as possible" towards the realization of ESCR.[5] However, **some obligations of result are expected to be achieved immediately**. These include the Covenant's "minimum core obligations" and the obligation to prevent discrimination.

2.4.3. Non-discrimination

Differential treatment based on a "prohibited ground" is discrimination unless the justification for it is reasonable and objective. Article 2(2) of the Covenant lists the prohibited grounds, which include race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The inclusion of "other status" means that this list is not exhaustive, recognizing that discrimination varies according to context and evolves over time. Under article 3, States must also ensure equality between men and women in the enjoyment of ESCR.

States have an obligation to eliminate *de jure* discrimination (discrimination in law) by abolishing "without delay" any discriminatory laws, regulations and practices (including acts of omission, as well as acts of commission) affecting the enjoyment of ESCR. *De facto* discrimination (discrimination in practice), which occurs as a result of the unequal enjoyment of ESCR, should be brought to an end "as speedily as possible".[6]

For example, article 7(a) of the Covenant relates to just and favourable conditions of work. Read in conjunction with article 3, the State has an obligation to identify and eliminate the underlying causes of the pay gap between men and women, including by "promoting adequate policies for childcare and care of dependent family members" so as "to reduce the constraints faced by women in reconciling professional and family responsibilities".[7]

Affirmative action or positive measures may be needed to end *de facto* discrimination and to guarantee true equality. For this reason, States are advised to adopt "temporary special measures" in order to bring disadvantaged groups to the same substantive level as others.

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5   Committee on Economic, Social and Cultural Rights (1990), *General Comment No. 3: the nature of States parties' obligations*, U.N. Doc. E/1991/23, at para.9.

6   The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, adopted in Maastricht, 6 June 1986, U.N. Doc. E/CN.4/1987/17, at para.38.

7   Committee on Economic, Social and Cultural Rights (2005), *General Comment No. 16: the equal right of men and women to the enjoyment of all economic, social and cultural rights*, E/C.12/2005/3, at para.24.

2.4.4. Minimum core obligations

This is an obligation of result that requires the realization of "minimum essential levels" of each right. States must make every effort to satisfy these basic levels, as a matter of priority. This obligation applies regardless of the availability of resources or any other factors and difficulties. This means, if a lot of people in the country are deprived of essential foodstuffs, primary healthcare, basic shelter and housing, it is considered a *prima facie* violation of the Covenant. In other words, it is *assumed* that the State is violating the Covenant unless it can prove otherwise. To show that it has not violated the Covenant, the State must demonstrate that "every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations".[8]

Over the past two decades, the Committee has adopted a number of general comments which define the minimum core obligations of the Covenant. It has outlined minimum requirements for the right to food, water, health, housing and education. For example, the right to education includes, *at a minimum*, free and compulsory primary education for all children. Another minimum requirement is that educational content fosters diversity and understanding, rather than segregation and prejudice. The right to health includes access to essential medicines, emergency care and pre- and post-natal care, *at a minimum*.

It is not always easy to identify specifically the minimum core content of each right and how these should apply in different country contexts. However, it is still a useful concept because it insists that States must give first priority to fulfilling a basic minimum level of ESCR for all those within its jurisdiction, over and above all other policy and economic objectives. For this reason, there is a *higher burden of proof* on States to demonstrate that they are doing everything they possibly can to achieve these outcomes.

2.4.5. Progressive realization and non-retrogression

The idea that results can be achieved progressively – in other words, over time – is what differentiates the Covenant on Economic, Social and Cultural Rights from the Covenant on Civil and Political Rights. Nevertheless, States are still required to move as **"efficiently and expeditiously" as possible** towards the full realization of ESCR. For example, if the number of households that do not have access to drinking water stays the same, or only improves a small amount, over a decade, a strong case can be made that the State is not progressively realizing the right to water.

In addition, States must not take **"deliberately retrogressive"** measures unless they have a justified reason to do so. In such cases, the State must "fully" justify the adoption of policies that decrease people's enjoyment of a right and these policies must be:

- Temporary
- Necessary and proportionate (i.e. other options are more detrimental)
- Not discriminatory (and there is a duty to mitigate inequalities)
- Ensure the protection of minimum core content of rights.

Taking the example above, if the number of households without access to drinking water actually *increased* over time, the State would have to articulate a very good reason for this. For example, it might be that a serious natural disaster had occurred and the State had prioritized shelter for those left displaced.

2.4.6. The duty to take steps

The duty to "take steps" is an **obligation of conduct with *immediate* effect**. The duty comes directly from the wording of article 2(1) of the Covenant. Steps can be legislative, judicial, as well as "administrative, financial, educational and social".[9]

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8   Committee on Economic, Social and Cultural Rights (1990), *General Comment No. 3: the nature of States parties' obligations*, U.N. Doc. E/1991/23, at para.10.

9   Committee on Economic, Social and Cultural Rights (1990), *General Comment No. 3: the nature of States parties' obligations*, U.N. Doc. E/1991/23, at para.7.

The South African Constitutional Court has interpreted this duty to mean that the State must: assess the situation concerning each right; make a plan for realizing the right; adopt laws and policies to put the plan into action; and develop mechanisms for monitoring the situation, providing up-to-date disaggregated information. Similar interpretations to this are commonly used.

2.4.7. Availability, accessibility, acceptability and quality

Steps taken by States should translate into goods and services on the ground in a way that improves:

- **Availability:** necessary goods or services must be available in sufficient quantities.
- **Accessibility:** necessary goods (such as food or medicine) or services (such as healthcare or education) must be both *physically* and *economically* accessible to all, *without discrimination*, and the community must have *information* about them
- **Acceptability and adaptability:** necessary goods and services must be culturally and socially acceptable and adapted to the local context
- **(Adequate) Quality:** necessary goods and services must be appropriate and adequate in standard and safety.

Taken together, these standards are sometimes referred to as "AAAQ" or the "4As".

In relation to the right to food, for example, availability means that the quantity and quality of the food is sufficient to satisfy the dietary needs of individuals. Accessibility means that the costs associated with acquiring food should not compromize the ability of individuals to pay for other basic needs. Acceptability involves taking into account the non-nutrient values attached to food. Quality means that measures are taken to prevent the contamination of foodstuffs.

2.4.8. Process principles

The steps taken by states must also be designed and implemented in a way that is in line with procedural rights. These include the right to information, to participation, to accountability and to transparency. Access to effective remedies for victims of ESCR violations, including administrative and judicial remedies, is also essential.

CASE STUDY: THE CANTERBURY EARTHQUAKE RECOVERY IN NEW ZEALAND

In December 2013, the New Zealand Human Rights Commission (NZHRC) published *Monitoring Human Rights in the Canterbury Earthquake Recovery*. The report focuses on the right to adequate housing and its interrelated effects on health; the impact of the earthquake on particular groups; civic participation; and the role of State and non-State sectors in achieving the full realization of these rights. In framing its analysis, the NZHRC identified New Zealand's national and international human rights commitments most relevant to the Canterbury context, including the Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities. The report spells out what housing as a human right means in the context of a natural disaster. In particular, it draws on the Committee on Economic, Social and Cultural Rights' General Comment No. 4 on the right to housing, as well as on guidelines on human rights in post-disaster situations. It also examines whether the standards articulated in these documents – namely affordability, habitability, accessibility and security of tenure – were adequately addressed in the recovery policies and plans. In addition, the report outlines and evaluates a range of key human rights principles, including the prioritization of vulnerable groups and non-discrimination; participation and empowerment; and transparency and accountability.

2.4.9. Maximum available resources

This is an important qualification of the obligation on States to take steps to realize ESCR. It recognizes that different States will have different capacities, depending on their level of economic development. Nevertheless, States frequently attribute their failure to fulfil ESCR to a lack of resources. It is therefore necessary to have some clear criteria to interrogate whether such a claim is justified. There are a number of criteria to take into account when analyzing the use of resources.

- States must give "due priority" to ESCR in the way they allocate their resources. In other words, budget allocations should be directed to ESCR-related areas as a matter of priority.
- Spending must be efficient. Wasting funds amounts to a failure to use the maximum available resources.
- Spending must be effective. It must actually lead to an improvement in the enjoyment of ESCR.
- Allocations for ESCR must be fully spent. States must identify reasons for under-spending and do everything they can to address these.
- Similarly, funds allocated for ESCR-related programmes must not be diverted to other areas.
- States also have an obligation to mobilize as many resources as possible domestically for ESCR-related programmes; for example, through reviewing taxation, in line with human rights principles and standards.
- Where domestic resources are scarce, States should do all they can to secure international assistance, including Official Development Assistance (ODA). This should be done in line with human rights principles and standards.
- Resources available to States include assets beyond financial resources. For example, infrastructure, natural resources, people, skills and other assets can be important factors to analyse in relation to realizing ESCR.

The obligation to dedicate maximum available resources is discussed further in Chapter 9.

HELPFUL TIP

To learn more about the obligation to dedicate maximum available resources, read the International Budget Partnership's 2014 *Handbook on Article 2(1)*.

2.5. WHEN DOES A STATE VIOLATE ECONOMIC AND SOCIAL RIGHTS?

A human rights violation occurs when the State fails to act in accordance with a human rights obligation under national, regional or international law. A violation might be the result of something the State has done (an act of commission) or something it did not do but should have done (an act of omission).

Acts of commission

- The formal removal or suspension of legislation necessary for the continued enjoyment of an ESCR that is currently enjoyed.
- The active denial of such rights to particular individuals or groups, whether through legislated or enforced discrimination.
- The active support for measures adopted by third parties which are inconsistent with ESCR.

Acts of omission

- The failure to take appropriate steps as required under the Covenant.
- The failure to reform or repeal legislation which is manifestly inconsistent with an obligation of the Covenant.
- The failure to enforce legislation or to put into effect policies designed to implement provisions of the Covenant.
- The failure to regulate the activities of certain individuals.

Often, violations that result from failures to fulfil ESCR amount to acts of omission. These can be harder to show. Chapter 3 discusses how to frame research questions that comprehensively capture the various dimensions of the obligation to fulfil, as outlined above.

2.6. IN PRACTICE: CLARIFYING HUMAN RIGHTS COMMITMENTS

After identifying the human rights issue or issues that will be the focus of your monitoring activity, it is important to understand exactly how the right is defined and what the Government has (or, in some cases, has not) committed itself to do in order to realize that right. As discussed in this chapter, information about the content of rights and obligations can be found in national, regional and international instruments, as well as in the jurisprudence and opinions of courts, international human rights bodies and other experts. It is very important to review these in the early stages of planning a monitoring activity.

UPDATE FROM AHN

Ahn knows that the right to health is protected in article 12 of the Covenant on Economic, Social and Cultural Rights. But she wants to find out more about what it includes. So she looks to see how it has been interpreted. She finds that:

- General Comment No. 14 on the right to health by the **Committee on Economic, Social and Cultural Rights** sets out how the criteria of availability, accessibility, acceptability and quality apply in the context of health; explains what steps States are expected to take to fulfil the right to health; and identifies the minimum core components of the right to health, which include guaranteeing maternal healthcare.

- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has issued several thematic reports spelling out different aspects of States' obligations (e.g. in relation to health workers, medicines, financing and so on), as well as a report specifically on maternal health.

- OHCHR has published technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity.

After reading through these materials, Ahn is confident that she understands the full normative framework of the right to health and its relevance to the issue of sexual and reproductive health rights in her country.

EXERCISES

The aim of these exercises is to refresh your memory about relevant national and international documents related to ESCR, as well as where to find them online.

1. Has your country signed and/or ratified the Covenant on Economic, Social and Cultural Rights? If so, in which year?

2. Has your country signed and/or ratified the Optional Protocol to the Covenant on Economic, Social and Cultural Rights? If so, in which year? Which other countries in the Asia Pacific have ratified the Optional Protocol?

3. Review your country's constitution. Does it protect any ESCR? If so, which ones? Are they fully justiciable?

4. Go to the OHCHR website and find the general comments of the Committee on Economic, Social and Cultural Rights. What number is the general comment on health? What number is the general comment on forced evictions?

5. Find a general comment/general recommendation from another treaty body that relates to ESCR. What does it say?

6. Find the annual reports of the Special Rapporteur on extreme poverty and human rights. In what year did the Special Rapporteur report on the importance of social protection measures in achieving the Millennium Development Goals (MDGs)?

REFERENCES AND FURTHER READING

Amnesty International (2014), *Human rights for human dignity: A primer on economic, social and cultural rights* (2nd ed.)

Committee on Economic, Social and Cultural Rights, General Comment No. 3 (1990) on the nature of States parties' obligations

Equitas (2008), *Equality for Women: A Handbook for NHRIs on Economic, Social and Cultural Rights*

International Commission of Jurists (1997), *The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*

International Human Rights Internship Program (2000), *Circle of Rights: economic, social and cultural rights activism – a training resource*

The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, 1987

OHCHR (2005), *Economic, Social and Cultural Rights: A Handbook for National Institutions*

The Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, 2011

The Montreal Principles on Women's Economic, Social and Cultural Rights, 2002

Chapter 3:
Monitoring the fulfilment of economic, social and cultural rights

KEY QUESTIONS

- What are the differences between events-based monitoring and policy monitoring?
- Why is policy monitoring difficult from a human rights perspective?
- What is the OPERA framework?
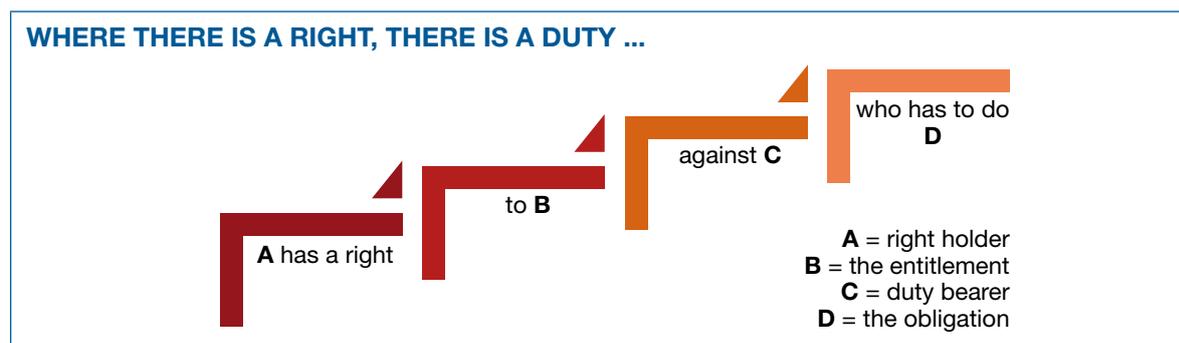- How can OPERA be applied to frame a research question?

INTRODUCTION

As discussed in Chapter 1, accountability is a key principle of a human rights-based approach. Human rights monitoring is a key strategy for securing accountability because it shows where the State is meeting its human rights obligations and where it is falling short.

This chapter discusses some of the different approaches to monitoring. Monitoring the obligations to respect and protect, for example, generally uses an events-based approach in order to identify the victim, the perpetrator and the remedy. Monitoring the obligation to fulfil is more challenging but it is essential for securing accountability in relation to issues such as poverty and socio-economic exclusion. It is challenging for two reasons. First, establishing causality can be challenging. We need to show that the legislative, budgetary or administrative measures that have been taken have been inadequate. Second, the criteria for analysing the adequacy of such measures – which come from international standards and principles – are complex and multi-dimensional, as discussed in Chapter 2.

For this reason, we need to look at the "bigger picture" when monitoring the fulfilment of ESCR. We also need to identify research questions that reflect relevant international norms. This chapter introduces the OPERA framework, which groups relevant norms around four dimensions: Outcomes, Policy Efforts, Resources and Assessment. OPERA can be used as an overarching analytical framework to help design and organize research questions.

3.1. MONITORING EVENTS VS MONITORING POLICIES?

WHERE THERE IS A RIGHT, THERE IS A DUTY ...

A has a right

to **B**

against **C**

who has to do **D**

A = right holder
B = the entitlement
C = duty bearer
D = the obligation

Source: OHCHR, *HRBA Training Materials* (not dated)

When deprivations of ESCR result from the specific actions of State or non-State actors, the causal chain, as illustrated above, is fairly direct and the relationship between the duty bearer and rights holder can be seen. In other words, "A", "B", "C" and "D" are all relatively clear. For example, a school refuses to enrol a child from a particular ethnic background. The child ("A") is the rights holder. His or her entitlement ("B") is to receive an education. The school ("C") is the duty bearer. The obligation ("D") is to not discriminate in their enrolment policy.

In this context, the goal of monitoring is to establish "who did what to whom", usually by interviewing victims, witnesses, and alleged perpetrators; collecting physical evidence; or conducting on-site inspections. The kind of information gathered through this fact-finding process is called "events-based" data. For example, in the case of a forced eviction, you could interview families who had been evicted to find out what happened before the eviction (e.g. were they consulted, given notice, able to appeal), during the eviction (e.g. what time of day did it occur, how many people were affected, was violence used) and after the eviction (e.g. where were they staying, what happened to their possessions, how had their lives been affected).

However, as discussed in Chapter 1, some of the most chronic and entrenched deprivations of ESCR do not relate to specific actions. Instead, they result from **dysfunctions or shortcomings in the way laws and policies are developed and, often more importantly, in the way they are implemented**. In other words, they result from failures to fulfil ESCR.
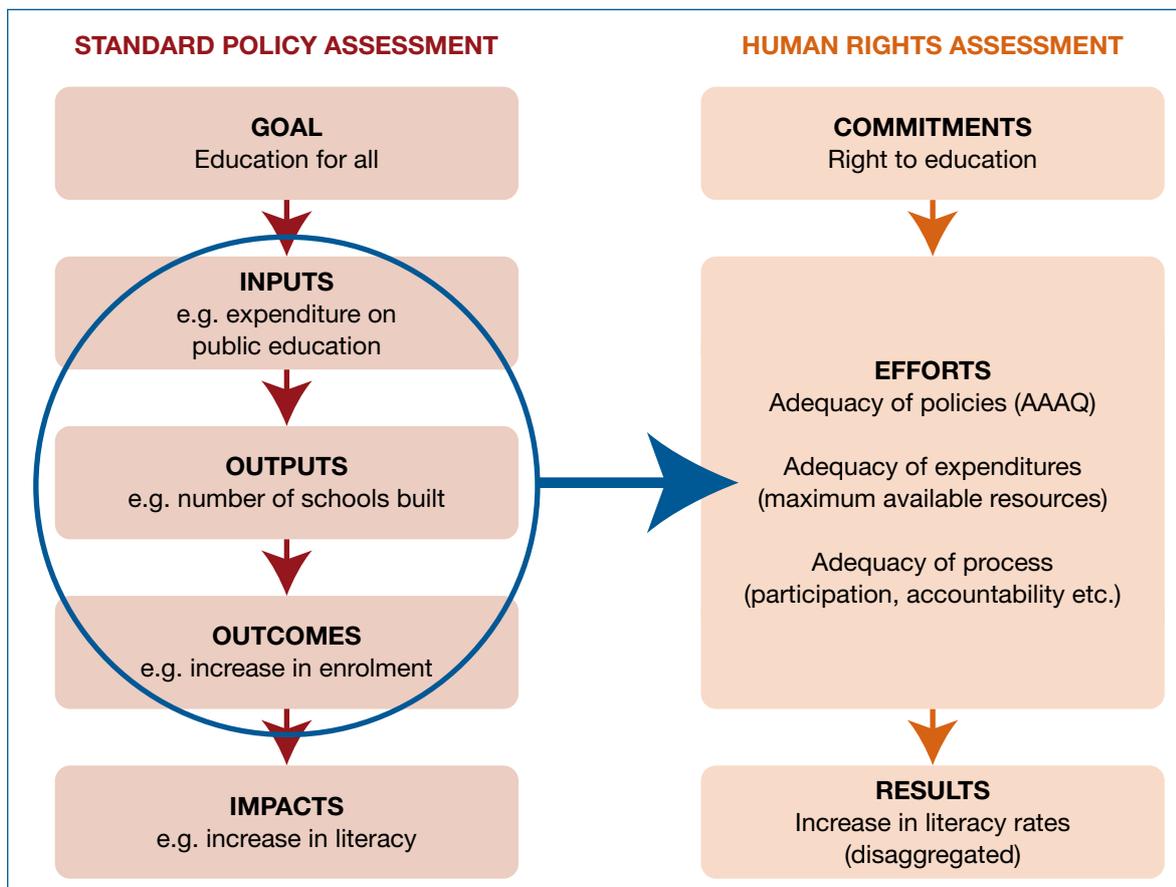
In these cases the link between the rights holder ("A") and the duty bearer ("C") is much more indirect. In fact, at first it may not even be clear exactly who "A" and "C" are, nor what "B" (the entitlement) and "D" (the corresponding duty) are. Take, for example, the issue of child malnutrition. It might not be possible to identify every single child affected by malnutrition. In addition, identifying what they are entitled to can also be a challenge. Should they receive subsidised food? Cash transfers to their families? Meals in schools? The duty bearer will likely be a government ministry, which involves numerous decision makers rather than a single individual. The obligation, as discussed further below, is multi-faceted. The goal of monitoring is to answer these questions.

3.2. WHAT MAKES POLICY ANALYSIS DIFFICULT FROM A HUMAN RIGHTS PERSPECTIVE?

As well as a distant causal connection, the norms relevant to understanding the obligation to fulfil ESCR are numerous and multi-dimensional, as discussed in Chapter 2.

Because the obligation of result is defined more conditionally in relation to the fulfilment of ESCR (i.e. rights may be realized over time) and obligations of conduct are also more ambiguous (i.e. States commit to take steps subject to their maximum available resources), simply asking "who did what to whom" is not enough. We need to make an overall judgment about the *adequacy* of a particular policy, using human rights norms as our criteria.

Methodologies for policy assessment are already fairly well defined. They tend to draw on the fields of economics, political science and public administration. As shown in the diagram below, policy assessment often follows a simple logic model that seeks to show the relationships between inputs, outputs and outcomes. As shown in the diagram on the right, human rights norms can be integrated into such a logic model to help illustrate the relationship between the conduct and the results of the State's actions.

STANDARD POLICY ASSESSMENT	HUMAN RIGHTS ASSESSMENT
GOAL Education for all	**COMMITMENTS** Right to education
INPUTS e.g. expenditure on public education	**EFFORTS** Adequacy of policies (AAAQ)
OUTPUTS e.g. number of schools built	Adequacy of expenditures (maximum available resources)
OUTCOMES e.g. increase in enrolment	Adequacy of process (participation, accountability etc.)
IMPACTS e.g. increase in literacy	**RESULTS** Increase in literacy rates (disaggregated)

3.3. WHAT IS THE OPERA FRAMEWORK?

The OPERA Framework provides a structure to fit human rights norms into the policy assessment logic model. As shown in the graphic below, the framework is based on four main steps:

1. Outcomes
2. Policy Efforts
3. Resources
4. Assessment.

Each step provides a broad checklist of the main questions to be answered when analysing a particular dimension of the obligation to fulfil ESCR. Importantly, each question reflects a relevant human rights norm (e.g. policy content is assessed against the AAAAQ criteria, while policy processes are assessed against the principles of participation, transparency and accountability). When combined, the four steps enable us to demonstrate – more convincingly – the links between State conduct and results.

Another significant feature of OPERA is that, as well as identifying **what questions need to be answered** to measure relevant norms, it also suggests **tools and techniques for *how* to answer them**. Each of the steps is outlined further below. The tools and techniques are also introduced briefly. They will be discussed in more detail in Parts II and III.

OUTCOMES	**Measure aggregate levels of rights enjoyment**	**Measure disparities in rights enjoyment**	**Measure progress over time**
	Minimum core obligations	Non-discrimination	Progressive realization
POLICY EFFORTS	**Identify legal and policy commitments**	**Examine policy content and implementation**	**Analyze policy processes**
	Take steps	AAAAQ criteria	PANTHER principles, right to remedy
RESOURCES	**Evaluate resource allocation**	**Evaluate resource generation**	**Analyze policy processes**
	Maximum resources	Availability of resources	PANTHER principles
ASSESSMENT	**Identify other determinants**	**Understand state constraints**	**Determine state compliance**
	Indivisibility and interdependence	Respect and protect, duty to cooperate	Obligation to fulfill

3.3.1. Step one: Outcomes

To prioritize the perspective of the rights holder, step one starts with **obligations of result**. It suggests ways to identify socio-economic indicators that measure well-being (e.g. mortality rates, literacy rates, employment rates) and interrogate them against international standards. Key questions include: What are the current levels of enjoyment of the right? Do these levels appear high or low when compared to similar countries? How do these levels change when we look at the situation of particular social groups? Has the level of enjoyment of the right become better or worse over time? Has progress been rapid or slow, consistent or sporadic?

Measure aggregate levels of rights enjoyment

- *Why?* Widespread deprivations suggest the obligations of result (e.g. reaching minimum essential levels of a right) are not being met.

- *How?* Compare socio-economic outcome indicators to benchmarks or to similar countries (e.g. in the region or according to level of development). Differences suggest whether or not a country's performance is reasonable.

Measure disparities in rights enjoyment

- *Why?* Differences in the enjoyment of a right raise concerns about possible discrimination.

- *How?* Disaggregate socio-economic indicators by relevant social groups (e.g. ethnicity, religion, gender, residence, income level).

Measure progress over time

- *Why?* Identifying trends in the enjoyment of a right over time can show whether it is being progressively realized and whether disparities are growing or reducing.

- *How?* Compare the same socio-economic indicators over time (aggregate and disaggregated).

Element	Human rights norm	Types of assessment techniques
Measure levels of enjoyment of the right	Minimum core obligations	Identify relevant outcome indicators that show the extent to which the right, including its minimum essential levels, is enjoyed in the country.
Measure disparities in rights enjoyment	Non-discrimination	Disaggregate indicators by social groups to identify disparities in levels of enjoyment of the right.
Measure progress over time	Progressive realization	Examine variations of indicators over time to assess progress, retrogression and change in disparity levels.

3.3.2. Step two: Policy Efforts

Step two focuses on **obligations of conduct**. The starting point is to identify the human rights commitments that the State has made and evaluate how well these commitments have been reflected in law and policy in order to determine what *steps* have been taken. Often, it is the *implementation* of laws and policies where challenges arise. For this reason, step two evaluates goods and services on the ground. Analysing administrative statistics, survey data, and personal testimony can be useful tools for such evaluation. Key questions include: What legal and policy commitments have been made to give effect to the right? Do the initiatives undertaken to implement these commitments ensure services are increasingly made available, accessible, acceptable and of adequate quality, in principle and in practice? Do such initiatives prioritize the reduction of disparities and the achievement of universal minimum levels of the right(s) in question? Do policy processes ensure participatory and accountable decision-making?

Identify legal and policy commitments

- *Why?* Shows whether the Government is adequately "taking steps" towards the full realization of rights.

- *How?* Identify indicators that demonstrate commitments made and compare the provisions of relevant laws and policies to international standards and guidelines.

Examine policy content and implementation

- *Why?* To determine whether the goods and services needed to fulfil the right are increasingly available, accessible, acceptable and of adequate quality.

- *How?* A range of techniques can be used to gather primary or secondary data on relevant process indicators. As in step one, cross-country comparisons, disaggregated data and international guidelines all offer reference points against which to interpret this data. Qualitative analysis and personal testimony identify the capacity gaps hindering better service delivery.

Analyse policy processes

- *Why?* To determine whether the policy process enables rights holders to actively participate in the design, implementation and oversight of policies and to hold the Government to account when they are negatively affected by them.

- *How?* Qualitative techniques (e.g. focus groups, interviews) can gather feedback from particular rights holders. Quantifiable national level studies (e.g. perception surveys and governance indicators) can provide a general overview of the country situation.

Element	Human rights norm	Types of assessment techniques
Identify legal and policy commitments	Obligation to take steps	Identify international commitments and national constitutional and legislative provisions that give effect to them. Identify specific laws and policies on the right and compare their provisions to international standards.
Examine policy content and implementation	AAAAQ criteria	Identify the goods and services needed to give effect to the right. Measure the availability, accessibility, acceptability and quality of these goods and services (e.g. assessing quantitative and qualitative data, community score cards).
Analyse policy processes	Participation, transparency, accountability, right to a remedy	Analyse relevant national laws and policies (e.g. on access to information, local participation, complaints mechanisms). Collect feedback on the extent to which these principles are applied in practice (e.g. through interviews or other qualitative methods and quantitative indicators, if available).

3.3.3. Step three: Resources

Funding-related issues are a common reason for the poor implementation of laws and policies relating to ESCR. Accordingly, step three looks at resources at a "macro" level. It suggests ways to use budget analysis techniques to evaluate whether money is being generated, allocated and spent in line with the obligation to dedicate the maximum available resources. Key questions include: Do allocations prioritize the provision of essential services? Who has benefited from spending? How has spending evolved over time? How has the State budget evolved over time? What are its main sources of revenue (e.g. taxes, aid, remittances)? Are policies governing the raising of revenue fair and efficient? What is preventing the State from raising additional revenue?

Analyse resource allocation and expenditure

- *Why?* To reveal whether expenditures (planned and actual) in relevant sectors are an equitable and effective use of available resources.

- *How?* Use allocation ratios, judged against relevant references points, to show how much is being earmarked for key sectors. Various governance tools can uncover weaknesses, leakages or discrimination in the disbursement of funds.

Analyse resource generation

- *Why?* To assess whether revenue from different sources is being mobilized equitably and effectively.

- *How?* Evaluate relevant fiscal, monetary and macro-economic policies against human rights principles.

Analyse budget processes

- *Why?* The principles of accountability, transparency and participation demand that the budget process be open and accessible to citizens.

- *How?* As in step two, qualitative techniques can gather feedback from particular rights holders. Quantitative perception surveys and indicators (e.g. the Open Budget Index) can provide a general overview of the country situation.

Element	Human rights norm	Types of assessment techniques
Evaluate planned and actual resource expenditures	Core obligations Non-discrimination Progressive realization according to maximum available resources Transparency and accountability	Calculate the percentage of the State's budget allocated to social spending relevant to the specific right, comparing to relevant benchmarks. Identify which population groups are benefitting from spending; contrast spending disparities with disparities in human rights outcomes. Compare allocations to previous budgets to see how spending has evolved over time, taking into account economic growth over the period. Track public expenditure (e.g. using public expenditure tracking surveys or social audits).
Evaluate resource generation	Progressive realization according to maximum available resources Non-discrimination	Calculate the State budget as a percentage of the overall economy and compare to similar countries. Identify and assess the adequacy and fairness of the State's main revenue sources (e.g. taxation, borrowing, international assistance). Evaluate the State's fiscal and/or monetary policies governing the raising of revenue (e.g. identify tax base as a percentage of GDP and track its evolution over time, taking into account economic growth over the period).
Analyse relevant policy processes	Participation, accountability, transparency, right to a remedy	Collect feedback on public participation in the design, implementation and evaluation of fiscal and monetary policies (e.g. through interviews or other qualitative methods and quantitative data, if available). Analyse indicators related to transparency of economic policy process.

3.3.4. Step four: Assessment

Step four draws together the findings from the first three steps to make an overall assessment of the State's performance in meetings obligation to realize ESCR. However, before making that assessment, it considers some the broader factors that influence the operation of the State, suggesting ways to use political economy analysis techniques to ask: "Why haven't efforts been more successful?" Key questions include: What other socio-economic, political or cultural factors inhibit people's ability to enjoy the rights being studied? Why has reform been slow? Why are more resources not available? Has it been a result of genuine limitations on the State? Interference from third parties? Lack of political will?

Identify other determinants

- *Why?* To determine whether other socio-economic, political or cultural factors inhibit people's ability to enjoy their rights, or seek redress if they are violated, and to identify the responses expected of the State.

- *How?* Although these barriers can be uncovered through sophisticated quantitative methods, such as econometrics, qualitative approaches, such as capacity gaps analysis, can also facilitate the participation of rights holders.

Understand State constraints

- *Why?* The capacity of the State (influenced by third parties and structural limitations) is relevant in order to explain why its efforts have not been more successful.

- *How?* Again, these constraints can be uncovered through qualitative approaches or through quantitative methods from various fields.

Determine State compliance

- *Why?* To make a considered conclusion about the State's performance in relation to its obligation to fulfil ESCR.

- *How?* By "triangulating" the findings from the first three steps, it should be possible to make a judgment about the State's efforts to progressively realize ESCR and the results of those efforts on the ground.

Element	Human rights norm	Types of assessment techniques
Identify contextual factors that limit enjoyment of the right	Indivisibility and interdependence of rights Right to a remedy	Identify the social, economic, political or cultural conditions that prevent people from enjoying the right or seeking redress for violations of the right (e.g. through capacity gap assessment).
Understand the State's constraints	Obligation to respect and protect rights against abuse by third parties Extraterritorial obligations of other States to respect, protect and fulfil ESCR	Identify how the acts or omissions of third parties or structural dysfunctions impact on the State's ability to fulfil the right.
Determine State compliance	Obligation to fulfil	Draw together findings from previous steps, in light of the above elements.

3.4. HOW CAN THE OPERA FRAMEWORK BE USED IN PRACTICE?

The OPERA framework adopts a multidisciplinary approach to answer the questions at each step, combining a range of research techniques such as:

- Simple, descriptive statistics and data that are not complex or technical

- Human rights indicators developed by international and regional human rights bodies

- Benchmarks set in relevant fields (e.g. public heath)

- Techniques of budget analysis to interpret the State's fiscal policy

- Traditional human rights reporting methods, including narrative testimony gathered through field visits to listen to affected communities and ensure that the "numbers" are complemented with human stories.

These tools and techniques are described in more detail in the following chapters.

Two students do arithmetic at Cassait Primary School, Liquica district, Dili, Timor-Leste. UN Photo by Evan Schneider.

3.4.1. Features of the OPERA framework

A well-evidenced argument that links poor outcomes with failures of conduct and result can be a **powerful tool for advocacy**. This evidence can be established by using a **combination** of different types of data and different types of data-collection tools. However, an **overarching framework** helps to integrate the data and build a strong case for change. This is where the OPERA framework comes in.

OPERA is not a one-size-fits-all model. Instead, it seeks to be a flexible, overarching framework to guide ESCR monitoring. It groups the human rights standards and principles relevant to the obligation to fulfil ESCR around four key dimensions or steps.

- Each step suggests a checklist of **questions** and suggests different quantitative and qualitative **methodologies**.

- Which questions need more attention and which methods are most appropriate, will depend on the **local context and local constraints**.

- The OPERA framework can be adapted according to the **user**, **purpose** and **audience**.

3.5. IN PRACTICE: USING OPERA AS A PROBLEM MAPPING TOOL

A problem map – also known as a problem tree – is a brainstorming tool that can be very useful at the start of a monitoring activity, when you are planning your research. It is a tool that visualizes the different causes and effects of the particular problem that is being investigated. It helps to break down a problem into smaller, more defined issues. It can also help to establish a hypothesis of the problem, identify what further evidence is needed to test the hypothesis, make a strong case and propose convincing recommendations. In particular, it can help identify whether a particular human rights problem is the result of a failure to respect, protect or fulfil (or some combination of the three). This, in turn, will help you decide whether events-based analysis, policy analysis or some combination of the two will be needed.

OPERA can be a helpful way to classify and organize the various issues identified in a problem map, in order to show the interconnections between the various issues and how they contribute to the problem. You could either start with OPERA as a framework for your problem map or group the issues identified in the problem map into the four steps.

However you identify the issues you want to investigate, they should form the basis of your research questions. For example, if one issue is "School feeding programs do not allocate enough food", the research question would be: "How much food do school feeding programs allocate?" A simple table, like the one below, can help keep track of how the issues you identify form the basis of the research questions, and how the research questions determine the evidence you need to gather.

	Issue	Research question	Evidence needed
Outcomes			
Policy Efforts			
Resources			
Assessment			

UPDATE FROM AHN

Based on the normative standards she read through earlier, Ahn writes down some broad research questions, based on the OPERA framework.

- **Outcomes:** Do women across the country enjoy the right to maternal health? Are particular groups of women deprived of the right? Has the situation become better or worse over time?

- **Policy efforts:** What laws and policies has the Government enacted to realize the right to maternal health for all women? How have these laws and policies been implemented on the ground? Has the policymaking process been participatory and inclusive?

- **Resources:** What resources have been allocated to advance the right to maternal health? How are they spent in practice? Are there other resources that could be made available?

- **Assessment:** What other barriers might prevent women from enjoying their right to maternal health? What contextual factors – domestic and international – might be preventing the Government from fulfilling the right?

EXERCISES

1. Complete the table by identifying the primary features of the following human rights violations:

   A. Police violently evict 50 squatter families without prior consultation and without alternative accommodation. These families must move to a new area, far from the rest of their community and far from schools and means of subsistence.

   B. A group of female workers in a manufacturing plant complain that they experience discrimination and sexual harassment in the workplace. Although sexual harassment has been condemned by the Government, no specific legislation is in place to address misconduct by private employers.

   C. According to data from the Ministry of Health, approximately 10% of children under five years living in rural areas suffer from malnutrition. This is almost double the national average and has not changed significantly in the last ten years.

Violation	Forced eviction	Discrimination	Immunization
Respect, protect or fulfil?			
Negative or positive obligation?			
Immediate or progressive?			
Dependent on available resources?			
Individual perpetrator?			
Events-based or policy analysis?			

QUESTIONS FOR REFLECTION

1. Look through a report that your NHRI has published on an ESCR issue. To what degree does it consider issues related to outcomes, policy efforts and resources? Does it make the link between these three areas? If so, how?

REFERENCES AND FURTHER READING

This chapter is based on *The OPERA Framework: Assessing compliance with the obligation to fulfil economic, social and cultural rights*, published by CESR in 2012.

The following references are also recommended for further reading:

CESR (2012), *Assessing fiscal policies from a human rights perspective: Methodological case study on the use of available resources to realize economic, social and cultural rights in Guatemala*

OHCHR (2011), "Monitoring Economic, Social and Cultural Rights", Chapter 20 in *Manual on Human Rights Monitoring*

Chapter 4:
Working with indicators and benchmarks

KEY QUESTIONS

- What are human rights indicators? What are benchmarks?
- What value do indicators and benchmarks add to monitoring?
- What questions can indicators and benchmarks help answer?
- How can indicators and benchmarks be identified?
- What criteria should we use to judge them?

INTRODUCTION

Chapter 3 introduced OPERA, a four-step framework that groups together the norms underpinning the fulfilment of ESCR. It also suggests tools and techniques for measuring them. Indicators and benchmarks are tools used in several steps of the OPERA framework.

Indicators are simply a way to help answer a question. Often, they answer a question using quantitative data. For example, if the question is "How many girls are enrolled in school compared to boys?", the indicator would be the male-to-female enrolment rate. Benchmarks are important because they give us something to compare the indicator against. This chapter introduces the concept of *human rights* indicators and benchmarks, explaining how they can be used to measure particular human rights norms within OPERA.

4.1. INDICATORS, DATA AND BENCHMARKS: WHAT'S THE DIFFERENCE?

At its most basic, an indicator is piece of information; it is a thing that indicates a particular state or level. In other words, an indicator gives us a gauge or a signal of circumstances at a particular place and point in time. A good analogy is the dashboard of a car. By looking at the dashboard, it is possible to get a snapshot of what the car is doing at a particular moment, based on indicators like what gear it is in, how much fuel is left, the distance it has gone and the speed at which it is going. An indicator suggests, gets close to or approximates a particular situation, but it is never an exact measure.

Indicators are often quantitative. They are defined in terms of numbers, ratios or percentages. In other words, they tell us "how much", "how many" or "what percentage". Examples of indicators can include the number of people receiving retirement pensions or the ratio of girls-to-boys attending school. Indicators can also be based on qualitative information; for example, the date of entry into force of a particular law or the length of term of judges.

Another distinction is between fact-based indicators and judgment-based indicators. Fact-based indicators can be directly observed or verified, such as the height of a child or the level of toxins in a water sample. Judgment-based indicators record people's views, feelings and opinions. These judgments are sometimes categorized and then converted into quantitative indicators; for example, the percentage of parents satisfied with the quality of their child's education.

speedometer: freevector/vecteezy.com

Data, which we will discuss further in Part II, tells us the *value* of an indicator in a particular case. For example, if the *indicator* being examined is "the number of people receiving retirement pensions", the *data* will tell us if it is 100,000 or 500,000 or 1,000,000.

It is important to remember, however, that data by itself is just a number. To judge whether it is high or low, we need to know how the number *compares* against a reference point. A benchmark can provide such a reference point.

A benchmark can be thought of as:

- An agreed goal or target
- A normative reference point, or
- A predetermined standard for comparing performance.

We can look at the difference between indicators, data and benchmarks using the analogy of the car dashboard. In this example, we want to answer the question: "Is the car driving too fast?"

The image provides the information necessary to answer this question:

- Indicator: Kilometres per hour
- Data: Car travelling at 107 km/hr
- Benchmark: 100 km/hr speed limit

On the basis of this information, we can conclude that the car is going faster than the speed limit.

4.2. WHAT ARE HUMAN RIGHTS INDICATORS?

Human rights indicators are indictors used as proxies to measure the enjoyment of rights by rights holders, as well as the degree to which duty bearers are meeting their human rights obligations. Importantly, human rights indicators differ from other types of statistical information in that they are unequivocal about their focus: people. There has been increasing interest in the use of indicators to measure human rights over the years:

- "To strengthen the enjoyment of economic, social and cultural rights, additional approaches should be examined, such as a system of indicators to measure progress …" (Vienna Declaration, 1993)

- "Information and statistics are a powerful tool for creating a culture of accountability and for realizing human rights" (Human Development Report, 2000)

- "Systematic use of human rights indicators brings greater objectivity and transparency in human rights assessments and makes human rights monitoring more evidence-based" (OHCHR, 2011).

One of the reasons for this interest is that, by breaking down abstract concepts into measurable components, human rights indicators can help clarify what different human rights standards and principles mean in particular contexts.

OHCHR has developed an indicators framework that is applicable across a range of rights. A significant breakthrough pioneered by this framework is its clear conceptualization of human rights indicators as those that *specifically relate to human rights norms and standards*. The framework recognizes that socio-economic indicators, which have been used to measure development outcomes for a long time, can also be used as human rights indicators when they are applied to measure a particular human rights norm; for example, using disaggregating indicators on unemployment to uncover possible discrimination.

Importantly, OHCHR also emphasizes the need to identify further indicators that assess the State's policies and programmes and the behaviour of public officials. In other words, indicators that measure conduct are needed, as well as those that measure result.

OHCHR's framework sets out three types of indicators:[10]

- **Structural indicators:** that seek to measure the State's commitment to meeting its human rights obligations (e.g. treaties ratified, constitutional provisions)

- **Process indicators:** that evaluate how these commitments are transformed into results through the development and implementation of policy measures and programmes of action

- **Outcome indicators:** that assess the results of the State's efforts by measuring the level of enjoyment of human rights.

OHCHR has also drawn up tables of indicators for different rights. The different ways that structural, process and outcome indicators can be integrated into OPERA is discussed further below.

4.3. WHAT ARE HUMAN RIGHTS BENCHMARKS?

Benchmarks, as noted previously, provide a reference point to compare data against. Human rights benchmarks have been described as:

> *Targets established by governments, on the basis of appropriately consultative processes, in relation to each of the economic, social and cultural rights obligations that apply in the state concerned ... They will be linked to specific time frames. And they will provide a basis upon which the reality of 'progressive realization' … can be measured.*[11]

However, there is less agreement on how to identify human rights benchmarks than there is about human rights indicators. The Covenant on Economic, Social and Cultural Rights provides little guidance on benchmarks. To date, efforts to identify benchmarks that can be used to judge human rights indicators have tended to be based on comparisons, negotiations or recommendations.

Comparative benchmarks simply compare indicators across different categories. Relevant categories might include different population groups, different municipalities or different countries. For example, if data suggests that malnutrition rates are particularly high in one part of a country compared to others, this is a red flag that suggests deprivations of the right to food. If a particular country is spending a lot less on healthcare than its neighbours, even though it has a high mortality rate, this is a red flag that suggests it is not dedicating its maximum available resources to ESCR. Comparative benchmarks are a simple and straightforward way to judge indicators. However, it is important to note that it might not always be possible to find an appropriate comparator. For example, if sewerage connection rates in a country were only 40%, we would not want to interpret this outcome as "good" simply because it was at a similar level in neighbouring countries.

Negotiated benchmarks are those that are agreed on through some kind of consultative process. Such consultations might happen between governments, either regionally or internationally; between governments and civil society; or between NHRIs and civil society. Some examples of negotiated benchmarks are shared below. Negotiated benchmarks are useful because they enjoy at least a certain amount of political "buy in". Nevertheless, a challenge with negotiated benchmarks is that they might be the result of compromise between different interests and therefore they are not ambitious enough or they do not fully capture the issue being monitored.

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10   OHCHR (2012), *Human Rights Indicators: A Guide to Measurement and Implementation*, at pp.34-38.

11   International Human Rights Internship Program (2000), 'Module 19: Monitoring and Assessing the Enjoyment of ESC Rights', in *Circle of Rights: economic, social and cultural rights activism – a training resource*, at p.374.

Recommended benchmarks are those that come from groups with particular expertise on a topic. This can include experts from within the human rights field, such as special procedures mandate holders, treaty bodies or even NHRIs. They may also include experts from outside the human rights field but from a relevant sector, such as public health, education, economics or water and sanitation. The obvious challenge with recommended benchmarks is that it can sometimes be hard to get buy in from those duty bearers who are expected to meet them.

4.4. WHAT CAN HUMAN RIGHTS INDICATORS AND BENCHMARKS HELP MEASURE?

As described in Chapter 3, policy monitoring differs from documenting specific events. It involves mapping trends and patterns in order to better understand a particular situation. Indicators and benchmarks are inherently well suited to this kind of mapping exercise because they provide a standardized unit of measurement that can be analysed according to different human rights norms.

Specifically, indicators can be used to measure:

- **Obligations of result:** Outcome indicators can be used to measure the level of enjoyment of a right (e.g. literacy rates relate to education, malnutrition rates to food, disease prevalence rates or mortality rates to health). **These types of indicators can be used to measure outcomes in step one of OPERA**.

- **Obligations of conduct:** Indicators that quantify inputs and outputs (process indicators under OHCHR's framework) can help measure the availability, accessibility and quality of goods and services by telling us what goods and services exist, where they are available, how much they cost and who is using them (e.g. indicators like the number of schools, average distance to the nearest school, student-to-teacher ratio, and students' performance on standardized tests can show how successful efforts to realize the right to education have been). **These types of indicators can be used to measure policy efforts in step two of OPERA**.

Policy effort indicators are essential for measuring whether States are taking appropriate steps towards the realization of ESCR. For example, by measuring maternal mortality as an indicator of the right to health, it would not be possible to know the reasons why the rate might be high (or low, for that matter). Is it because there are no any health centres? Is it because the health centres are too expensive? Is it because the quality of care in health centres is very poor? Indicators on policy efforts can help to answer these questions.

Further, indicators can measure:

- **Minimum core obligations:** By identifying indicators that relate to the minimum core obligations of a particular right (e.g. primary education as part of the right to education, or maternal health as part of the right to health), it is possible to give greater clarity to the concept of minimum core obligations.

- **Non-discrimination:** By disaggregating indicators according to the prohibited grounds of discrimination, it is possible to identify groups that are not enjoying a right to the same level as the overall population or who are not accessing a necessary good or service. Disaggregating indicators is a particularly important way of uncovering hidden patterns of disadvantage. In particular, because indicators can be disaggregated on the basis of more than one variable, they can also be valuable in understanding how intersecting grounds of discrimination affect people. For example, we might want to look at the literacy rate among older migrant women, or the unemployment rate among people with disabilities in urban areas or the school completion rate of poor girls in rural areas.

- **Progressive realization and non-retrogression:** By looking at how an indicator compares over time, we can determine whether things are improving, staying the same or getting worse. We can also consider whether progress is taking place fast enough to meet a defined benchmark.

- **Maximum available resources:** As discussed further in Part III, indicators can be useful in evaluating how much money the Government is generating, from what sources, where it is being allocated and whether allocated funds are actually reaching their intended beneficiaries. **These types of indicators can be used to measure resources in step three of OPERA**.

4.5. IDENTIFYING INDICATORS AND BENCHMARKS

There are several methodological considerations that should guide how human rights indicators are identified and selected. This section discusses different approaches to identifying indicators and benchmarks; factors to consider when selecting indicators and benchmarks; and sources of indicators and benchmarks.

4.5.1. Different approaches for identifying indicators and benchmarks

There are a variety of ways that NHRIs can identify the most appropriate indicators and benchmarks to use in a monitoring project. For example, there may already be indicators that your NHRI is mandated to monitor; for example, as part of the national human rights action plan. Your NHRI may even have been involved in negotiating these indicators when the plan was developed. Alternatively, you might want a more "bottom up" approach and develop these indicators through a community consultation process with affected groups, including minority groups. You might also look at lists of recommended indicators from international organizations (see the discussion below on sources of indicators) and then determine which ones are most relevant to the issue that your NHRI will be monitoring.

Afghanis, including many with disabilities, attend a community consultation in Kabul, Afghanistan. UN Photo by Fardin Waezi.

CASE STUDY: ECONOMIC, SOCIAL AND CULTURAL RIGHTS INDICATORS IN NEPAL

In an effort to develop the appropriate tools and methods for monitoring ESCR in Nepal, the Human Rights Commission of Nepal (NHRC), OHCHR-Nepal and several other national bodies, including representatives from the National Women Commission (NWC) and the Ministry of Health and Population (MoHP), formed a working group to establish national indicators. The Working Group chose to establish indicators for the rights to food, housing, health, education and work. Adapting the OHCHR indicators framework, the Working Group identified structural, process and outcome indicators for each of these rights.

In regards to the right to work, for example, the Working Group identified the following attributes: access to decent and productive work; just and safe working conditions; training, skill upgrading and professional development; and protection from forced labor and unemployment.

- **Examples of structural indicators:** Maximum number of working hours per week stipulated by law; minimum age of employment by occupation; duration of maternity, paternity and leave entitlements on medical grounds and proportion of wage paid in the coverage period.

- **Examples of process indicators:** Proportion of wages between men and women (based on region and target groups); number or proportion of population attending skill development and vocational trainings; proportion of labor force with access to information related to employment.

- **Examples of outcome indicators:** Proportion of unemployed in total population; long-term unemployment rates (one year or more) by sex, target groups and region; number of death incidents and serious injuries involving workers in foreign employment for which compensation was provided.

4.5.2. Factors to consider in selecting indicators and benchmarks

Regardless of the indicators and benchmarks are identified, there are a number of important factors to consider when evaluating which ones are most appropriate to use in a particular monitoring activity.

First, in line with the principle of transparency, indicators should be **clearly defined** and true to the normative standard they seek to measure. For example, consider the indicator "number of luxury villas built". Would this be an appropriate indicator to illustrate progress on the right to housing? That would depend on whether "luxury" is objectively defined and on what the indicator is being used to show. Clearly, an increase in the number of luxury villas will not help most people enjoy their right to adequate housing. However, it may be a useful indicator to show that the Government is not taking adequate steps to fulfil the right to housing.

Second, indicators should be **capable of being measured**. If it is not possible to source secondary data or collect primary data for the indicator, then the indicator will not be of much use. However, just because an indicator is hard to measure does not mean that it should not be used. Otherwise important issues will be overlooked. It is important to think creatively about how an indicator might be broken down into more measurable parts. For example, "level of corruption" is a very difficult indicator on which to collect data. However, the "percentage of the population that reported paying a bribe in the last month" may be possible to measure through perception surveys. Data for a particular indicator should ideally be gathered on a sufficiently frequent basis to show changes over the course of a particular policy cycle or during a particular administration's term in office.

Third, indicators should be seen as **relevant and legitimate by rights holders**. In line with the principle of participation, the views of rights holders should be sought in the process of identifying the indicators and reflected in those indicators selected.

SMART

S – Specific
M – Measurable
A – Ambitious
R – Realistic
T – Time-bound

Like indicators, benchmarks should be specific and measurable. Because they have a more normative dimension to them – in other words, they commit the State to a level of performance on a particular indicator in the *future* – they need to be ambitious but realistic, as well as time-bound. In short, they need to be "SMART", as shown in the box.

It is important to note that there can sometimes be tensions between these criteria. For example, an indicator might be very important to rights holders but difficult to measure, or a benchmark might have a lot of buy-in from the State but not be as ambitious as civil society would like.

4.5.3. Sources of indicators and benchmarks

Indicators and benchmarks are being developed at a rapid pace. Below is an illustrative list of some useful sources of indicators and benchmarks.

Human rights indicators: In addition to OHCHR's indicators framework discussed previously, there are many examples of indicators that have been developed for specific rights, including education, decent work, and water and sanitation.

Socio-economic indicators: See, for example, indicators from UNDP's human development reports, or the World Bank's data, which show people's standard of living (e.g. life expectancy, literacy and levels of employment).

International goals (and accompanying indicators): The most widely known of these are the Millennium Development Goals (MDGs). Another example is the Education for All Goals.

Guidelines and recommendations from specialized UN agencies: For example, the World Health Organization (WHO) has recommended that at least five emergency obstetric care facilities, including at least one comprehensive facility, are available for every population of 500,000. The Food and Agriculture Organization (FAO), UNICEF, UNESCO and others also publish guidelines on topics related to their mandate.

National commitments: These include national development plans or human rights action plans. Government strategies in specific sectors often include targets or key performance indicators.

Reports from NHRIs: As discussed further in Part IV, the report of a particular monitoring activity might recommend specific benchmarks.

4.5.4. How many indicators to use

There is no right answer when deciding on whether to use a focused or a broad approach to selecting indicators. The scope of the monitoring activity will determine the depth of analysis that it is desirable (and possible) to undertake. For example, selecting fewer indicators will allow a deeper analysis of those particular issues. Including multiple indicators will give a broader but more general overview of the issues being studied. However, this may be a more useful approach for an overall audit of the ESCR situation across the country.

4.6. IN PRACTICE: IDENTIFYING AND PRIORITISING INDICATORS

As discussed, there are various sources of indicators that can inform your monitoring activity. They are generally comparative, negotiated or recommended. It is important to select appropriate indicators that are clearly defined, capable of being measured and relevant and legitimate in the eyes of rights holders. Consulting with rights holders, government stakeholders and other experts can be very helpful in selecting the most appropriate indicators. Regardless of how you decide to select indicators, it is crucial that they help you answer the research questions you identified through the problem mapping exercise. Add your proposed indicators to the "evidence needed" column of your activity planning table and check them against the research questions column to ensure the two are closely linked.

Mother and infant son in front of their family ger in Tuv Province, Mongolia. Photo by Khasar Sandag/World Bank, reproduced under a CC BY-NC-ND 2.0 license.

UPDATE FROM AHN

Ahn reviews relevant public health literature in order to identify indicators that can help her to answer the research questions she developed. For example, she looks at:

- Millennium Development Goals, specifically reducing the maternal mortality ratio by three quarters (Target 5A) and achieving universal access to reproductive health (Target 5B)

- 11 key progress indicators on maternal and child health released by the United Nations Commission on Information and Accountability for Women's and Children's Health in 2010.

- UNFPA's *Handbook on Monitoring Emergency Obstetric Care* (2009).

On the basis of this, she comes up with the following list of preliminary indicators:

- **Outcomes:** Maternal mortality ratio and neonatal mortality ratio (disaggregated and over time).

- **Policy efforts:** Constitutional provision on the right to health; prioritization of maternal health in the health policy; strategy on maternal health; demand for modern contraception met (%); women receiving prenatal care (%); number of emergency obstetric care facilities per 500,000 of the population; births attended by skilled personnel (%); mothers and babies who receive post-natal care (%); costs of care; reasons given for not seeking care (all disaggregated and over time).

- **Resources:** Total health expenditure by financing source, per capita; total reproductive, maternal, newborn, and child health expenditure by financing source, per capita.

- **Assessment:** Reasons given for not seeking care; autonomy in making health decisions.

EXERCISES

1. Review the following indicators. What could they be used to measure? Do they relate to outcomes, policy efforts or resources? How do they compare to the criteria described on pages 44-45?

   - School completion rates

   - Number of schools per municipality

   - Access to improved sanitation

   - Number of men-headed and women-headed households evicted from their dwellings during the past five years.

2. Review the benchmarks described below. How do these different types of benchmarks compare to the SMART criteria? What are some of the strengths and weaknesses of each?

   - Reduce poverty from 25% to 23% in the next five years

   - Improve living standards

   - Increase the proportion of the population with health insurance from 30% to 60% in the next seven years.

QUESTIONS FOR REFLECTION

1. How has your NHRI used indicators in its monitoring work? What have been some of the challenges you have faced in doing so? Think about the following questions:

    • Did the indicators that were selected capture human rights concepts?

    • Was the data to measure indicators available?

    • Could the indicators be disaggregated?

    • How were indicators interpreted?

REFERENCES AND FURTHER READING

This chapter is based on *Human Rights Indicators: A Guide to Measurement and Implementation*, published by OHCHR in 2012.

The following references are also recommended for further reading:

Fukuda-Parr, S. and Yamin, A. (2013), *The Power of Numbers: A Critical Review of MDG Targets for Human Development and Human Rights: Lessons Learned for Setting Targets and Selecting Indicators*

Rosga, A. and Satterthwaite, M. (2008), "The Trust in Indicators: Measuring Human Rights", *New York University School of Law School of Law, Public Law Research Paper No. 08-59*

Part II:
Collecting and
analysing data

Chapter 5:
The role of data in monitoring economic, social and cultural rights

KEY QUESTIONS

- What is quantitative data?

- How can using quantitative data assist in monitoring?

- What are the challenges and limitations of working with data?

INTRODUCTION

Part I looked at how to organize research questions using the OPERA framework in order to capture relevant ESCR norms when analysing socio-economic policies. It also introduced indicators as a way of framing questions in a precise, measurable way. If indicators ask the question, then data provides the information we need to answer that question. This means that once indicators and benchmarks have been set, relevant sources of information need to be identified. The chapters in Part II focus on gathering this information and, in particular, on gathering quantitative data.

Effective human rights advocacy must rely on more than slogans, unsupported assertions and pleas. Strong, evidence-based and well-communicated findings are essential for generating positive changes in laws, policies and practices. Quantitative data, or statistics, plays a particularly important role in building the evidence. Nevertheless, it is important to understand the difference between data and evidence. Data is discrete pieces of information, such as age, ethnicity and income level. Evidence is when data is used to establish facts, test hypotheses or support arguments. The key to effective monitoring is to find the relevant data, analyse it and turn it into evidence. The chapters in Part II discuss how to do this. Chapter 6 explains where to look for secondary data; Chapter 7 provides an overview of primary data collection techniques; and Chapter 8 introduces basic data analysis skills. This introductory chapter provides an overview of quantitative data, as well as some of the pros and cons of using it in monitoring activities.

5.1. WHAT IS DATA?

Data is a value assigned to a thing. For example, what data can we gather about the balls shown in the photograph here? What can we see? What else could we find out?

First of all, we know that they are used for playing football. Football is a type of sport, which helps put the balls into a particular category. But there is more to them. They have different colours: red, green, yellow, black and white and so on. The photograph also shows their condition: new or used. In addition, we could find out their size, how many there are and how much they cost.

The major categories of data are *qualitative* and *quantitative*:

- **Qualitative data** describes something; for example, colours, texture and feel of an object, a description of experiences, or an interview. These are non-numerical characteristics.

- **Quantitative data** refers to a number; for example, the size a population, the price of an item or a score on a test.

Photo by tanakawho, reproduced under a CC BY-NC 2.0 license.

Other categories of data that you may encounter include:

- **Categorical data**, which puts the item described into a category (e.g. "new", "used", "broken")
- **Discrete data**, which is numerical data that has gaps in it (e.g. test scores or shoe sizes)
- **Continuous data**, which is numerical data where all values are possible, but with no gaps (e.g. your height or the size of your foot).

5.2. THE BENEFITS OF WORKING WITH QUANTITATIVE DATA

Monitoring will always involve making a judgment about the adequacy or reasonableness of how a duty bearer is acting. This is necessarily a qualitative assessment. However, it is an assessment that will be stronger when it is supported by verifiable evidence. Basing such evidence on quantitative data is appealing for several reasons.

WHAT IS AGGREGATED AND DISAGGREGATED DATA?

Aggregated data is collected without making any distinctions. For example, the number of people without access to water in a community is 6,000. Disaggregated data is divided according to set criteria, e.g. by sex, age, area where people live to show where the needs are greatest.

First, evidence gathered from victims, witnesses and even key informants is open to critique for being too anecdotal. Quantitative data is inherently well suited to mapping trends and patterns in a particular situation, in a way that more qualitative information on specific incidents cannot. A larger and wider number of facts can be captured, categorized and compared across groups and over time. For example, time-series data about the number of families living in informal settlements can tell us something about progressive realization of the right to housing, while budgetary data about how much the Government is investing in pensions can tell us something about whether it is dedicating the maximum available resources to the fulfilment of the right to social security.

Significantly, as discussed in Chapter 4, quantification allows for disaggregation. This can help uncover patterns of disadvantage and inequality that might otherwise remain hidden. For example, disaggregated data on wages that shows a gender pay gap can tell us something about discrimination against women in employment.

Quantitative data also allows us to make more specific, precise findings. For example, findings such as "*most* of the victims were young girls", "a l*arge number* of people do not have access to water" or "the proportion of children underweight for their age *rose dramatically*" are fairly vague. As highlighted in italics, they use words that are open to different interpretations by different people and are, therefore, quite subjective. Replacing these subjective words with numbers that can be objectively verified gives greater credibility to the findings being made.

As discussed further in Chapter 15, quantitative data can also be presented in a visual format. This can be a particularly powerful way to communicate information. Data visualization can provide a clear snapshot of a complex situation, engaging people on the topic and giving them the information they need to understand it and focus on the most important aspects.

Quantification is also a language that government officials, public servants and other policymakers understand and use consistently in their work. Using quantitative data in NHRI advocacy can make these groups more responsive to arguments about the need for improvements and reform.

5.3. LIMITATIONS AND CHALLENGES OF QUANTITATIVE DATA

As discussed, quantitative data is a crucial type of information for NHRIs to incorporate into their monitoring activities. However, there are a number of limitations to quantitative data. Accordingly, it is important to balance quantitative data with the types of qualitative information that NHRIs more commonly gather and analyse; for example, through interviews and consultations.

First, while quantitative data is well suited to diagnosing a situation by answering "how much", "how many", "to what extent", "where" or "when", it is much more limited in terms of answering "why" a situation is the way it is – which is a key question in any human rights assessment. For this reason, it is necessary to combine data with qualitative information. This issue is discussed in more depth in Chapter 13.

Second, the degree to which quantitative data can accurately and objectively measure a particular issue should not always be assumed. What gets measured, how, when and by whom are all political decisions. However, this can get lost in the final number produced. A particular issue in this regard is that women's voices can get lost in numbers. For example, household surveys are a common method for data collection. However, because data is collected on the household *as a whole*, dynamics within the household are not reflected. For his reason, *intra-household* surveys are an important tool to ensure that different perspectives are recognized and represented. By doing the same survey separately, the researcher can create a safe space in which women and men can talk freely and express their perceptions and ideas. In addition, women in many societies might not be comfortable reporting sensitive issues. As a result, even using a robust methodology, the data collected might be poor. Take the issue of sexual harassment, for example. Statistics on this issue are notoriously underreported because being harassed is often associated with a loss of honour and the tendency to "blame the victim" is widespread.

5.4. CONSIDERATIONS WHEN WORKING WITH QUANTITATIVE DATA

Incorporating quantitative data into a monitoring activity may be a new undertaking for your NHRI. As such, it is important to consider in advance how you will *use* the data. This will significantly affect how you collect it and in how much detail. The ultimate goal of a monitoring activity is to collect evidence to advocate for change. This means you should be confident about the potential leverage for change that this quantitative data might provide before devoting scarce organizational resources to collect it.

Try to sketch out the scope, scale and geographic coverage of the data that you plan to collect. In particular, ask yourself:

- What sort of data would your audience find credible?
- Can you collect it?

- What do you hope they will do with it?
- Will the scale at which you are working enable you to cover the issue usefully?
- Are you allowing enough time and resources to test things out?
- Are you collecting data as a "one off" or over a longer-term period?

Another consideration is how to store the data you collect, particularly when it comes from primary sources. Digital security is an increasing concern for many organizations. If you store information on a computer, what measures will you take to ensure it is only available to the right people and does not fall into the wrong hands? If you are collecting data from individuals, what measures will you take to protect their identities and the substance of the material they give you?

5.5. IN PRACTICE: IDENTIFYING EVIDENCE NEEDED

Preparing a **research plan**, which sets out a roadmap or blueprint for your research, will help you identify the data you need and how you will get it, within the limitations of what is feasible for your NHRI. To develop a research plan, ask yourself the following questions:

- **What information do you need?** You should be able to answer this based on the indicators identified in your research matrix.

- **What information exists and where can you look for it?** Where to look for secondary data will be discussed further in Chapter 6.

- **What information does not exist and how can you generate it?** Methods for generating primary data will be discussed further in Chapter 7.

- **How will you safely store the information you have collected?** What digital security protocols does your NHRI have?

- **Who will do the research?** Does your NHRI have the capacity to find secondary data or about generate primary data? Are you able to analyse and understand the data you collect? If so, who can be assigned what tasks? If not, who can you ask to assist (e.g. consultants, academic partners)? Are there colleagues who are focal points on particular issues (e.g. gender, persons with disabilities) that should be involved in the research?

- **What is the timeframe?** It is important to set a clear timeframe to finish your data-collection phase and begin your analysis phase, otherwise research can become a never-ending process. If, after you start your analysis, you discover that you need more data, you can always conduct additional research.

QUESTIONS FOR REFLECTION

1. Find an example of how your NHRI has used data in its monitoring activities. What kind of data was used? What was it used to show?

2. Find an example of a monitoring activity that your NHRI conducted where you think data could have been used better. How would data have better contributed to achieving the objectives of the activity?

UPDATE FROM AHN

Ahn reviews the list of preliminary indicators she has identified. She concludes that she should be able to find most, but not all, of the data she needs through desk research. She puts together a list and a timeline of all the tasks she will need to carry out to complete her research, including to:

- Download all relevant data that is publicly available from online sources (e.g. from the websites of relevant government ministries, international organizations)

- Source copies of relevant government policies, plans and programmes, as well as relevant evaluation reports

- Request relevant government ministries (e.g. Ministry of Health, Ministry of Finance) and municipal governments to provide her with data that is not publicly available

- Collect primary data from indigenous women

- With the assistance of a statistician, analyse the data collected to answer the research questions.

REFERENCES AND FURTHER READING

This chapter is based on the School of Data's course on Data Fundamentals, available at: http://schoolofdata.org/courses/#DataFundamentals

The following references are also recommended for further reading:

Tactical Tech, *Data & Design How-to's Note 1: Where is your evidence?*, available at: https://drawingbynumbers.org/data-design-basics/note-1-where-is-your-evidence

Spirer, L. and Spirer, H. (2001), *Intermediate Data Analysis for Human Rights: A Handbook*

Chapter 6:
Finding secondary data

KEY QUESTIONS

- What is secondary data?
- How does secondary data fit into the OPERA framework?
- Where can secondary data be found?
- What are some of the factors to consider when using secondary data?

INTRODUCTION

As discussed in Chapter 5, data is used to "populate" indicators. In other words, it helps answer the questions that are posed by indicators. In today's "information age", the amount of secondary data, or "second hand" data, that is readily available is increasing exponentially. Secondary data is collected either:

- By someone else (e.g. researchers, government agencies, NGOs)
- By your NHRI, but for some other purpose originally (e.g. demographic data recorded about complainants might be reused to analyse trends)
- A combination of the two.

As the breadth of available data grows and the cost of accessing it shrinks, it is increasingly possible to *curate*, rather than *create*, the data needed to analyse human rights indicators. Recycling what already exists avoids unnecessary duplication and can save a significant amount of time and resources. For this reason, drawing on secondary data in your monitoring activity can be very strategic. This chapter introduces the different types of secondary data and explains how they can be used within the OPERA framework. It also discusses where to find and how to evaluate secondary data.

6.1. WHAT TYPES OF SECONDARY DATA CAN WE USE?

OHCHR identifies four broad categories of "data-generating mechanisms". These are: events-based data; socio-economic and administrative statistics; perception and opinion surveys; and expert judgements.

6.1.1. Events-based data

Events-based data is qualitative or quantitative data that documents *events characterized by the occurrence of human rights violations*. Information describing acts of human rights violations and identifying victims and perpetrators is recorded in a standardized format. This kind of data can be compiled and consolidated using common definitions and classifications.

NHRIs that have a complaints handling mandate will often maintain a database that includes this type of information. Other sources might include information provided by the media and reports of States, civil society organizations and international human rights monitoring mechanisms, such as the special procedures mandate holders.

6.1.2. Socio-economic and administrative statistics

Socio-economic and administrative statistics are aggregate datasets that contain objective quantitative or qualitative information. This data is compiled and disseminated by State agencies, usually in collaboration with national statistical agencies and, at times, with guidance from international organizations. The State will often use statistics, such as those gathered in censuses and surveys, to compare different ethnic, geographic or economic groups for policymaking and planning purposes.

This type of data can be categorized into three sub-types.

Administrative records are generated when line ministries, government agencies and other public institutions interact with the public and record information related to the number and profile of their beneficiaries, such as students, patients, pensioners, welfare recipients, license holders, tax payers and so on. For example, civil registration systems and national population systems are used to compile vital statistics (e.g. death and birth rates) and prepare electoral rolls.

Administrative records can be extremely useful in ESCR monitoring because of their simplicity, the frequency with which they are updated and their cost effectiveness (because they already exist). However, because administrative data about a population is limited to those segments of the population that use a particular public service, its coverage is not always reliable. For example, crime statistics only cover those crimes that are reported. However, we know that some crimes, particularly sexual assault and domestic violence, are extremely underreported.

EXAMPLE: HEALTH DATA IN THE PHILIPPINES

The Philippines Department of Health uses two types of data to inform its policies and programmes:

- **Surveys and censuses**, like the National Demographic and Health Survey undertaken by the National Statistics Office, the annual Maternal and Child Health Survey, the Family Planning Survey, and the Census of Population and Housing

- **Administrative data**, or records, from health and health-related agencies, from a large number of public and private agencies.

For more information, see: Domingo, Estrella V., "Administrative Data Key to Health Policies and Programs: Philippine Experience" (2008).

Statistical surveys are used to collect direct quantitative and qualitative information about the population. A statistical survey, also called a sample survey, only collects data from a subset of the population that is being studied, with the goal of drawing inferences for the entire population. Surveys can be a cost-effective means of collecting information in situations where complete enumeration (see below) is not practical or where data from administrative sources are not available. Many indicators for the Millennium Development Goals (MDGs), for example, are compiled using statistical survey data, due to the lack of accurate administrative records. Examples of statistical surveys include demographic health surveys, labour force surveys and household income and expenditure surveys.

Censuses are complete enumerations of all members of a population of a country or territory. In other words, everyone is counted. Countries usually conduct censuses of population, housing, agriculture and industrial establishments. A population census is usually conducted at ten-year intervals because of the complexity and cost of the operation. Censuses provide baseline data on the structure and key characteristics of the population and on variables that do not change rapidly. The complete enumeration of the population allows variables of interest to be available at the lowest geographical level, including, in principle, for homeless and nomadic groups.

CASE STUDY: ADMINISTRATIVE STATISTICS ON SCHOOLS FOR CHILDREN WITH LEARNING DISABILITIES IN MALAYSIA

In 2013, the Human Rights Commission of Malaysia (SUHAKAM) conducted a study on access to education by children with learning disabilities. SUHAKAM also collected administrative data on the number of schools with special integrated programmes (SEIP). This data indicated that the majority of SEIPs were offered in urban or suburban areas. Administrative statistics indicated community-based rehabilitation centres existed in rural areas. However, these centres did not perform the same role and function as SEIPs.

6.1.3. Perception and opinion surveys

Perception and opinion surveys aim to poll a representative sample of individuals for their personal views on a given issue. The nature of the information collected is, for the most part, subjective and therefore not quantifiable. To aggregate data, as well as transform these perceptions and opinions into indicators, questions are often asked in a way that the answers are predetermined or in "closed" formats (such as multiple choice questions). Ordinal scales are also often used (e.g. rating satisfaction with a policy on a scale of 0-10).

Perception and opinion surveys are very relevant to monitoring ESCR as they can directly capture people's views on the functioning and policies of the State. Information from household perception and opinion surveys brings out the individual perspective or the "voice of the people" in human rights assessments. However, the method, with its focus on subjective information, could potentially fall short of producing reliable and valid indicators for monitoring human rights consistently. It may also not be adequately representative, because of limitations in coverage, and may yield measures that cannot support or allow cross-sectional comparisons. Nevertheless, in some instances, this method can yield information that supplements other kinds of indicators in human rights assessments.

Well-known household perception and opinion surveys include the Gallup International Association, the Afrobarometer, the Latinobarometer, the East Asia barometer and the Eurobarometer, which act as international measures of public opinion or perception on democracy, governance, livelihoods, participation, conflict and crime.

6.1.4. Data based on expert judgements

Data based on expert judgements is data generated from a limited number (or sample) of "informed experts". Like household perception and opinion surveys, the information generated from experts is essentially judgment-based or subjective. However, it can be translated into a quantitative form through coding. The difference with these surveys is that they only capture the opinion of experts, who should be well informed about the topic. A major advantage of using information based on expert judgments is that it can be collected quickly and can be effective in presenting a first assessment of the situation. Nevertheless, data based on expert judgements has been criticized for a lack of validity and reliability and for not being representative of the realities on the ground. There are also critiques relating to the lack of transparency in the selection of experts and not providing a systematic basis for justifying their opinions.

Freedom House is an example of an initiative that uses expert judgements to assess and rank countries according to political and civil freedom. Another well-known initiative is Minorities at Risk, which follows the status and conflicts of politically active groups using multiple sources of information, such as the media, government reports, non-governmental reports and expert opinion.

6.2. HOW CAN SECONDARY DATA BE OBTAINED?

At the national level, a large amount of secondary data will be publically available on the website of the National Statistical Office or Bureau of Statistics. This is particularly true of censuses and surveys. Another source of data on government policy or programmes is the evaluations carried out by the Government itself. States often invest resources, time and money in the evaluation of their policies and programmes to determine whether they are operating efficiently and effectively. Many of these evaluations will be available on the website of the relevant government ministry, or possibly through the Ombudsman or Auditor-General.

There has been a **big push in recent years for governments to "open data"** in order to increase transparency, accountability and citizen engagement. In this context, numerous governments around the world have joined the Open Government Partnership, committing to reforms that would increase the amount of publically available information. There are many examples of open data initiatives within the Asia Pacific region, including website portals and apps for citizens to access relevant government data. NHRIs can consider encouraging or supporting these kinds of initiatives as a way to increase the information at their disposal for monitoring. Developing a memorandum of understanding with the National Statistical Office or Bureau of Statistics is another way of strengthening the collection of data related to human rights monitoring.

When relevant data is not publically available, it may be necessary to **subpoena information or file an access to information request**. Many NHRIs have the power to subpoena their Government for any documents or information that fall under their mandate or competency. Additionally, it might be possible to file an official access to information request in an attempt to obtain relevant documents.

HELPFUL TIP

The World Bank's DataBank is an analysis and visualisation tool that contains collections of World Bank data on a variety of topics. You can use DataBank to generate your own datasets, tables, charts, and even maps and easily save, embed, and share them.

To learn how to use DataBank, watch the online Tutorial at
http://databank.worldbank.org/data/FAQ/Video/databank-tutorial-overview.html

At the international level, **sources of secondary international data** include UNDP, the World Bank, the World Health Organization and many others. It is important to note that there may be differences in the data provided by international databases and that of national databases. Where possible, comparing government statistics and reports with those of the international community or civil society organizations can help ensure reliability, as well as identify discrepancies in the form of conflicting information or interpretations.

CASE STUDY: NEW ZEALAND DATA FUTURES FORUM

The New Zealand Human Rights Commission (NZHRC) has been involved with the New Zealand Data Futures Forum, a national initiative that explores how business, government, researchers and the public can safely share data and use it to build a prosperous New Zealand. The Forum has issued recommendations for the creation of a data ecosystem, built on the principles of value, inclusion, trust and control. These include: to establish an independent data council to advise government and data users on data ethics; to invest in skilled data scientists and innovators; to determine levels of privacy to provide stronger options for data correction and opting out; and to raise public awareness and capacity in relation to data. For the NZHRC, the Data Futures initiative raises important human rights questions in terms of what gets measured and how. On the one hand, more data makes it possible to measure ESCR-related issues with greater specificity. On the other hand, the collection and use of data must respect the right to privacy.

6.3. WHAT TYPES OF SECONDARY DATA CAN WE USE WITH OPERA?

Secondary data can be used to answer questions that fall under the four steps of the OPERA framework.

Outcomes	Policy efforts	Resources	Assessment
Socio-economic and administrative statistics Perception and opinion surveys Events-based data	Socio-economic and administrative statistics Perception and opinion surveys Expert judgments Events-based data	Administrative statistics Budgetary information	Perception and opinion surveys Expert judgments

6.3.1. Data on outcome indicators

This is data that can be used to assess the outcome of efforts on a certain right. It can be demographic in nature, measuring population characteristics, such as the rural/urban divide, gender ratios, ethnic groups and migration trends, for example. To this end, data on outcome indicators seeks to measure:

- **The aggregate levels of rights enjoyment:** Socio-economic data can be assessed against relevant benchmarks and/or compared to similar countries. Deviations can point to whether or not a country's performance is reasonable.

- **Disparities in rights enjoyment:** Disaggregated socio-economic data is particularly useful for uncovering disparities; for example, between women and men, between ethnic groups or between income levels.

- **Progress over time:** Socio-economic data can be compared over time to indicate progress or deterioration and whether disparities are growing or reducing.

6.3.2. Data on policy effort indicators

This is data that can be used to assess the policy efforts a State has taken to fulfil a certain right. Data on policy efforts seeks to:

- **Identify legal and policy commitments:** Categorical data can be helpful in comparing commitments made, relevant laws enacted and policies developed in relation to other countries or against international standards and guidelines. For example, inventories of laws, policies and regulations in the area of land tenure can paint a picture of government efforts to address land rights.

- **Examine implementation** (i.e. how laws and policies translate into goods and services on the ground): Socio-economic and administrative statistics (e.g. teacher-to-student ratios, distance to nearest health clinic, number of beneficiaries of social welfare programs, quality of roads) can be compared, disaggregated and viewed over time.

- **Analyse whether legal and policy processes are participatory, transparent and accountable:** Perception surveys and governance data can be useful in this respect.

HELPFUL TIP

The Toronto Initiative for Economic and Social Rights has a database of constitutional provisions from all over the world relating to 17 different rights. The dataset records the presence or absence of these economic and social rights and whether they are justiciable or aspirational.

Visit: www.tiesr.org

6.3.3. Data on resource indicators

This is data that can be used to measure the resources available for efforts to implement ESCR. For example, government revenue, tax collection and debt statistics can determine the overall health of public finances. Statistics can also be used to determine the macroeconomic health of a country by analysing growth rates, interest rates, exchange rates and rates of inflation. Finally, the economic situation of a country relative to others can be determined by looking at the terms of trade, balance of payments, development assistance and foreign direct investment statistics. Resource indicator data is necessary to analyse:

- **Resource allocation and expenditure:** Allocation ratios (discussed further in Chapter 10) judged against reference points and over time can show the reasonableness of amounts spent; various governance tools, such as social audits, can be useful to review the disbursement of funds.

- **Resource generation:** Evaluation of revenue sources, alongside relevant fiscal, monetary and macroeconomic policies, can be helpful in this regard.

- **Policy processes:** This can be assessed by perception data that asks people how satisfied they are with the avenues for public participation in development of the government budget (e.g. whether people have access to information on budgetary processes). The Open Budget Index is a particularly useful source in this respect.

Much of the secondary data used to analyse resources will take the form of socio-economic statistics, such as budgets and financial documents. This is often easily available online from finance ministries, as well as regional and international organizations like the International Monetary Fund, the World Bank, the Asian Development Bank and the Organization for Economic Cooperation and Development.

6.4. HOW CAN WE JUDGE SECONDARY DATA?

With the proliferation of data in today's "information age", it is important to be able to judge how appropriate secondary data is for what you want to do with it. Secondary data should always be interpreted cautiously and there are a number of issues to think about in this regard. For example, what happens if there is a difference between data provided by global databases and national databases? This is not uncommon due to different methodologies of data collection, statistical analysis and interpretation or computational method. Different data sources should be compared with attention to these details.

Concept	Explanation	Potential issues
Validity	Data must reflect what it is trying to measure (i.e. the fulfilment of a right) as closely and as accurately as possible.	Most secondary data is collected for uses other than human rights monitoring and so must be repurposed. This reinterpretation can be challenging.
Reliability	Refers to the consistency or dependability of the data. In other words, data collected multiple times in the same way should deliver similar results.	Ambiguities or biases in the way data is collected (e.g. how survey questions are framed or how a population is sampled) might make data unreliable.
Impartiality	Data must be collected in a way that respects scientific independence and in an objective, professional and transparent manner.	A national statistical office that is not independent may "spin" numbers so that a situation appears better than it is.
Ability to be disaggregated	To be most useful, data should be disaggregated (or able to be disaggregated) by, for example, gender, ethnicity, age, economic status, disability and geography.	The original dataset is often needed in order to disaggregate the data, which is not always easy to obtain.

These criteria are influenced by the following questions:

- **How** are the questions for the data collection framed?
- How **broadly** is it collected (i.e. what is the sample size)?
- **Who** is the data collected by?
- How **frequently** is the data collected?

Reviewing "meta-data", which is essentially data *about* the data, can help to answer these questions. It provides information such as the computation methods used, the measures of variability (discussed further in Chapter 8) and the description of errors in the data, such as bias and sampling errors.

The following table considers these questions for common types of secondary data:

Characteristics	Administrative data	Surveys	Censuses
Breadth	All events registered	All sampled units	All units (100%)
Frequency	On-going	3-5 years	10 years
Bias	Can be incomplete	Usually biased, but good design can minimize this	Theoretically no bias
Potential for rights monitoring	Very good	Good	Good, but not in the short-term

Source: OHCHR, *HRBA Training Materials* (not dated)

If you find yourself with conflicting datasets, note the variation of the data in your report and, if possible, explain why you think there is a difference between the datasets (e.g. due to variation in the data collection method) and which of the datasets is the most valid, reliable or impartial. Reviewing the meta-data will help you to make this kind of assessment.

CASE STUDY: GAPS IN ADMINISTRATIVE STATISTICS ON CHILDREN WITH LEARNING DISABILITIES IN MALAYSIA

In its study on access to education by children with learning disabilities, outlined previously, the Human Rights Commission of Malaysia (SUHAKAM) collected data from the Ministry of Education and the Department of Social Welfare (DSW). They discovered that more children with learning disabilities were enrolled in primary education than were registered with the DSW. SUHAKAM was also informed that the Ministry of Health kept another set of data on children with disabilities. While recognizing that registering with the DSW is voluntary, SUHAKAM recommended that action be taken to ensure the systematic collection, consolidation and dissemination of data on children with learning disabilities among relevant government agencies and to the general public.

Finally, careful attention must be paid to what data exists, what data does not exist and, importantly, *why* there are gaps in the data. As discussed in Chapter 5, the availability of data is often a **reflection of existing, unequal power relations**. If this is not acknowledged and treated with care, the use of this data can actually reinforce existing discrimination and hurt more than it helps.

This is particularly important when considering the gender dimensions of an issue; data about women is notoriously lacking. As the Secretary-General's Independent Expert Advisory Group on a Data Revolution for Sustainable Development (IEAG) has said, "gender inequality and the undervaluing of women's activities and priorities in every sphere has been replicated in the statistical record".[12] In many countries, we do not even know how many women there are, let alone how poor they are, how healthy they, how educated they are, what work they do or how they spend their time. This is not just a problem of a lack of gender-disaggregated data. Some of the issues most important to their lives are simply not counted at all. For example, labour market statistics rarely take into account the time spent on domestic work.

6.5. IN PRACTICE: GETTING AND ORGANIZING SECONDARY DATA

With your research plan as your guide, you are ready to get started with the research phase of your monitoring activity. Start by looking for socio-economic statistics, administrative data, perception surveys and expert judgements online, including on the websites of organizations mentioned in this chapter. If there are gaps in what you need, your next step might be to approach relevant government agencies, municipalities and service providers (e.g. schools, health facilities, water companies). If they are uncooperative, consider using subpoenas or official requests for the data you need. As you start to find secondary data, it is important to ensure that it is in a format that you can work with (e.g. a CVS or Excel file, rather than a PDF) and that you keep a full record of where the original data came from and any changes in the data that you make along the way.

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12   IEAG (2014), *A World That Counts: Mobilizing the Data Revolution for Sustainable Development*, at p.14.

UPDATE FROM AHN

Ahn looks for secondary data that she can use for her list of indicators. She organizes the data she has collected into the following table.

	Source	Data	Notes
Outcomes	World Bank Data	Adolescent fertility rate (births per 1,000 women ages 15-19); fertility rate, total (births per woman); maternal mortality ratio (modelled estimate, per 100,000 live births).	Most data fairly up-to-date. However, isn't disaggregated.
	Demographic Health Survey	Provides a lot of data on relevant topics (e.g. fertility preferences, family planning).	In PDF format only.
Policy efforts	Ministry of Health	Relevant documents, including the Constitution, Health Care Act, reproductive health policy and strategy and their evaluation reports.	Data in strategy evaluation reports not comprehensive.
	World Bank Data	Births attended by skilled health staff (% of total); contraceptive prevalence rate; out-of-pocket health expenditure (% of private expenditure on health); pregnant women receiving prenatal care (%).	Most data fairly up-to-date. However, isn't disaggregated.
	Demographic Health Survey	Provides a lot of data on relevant topics (e.g. contraceptive use, antenatal care, place of delivery, assistance during delivery).	Data disaggregated. Survey from two years ago and five years ago.
	Health Systems Report	Hospital beds per 1000 people; physicians per 1000 people etc.	Not disaggregated. Requested information from Health Ministry.
Resources	Ministry of Finance	Annual budgets and audited accounts.	
	World Bank Data	Health expenditure per capita (current US$); health expenditure, public (% of total health expenditure); health expenditure, total (% of GDP).	Most data fairly up-to-date. However, isn't disaggregated.
	WHO Global Health Expenditure Database	Total expenditure on inpatient care (% of total health expenditure); prevention (% of total health expenditure); public health expenditure, total (% of GDP).	
Assessment	Unable to find any secondary data on the reasons why women don't seek care or about their autonomy in health decisions.		

EXERCISES

1. Go to the World Bank data portal (data.worldbank.org) and identify an indicator that relates to outcomes and one that relates to policy efforts for:

    a) The right to education

    b) The right to work

    c) The right to water and sanitation

    How does the data for your county compare:

    a) To other countries?

    b) Over time?

    Do you see any problems with the adequacy of this secondary data?

2. Find a national source of data that relates to the right to housing. Reflect on your experience of finding this data. Was it easy? If so, why? If not, why not?

REFERENCES AND FURTHER READING

This chapter is based on *Human Rights Indicators: A Guide to Measurement and Implementation*, published by OHCHR in 2012.

The following references are also recommended for further reading:

United Nations Statistics Division (2013), *Fundamental Principles of Official Statistics*

International Statistical Institute (2010), *Declaration on Professional Ethics*

Open Knowledge Foundation [VIDEO], *#opendata*. Available online at: http://vimeo.com/21711338.

Chapter 7:
Collecting primary data

KEY QUESTIONS

- What is primary data?

- How can primary data be collected?

- How are direct observations, surveys, interviews and focus groups conducted?

- What is a rights-based approach to primary data collection?

INTRODUCTION

While secondary data is an invaluable resource, it is often incomplete. Further, secondary data collected by governments and international agencies often focuses on issues at the "macro" level. It is often not specific enough to be useful in analysing issues at a local level. For this reason, it may be necessary to collect primary data, including on a local scale.

Primary data is "first-hand" data, meaning it is collected by the researcher *for the specific task at hand*. Collecting primary data is often time consuming. It can also be resource intensive. However, it is an extremely useful tool for rights monitoring because you have control over the research and the data collected. You can address the specific research issues that you wish to analyse. You have absolute control over the research methods, or the manner in which this data is collected. You can also choose to focus on qualitative or quantitative approaches, or both.

Primary data can be collected and analysed according to a variety of different research methods, including direct observation, surveys or focus group discussions. These methods are introduced in this chapter. It also examines some of the challenges associated with them.

7.1. HOW IS PRIMARY DATA COLLECTED?

Primary data can be collected using a number of different methods, which produce both quantitative and qualitative data.

7.1.1. Direct observations

Direct observations can be a useful method for collecting primary data. Instead of asking someone how much water they use, for example, a researcher could simply read the water meter. This has the advantage of minimizing any bias on behalf of the research subjects. However, without interviews or focus groups to add analytical depth – in other words, without talking to people about their access to water – researchers run the risk of missing important aspects of the story. Both qualitative and quantitative data can be collected through direct observation. For example, if you are collecting data about a hospital, you might describe the condition of a hospital building (qualitative) or count the medicine it has in stock (quantitative).

CASE STUDY: TESTING FOOD SAFETY IN NEPAL

In 2009, the National Human Rights Commission of Nepal (NHRC) became aware of news reports of an outbreak of diarrhoea in the Far-west and Mid-west districts of Nepal. Government data indicated that over 40,000 people were affected by the outbreak and approximately 400 deaths were attributed to it. It was alleged to be the result of the distribution of contaminated food by the United Nations World Food Program.

The NHRC collected data from the field and consulted with health workers, officials from the government sector and other stakeholders. In particular, it collected samples of rice and lentils from different affected areas and arranged for them to be tested by the Food Technology and Quality Control Office. A total of 16.5 metric tons of rice was found to be of low quality and non-edible. The report concluded that the Government did not have effective procedures for monitoring and testing the quality of imported food items.

7.1.2. Interviews and focus groups

Interviews and focus groups are important tools for collecting testimony and developing case studies. Case studies using qualitative approaches can complement quantitative indicators. For example, a researcher could interview a group of people with disabilities about the access issues they face in their daily lives. Qualitative approaches such as these help shed light on the situation of particular persons and groups, illustrating how the deprivation of human rights they face impact on their day-to-day lives. Such analysis should include narratives from individuals about the reasons they are unable to exercise their rights. This is important from a human rights perspective because it "puts a human face" to the quantitative data.

7.1.3. Surveys

Quantitative and qualitative data can be collected through individual, household or community surveys or similar tools, such as written questionnaires, score cards or verbal interviews. One clear advantage of surveys is that they offer a standardized way of gathering data to fill a knowledge gap and build evidence. They can transform stories into numbers in order to make statistical comparisons, including over time, across regions or across groups. However, surveys can be resource intensive. Depending on their design, they can also be too broad to comprehensively analyse specific issues. Finally, translation issues can make surveys difficult to administer in certain situations.

7.1.4. Innovative tools for primary data collection

The rise of social media and the spread of services offered via mobile phones has led to an explosion in the quantity and diversity of digital data, generated by people in real time. There is immense potential for agile and responsive decision-making based on this data, if it is adequately harnessed and analysed. By mapping and crowd-sourcing information, researchers can geographically display and analyse information, such as data about the delivery of goods and services in a region. However, this deluge of digital data brings its own challenges with regard to privacy, accessibility, accuracy and selection bias.

7.2. WHAT TYPES OF PRIMARY DATA CAN WE USE WITH OPERA?

Outcomes	Policy efforts	Resources	Assessment
Direct observation Surveys (especially perception and opinion surveys)	Direct observation Surveys and scorecards Interviews and focus groups	Direct observation	Perception surveys Interviews and focus groups

7.2.1. Data on outcome indicators

Questions posed directly to rights holders – for example, through surveys, focus groups or interviews – can be used to collect data on their well-being. As discussed in Chapter 4, well-being indicators can be a proxy for rights enjoyment that can then be disaggregated and compared over time. Perception surveys can be particularly important in this regard because well-being has a subjective dimension to it (i.e. how do people *feel* about their living situation). In some cases, direct observation can be a relevant source of primary data for outcome indicators. For example, you might measure the height and weight of children in a particular community to collect data on malnutrition.

7.2.2. Data on policy efforts

Primary data on the **implementation** of laws and policies – that is, how laws and policies translate into goods and services on the ground – can be collected through direct observation. For example, counting the number of water points in a community and recording data about how well they function. Surveys or scorecards with individuals, households or communities can also be used to gather data on goods and services; for example, the distance to the nearest school, or daily meal consumption, or the percentage of household income spent on housing. Perception surveys can be useful to analyse whether legal and policy **processes** are participatory, transparent and accountable.

7.2.3. Data on resources

Because it focuses on how **public resources** are allocated, generated and spent, secondary data will be the main type of data used for the third step of OPERA. That said, there may be some instances were direct observation is needed to assess whether resources have been properly spent. For example, if the Government procures the services of a private contractor to build low-income housing, you could gather useful primary data by physically going to the housing development to evaluate whether the project was actually completed and is of an adequate standard.

7.2.4. Data on assessment

As will be discussed in Chapter 13, understanding the broader contextual factors affecting rights holders and duty bearers is part of the analysis under step four of OPERA. Primary data on these questions could be gathered through surveys, interviews and focus group discussions.

7.3. HOW TO DOCUMENT DIRECT OBSERVATIONS

Collecting data through direct observations can be useful for getting straight to the source of the data, without bias on behalf of the research subject or the researcher. However, there are a number of issues that can arise when collecting primary data through direct observation.

First, in order to improve the reliability and validity of data collected through direct observation, it is important to be consistent in the way the data is recorded, using harmonized definitions and appropriate classifications of the issues being studied. Developing standardized templates and checklists can be helpful in this regard.

HELPFUL TIP

WITNESS: USING VIDEO FOR HUMAN RIGHTS DOCUMENTATION

1. Be prepared
2. Record date, time and location
3. Document who is filming
4. Film with intention
5. Capture details
6. Document those affected
7. Contextualize with interviews or narration
8. Get good sound
9. Protect identities
10. Keep and organize your content

Source: WITNESS, "Tip Sheet: Using Video for Human Rights"

It is also important to think about what tools you will need for documenting your observations so that you are well-prepared when you visit the site of interest. Will you take photos? Record video? Require specialist measurement equipment (e.g. tape measures, scales, calculators)?

You will also need to justify why the particular site was selected. Was it a random sample (discussed further below)? Was it a site identified as "best practice"? Was it a site that you had received particular complaints about? This should be explained in the methodology section of your report.

Collecting data through direct observation can also become biased by the "Hawthorne Effect", when human subjects change their behaviour because they know they are being observed. For example, when visiting a school to observe how lessons are taught, teachers, school officials and students must be informed of the research taking place. However, this could affect the results of the study as teachers and administrators may seek to show the observer a higher standard of education than is common. This is important to keep in mind when conducting pre-arranged site visits.
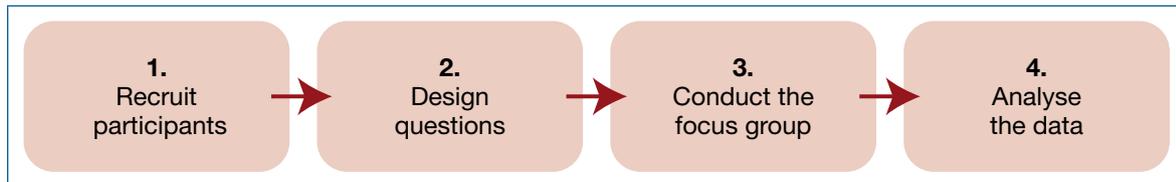
CASE STUDY: INSPECTING SCHOOLS FOR CHILDREN WITH LEARNING DISABILITIES IN MALAYSIA

In 2013, the Human Rights Commission of Malaysia (SUHAKAM) conducted a study on access to education by children with learning disabilities. SUHAKAM used several primary data collection techniques in the study. In particular, they conducted field visits to schools and integration programs. In the field visits, SUHAKAM was able to monitor the condition of school environments and facilities. In order to ensure facilities were up to the standards required to ensure an equal right to education for children with learning disabilities, the monitoring team paid particular attention to the overall space of the classrooms and whether rooms were available for speech and occupational therapy.

7.4. HOW TO CONDUCT A FOCUS GROUP

Focus groups are a good tool for a targeted exploration of complex human rights issues. They can generate analytically rich information, as one participant's insights will tend to trigger others to share their personal experiences and perspectives. This allows you to explore the nuances and tensions of complex topics and subjects. Focus groups also have the advantage of providing information directly from individuals invested in the issue, who can provide insights about actual conditions and situations on the ground. When conducting a focus group, it is important to think about the four steps shown in the diagram and discussed below.

1. Recruit participants	→	**2.** Design questions	→	**3.** Conduct the focus group	→	**4.** Analyse the data

7.4.1. Recruiting participants

Focus groups normally have between seven and ten participants. Groups with fewer than seven participants often result in a limited range of ideas and opinions being represented. Groups larger than ten may be hard to manage and record.

When recruiting for focus groups, participants must fit the criteria established for inclusion in the study. If, for example, a researcher wants to learn about access to justice for indigenous people from a certain community, participation in the focus group should be limited to indigenous people from that community. It is important that the participants recruited reflect the diversity of the larger group under analysis; for example, recruiters must pay attention to gender and age.

Additionally, when studying a complex issue like access to services, it is important to learn from those who have successfully navigated such systems, as well as those who have struggled to do so. As there may be an element of shame associated with those who have been less successful, these conversations may need to take place in different focus groups.

7.4.2. Designing questions

The overall goal of the research must be kept in mind when designing the focus group questions. This will ensure that the topics covered relate to the research objectives and address the research questions in a manner appropriate to the goals of the study. Questions should be crafted to elicit the sharing of experiences among participants in a focused and meaningful manner. "When", "what", "where", "how" and "which" questions should be asked, as they encourage more detailed responses.

It can be helpful to structure the focus group around three types of questions:

1. **Engagement questions:** introduce participants to and make them comfortable with the topic
2. **Exploration questions:** get to the heart of the discussion
3. **Exit questions:** check to see if anything was missed in the discussion.

Certain types of questions can actually impede discussion and should be avoided in question design. For example, "yes or no" questions ("closed" questions) are one-dimensional and will not stimulate discussion. Additionally, "why" questions can put people on the defensive and should be used carefully.

7.4.3. Conducting the focus group

Strong facilitation is crucial for running a successful focus group. A skilful facilitator will engage with the participants and make them feel comfortable with the topic. A good moderator is an active listener, who can ask probing questions – such as "could you tell me more about …" or "could you please clarify …" – to obtain clear and detailed responses. He or she should remain neutral and avoid asking leading questions (such as "don't you think that …"). Exploration of the topic should be encouraged but it is important to not stray too far from the set questions, as they have been designed to address the specific research objectives of the study.

It is important to recognize that focus groups are susceptible to facilitator bias. They can also be sidetracked or dominated by a few vocal individuals. This can undermine the validity and reliability of findings. As such, it is critical for the facilitator to remain neutral and ensure that a broad range of views are expressed.

It is also important that the facilitator is sensitive to gender dynamics. Community leaders are often men. Every effort should be made to include the views of women. It is not enough that they are present; they may feel intimidated and not speak up. A good facilitator should do everything he or she can to make it easier for women to express their views. Depending on the topic, it may be useful to hold separate focus groups for women and men.
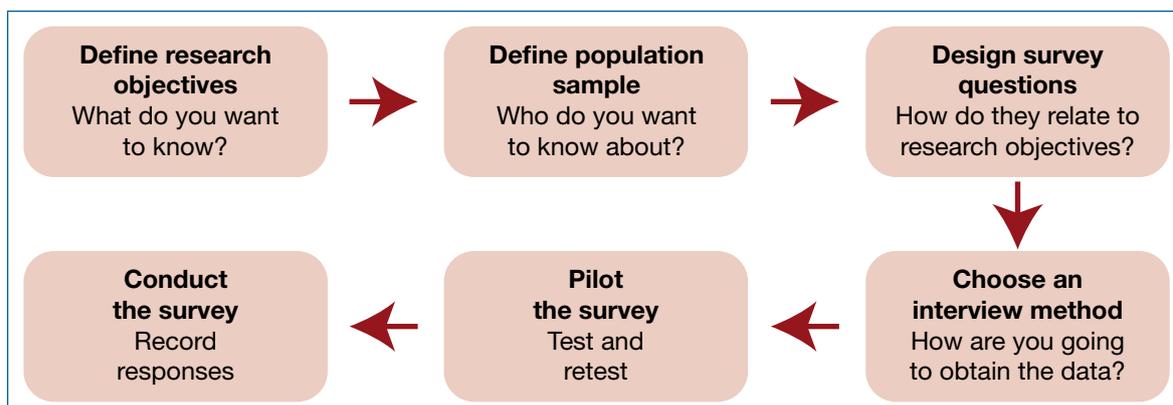
7.4.4. Analysing the data

Once the focus group is finished, the notes and data collected during the discussion must be analysed. Responses can be "coded" according to common categories or themes for ease of analysis. This allows researchers to determine gaps in information or things that were missed during the focus group. It can also help identify avenues for future research. See Chapter 8 for a further discussion of analysing data.

7.5. HOW TO CARRY OUT A SURVEY

Collecting data through a survey can turn qualitative data, or stories, into quantitative information and allow for comparison. Careful research design is key when collecting data through surveys. Surveys can collect many types of useful data; for example, they can be useful for perception studies (how a population perceives or feels about something), information related to respondents' income and expenditure, or information related to how a population accesses services.

In the OPERA framework, surveys are most helpful in assessing policy efforts and analysing policy processes. For example, communities might be surveyed about how actively they participated in the design and implementation of particular policies or programmes, or whether there are avenues available to them to seek remedies for human rights violations.

There are several steps in the survey process:

Define research objectives What do you want to know?	→	**Define population sample** Who do you want to know about?	→	**Design survey questions** How do they relate to research objectives?
Conduct the survey Record responses	←	**Pilot the survey** Test and retest	←	**Choose an interview method** How are you going to obtain the data?

7.5.1. Step one: Defining the research objectives

The first step in conducting a survey is to define what the objectives of the research are; in other words, what does the researcher want to learn? Researchers should be able to state, clearly and concisely, their overall research goals, as well as the specific research questions to be answered. When designing the survey, you should refer back to these objectives on a regular basis to ensure that the questions to be asked are the right ones. Finally, in defining the research objectives, information that supports the NHRI's advocacy objectives should be prioritized to ensure the efficient use of resources.

7.5.2. Step two: Defining the population samples

In the next step, the population sample must be defined. In other words, the researcher must determine who they will survey to answer their research questions. This will involve choosing the target population, or what kind of people the researcher wants to survey, as well as the sample size, or how many people the researcher will survey. Determining the target population will depend on the parameters of the study; what sector of society or geographic region, for example, that the researcher is interested in. To help ensure the accurate reflection of relevant subgroups in the target population, quotas of people may be used.

Determining the sample size will depend on factors such as the time available, the research budget and the necessary degree of precision. Generally, the larger the sample, the more precisely the sample reflects the target population. This can be calculated with the help of online tools, however, it is important to be familiar with two key concepts: confidence intervals and confidence levels.

Confidence intervals – also known as the "margin of error" – is the plus-or-minus figure usually reported following results. For example, say you have a confidence interval of 5%. If 38% of your sample answers "no" on a survey then you can be "certain" that between 33% (38-5) and 43% (38+5) of the entire population would also answer "no".

How "certain" you are of this result depends on your **confidence level**. This is a percentage that tells you how often the true percentage of the population would pick an answer that lies within the confidence interval. For example, a 95% confidence level means you can be 95% certain that the true population would choose an answer within your confidence interval. Most researchers in the social sciences use a 95% confidence level.

7.5.3. Step three: Designing survey questions

Developing well-designed survey questions is critical. Researchers generally ask three basic types of questions. The most common type of question is multiple choice. These are easy to tabulate and compare. Multiple-choice questions can be basic, factual questions (e.g. "Where do you live?"), with a choice of answers listing different locations. Multiple choice questions can also work as rating scales and agreement scales; for example, respondents choose on a scale from "strongly disagree" to "strongly agree", to rate how much they agree with a statement. Survey questions can also be numeric open-ended (e.g. "How old are you?"). Finally, survey questions can be text open ended or "verbatim" (e.g. "How can the company improve its working conditions?").

HELPFUL TIP

Ten tips for survey design:

1. Keep it simple and make it interesting.
2. Keep it short, as attention spans will wane.
3. Use simple language that respondents would use.
4. Think about question order: ask general questions before specific ones, as the specific ones will colour respondents' answers.
5. Avoid subjective terms such as "frequentl"' and "often".
6. Include a middle option on scales (such as "neutral"), if it's warranted.
7. Avoid double negatives, as they can be confusing (question prompts should never be negative).
8. Make scales logical for the responses.
9. If designing a question around a 10-point scale, don't forget to include "0".
10. Put personal questions at the end, as participants may be uncomfortable answering them.

Source: RCU, *10 Step Guide to Questionnaire Design* [VIDEO]

7.5.4. Step four: Choosing an interview method

There are many different ways of administering a survey or an interview. The advantages and disadvantages of different methods are discussed below.

Method	Advantages	Disadvantages
Personal interviews	The target population is visible. Respondents are generally more willing to answer long questions and can clarify unclear responses.	They are costly. Interviewers must travel to the location of the target population. Variations in the style of interviewers can cause variations in responses.
Telephone surveys	Nearly everyone has a phone. Interviewers can call randomly and they can clarify unclear responses.	There tends to be a negative association with sales calls. Few people are generally at home during the working day.
Mail surveys	Addresses are easily accessible. Respondents can respond at leisure.	This method takes time. There is generally a low response rate for less educated or literate populations.
Email surveys	Email is extremely fast and low cost. Surveyors can attach pictures and sounds.	There is a general dislike of unsolicited email. There is also little control over who responds.
Web surveys	Web surveys are extremely fast and low cost. Surveyors have lots of formatting options. Questions can be automated and anonymous.	Internet usage is not universal. Respondents can easily quit. There is little control over who responds.

7.5.5. Step five: Piloting the survey

The final step involves testing the survey. Whenever possible, the survey should be piloted with a smaller sample size to identify and correct any errors. By piloting the survey, researchers can revise the questionnaire before it is sent out to the entire sample. It also enables researchers to turn open response questions into closed response or multiple choice responses, based on the responses received. Finally, piloting the survey allows researchers to estimate the variability in the responses to survey questions, which can help determine the necessary sample size at the desired confidence interval.

CASE STUDY: PERIODIC REPORTS ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFGHANISTAN

The Afghanistan Independent Human Rights Commission (AIHRC) has produced a series of monitoring reports on ESCR in Afghanistan. The AIHRC collects data through structured interviews with more than 7,500 individuals annually, as well as through meetings and consultations with stakeholders throughout the country. Interviewees are selected by random sampling so that different persons, groups of persons and ethnicities are covered in different villages, towns and other areas across the country. The AIHRC was able to visit three quarters of the country's provinces; the remaining provinces were inaccessible due to armed conflict and insecurity. The information gathered was assessed against indicators on selected ESCR. With its extensive coverage, the information gathered by the AIHRC through its field monitoring team represents the most accurate picture of ESCR in Afghanistan.

7.6. WHAT IS A HUMAN RIGHTS-BASED APPROACH TO COLLECTING PRIMARY DATA?

When conducting primary research for human rights monitoring, whether through interviews, focus groups, or surveys, community members need to know why the information is being collected and how it will be used. It is important to adopt a human rights-based approach to primary data collection. This means adopting a participatory approach that involves the community in analysing their problems. The community must also be involved in identifying and developing solutions to those problems, in order to empower community members to claim and exercise their rights. The target population of the research must be recognized as active rights holders, not simply sources of information. Information gathered should be relevant to the interests of the community – as a whole, and as individual members of the community, without discrimination – in accordance with the objectives of the monitoring activity.

To adopt a rights-based approach to collecting primary data, consider the following "questions to ask frequently" (QAFs), developed by the Responsible Data Forum, when working with marginalized communities.

QAFs about the community	QAFs about empowerment and capacity building	QAFs about privacy, security, threats and safety
• Who is the community? What are the **boundaries** that surround it in terms of ethnicity, gender, race, class, sexuality, disability, language, religion, etc? • What makes this community **marginalized**? • Do you understand your own **prejudice** about the community? • Do you fully understand the **context and nuances** of this community? • Do you have ongoing **informed consent** with the community on your activities?	• Who is making the **decisions** about the data and what are the implications? • Are your activities **disempowering** the community? • Who should **analyse** the data? • What does the data tell them? • Do they understand the **implications** of sharing the findings? • Does the community have capacity to **store and protect** the data adequately? • Does the community have appropriate **access** to the data if they aren't storing it themselves?	• Do you have full understanding of **what is sensitive data** in the context of this community? • Can you detail the **risks and the threats**? • Is **anonymizing names** enough to protect the community? • Is there a possibility the data can be **misused** (e.g. a property developer using data about a slum)?

7.7. IN PRACTICE: COLLECTING PRIMARY DATA

If you decide to undertake some form of primary data collection, your research plan will be a crucial guide for this work. Accordingly, it is important to have a comprehensive strategy that explains:

- **How you will identify the sites or populations where you intend to collect the data**. For example, are they random samples? If not, what criteria will you use to select them?

- **Who will collect the data**. Will it be staff from your NHRI? Partner NGOs? Community representatives?

- **The role of the community**. How will you ensure that your data collection is participatory, empowering and follows a human rights-based approach?

- **The data collection tools that will be used**. Have these been standardized? Have data collectors received adequate instructions on how to use them?

- **The time period over which you will collect data**. Is it a week? Month? Three months? Be generous when estimating the time involved.

- **Protocols for ensuring the security of data collected**. This is particularly important if you are collecting data that identifies individuals.

As noted at the start of this chapter, collecting primary data can be time intensive and resource intensive. As such, it may not be feasible for your NHRI to do all, or even much, of this work. That said, a number of the techniques outlined in this chapter are techniques that NHRIs use regularly in their day-to-day work; for example, key informant interviews, direct observation and focus group discussions. In some cases, it may involve doing what you are already doing but incorporating a more methodical approach, which provides standardized information that is easier to analyse.

UPDATE FROM AHN

Ahn has collected a large amount of secondary data but she would like to find out specific information about exactly what services are available in health facilities in rural areas, where many indigenous women live. She also hasn't been able to find any secondary data on the reasons why indigenous women do not seek care or about their autonomy in health decisions.

She holds focus group discussions in three different communities, co-organized with indigenous women's groups. Many women complain about the quality of care at the municipal hospital, which is often out of basic equipment. She also learns that women delivering a baby must bring their own gloves, bleach and even razor blades to cut the umbilical cord, or else pay health workers for them (at an inflated cost). Patients who require an ambulance must pay for its fuel, which is too costly for many.

On the basis of this information, Ahn decides to visit the municipal hospital, as well as a number of smaller clinics in the area. She documents the number of beds they have, the number of nurses and doctors, what medicines and equipment they have in stock, the fees they charge and so on. She also conducts a number of key informant interviews with health workers and administrators, who complain that their facilities are chronically underfunded.

EXERCISES

Residents in a rural village claim that pesticides from a nearby factory settlement are polluting their water sources and affecting their health. What would be the pros and cons of each method for collecting data to investigate this claim? Which would you suggest using?

A. Convene focus groups and ask participants in-depth questions about the quality of water in their community and the health of their families (before and after the factory opened).
B. Survey households about water quality and health (before and after the factory opened).
C. Sample water sources used by the community and measure pollutant levels.
D. Examine hospital records and record the number of patients suffering from waterborne diseases (before and after the factory opened).
E. Use the results from a recently published scientific study in a nearby city to estimate the degree to which pesticides run-off contributes to increased levels of water pollution.

You decide to conduct a survey on the degree to which pesticides contribute to water pollution. How would you improve the following questions?

1. What is the main source of water used by your household for drinking, cooking and hand washing?
2. How often do you treat your water to make it safe to drink?
    ☐ Sometimes ☐ Often ☐ Frequently
3. In the past month, has a member of your household suffered from any form of disease caused by pathogenic microorganisms?
4. The use of pesticides by factories near the Ariel Settlement has not impacted on members of my household's health.
    ☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree

REFERENCES AND FURTHER READING

Data Center (2004), *Power to the People – Participatory Research Kit: Creating Surveys*

Land et al (2012), *#ICT4HR: ICT for Human Rights*

RCU, *10 Step Guide to Questionnaire Design*; available at www.rcu.co.uk/expert-research

Responsible Data Forum, *Data and Marginalized Communities: Questions to Ask Frequently*, available at https://responsibledata.io/forums/data-and-marginalised-communities/

Tools4Dev, *How to Design Survey Forms for Quick Data Entry*, available at www.tools4dev.org/resources/how-to-design-surveys-and-forms-for-quick-data-entry/

WITNESS, *Tip Sheet: Using Video for Human Rights Documentation*, available at www.witness.org

WITNESS, *Activists' Guide to Archiving Video*, available at http://archiveguide.witness.org/

Chapter 8:
Analysing data: A short introduction to working with spreadsheets

KEY QUESTIONS

- How can spreadsheets help us analyse the data that we have collected?
- What are some of the basic features of spreadsheets and how are they used?
- What are some of the key mathematical concepts to consider when analysing data?

INTRODUCTION

As discussed in Chapter 5, there is a difference between data and evidence. To become evidence, data needs to be analysed and interpreted. For our purposes, this means asking: What does the data tell us about relevant human rights norms, as spelled out in OPERA? Sometimes data can be read and interpreted quite easily. Other times, the "dataset" (the primary or secondary data gathered) becomes too large to be read easily in one or two pages. When this is the case, a spreadsheet can be a useful tool. Entering data into a spreadsheet makes it possible to organize, rearrange and analyse it in more detail, in order to test hypotheses about how different pieces of data relate to one another.

Working with spreadsheets can be a new skill for many human rights practitioners. In fact, limited experience with spreadsheets is commonly identified as a reason why NHRIs do not integrate quantitative data into their monitoring activities. This chapter introduces the basic skills necessary for using spreadsheets and outlines some of the basic mathematical concepts that can be used to analyse data in a spreadsheet. It is intended to be introductory. Nevertheless, increasing your familiarity with these tools can help you feel more confident to work with numbers, better equipping you to analyse the data yourself or to collaborate with statisticians and others to undertake such an analysis.

8.1. SPREADSHEET BASICS

A spreadsheet is essentially a table of "cells" arranged into "rows" and "columns". Columns are normally represented by letters (e.g. "A", "B", "C"), while rows are represented by numbers (e.g. "1", "2", "3"). A single cell can be referred to by its row and column; "C10", for instance.

There are a variety of spreadsheet programs and applications available that you can use, such as Microsoft Excel, Calc from OpenOffice or Google Sheets. **Microsoft Excel will be used in this chapter**.

8.1.1. Setting up a new spreadsheet

The first step is to create a new spreadsheet. A new worksheet will automatically open when Excel is launched. If a new sheet does not automatically open, you can create one by clicking on the Office Button>New>Blank Workbook. As soon as the new sheet is open, **save it**.

8.1.2. Importing secondary data

Unless you are entering primary data into the spreadsheet itself, the second step is to import your data. This could be primary data you have recorded in another software program, or secondary data that you have downloaded from an online source, such as the World Bank or a particular government ministry. If you are downloading secondary data, make sure that it is in the correct format. You will have the option to choose the format of the data you wish to download from the data source. One of the most common formats for downloading data is "CSV", which stands for "comma separated values". This is a format that can be read easily by Excel.

HELPFUL TIP

Whenever you download a dataset, the first thing you should do is to make a copy of it. Any changes you make should be done in this copy. This means that you can go back and check the original data at any time. It is also good practice to note where you sourced your data from, and when and how it was retrieved.

To import data, select the "Data" tab at the top of the page. This will then show you different options for importing data (e.g. "From Access", "From Web", "From Text"). If you select "From Text", this will open a dialog box, from which you select the file you have previously downloaded.

If the "Text Import Wizard" dialog box pops up, you can leave the selections set to their defaults:

- Step 1 (data type): Delimited
- Step 2 (delimiters): Tab
- Step 3 (column data format): General

Some useful keyboard shortcuts include:

- Copy [Ctrl + c]: copies the selected cells into the clipboard
- Paste [Ctrl + v]: pastes the clipboard
- Cut [Ctrl + x]: copies the selected cells into the clipboard and removes them from their original position
- Undo [Ctrl + z]: undoes the last change you made
- Redo [Ctrl + y]: undoes an undo

8.1.3. Entering primary data

If you are entering your own data into a spreadsheet, it is crucial to do so in a consistent, standardized way. Data that is entered inconsistently is harder to search, count, sort and filter. For example, the following demographic information is entered into the spreadsheet:

Name	Sex
Arun	m
Hyun	Male
Eleanor	F

The problem here is easy to spot: the sex of the individuals is recorded in different ways. Entering the data in a standardized way reduces these errors. This means making choices about how the data can be represented consistently. Data that tends to be recorded inconsistently includes:

- **Dates and times:** 01 July 2005, July 1st 2005, 1/7/2005 or 20050701 are all ways of representing the same date.

- **Names:** For example, do you use 'United Nations' or 'UN'? Do you use a person's first and second names in different columns or in the same column?

- **Places:** How specific do you need to be when describing geographical data? Do you use a country's administrative geography (e.g. town, city, district), electoral geography (ward, constituency) or operational geography?

The key point is to consider the different ways of recording data, make a choice and then apply it consistently. It will save an enormous amount of time and frustration.

The second issue is how to "code" (or classify) the data. This is particularly important if you are recording qualitative data that you will subject to quantitative analysis. For example, say you want to record information about schools you have visited, classifying them as either "small", "medium" or "large". When you and your colleagues review the spreadsheet, you need to be confident that each time you see a school described as "small" it means the same thing. To ensure the data is coded consistently, you could design a set of coding rules to let everyone working on the data know that:

- Small = between 0 and 99 students
- Medium = between 100 and 499 students
- Large = between 500 and 999 students.

It is crucial to make sure that everyone entering the data follows the same rules each time.
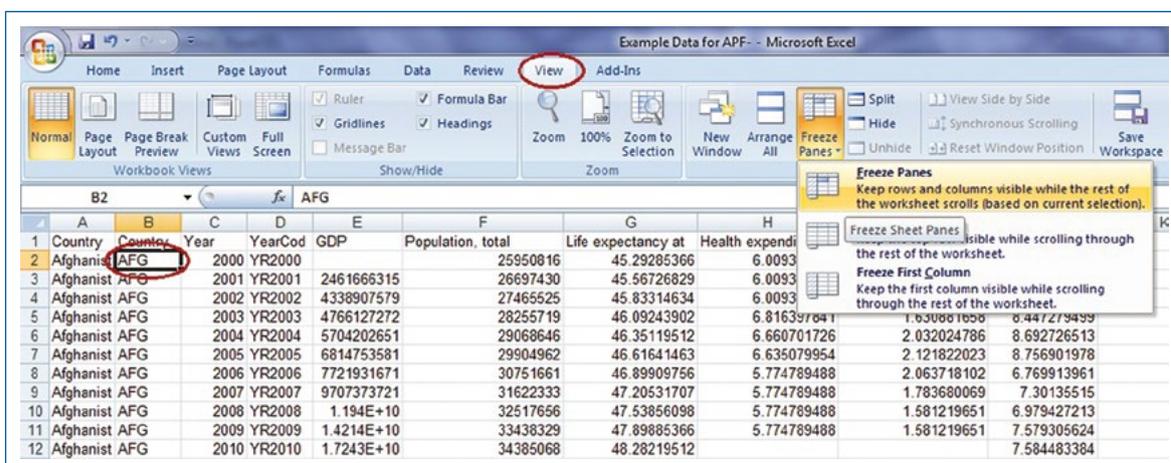
8.1.4. Locking rows and columns

Before you start sorting your data, it is sometimes useful to "lock" the top row and/or the first column of your spreadsheet, particularly if the spreadsheet you are working with is large. This means you can always tell what each row and/or column refers to.

For example, you may have downloaded data on government spending on education as a percentage of GDP for all countries for the years 1990–2014. This will include many rows and many columns of data. To keep the years and the country names visible, these rows and columns can be "locked" so that they do not disappear as you move around your spreadsheet.

To lock the *top row* of your sheet, select the "View" tab at the top of the page, select "Freeze Panes" and then "Freeze Top Row".

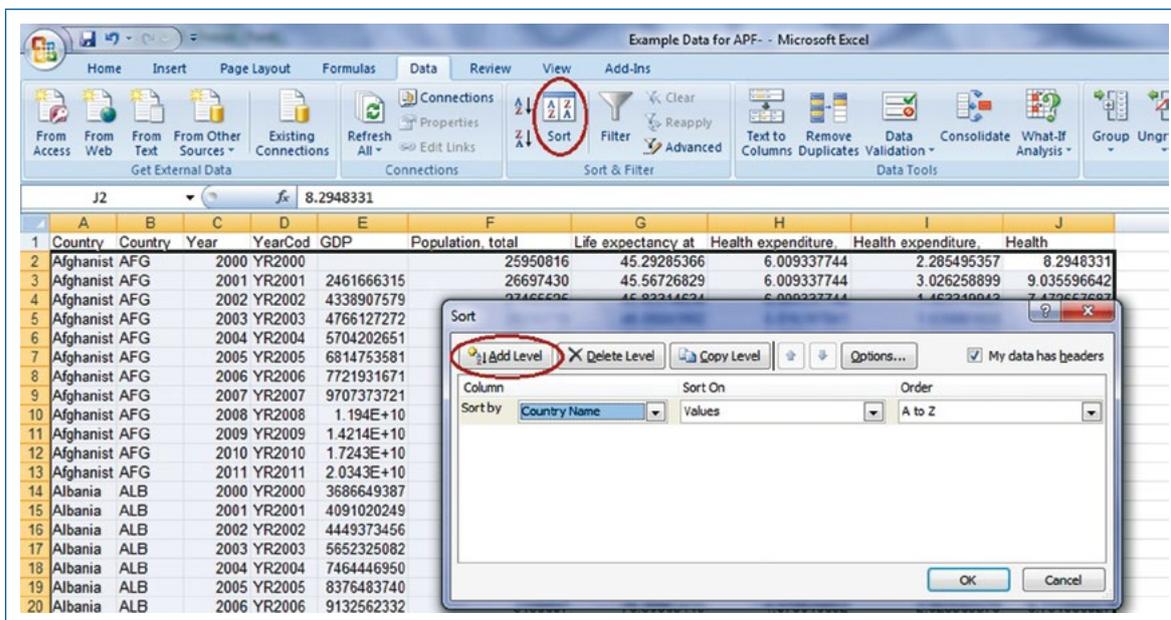**To lock the *first column* of your sheet**, repeat the steps above but select "Freeze First Column".

As shown below, **to lock *both***, move your cursor into the cell next to the column and the row you would like to lock, then select "Freeze Panes" under the "Freeze Panes" option.

8.1.5. Sorting data

The first thing to do when looking at a new dataset is to become familiar with it. This involves sorting the data so that it makes the most sense. Say, for example, you have a spreadsheet with data on GDP, healthcare expenditure and life expectancy for all countries, over a number of years. To familiarize yourself with the data, you might want to look at the data first in order by country then in order by date. To sort the whole spreadsheet, use the following steps:

1. Select the "Data" tab and then the "Sort" button. This will open an additional dialog box.

2. Select the column you would like to sort by in the drop down menu; you can sort ascending or descending (or A-to-Z or Z-to-A, if alphabetical).

3. You can also choose multiple criteria to sort by (e.g. first by country, then by date), by clicking the "Add level" button:
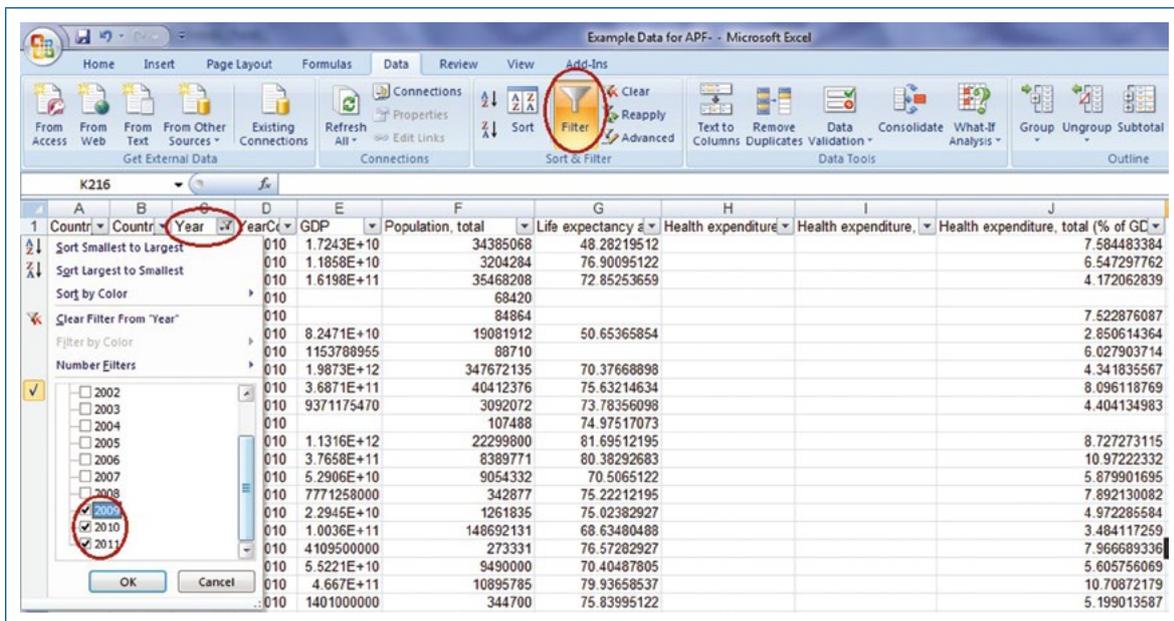
8.1.6. Filtering data

It is common to filter out the values you do not want to see in the dataset. In the dataset mentioned above, for example, you might only be interested in reviewing the most up-to-date values.

To filter the whole spreadsheet, use the following steps:

1. Under the "Data" tab, select the "Filter" button. You now should see triangles next to the column names in the first row.

2. Click on the triangle next to the column you are interested in. A dialog box should appear, from which you can select and deselect the options you want to include or exclude.

8.2. ANALYSING DATA WITH SPREADSHEETS

Once you have sorted and filtered your spreadsheet, it is time to begin your analysis. Analysing data helps you extract answers to your questions. Say you have data on GDP, population, life expectancy and healthcare expenditure as a percentage of GDP, for all countries over a number of years. There are many questions concerning the right to health you could answer. For example:

- How much does each country spend in total on healthcare (in USD)?
- How does a specific country compare to others?
- How much is spent per capita in each country (in USD)?
- How has spending in each country changed over time?

It is important to remember that the data in your spreadsheet will not always provide all the information you need to answer your research questions. For example, based on the data we have, we do not know the amount of money spent on healthcare in each country. However, we can calculate this figure by using data that we do have, namely GDP per country and health expenditure as a percentage of GDP. You can calculate new values such as these using spreadsheet "formulae".

8.2.1. Using formulae

Formulae are basic mathematical functions; the kind of things you would find on a simple calculator. By typing these formulae into a spreadsheet cell you can make calculations in your spreadsheet. The most common symbols that you will use in these formulae include:
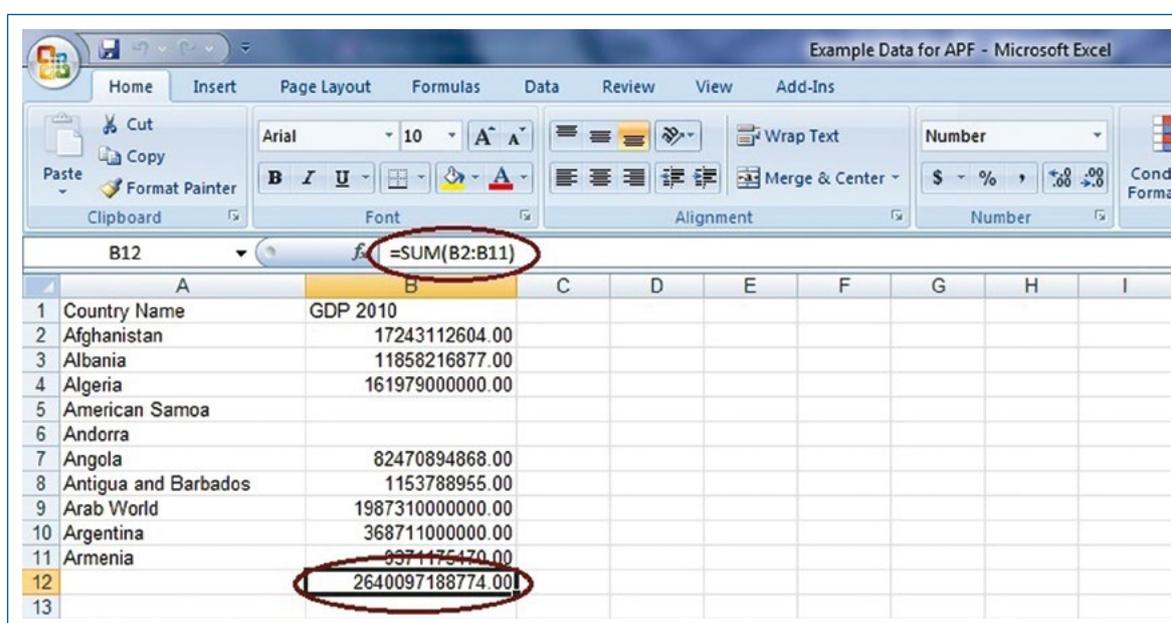
Symbol	Description
=	This is the first thing that should go in your formula cell because it tells the spreadsheet that you are writing a formula.
+	Add
-	Subtract
*	Multiply
/	Divide

Basic mathematical rules about the order of functions also apply when working with spreadsheets. For example, the formula =3+5*2 will equal 13, **not** 16. If you want to change the order of function, you must include parentheses. Formulas inside parentheses will be calculated before any other formula. For example, if you want the formula above to result in 16, it should be entered as: =(3+5)*2.

8.2.2. Addition

A quicker way to add up values in a range of cells in a spreadsheet is to use the symbol **=SUM** (as opposed to linking each cell individually with a "+" symbol). For example, if you want to calculate the total GDP for a group of ten countries, use the following steps:

1. Data on GDP is in column B. In the first empty row in column B, at the end of the list of countries' GDP in 2010, type =SUM and then an open bracket; =SUM(.

2. Then select the cell with the first country in the group. While you hold the SHIFT key down, select the last country in the group. The formula cell should automatically add the cell numbers.

3. Complete the formula by adding a close bracket at the end; for example, =SUM(B2:B11).This will add the GDP values in the given range.

8.2.3. Multiplication and division

Multiplication and division is useful if you want to convert a numerical value into a percentage, or vice versa. For example, say you want to find out how much (in USD) is spent on healthcare, in total, in your country. You know GDP is USD 100,357,000,000 and that government spending on health is 3.48% of GDP. You can answer your question by using the following formula:

GDP * (health spending/100)
Or in a spreadsheet =100357000000*(3.48/100)

You do not need to manually type in the numbers, clicking in the cell will do this for you. As shown in the spreadsheet below, the formula looks something like: =C2*(D2/100), where cell C2 is your country's GDP and cell D2 is health expenditure as a percentage of GDP in your country.

Copying formulae is useful when you want to apply the same calculation across rows or across columns. To do this, simply copy the formula you have just written (using ctrl + c) and paste it into the cell below (using ctrl + v). Alternatively, click on the lower right corner of the cell (the blue square) and drag the formula down to the end of the column.

Empty cells can be problematic when you start to analyse your data because they can end up producing zero values. For example, if you copied the formula in the previous step to the end of the column you would see that the health expenditure in USD value for Bermuda would be "0" because the value for health expenditure as a percentage of GDP is missing. This is obviously a mistake. Properly handling missing values is an important step in data cleaning and analysis. Large datasets are rarely complete and so you should have a strategy to deal with missing parts. One way to find errors is to filter the data, select all "0" values and delete them.

8.3. USEFUL MATHEMATICAL CONCEPTS FOR ANALYSING DATA

Ordering data to help answer your research questions can be daunting if you are trying to compare multiple variables. For instance, if you are looking at data that relates to the right to food, you might want to look at: (a) per capita availability; (b) of major food items; (c) across municipalities. You might be interested in finding out what is the *average* availability for these items, the *minimum and maximum* available, and the difference, or the *variation*, between the minimum and maximum. Finding out the answers to these questions is commonly referred to as **descriptive statistics**.

8.3.1. Range

The first piece of information you might want to find from your data is the range; in other words, from where to where does your data stretch? Does it start with small numbers? Large numbers? Does it run from negative to positive? This is all essential information that will help you to deal with your data.

Looking at the range will also help you to find errors in your data. For example, say you are looking at data related to the indicator: "Average years of schooling in the adult population". You might find that your data ranges from 4 to 58. There is clearly a mistake; the likelihood that any adult in any country has 58 years of schooling is very small. You should go back to your data and check it.

So how do you find your range? Simply go through your data and find the minimum and maximum values: the lowest and the highest, respectively. For example, say you have the following data on average years of schooling in the adult population for your own country, as well as for several neighbouring countries:

8.5, 5.8, 6.5, 7.6, 10.2, 8.4, 7.3, 7.2, 9.2, 9.3

- **Question:** What is the range of your dataset?
- **Answer:** The lowest number (minimum) is 5.8 and the highest number (maximum) is 10.2. The range then is from 5.8 to 10.2.

In a spreadsheet, you can do this by sorting the data from smallest to largest, or with the formulae **=MIN** and **=MAX**, using brackets to select the cells you want to include in the calculation; for example, =MIN(D12:D84).

8.3.2. Count

The next important piece of information you might want to determine is how many *things* do you have data for. How many countries? How many households? And so on.

How do you get this information from your data? Simply count it. In the dataset above, for example, there are ten observations.

If the dataset is too large to count, you can use the formulae **=COUNT** when you have numbers in your cells or **=COUNTA** when you do not have numbers in your cells. Again, use brackets to select the cells you want to include in the calculation; for example =COUNTA(A5:A2089).

This might seem simple. However, when it comes to analysis and interpretation of the data, it is very important. For instance, if you are comparing your data on hospitals in your country, is data for ten hospitals sufficient to make that comparison?

8.3.3. Averages

The next piece of information you might want to look at is the "central value" and how the data is distributed in relation to that value. Does the central value give a good indication of the whole dataset, with an equal distribution of data points above and below it? Or is the distribution "skewed", meaning there is a peak at one end of the data range with a long tail towards the other? The distribution tells you what kind of further descriptors are practical to use. There are a number of different ways to answer these questions.

The mean (or "average") is the most common way of looking at the "central value". It will be familiar from reports; for example, average unemployment has increased in country X or average literacy rates have decreased for country Y.

So how is the mean calculated? The mean is the **sum** of all the values in the dataset divided by the **number** of values there are. For example, say you are interested in determining the average household income. You have the following data on average annual household income, measured in dollars, for a number of households: 1120, 241, 876, 201, 112, 345, 567, 156, 154, 1345

- **Question:** What is the mean average of your dataset?
- **Answer:** Add up the incomes you have for all households (1120 + 241 + 876 + 201 + 112 + 345 + 567 + 156 + 154 + 1345 = 5117). Then divide that number by the number of households you have (5117/10). Your answer is 511.7.

In a spreadsheet, you can calculate this using the formula **=AVERAGE**

The mean can give you a good estimate of what is "normal" when the rest of your data is distributed evenly above and below it. However, if the rest of your data is "skewed" to either side, a different measure of the average may be more appropriate.

The median is the numerical value separating the higher half of values in the dataset from the lower half. It is useful when the rest of your data are not evenly distributed on either side of the mean. In the example of average household income above, the mean income value is 511.7. However, this is quite a large number in relation to most of the values in the dataset. It results because there are a few households with very high incomes, which skew the data. In this case, the median may provide a better estimate of what is "normal" than the mean.

So how is the median calculated? Firstly, sort the data (ascending or descending, it does not matter) and the value in the middle of the dataset is the median. If there is an even number of values in the dataset, take the average of the two middle-values.

- **Question:** What is the median household income?
- **Answer:** First, sort the data: 112, 154, 156, 201, 241, 345, 567, 876, 1120, 1345. There are ten values and the middle two values are 241 and 345. Find the average between these two numbers (241 + 345 / 2 = 293). The median is 293.

In a spreadsheet, you can calculate this using the formula **=MEDIAN**

The mode is the value that appears most often in a set of data. Sometimes neither the mean nor median really tells us what we want to know. For example, if you would like to know the average number of children per household enrolled in school, you might have the following dataset:

0, 1, 1, 1, 1, 2, 2, 2, 3, 5

The mean number of children enrolled in school per household is 1.8, and the median is 1.5. But what you really want to find out is how many children do the majority of households have enrolled in school. You can see that "1" child is the most frequent answer. This is the mode.

In a spreadsheet, you can calculate this using the formula **=MODE**

In the case that more than one value is the most frequent, the dataset can be bi-modal (two average values) or multi-modal (more than two average values).

8.3.4. Variation

The next important piece of information you might want to identify is the size of the variation in the dataset. This is crucial when looking at aggregated and disaggregated data. For instance, say you are investigating the realization of the right to work. You want to find out the average unemployment rate. However, you might also want to test how representative the average is of different municipalities within your country. There are two common measures for doing this.

The standard deviation is a measure of by how much, on average, data values are off the mean. The following three steps show how to calculate it:

1. Sum the square of the differences between the values and the mean.
2. Divide that sum by the number of values minus one.
3. Take the square root.

In a spreadsheet, you can do this using the formula **=STDEV**

Say you have the following data on unemployment rates as a percentage of the total active population for four different municipalities:

1, 2, 3, 4

- What is the standard deviation of your dataset?
- The mean is 2.5, so following steps 1 to 3

Value	Difference to mean	Squared difference
1	-1.5	2.25
2	-0.5	0.25
3	0.5	0.25
4	1.5	2.25

1. Sum the square of the differences between the values and the mean = 5
2. Divide that sum by the number of values minus one = 5/(4-1) = 5/3
3. Take the square root = 1.291

If the data is normally distributed (all data points are evenly distributed either side of the mean) then 68.27 percent of the data points will fall within one standard deviation from the mean and 95.45 percent of the data points will fall within two standard deviations from the mean. The bigger the standard deviation value, the more variation there is in the dataset.

Using the unemployment example, a standard deviation of 1.291 means that 68.27 percent of the data points will fall within this distance from the mean (assuming a normal distribution). This suggests that there may be reasonable geographical variation in unemployment so reporting the mean alone could be misleading.

The median absolute deviation is similar to the standard deviation but is used with the median rather than the mean. The following two steps show how to calculate it:

1. Calculate the median and the absolute differences between each value and the median.
2. Calculate the median of the differences.

To take the same unemployment example as above but with data on one additional municipality, your data is 1, 2, 3, 4, 5

1. The median is 3 and the absolute differences are 2, 1, 0, 1, 2.
2. Order the differences 0, 1, 1, 2, 2 and the median absolute deviation is 1.
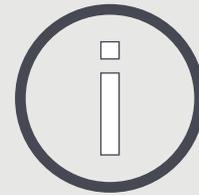
8.3.5. Normalization

Once you have an idea of the data you are dealing with, you might begin to make comparisons. For instance, in an investigation on the extent to which the right to health is being fulfilled, you might want to compare government spending on health in your country with that of another country that differs in a number of aspects. Comparing the total value of government spending on health in this case will only tell you so much if, for example, your country is very large and the country you are comparing it to is very small. The bigger country will most likely spend much more on health in total than the smaller country. Does this mean the bigger country is meeting its obligation to fulfil the right to health better than the smaller country? Not necessarily. To answer that question, the two countries have to be compared on an equal basis. This is usually done using an indicator that tells us how big a country is; often the size of its population.

To compare government spending on health, you can divide total spending by the population. This is called **normalization**. Now you can compare government spending on health **per capita**.

Another way of normalizing values is to use percentages. For example, in determining the maximum available resources for fulfilling ESCR, you might want to compare tax revenues between countries. One way to do this is to normalize tax revenue as a percentage of both countries' GDP (e.g. to say that the first country collects a relatively high amount of revenue, whereas the second country does not).

HELPFUL TIP

If you end up working with a very large dataset, there may come a point when you "outgrow" your spreadsheet. If this happens, consider using other database software such as SPSS, Stata or R. Unlike a spreadsheet, which is designed to be able to be "read" on the screen, the way data is stored in a database is often completely hidden from the user. This enables abstract, complex ways to store larger amounts of data and gives the user more flexibility in how to use it. That said, databases are a much more technical way to store and analyse data. As such, you may need to work with experts like statisticians, programmers and designers.

8.4. INTERPRETATION AND HOW TO AVOID COMMON MISCONCEPTIONS

While simplification is required to understand what the data means, when you are simplifying and presenting graphical evidence it is crucial to stay as close as possible to the "full story".

8.4.1. Correlation is not causation

In general, it is extremely difficult to establish causality between two correlated observations. There are several reasons why common sense conclusions about cause and effect may be wrong. For example, you might want to report on the relationship between education and health. Using a scatter plot, you have average years of schooling on one axis and average life expectancy on the other. The scatter plot reveals that the two variables are highly positively correlated: higher average years of schooling are associated with higher average life expectancy. But can it be said that higher average years of schooling causes higher average life expectancy? No. There could be a number of reasons for this association:

- Higher average years of schooling may cause higher average life expectancy.

- Higher average life expectancy may cause higher average years of schooling.

- Higher average years of schooling and higher average life expectancy are consequences of a common cause, but do not cause each other. The common cause may be higher average income, for instance, or a more equitable distribution of income.

- There is no connection between average years of schooling and life expectancy. The correlation is coincidental.

8.4.2. Percentage change and percentage point change

Percentage change and percentage point change can sometimes be confused in the interpretation of data. For example, if a value changes from 5% to 10% what is the percentage change?

A common mistake would be to answer 5%. This is incorrect. The percentage change in question is actually 100%. It is, however, a change in five percentage points. The choice on whether to report percentage change or percentage point change will depend on your question. Often it is useful to report both.

8.5. IN PRACTICE: ANALYSING DATA IN SPREADSHEETS

Your research plan should identify which staff members (or partners) will be responsible for analysing the data collected. As discussed above, it is also important to prepare a standardized format for recording primary data. This phase of the work can be experimental and exploratory. Play around with the data, look at it from different perspectives (e.g. by comparing variables, disaggregating it, looking at it over time) to see what is most relevant to your research. It is, however, very important to keep a log of any changes made to the data, especially if different people are working on it. This allows you to keep track of any errors that are made, which makes it easier to go back and correct them.

UPDATE FROM AHN

Ahn enters the secondary data she has downloaded and starts to interrogate the numbers. Starting with the "outcomes" data, she finds that her country's maternal mortality rate is the highest in the region and that it has not reduced very much in the past ten years; by comparison, neighboring countries have made significant progress. After disaggregating this data, she sees that indigenous women are three times more likely to die in childbirth than non-indigenous women, which suggests that the Government has failed to progressively realize the right to health, without discrimination.

She then looks at "policy efforts" data. The Demographic Health Survey (DHS) data shows that only 30% of poor women in rural areas (who she knows are also predominantly indigenous) receive antenatal care; 39% deliver their babies in healthcare facilities; and 27% receive postnatal care. This is in fact less than compared to the previous DHS data. Her analysis of the Health Systems Report shows similar challenges with the availability and accessibility of maternal healthcare services.

She then enters the primary data she collected during her focus group discussions, site visits to hospitals and clinics and key informant interviews in a spreadsheet. She analyses the numbers and finds that the main reasons women do not deliver their babies in health facilities is the cost of transportation (42%), cost of care (30%), and discrimination and mistreatment by healthcare workers (18%). This tells her something about the accessibility, affordability and acceptability of maternal healthcare services for indigenous women. When she analyses the numbers collected through her site visits and key informant interviews, she finds that 68% of facilities had experienced a stock-out of essential medicines in the past month; 54% of facilities reported that staff absenteeism was "very problematic"; and that procurement delays were considered the biggest challenge (73%) in relation to funding.

EXERCISES

Go to the World Bank Data portal and find and download data for your country and four other neighboring countries over a five-year time period for the following variables:

- GDP (current USD)

- Health expenditure (% of GDP)

- Population

- Life expectancy at birth

Using this data, answer the following questions:

1. How much did your country spend on health **per capita** in the most recent year for which you have data? How does this compare to your neighboring countries?

2. What is the **mean value** of per capita health expenditure across countries in your region in the most recent year for which you have data? How does your country compare to the average?

3. Is the mean a good estimate of what is normal across countries in your region? What is the minimum value and what is the maximum value? Consider whether a different measure of the average may be more appropriate.

4. What has been the annual **percentage change** in per capita health expenditure?

5. What is the relationship between per capita health expenditure and life expectancy? What can be inferred from this information?

A ward in Pokhara Regional Hospital, Nepal. Photo by Simone D. McCourtie/World Bank, reproduced under a CC BY-NC-ND 2.0 license.

REFERENCES AND FURTHER READING

This chapter is based on the School of Data's course on "Data Fundamentals", available at: http://schoolofdata.org/courses/#DataFundamentals.

The following references are also recommended for further reading:

Berkley Graduate School of Journalism, *Tutorial: Spreadsheets*, available at: http://multimedia.journalism.berkeley.edu/tutorials/spreadsheets/

HURIDOCS, *Events standard formats: a tool for documenting human rights violations*, available at https://www.huridocs.org/resource/huridocs-events-standard-formats

Tactical Tech, *Data & Design How-to's Note 2: Data Basics*, available at: https://www.drawingbynumbers.org/data-design-basics/note-2-data-basics

Part III:
Assessing resources

Chapter 9:
Evaluating resources

KEY QUESTIONS

- Why is it important to evaluate resources?

- What types of policy areas are relevant for evaluating resources?

- What are the human rights standards and norms relevant for evaluating resources?

- What are the challenges and limitations of evaluating resources?

INTRODUCTION

Your analysis of the data on policy efforts will likely identify a number of gaps that hinder the translation of policies and programmes *on paper* into the efficient and equitable delivery of goods and services on *the ground*. Such gaps are often caused by inadequate or inefficient funding for these policies, plans and programmes. Accordingly, step three of the OPERA framework considers whether the State is dedicating the *maximum of its available resources* to the right (or rights) being monitored. This is a key element of the obligation to fulfil ESCR.

The concept of "maximum available resources" recognizes that governments do not have endless resources. As a result, they must make difficult decisions about what they prioritize. However, it is necessary to determine whether the trade-offs that result in underfunding are actually caused by a *genuine lack of resources*, or from a *failure to allocate, generate and spend resources in line with human rights norms*.

The chapters in Part III explain how budget and tax analysis techniques can be employed to determine whether relevant human rights norms have been upheld in the way that resources are allocated (Chapter 10), generated (Chapter 11) and spent (Chapter 12). This chapter begins with a general overview of the policy areas relevant for resource allocation, generation and expenditure. It also maps out how particular human rights norms relate to each area.

9.1. RESOURCES: THE 'R' OF OPERA

The third step of the OPERA framework assesses the way that resources are devoted by the State to meet its human rights commitments. Its focus is on the *budgetary* and *other fiscal efforts* of the State to generate, allocate and spend the maximum available resources, in line with its human rights obligations. The step uses budget analysis techniques at a macro or "big picture" level. Identifying larger fiscal policy trends enables us to determine whether the maximum available resources are being mobilized and used to prioritize minimum core obligations, reduce inequalities and progressively realize the right or rights being monitored. This step also examines the budget cycle process from the perspective of the human rights principles of participation, non-discrimination, transparency and accountability.

The step has three parts to it. It evaluates the:

- **Expenditure** side of the budget (how funds are allocated)
- **Revenue** side of the budget (how these funds are generated), as well as the broader economic policy context within which budget decisions are made
- **Execution** of the budget (how funds are actually spent).

As discussed further in the following chapters, budget analysis can be carried out at varying levels of technical detail. It can therefore be adapted for different uses and with different types of actors.

9.2. POLICY AREAS RELEVANT FOR EVALUATING RESOURCES

As the diagram illustrates, there are **five main policy areas** that are relevant for determining whether the Government is using its maximum available resources to realize ESCR.

MAXIMUM AVAILABLE RESOURCES (MAR) STAR

Government expenditure

Monetary policy and financial regulation

Government revenue

Debt and deficit financing

Development assistance

Source: Balakrishnan, Elson, Heinz and Lusiani (2011), *Maximum Available Resources and Human Rights: Analytical Report*

Government expenditure: Budgetary allocations reflect how different areas of spending are prioritized. The prioritization of funds to particular areas that can (potentially) support the realization of specific rights, such as the social sector (e.g. spending on education, health) and public investment (e.g. infrastructure) should be reviewed and compared to areas of spending that do not support human rights.

Government revenue: Governments receive revenue from many sources, including taxation, royalties on natural resources and profits of public enterprises. Taxation is typically the most important, accountable and sustainable way by which governments mobilize domestic resources to provide public goods, social services and social protection.

Development assistance: Official development assistance (ODA) is money from regional or international foreign donors (bilateral or multilateral), which can supplement the resources available to governments in low-income or middle-income countries to support the realization of ESCR. Nevertheless, ODA might come with conditions (e.g. trade liberalization, deficit reduction) that limit a government's ability to meet its human rights obligations. Further, when ODA is provided in the form of a loan, the interest payable on that loan will affect that government's available resources.

Debt and deficit financing: When there is a budget deficit (i.e. when revenue is less than expenditure), a government will borrow or issue bonds to investors to make up the difference. Government debt may positively or negatively affect human rights, depending on what assets are built through borrowing and whether the level of debt is sustainable. The total amount that a government borrows over time is the public debt, which represents a claim on future budgets.

Monetary policy and financial regulation: Monetary policy and financial regulation directly affect the available resources by influencing interest rates (e.g. affecting employment, housing) and exchange rates (e.g. affecting competitiveness in international markets and growth). Higher interest rates make credit more expensive and discourage borrowing, which slows economic activity. When the domestic currency is devalued, exports become less expensive (and, therefore, more competitive) while imports, which might include food, fuel and other basic necessities, become more expensive.

The following chapters discuss how to analyse these different policy areas.

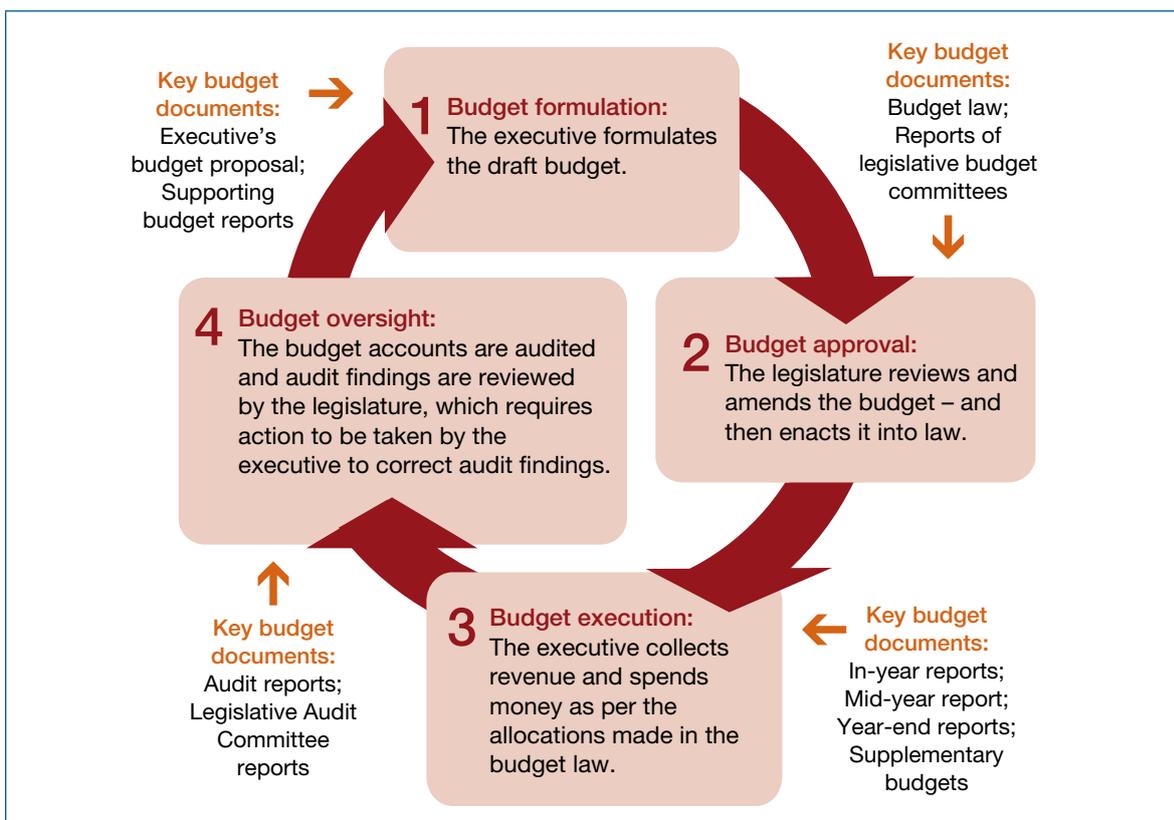## 9.3. RELEVANT HUMAN RIGHTS STANDARDS AND PRINCIPLES

The way that a government allocates, generates and spends its money has implications in terms of its human rights obligations. Resources are needed to ensure the availability and accessibility of services, as well as to address equality and non-discrimination. The principles of transparency, accountability and participation should guide the process of deciding how resources are allocated, generated and spent. As summarized in the following table, human rights norms are relevant to all stages of the budget process. These norms are discussed in further detail in the following chapters.

	Allocation	Generation	Spending
Minimum core obligations	Allocations should prioritize the achievement of basic levels of rights for all. *Red flag: Allocating a significant portion of the education budget to secondary or tertiary education, when a significant proportion of the population has not completed primary school.*	Fiscal policy should mobilize sufficient revenue for the Government to invest in realizing basic levels of rights for all. *Red flag: Government revenue only makes up a comparatively small percentage of GDP.*	Financial management systems should ensure the Government is able to efficiently manage the flow of funds. *Red flag: Wasteful or extravagant spending diverts resources away from spending on basic rights.*
Non-discrimination	Allocations should prioritize closing the gaps in human rights enjoyment between different groups. *Red flag: If budget allocations for the particular needs of women are clearly inadequate.*	Resources should be generated in a way that is "progressive" so as not to disproportionately burden the poor. *Red flag: Taxing poor people more than rich people (as a percentage of their total income).*	A diversion of funds or redirection of expenditures must not disproportionately impact particular disadvantaged groups. *Red flag: Cuts to assistance programs for particular disadvantaged groups without an adequate justification.*
Progressive realization	Allocations should increase as available resources become greater and not unjustifiably backslide. *Red flag: Allocating the same amount to the education sector, when the overall budget is growing.*	The Government should be able to generate additional resources as the country's economy grows. *Red flag: The Government's budget shrinks as a proportion of overall GDP.*	The effectiveness of the Government's financial management systems should improve over time. *Red flag: The proportion of allocations that remain unspent increases over time.*
Process principles	The process of deciding on resource allocation should reflect the principles of participation, access to information, transparency and accountability. *Red flag: A budget that is prepared in secret, with no information given to the public.*	The process of deciding on resource generation should reflect the principles of participation, access to information, transparency and accountability. *Red flag: A budget that is prepared in secret, with no information given to the public.*	The process of deciding on resource expenditure should reflect the principles of participation, access to information, transparency and accountability. *Red flag: Corruption affects the way resources are spent.*

9.4. REVIEWING THE BUDGET CYCLE

It is important to remember that budgeting is an economic, administrative, political and human rights process. A budget is not simply one document; it is an iterative cycle. At best, it is a process that fosters active civic engagement. At worst, it is too confusing and opaque for the public to participate in. NHRIs can therefore play an important role by explaining and demystifying the budget process, to make it more accessible to civil society and other stakeholders.

Most modern budget cycles consist of a year-long process with different phases that offer a range of actors, including civil society, opportunities to influence how public resources are raised and spent, as well as the policy priorities outcomes.

Key budget documents:
Executive's budget proposal; Supporting budget reports

1 Budget formulation: The executive formulates the draft budget.

Key budget documents:
Budget law; Reports of legislative budget committees

4 Budget oversight: The budget accounts are audited and audit findings are reviewed by the legislature, which requires action to be taken by the executive to correct audit findings.

2 Budget approval: The legislature reviews and amends the budget – and then enacts it into law.

Key budget documents:
Audit reports; Legislative Audit Committee reports

3 Budget execution: The executive collects revenue and spends money as per the allocations made in the budget law.

Key budget documents:
In-year reports; Mid-year report; Year-end reports; Supplementary budgets

Source: International Budget Partnership (2008), *Our Money, Our Responsibility: A Citizens' Guide to Monitoring Government Expenditures*

When reviewing the budget process, ask whether the budget process is:

- **Transparent?** The public should have access to easy-to-understand information about the budget making process.
- **Accountable?** The budget should be accountable to the people with regard to its process, revenue, spending and impact.
- **Participatory?** People and civil society organizations should have the opportunity to be involved in the budget process, and have their expressed desires and needs taken into account.

These principles should apply at all stages of the budget process; from its drafting, which should be linked to national development plans prepared following broad consultation, through to its approval by the parliament, which must have proper amendment powers and time for a thorough evaluation of proposals, implementation and monitoring.

HELPFUL TIP

The International Budget Partnership has developed the Open Budget Index, which ranks countries on the openness of their budget process. The index judges the degree to which the public is able to access eight key documents in the budget process. To produce the Index, researchers from each country answer 125 multiple choice questions, supported by evidence such as citations from budget documents; the country's laws; or interviews with government officials, legislators or experts on the country's budget process.

See: http://internationalbudget.org/what-we-do/open-budget-survey/

9.5. IN PRACTICE: IDENTIFYING BUDGETARY INFORMATION NEEDED

Budget analysis is a new methodology for many NHRIs. For this reason, a useful starting point is to become familiar with your country's budget cycle. What are the key dates? Who are the actors involved? What information is readily available? A second task is to identify other groups at the national level already doing budget analysis work. Could you collaborate with these groups and share expertise?

QUESTIONS FOR REFLECTION

1. Find your country's most recent Open Budget Index ranking. What were the key concerns raised in the report for your country?

2. Review the diagram of the budget cycle above. For each phase of the cycle (formulation, enactment, execution, and audit and assessment), consider the following questions:

    a. What time of year does this happen in your country?

    b. Who are the relevant government actors in your country?

    c. What are the challenges to public engagement in this phase?

REFERENCES AND FURTHER READING

This chapter is based on *Maximum Available Resources and Human Rights: Analytical Report*, prepared by Balakrishnan R., Elson, D., Heinz, J. and Lusiani, N. and published by the Center for Women's Global Leadership in 2011.

The following references are also recommended for further reading:

CESR (2012), *The OPERA Framework: Assessing compliance with the obligation to fulfil economic, social and cultural rights*

CESR (2012), *Assessing fiscal policies from a human rights perspective: Methodological case study on the use of available resources to realize economic, social and cultural rights in Guatemala*

Committee on Economic, Social and Cultural Rights (2007), An Evaluation of the Obligation to Take Steps to the "Maximum of Available Resources" under an Optional Protocol to the Covenant: Statement (UN Doc E/C.12/2007/1)

Chapter 10:
Analysing public budgets

KEY QUESTIONS

- Why is it important to analyse public budgets from a human rights perspective?

- What analytical tools can we use to evaluate the allocations made in a government's budget?

- At what points in the budget cycle can we engage in the process of determining resource allocations?

INTRODUCTION

If we are concerned that inadequate resources appear to have been allocated to the fulfilment of the right or rights we are monitoring, our first question has to be: How much money has been allocated? To answer this, we need to analyse the budget. Public budgets can be analysed from various perspectives. This chapter explains why it is important to evaluate how resources are allocated from a *human rights perspective* and introduces a range of basic budget analysis techniques, which can be used to measure different human rights norms. It also discusses the budget cycle and ways to determine if the budget process is open and transparent.

10.1. HOW ARE RESOURCES ALLOCATED?

*Government really has no money of its own. In the budget – in outlining its plans for spending money – it is explaining how it is going to spend money that belongs to the public. In a democratic society, citizens give the government a mandate via their votes. Politicians are obliged to translate that mandate into policies and plans that are, in part, reflected in the budget … No government in the world has **infinite public resources** at its disposal. At the same time, there is **a boundless array of needs** to be met through public expenditure. The budget thus always incorporates **trade-offs** between different spending priorities and includes **value judgments** about **which services, and whose interests**, are most important. **The budget is clearly a political and contestable document.***

Trevor Manuel, South African Minister of Finance,
1998 *Republic of South Africa Budget Review*

The budget is the key policy document prepared by a government. To understand the importance of the budget, consider the quote above from the former South African Finance Minister, Trevor Manuel. As he highlights, the budget is a "political and contestable document" that reflects priorities about which services and whose interests are most important. For this reason, it is a document that should be the subject of human rights assessment.

The budget has three components: revenue (discussed further in Chapter 11), expenditure and surplus or deficit (the difference between revenue and expenditure). It reveals how much money a government intends to raise (revenue), from whom (sources) and how it will be spent (expenditure).

WHAT IS A BUDGET?

The budget is the key policy document prepared by a government. It reveals how much money it intends to raise (revenue), from whom (sources) and how it will be spent (expenditure).

More than just a plan, the budget expresses a government's policy priorities and translates policy proposals into expenditure allocations. It is the most important policy tool for managing the economy.

A good budget should be:

- Able to stimulate inclusive economic growth, job creation and investment in the economy
- Flexible and sustainable, without relying on donor funding
- An operational plan that reflects the priorities of the country
- **A tool for fulfilling human rights.**

A good budget process is:

- **Transparent:** the public should have access to information about the budget and budget processes
- **Accountable:** to the people, with regard to the budget process, revenue, spending and impact
- **Participatory:** involving people in the budget process and taking into account their expressed desires and needs.

BUDGET GLOSSARY

The terminology used in budgets can differ significantly between countries. As a result, it is difficult to compile a common glossary for all countries. Nevertheless, there are some basic concepts that can help us better understand how much money is being allocated and to what.

The first distinction is between:

- **Recurrent expenditures:** expenses incurred year-after-year for running public administration (e.g. for paying salaries, procuring goods and services, providing subsidies).

- **Capital expenditures:** one-off expenses for building assets (e.g. purchasing land, developing infrastructure) to improve the productive capacity of the economy.

The second distinction relates to the way allocations are presented in the budget:

- **Economic classifications:** provide limited information, simply identifying how much money is being allocated to different "inputs" (e.g. salaries and wages; utilities; travel; printing). They may also be referred to as line-items or object classifications.

- **Administrative classifications:** identify the entity responsible for managing the allocated funds, such as the ministry of education and health or, at a lower level, schools and hospitals.

- **Functional classifications:** categorize expenditure according to the purposes and objectives for which they are intended.

See: International Monetary Fund, *Manual on Fiscal Transparency: Glossary*, 2007

10.2. WHAT HUMAN RIGHTS PRINCIPLES ARE RELEVANT TO RESOURCE ALLOCATION?

As discussed in Chapter 9, what a government spends its money on has implications in terms of its human rights obligations. Resources are needed to ensure the availability and accessibility of services, while also addressing equality and non-discrimination. At the same time, participation, transparency and accountability directly influence resource allocations. To recap, the following norms should be considered when evaluating a government's allocation of resources.

Minimum core obligations: Allocations should prioritize the achievement of basic levels of rights enjoyment for all.

Non-discrimination: Governments are obliged to allocate resources in a way that reduces inequalities by meeting the needs of vulnerable and marginalized groups.

Progressive realization: Allocations should generally increase as available resources become greater, and not unjustifiably backslide.

Process principles: The process of deciding on allocations should reflect the principles of participation, access to information, transparency and accountability.

10.3. HOW CAN WE ASSESS IF ALLOCATIONS REFLECT HUMAN RIGHTS PRINCIPLES?

Budget documents can be intimidating. They are long, filled with numbers and often use very technical language. As a result, the idea of trying to read and make sense of a budget is daunting, let alone trying to interpret it from a human rights perspective. The good news is that not all budget analysis techniques are highly technical and sophisticated. Using straightforward arithmetic – adding and subtracting, multiplying and dividing – there are some simple ways to determine whether a budget is in line with the human rights principles outlined above. After reviewing the budget documents, you can use the information provided to:
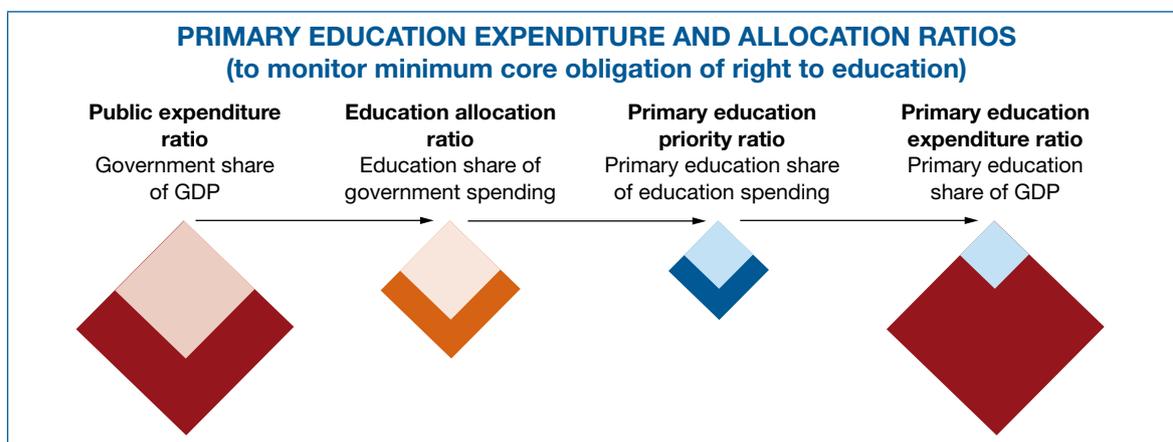
1. Calculate:

   - Ratios or shares (percentage of something out of a total)
   - Averages (mean value of budget allocations)
   - Per unit or per capita expenditure (value per person)

2. Make comparisons (identifying priority areas and groups)

3. Analyse trends (comparing progress over time):

   - Adjusted for inflation (converting nominal figures into real figures)

4. Evaluate the budget process.

This section explains each of these techniques in more detail.

10.4. DETERMINING PRIORITY AREAS

By calculating ratios, it is possible to determine the share of the budget dedicated to particular sectors that can be used for the fulfilment of ESCR. This can help give an indication of whether a government is really dedicating the maximum available resources to achieving minimum essential levels of rights enjoyment.

As shown in the graph below, calculating ratios is simply a matter of dividing a smaller pool of money by a larger pool of money, in order to see what percentage it comprises. The ratios below calculate the percentage of the budget dedicated to primary education, as a percentage of the overall economy. Note that in this case, gross domestic product (GDP) is used as an indicator to represent the size of the overall economy. Less frequently, gross national product (GNP) might be used instead.

**PRIMARY EDUCATION EXPENDITURE AND ALLOCATION RATIOS
(to monitor minimum core obligation of right to education)**

Public expenditure ratio	**Education allocation ratio**	**Primary education priority ratio**	**Primary education expenditure ratio**
Government share of GDP	Education share of government spending	Primary education share of education spending	Primary education share of GDP

Source: CESR, adapted from *Human Development Report 1991*, UNDP

Once you have calculated the relevant ratios, you have standardized, comparable **indicators** to work with. **Benchmarks** help to judge the reasonableness of these indicators. Possible benchmarks for judging the reasonableness of allocation ratios might include:

- Comparisons to other similar countries (e.g. in terms of GDP)
- Comparisons to national or international targets or commitments agreed to by the Government (e.g. OECD countries have committed to allocating 0.7% of their GNP to official development assistance)
- Guidelines from national or international experts (e.g. the internationally recommended minimum investment in education is 6% of GDP)
- Comparisons to spending on other sectors within the budget that do not support the realization of ESCR (e.g. military spending when there is no legitimate security threat)
- Comparisons to costing estimates (i.e. a methodology used to calculate the resources a particular rights-focused policy would actually require).

The point here is not to be overly prescriptive; it will generally be impossible to say that exactly X% of the budget must be allocated to health or exactly Y% to social security. There may be valid reasons for government allocations to vary from a particular benchmark. Nevertheless, a notable variation from the benchmark can be a red flag, which suggests there is cause for concern about whether the Government is in compliance with its international human rights obligations. This can help bring pressure to bear on the Government to explain and justify its allocation decisions.

10.5. DETERMINING PRIORITY GROUPS

To uncover discriminatory patterns of allocations, the budget must also be evaluated in terms of how it distributes benefits among households and individuals. Ideally, budget figures should show per capita allocations, disaggregated by social groups. However, they rarely do. That said, it is still possible to infer who is benefiting from budgetary allocations (this is also referred to as the benefit "incidence" of the budget) by looking at the classification of budget lines. For example, if allocations in the urban sanitation sector currently prioritize and subsidize waterborne sanitation (i.e. sewerage pipes), poor households in informal settlements would not benefit from this budget allocation, as they mainly rely on on-site sanitation (e.g. pit latrines).

When determining benefit incidence, it might also be relevant to calculate per capita spending; for example, by region or municipality. You can do this simply by dividing the total allocation to the region or municipality by the total population of that region (or by the total population group that you are interested in (e.g. school-aged children or women of reproductive age).

GENDER BUDGETING is a particular type of budget analysis used to assess the impact of government revenue and expenditure on women, men, girls and boys. Gender budgeting facilitates greater accuracy and sustainability because available funds are more precisely tailored to the real needs of the different social groups. For example, in the area of health, male and female people will have similar needs in respect to influenza and malaria. However, women will have greater needs than men in terms of reproductive health. Gender budgeting is a way to visualize and address the discriminatory effects of resource decisions. It should be noted that gender budgeting is a relatively new concept. As a result, the tools and techniques used to apply the theory are still evolving. Nevertheless, there are a number of helpful resources available at: www.gender-budgets.org.

10.6. DETERMINING PROGRESS OVER TIME

It is important to compare budget allocations over time and assess whether there has been an increase or decrease in the amounts allocated to sectors through which ESCR can be fulfilled. It is important because it tells us something about whether the Government is taking action to "progressively" realize these rights.

However, this is not as simple as just looking at budget figures from different years. Budget figures are reported in "nominal" terms, which means they do not take inflation into account. For this reason, it is necessary to convert allocations from "nominal" into "real" amounts. This makes budget figures from different years "equivalent" to one of the year's current values and enable valid comparisons to be made over time. In other words, real value = nominal value adjusted for inflation.

HELPFUL TIP

The International Budget Partnership has developed an inflation calculator. To use it, simply enter the nominal amounts for each year and the consumer price index (CPI) for each year and calculate.

See: http://openbudgetsgame.org/inflationguide/

FORMULA FOR ADJUSTING FOR INFLATION

Real Value   =   Target year's nominal value X base year's consumer price index (CPI)
                                         Target year's CPI

For example, 2010 money in 2000 values would be calculated as

Real Value   =   2010 value X 2000 CPI
                              2010 CPI

CASE STUDY: BUDGET MONITORING IN JORDAN

In 2011, the Jordan National Centre for Human Rights (JNCHR) conducted a budget analysis, examining government allocations related on health, education and employment between 2000 and 2010. The JNCHR monitored total spending on these three areas over the course of the decade. The total expenditure on these sectors was also compared to the budgets of other Arab and European countries, as well as to non-ESCR-related expenditures. In this way, the JNCHR was able to measure whether spending on these sectors was increasing, stagnating or decreasing over time, in relation to other items in the budget and comparatively with other countries. The JNCHR also took into account relevant economic factors, such as inflation and total available resources. They concluded that while there is a lack of overall resources in Jordan, more effective spending on ESCR could be achieved.

The principle of non-retrogression emphasizes that the scope and scale of reductions in allocations over time must be carefully examined. Of course, not every budget cut is necessarily retrogressive. Reducing unsustainable budget deficits may be a legitimate reason to introduce austerity measures that include cutting expenditures. Nevertheless, as discussed in Chapter 2, the reasonableness, or otherwise, of such cuts will depend on whether they are:

- Temporary
- Necessary and proportionate (i.e. other options are more detrimental)
- Not discriminatory (and there is a duty to mitigate inequalities)
- Ensure the protection of minimum core content of rights.

10.7. IN PRACTICE: CONDUCTING BUDGET ANALYSIS

Before you begin analysing budgetary data, go back to your research matrix to refresh your memory about the indicators on resources that you are interested in exploring. Next, think about a meaningful time period over which to compare budgets. Do you want to look at the last five years? The last decade? The last 20 years? On the one hand, you need a time period that is long enough to reveal patterns and trends. On the other hand, you need to focus on information that is meaningful for *current* decision makers. Major events, like post-conflict or post-authoritarian transitions, or even changes in government, can be useful in setting the timeframe for your analysis.

You then need to find relevant budgetary data (refer to Chapter 6 on secondary data) and analyse it to identify priority areas, benefit incidence and changes over time (indexed for inflation). For a refresher on analysing data in spreadsheets, refer to Chapter 8. Data on the budget cycle, including the Open Budget Index, is also important in determining whether the process is participatory and transparent.

As you get further into your analysis, remember that an increase or decrease in the Government's budget does not necessarily mean an increase in people's enjoyment of their rights; a growing budget may be poorly targeted or wastefully spent (discussed further in Chapter 11), while a smaller budget may be used more efficiently and actually expand services to people. For this reason, budget analysis should not take place in isolation. The information gathered through budget analysis needs to be triangulated with the data gathered on outcomes and policy efforts (discussed further in Chapter 14).

UPDATE FROM AHN

Ahn gathers budgetary information and calculates the amount spent on the social sector generally, as well as on health specifically. She compares this to other countries and looks at trends over time. She finds that although social spending has increased a little in the past ten years, it is still much lower than neighboring countries. Over the same time period, allocations to the Ministry of Health did not exceed 1% of GDP. By comparison, neighboring countries with the lowest maternal mortality rates spent at least 5% of GDP on health.

Ahn then calculates per capita health spending to compare different regions. She finds that, for the past five years, allocations to the metropolitan area, where the country's capital city is located, were three times higher than the rural area, with the largest indigenous population and the highest percentage of people living in poverty.

EXERCISES

1. Find your country's most recent enacted budget. Calculate the amount spent on health and education as a ratio of the overall budget.

2. Referring to the following data, as well as the formula on page 101, calculate the Government's real revenue in 2005 prices. Is it increasing in inflation-adjusted terms? What about its expenditure?

	2005	2006	2007	2008	2009	2010
Revenue	318.0	359.9	423.3	482.9	538.2	642.6
Expenditure	343.8	401.1	479.6	572.5	660.5	799.9
GDP	1415.8	1622.6	1828.8	2077.4	2273.7	2545.5

Year	CPI
2005	145.4
2006	154.2
2007	160.8
2008	186.8
2009	204.0
2010	211.9

REFERENCES AND FURTHER READING

Commonwealth Secretariat (2003), *Engendering Budgets: A Practitioners' Guide to Understanding and Implementing Gender-Responsive Budgets*

Equal in Rights (2011), *A Guide to Costing Human Rights*

Fundar and International Budget Partnership (2004), *Dignity Counts: a guide to budget analysis to advance human rights*

International Budget Partnership (2014), *Article 2 and Governments' Budgets*

OHCHR (2010), *Human Rights in Budget Monitoring, Analysis and Advocacy: Training Guide*

Chapter 11:
Analysing resource mobilization

KEY QUESTIONS

- What are the main sources of government revenue?

- How do these different sources impact on human rights?

- How can we assess whether resource generation is fair and efficient?

INTRODUCTION

If resources allocated to the fulfilment of ESCR are inadequate, our next question is: Are there additional resources available that could be used? The obligation on the State to use the maximum of its available resources is not just about allocating existing resources effectively (i.e. "dividing the pie", as the saying goes). It also includes an obligation to effectively *mobilize* resources (i.e. to increase the size of the pie) in equitable ways. For this reason, it is important to evaluate how the State is generating, as well as spending, resources. This chapter outlines the ways that governments can generate resources, focusing in particular on taxation. It then discusses how to evaluate taxation policy to determine if it is generating *sufficient* resources and whether or not it is doing so *equitably*. The equitable generation of resources is a particular concern for gender budgeting.

11.1. HOW CAN THE STATE RAISE REVENUE?

To pay for everything it has budgeted to do, a government must raise revenue. It can do this in a number of ways. It may levy taxes, receive overseas development assistance or, where necessary, borrow money to meet a budget deficit. The amount of resources available from each of these sources is, in turn, influenced by monetary policy and financial regulation. As discussed in Chapter 9, along with government expenditure, these are key policy areas when evaluating whether a State is maximizing resource availability to realize human rights.

WHY BOTHER WITH TAX?

The link between taxation and development is fundamental. A functioning State that can meet the basic needs of its citizens must rely ultimately on its own revenues to meet development objectives. Using the tax system, the State can mobilize domestic resources, redistribute wealth and provide essential services and infrastructure. Effective tax structures can also create incentives to improve governance, strengthening channels of political representation and reducing corruption.

Governments across the world struggle to collect enough taxes to fund essential services in a fair way. [Developing countries] in particular face serious challenges as a result of weak and under-resourced revenue authorities, large informal sectors, pressure to offer overly generous tax breaks, and the exploitation of tax loopholes by unscrupulous companies and rich individuals. Too often tax systems are heavily skewed against the interests of the poorest.

Source: *Tax Justice Advocacy: A Toolkit for Civil Society*, Christian Aid

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11.2. HUMAN RIGHTS NORMS IN TAX POLICY

Tax policy has many goals. From a human rights perspective, the most central are to provide the resources for fulfilling ESCR, to fight inequality by redistributing economic gains fairly and to foster accountability between governments and their people. Tax policy should also: *stimulate* inclusive economic growth and encourage job creation and investment in the economy; be *sustainable*, without relying on donor funding; be *efficient* and *cost-effective* in how it raises revenue; and be characterized as enjoying *integrity*, with fair and enforced rules that are respected by all people.

What are the priorities from a human rights perspective? Tax policy has serious implications for the **enjoyment of a number of specific rights**, as well as a direct impact on **equality** and **non-discrimination**. It is also a key pillar of democratic **accountability**.

Tax justice advocates refer to the "four Rs" of taxation. As outlined below, each is relevant to human rights:

- **Revenue mobilization** is relevant for maximum available resources. Tax policy should mobilize sufficient revenue for a government to invest in realizing ESCR for all.

- **Redistribution** is relevant for equality and non-discrimination. Tax policy should serve to redistribute gains fairly, without discriminatory effects on particular groups. Particular priority should be given to improving the situation of the most disadvantaged.

- **Representativeness** is relevant for accountability, transparency and participation. The public should have access to easy-to-understand information about tax policy, tax revenues collected and tax shares paid by different groups and actors (e.g. different income groups; corporations). People, especially the most disadvantaged, should be involved in the tax policy process and it should take into account their expressed desires, needs and rights.

- **Re-pricing** is relevant for regulating behaviour that is detrimental to human rights (e.g. penalties against pollution, transaction tax on high-frequency trading).
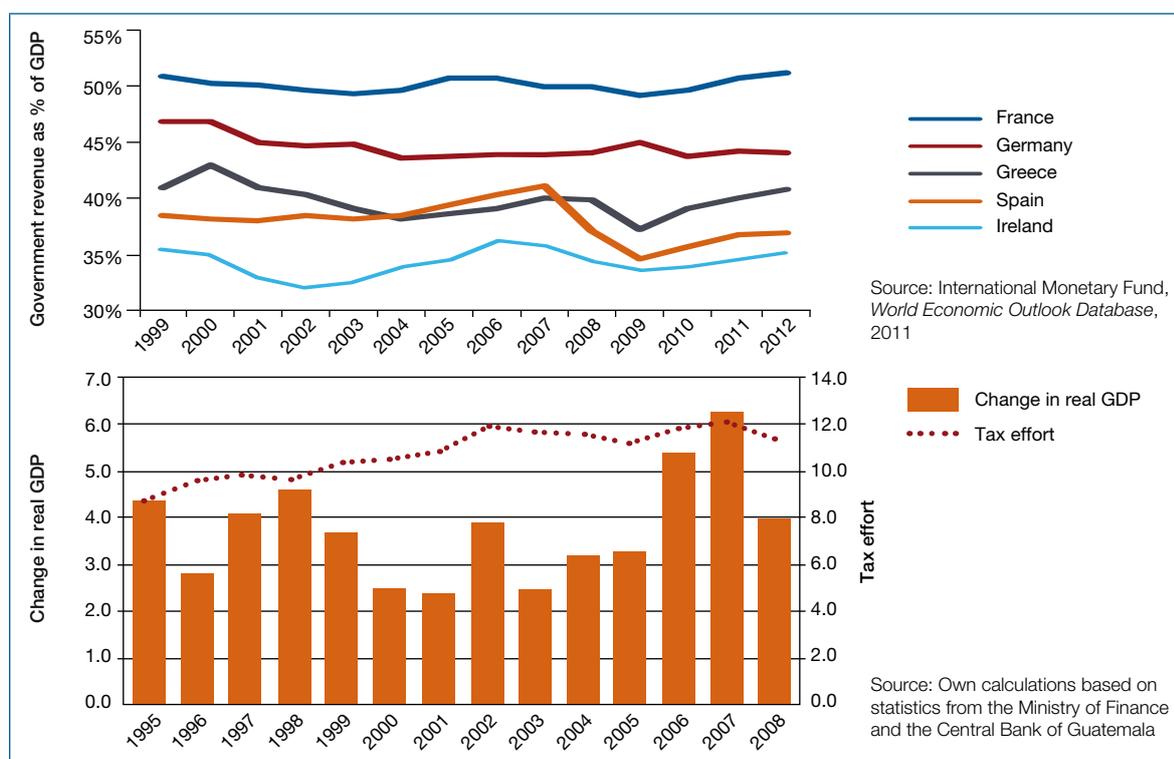
This chapter focuses primarily on revenue mobilization and redistribution.

11.3. EVALUATING WHETHER THE TAX POLICY IS MAKING SUFFICIENT RESOURCES AVAILABLE

Relevant indicators for determining whether the State's fiscal policy is mobilizing the sufficient amount of resources to meet its human rights obligations are set out in the table below.

Indicator	Potential data source
Government revenue as a percentage of GDP	World Bank World Development Indicators; OECD
Tax revenue as a percentage of government revenue	Finance ministry
Tax effort (the ratio between the actual tax collection and taxable capacity)	International Monetary Fund (IMF)
Volume of illicit financial flows	Global Financial Integrity
Corporate tax revenue as percentage of total tax revenue	Finance ministry

These indicators should be compared to relevant benchmarks and over time. For example, review the two graphs below. The graph on the top shows government revenue as a percentage of GDP between 1999–2012. How does Ireland compare to other European countries? The graph on the bottom shows Guatemala's GDP between 1995-2008 (in the orange columns) and its tax burden (the red dotted line) over the same period. How has Guatemala's tax burden evolved in comparison to its GDP growth?

Source: International Monetary Fund, *World Economic Outlook Database*, 2011

Source: Own calculations based on statistics from the Ministry of Finance and the Central Bank of Guatemala

As can be seen, Ireland collects less revenue as a proportion of GDP compared to other countries in Europe, while Guatemala's tax burden has remained fairly stagnant, despite a significant growth in GDP, between 2003–2007 in particular.

11.4. EVALUATING WHETHER TAXES ARE RAISED EQUITABLY

Is tax policy equitable in design and effect? And who benefits (i.e. how are these taxes effectively distributed across society)? To evaluate the questions, we need to ask:

- What is the level and composition of taxes (e.g. income tax, value-added tax (VAT), trade taxes, property taxes)?

- What is the share of tax paid by different groups and actors? What tax exemptions are granted? An exemption to direct taxes for individuals or households below a certain level of poverty may be an important part of protecting their ESCR, while tax exemptions or incentives granted to corporations may be problematic as they restrict revenue that can be spent on realizing rights.

- Are there any gender biases in tax policy, explicitly or implicitly? For example, when a married woman's non-labour income is attributed to her husband and not to her, or when taxes on goods and services do not provide exemptions on essential commodities for women.

- What institutional and distributive issues or constraints should be taken into account when determining tax policy?

To illustrate the human rights implications of how tax revenue is composed, consider two main types of tax: direct taxes (on income) and indirect taxes (on goods and services).

11.4.1. Direct taxes

Direct taxes (e.g. personal and corporate income taxes) are the main tool for redistributing income and for fighting post-tax income inequality. But this depends whether they are:

- **Regressive:** *Poorer people pay proportionally more* of their income in tax than do wealthier people (even if on paper everyone pays the same amount of tax).

- **Proportional or flat:** Poorer people and wealthier people pay the *same proportion* of their income in tax.

- **Progressive:** *Wealthier people pay proportionally more* of their income in tax than do poorer people.

The table below compares two tax payers, one with an annual income of $20,000 and one with an annual income of $200,000. Who contributes most to the public finances under each type of tax? Who benefits?

Comparing regressive, proportional and progressive taxes

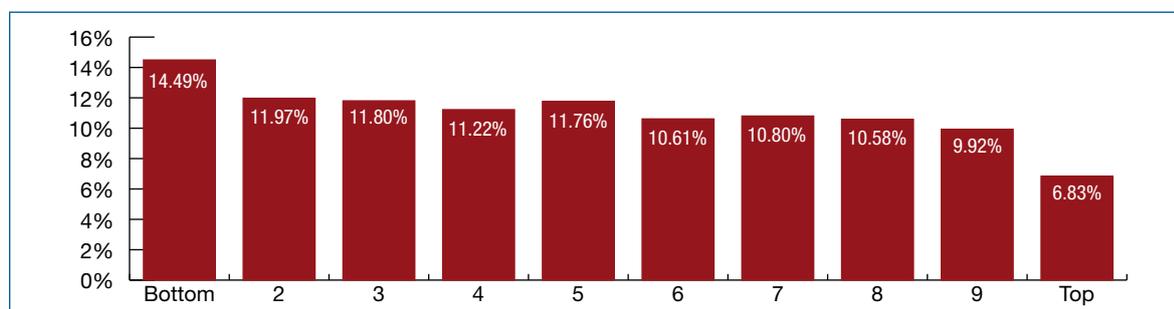| Total income	Taxpayer 1 ($20,000)	Taxpayer 2 ($200,000)	
Tax type			Total taxes
Regressive Amount of tax Tax as share of total income	$2,200 11.1%	$2,200 1.1%	$4,400
Proportional Amount of tax Tax as share of total income	$400 2.0%	$4,000 2.0%	$4,400
Progressive Amount of tax Tax as share of total income	$200 0.1%	$4,380 2.2%	$4,400

Other challenges related to income tax include income tax avoidance (the arrangement of one's financial affairs to legally minimize tax liability) and tax evasion (the illegal non-payment or underpayment of tax), especially among the wealthy and corporate sectors. Estimates by the Tax Justice Network, based on World Bank data, indicate that US$3.1 trillion is lost annually to tax evasion globally. For this reason, it is important to evaluate who is paying what *in practice*, as well as looking at what the income tax rate is *on paper*.

11.4.2. Indirect taxes

Indirect taxes are levied on consumption; for example, as a percentage of the sale price of a good or service. Taxes on consumption, such as a VAT, are broad-based and expected to have a higher tax yield.

However, a VAT is usually not an equitable tax because poorer households and individuals end up paying a higher percentage of their income on the goods and services that carry this tax, compared with wealthier households and individuals. Women are also typically affected more by VAT, as they spend a higher proportion of their incomes on goods for the household and family due to social norms around caring responsibilities.

For example, the graph below shows the distributional effects of consumption tax in Ireland in 2006. The poorest 10% of the population spent 14.49% of their income on VAT, while the richest 10% spent only 6.83%.

Source: *The distributional impact of Ireland's Taxation System* (Barrett and Wall, 2006)

When countries rely heavily on VAT—and at the same time offer tax breaks to wealthier individuals and businesses—this raises red flags that suggest the State is not complying with the principle of non-discrimination.

11.4.3. Other tax issues with human rights implications

Other types of taxes include payroll taxes, property taxes and social security contributions (employee and employer). For example, in countries where the ownership of property is heavily concentrated, **property taxes** can be an efficient and simple mechanism for generating public revenues, as well as for correcting gross inequalities in income distribution. Nevertheless, the proportion of government revenue that comes from property taxes has not increased in the majority of developing countries in recent decades; in many regions, landowning elites have a high degree of political influence and so can influence fiscal policy decisions that would harm their interests.

Tax incentives, concessions and exemptions for corporations is another area with human rights implications. Lowering the tax burden on companies, it is argued, helps attract and retain investment and encourages entrepreneurial activity. This argument is increasingly being questioned, however. Many countries which have dramatically cut corporate tax rates have not seen corresponding benefits in economic activity. The potential benefits and detriments of these tax breaks need to be carefully considered, as such policies may deprive countries of potential resources for realizing human rights.

The role of "tax havens" (or offshore banking in secrecy jurisdictions) is another issue related to corporate tax. On a conservative estimate, tax revenue lost through offshore banking totals some US$250 billion, more than three times the total development assistance of all OECD countries. Tax havens corrupt national tax regimes, undermine financial regulation and deprive governments of significant revenue that can be used to realize human rights. The use of tax havens and offshore banking may also contravene the extraterritorial obligations of States. In particular, the extraterritorial duty to protect means that governments should take action to prevent tax-evading individuals and corporations from using their jurisdictions to evade tax liabilities within the countries they operate.

HELPFUL TIP

The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights interpret the obligation to provide international cooperation and assistance. In particular, States must cooperate with – and not undermine – efforts to mobilize the maximum of available resources for the fulfilment of economic, social and cultural rights.

1000 rupiah, Indonesia. Photo by Asian Development Bank, reproduced under a CC BY-NC-ND 2.0 license.

11.5. IN PRACTICE: EVALUATING TAX POLICY

As you did when analysing budget allocations, go back to your research matrix to refresh your memory about the indicators you are interested in exploring and decide on a time period over which to compare data. Then find relevant the relevant financial data (refer to Chapter 6 on secondary data). Most of this will come from your finance ministry. In addition, the World Bank, Asian Development Bank, IMF and OECD are also useful sources of relevant financial data. As described in this chapter, the overarching questions to be investigated are: How much revenue is being raised? How much revenue is being lost? Who is bearing the biggest burden of direct and indirect taxes?

UPDATE FROM AHN

Ahn calculates the national budget as a percentage of GDP, finding that it amounted to only 17%, compared to a regional average of 28%. Further, once she adjusted her figures for inflation, she finds that while GDP has grown significantly in the past five years, the national budget has remained stagnate, which means that, as a proportion of GDP, it had actually decreased.

She then calculates the country's tax burden, finding that it was just 8% of GDP. However, unlike other countries with low tax burdens, tax revenue was the main source of revenue in her country, making up almost 90%.

Finally, Ahn looks at how equitable the tax system is. She finds that direct taxation (on income and assets) is very low, while the VAT (an indirect tax on consumption) represented over 75% of total tax collected. As a result, the poorest sectors of the population were effectively shouldering most of the responsibility for funding the State's social programmes. Moreover, the country's most profitable business sectors enjoyed significant tax privileges and incentives.

She concludes that the tax system does not equitably generate the resources needed for the State to comply with its obligation to progressively realize the right to maternal health, without discrimination.

EXERCISES

The aim of these exercises is to calculate whether tax rates are progressive or regressive.

Compare two families where the head of the household of each family pays taxes on the entire income of their respective households. Family A, has a total annual income of **$150,000**, while Family B has a total annual income of **$9,000**. Family A spends $40,000 of their post-tax income every year on items consumed in their household. Meanwhile, Family B spends all their remaining post-tax income on the consumption of basic goods and services (e.g. food, water, schoolbooks, transport).

1. Referring to the income tax rate in your country, calculate the annual income tax each family would pay, and how much income they would have remaining?

2. The Government decides to impose a value added tax (VAT) of 15% on all household consumables, with no exemptions. Now calculate from the remaining (post-tax) income that each household would pay in VAT as a percentage of total income? What conclusions can you draw?

3. How much would each family pay in total (income and consumption) taxes as a proportion of their pre-tax income? Compare the two.

4. Now, let's say Family A hires a tax accountant, who is able to shift a portion of the family's tax liabilities overseas. As a result of this tax avoidance, only $100,000 of the family's income in the country is reported to the tax authorities. Repeat the calculations to determine the amount each family would pay in taxes as a proportion of their pre-tax income. What percentage of their real income does Family A effectively pay? What amount of income tax do they pay as a percentage of their overall real income?

5. How would you say this tax system (income and consumption) affects both families? What if the income rate of the top brackets was decreased and the VAT rate was increased without exemptions?

6. What general or preliminary conclusions can you draw from this simplified exercise? In particular, how does the tax system affect each family differently?

7. Can you distinguish from these numbers who benefits? What else would we need to know to determine whether the tax system is equitable or not?

REFERENCES AND FURTHER READING

This chapter is based on *A Guide to Tax Work for NGOs*, published by the International Budget Partnership in 2010.

The following references are also recommended for further reading:

Christian Aid (2011), *Tax Justice Advocacy: A Toolkit for Civil Society*

Balakrishnan R., Elson, D., Heinz, J. and Lusiani, N., Center for Women's Global Leadership (2011), *Maximum Available Resources and Human Rights: Analytical Report*

Balakrishnan, R., Elson, D. and Patel, R. (2010), "Rethinking Macro Economic Strategies from a Human Rights Perspective" in *Development*, Vol. 53, No. 1, 27-36

Saiz, I. (2013), "Resourcing Rights: Combating Tax Injustice from a Human Rights Perspective", in Nolan, A (ed.), *Human Rights and Public Finance*

Chapter 12:
Auditing public spending

KEY QUESTIONS

- What steps are involved in spending resources?
- What are some of the common reasons why governments' actual expenditures deviate from planned budgets?
- What different approaches can be used to monitor resource expenditure?

INTRODUCTION

One common reason that policies, plans and programmes that aim to fulfil ESCR end up being underfunded is that the money that is allocated is not spent well. For this reason, it is important to differentiate between budgeted spending (what government officials say they intend to spend when they enact the budget) and actual spending (the amounts that actually go out the door during the course of the year). A budget may have been adequate but not spent entirely. Alternatively, if the amount spent is more than allocated, funds may have been used for purposes for which they were not approved. For this reason, it is also important to look at how "downstream" decisions affect the way allocated funds are actually spent in practice. This chapter outlines the key steps involved in resource expenditure and explains why the expenditure process is important to evaluate from a human rights perspective. It then introduces a number of different approaches to do this, including strengthening oversight and audit bodies, monitoring procurement and monitoring the impact of spending.

12.1. WHAT IS RESOURCE EXPENDITURE?

Resource expenditure, or budget execution, generally follows five steps:

As constitutional or statutory agencies, this is a process that NHRIs also have to follow.

As noted in the final step, the executive branch of government is required to report on its fiscal activities to the legislature and to the public. Expenditures should also be subjected to regular review by an independent and professional body, such as an audit institution or the country's auditor general. The findings of the audit body should be submitted to the legislature, which is responsible for holding the executive accountable for its budget execution practices.

12.2. WHY IS IT IMPORTANT TO ANALYSE RESOURCE EXPENDITURE?

Transparency in and accountability for actual resource expenditure is essential. Access to this information **enables citizens to participate** in determining how public resources are spent in practice and to ensure that these resources are best utilized to benefit society, in line with the State's international human rights obligations. When actual expenditure deviates from planned budgets, less money ends up going to the policies, plans and programmes that can fulfil ESCR. If wasteful, or even extravagant, spending diverts resources away from spending on basic rights, this raises questions about whether the State is meeting its obligation to dedicate the maximum available resources to ESCR. It might also be the case that a diversion of funds or a redirection of expenditure disproportionately impacts particular groups, raising concerns about equality and non-discrimination.

Common reasons why governments' actual expenditures deviate from planned budgets include poor and inefficient financial management systems, corruption, fund diversion, use for unexpected events, inadequate funding, off-budget donor funds or weak oversight.

Poor and inefficient financial management systems weaken the quality of budget expenditures and a government's ability to manage the flow of funds. For example, funds to line ministries might not be dispersed until midway through the financial year. In such situations, ministries might feel pressured to spend the money before the end of the financial year, leading to wasteful and even extravagant spending.

Corruption flourishes when financial management systems are weak and allow public officials to get away with "creative accounting" and procurement irregularities.

Fund diversion sometimes takes place through legitimate channels that are part of the budget process to redirect expenditures. Nevertheless, it is important to determine whether such diversions are for legitimate purposes.

Unexpected events, such as a natural disaster, sometimes require a government to spend contingency reserves. Thus, budgets are sometimes altered by budget amendments.

Inadequate funding to assistance programs that beneficiaries are legally entitled to apply for may obligate a government to increase funding during the year.

Off-budget donor funds (i.e. funding from bilateral and multilateral donors that goes directly to line ministries, and is not reflected in the government budget) may mean that analysing allocations will not give a full picture of funding to a particular issue.

Weak oversight might prevent public audit institutions and legislatures from providing effective oversight of national budgets.

Finally, although it is beyond the scope of this chapter, the procurement of goods and services by a government from private actors has several consequences for the enjoyment of human rights. For example, the human rights and dignity of older people or persons with disabilities may not be respected by private homecare services outsourced by local authorities. If you are interested in learning more about these issues, they are discussed in detail in *Public Procurement and Human Rights in Northern Ireland*, a report published by the Northern Ireland Human Rights Commission.

12.3. HOW CAN WE ASSESS IF EXPENDITURE REFLECTS HUMAN RIGHTS PRINCIPLES?

There is a variety of tools and methods that can be used to track expenditure and assess it against the criteria of **participation**, **transparency** and **accountability**, as summarized in the table below.

Government oversight and auditing	Monitoring the public procurement process	Non-government oversight and auditing of spending
• Financial audits • Compliance audits • Performance audits • Audit opinions	• Differential expenditure efficiency measurement (DEEM) • Integrity pact	• Performance/social audits • Public expenditure tracking surveys (PETS) • Quantitative service delivery surveys (QSDS) • Citizen score cards (on inputs, outputs and outcomes of government expenditure)

Some tools are more formal, structured and macro-level (or "big picture"); these tend to be carried out by official bodies. Others are more ad hoc, informal and micro-level (or small scale). These tend to be carried out by civil society organizations and community groups. A number of these tools are discussed below.

CASE STUDY: AUDITING MENTAL HEALTH CARE SPENDING IN INDIA

In 2012, the National Human Rights Commission (NHRC) in India published an overview of the status of mental health institutions across the country. Based on visits that the NHRC's Special Rapporteur undertook to mental health care institutions between 2009 and 2011, the report offers an assessment of the mental health care field in India. It includes an examination of the budgets of 12 different mental health centres, which evaluated various departments of each of the centres and documented everything from linen expenditures to daily diet charges. On the basis of this analysis, the report recommended an extensive streamlining of budget provisions in order to close the gap between expenditure incurred and goods procured. For example, in order to realize the right to food within these centres, the NHRC recommended that state governments review and revise the per capita allocation on food, in monetary terms, to ensure women receive 2500 calories and men receive 3000 calories per day. Evaluating all aspects of the centres' spending provided a detailed understanding of how finances were being used and where government actions were needed.

12.4. GOVERNMENT OVERSIGHT AND AUDITING

Almost every country has a supreme audit institution that is legally mandated to oversee the management of public finances, such as an Office of the Auditor General, Board of Audit or Court of Accounts. In addition, line ministries may have internal auditors, while municipal governments sometimes establish audit bodies as well.

Audit institutions typically follow one of the following models.

Model	Characteristics
Westminster model	The institution typically has a powerful head – called the auditor general – who can only be removed by the parliament. The model requires the legislature's active participation to follow up on audit findings.
Board model	The institution consists of several members who form part of its governing board and report jointly to the legislature, through committees such as the Public Accounts Committee (PAC). The board might consist of multiple committees ("colleges") specializing in certain technical areas and following different audit approaches. The board model is highly inclusive, but this can also slow decision making and the board may not always speak with one voice, which may undermine consistency.
Judicial model	The institution is made up of judges and is a part of the national judicial system. A key aspect of the judicial model is that government officials are held personally liable for illegal transactions. The institution judges the legality of their actions and can either "discharge" them from further liability or impose a penalty. Unlike the Westminster model, the judicial model has only a limited relationship with the legislature. The institution itself acts on its audit findings, rather than placing the audit reports of individual agencies before the legislature.

Public sector audits generally take one of the following three forms.

12.4.1. Financial audits

In a financial audit, the auditor verifies the accuracy and fairness of the State's financial statements. Specifically, the audior scrutinizes a sample of transactions to establish their authenticity and determine whether the accounts fairly present the Government's financial affairs. The auditor's observations are recorded in an audit report, which may list all errors and irregularities that were uncovered. In many countries, the audit report also contains a formal opinion by the auditor on whether the financial statements present a true and fair picture of the Government's financial position and whether the receipts and payments have been applied as per the budget law. Under a Westminster model, the auditor primarily performs financial audits, rather than compliance audits.

12.4.2. Compliance audits

When conducting a compliance audit, the auditor answers the following questions:

- Has the expenditure been authorized by a competent authority?
- Has the expenditure been authorized by the budget appropriation law and made in accordance with the terms of the law?
- Does the expenditure conform to the procedures (relevant rules, regulations, and orders) promulgated under the country's various public finance and other laws?

12.4.3. Performance audits

In recent decades, auditors in some countries have broadened their mandates to include measuring "value for money". Since the auditor seeks to report on a particular programme's management and technical operations, performance audits are often resource intensive and require large expenditures.

In undertaking a performance audit, an auditor typically reports on the following three factors:

1. **Economy:** Can the programme be run at less expense?

2. **Efficiency:** Are maximum outputs being achieved from minimum inputs?

3. **Effectiveness:** Is the programme delivering its intended results, assessed by measuring programme performance indicators against actual results?

Thus **auditors' reports are an important source of secondary information** about resource expenditure that may be used to hold the Government to account through ESCR monitoring.

Nevertheless, there are a number of challenges that might affect how useful official audit reports are in ESCR monitoring. Findings from audit reports are frequently not released, or parliament does not receive them, or they are written in technical jargon and are not easy to understand. In these situations, NHRIs might prioritize actions to engage more actively with official audits, such as:

- Publicizing the findings from official audit reports; for example, in press releases and radio talk shows

- Recommending special audits on government projects that have been identified as suffering from financial irregularities

- Participating as an advisor or member of an official audit team undertaking performance audits.

Finally, as discussed further below, NHRIs might consider conducting independent audits, either of the procurement process or of the impact of spending.

12.5. MONITORING PROCUREMENT

Governments spend significant public resources on procurement. These expenditures are critical to enabling them to deliver goods and services to citizens. However, they are also extremely vulnerable to corruption. It is therefore important to understand the procurement process.

When a line ministry or government agency needs to purchase goods or services for which it will incur a significant expenditure, the following stages are typically involved: the pre-bidding process; the bidding process; issuing a purchase order; inspecting the goods or services procured; and documenting the accounts payable.

Documents that are typically maintained by the government agency to record procurement transactions include:

- Specifications document setting out the technical guidelines of the procurement process, as well as the details and approximate cost of the good or service required

- Bid documents from potential vendors

- Purchase orders confirming the quantity and specifications of the goods or services required

- Inspection reports, which record any discrepancies between what was ordered and what was delivered

- Accounts payable, which record invoices paid.

It might not always be possible, or necessary, to monitor procurement when evaluating resource expenditure. However, if particular concerns have been raised that money is being "leaked" – for example, through corruption – obtaining and reviewing these documents can be an important tool to use in evaluating expenditure.

12.6. MONITORING THE IMPACT OF PUBLIC EXPENDITURE

Another approach is to evaluate expenditure from the perspective of the frontline service providers (e.g. schools, health clinics) that the resources are intended to reach. Conducting an in-depth interrogation of the flow of resources in this way can be important for uncovering instances where resources are not channelled equitably, so that a low quality of service (e.g. absenteeism of staff, facilities in bad conditions, lack of supplies) affects the poorest most.

Below is a sample of techniques that can be utilized to evaluate the resources that are actually reaching frontline service providers. Each one is introduced briefly and suggested further readings are provided at the end of the chapter. It is likely that the most appropriate technique (e.g. PETS, CSC, QSDS) and way of using it (e.g. what programmes to focus on, the breadth and depth of the research) will depend on the **issues of concern or red flags that were picked up in your analysis of policy efforts**.

12.6.1. Public expenditure tracking systems

Public expenditure tracking systems (PETS) can provide useful information on where money is coming from and where it is being spent. PETS tracks flows of funds and materials from the central government to local service providers, via regional and local governments, in order to determine how much of the originally allocated resources actually reached each level, in particular frontline service providers like schools, health facilities and water and sanitation boards.

PETS can be useful in showing resource leakages; delays and bottlenecks in resource disbursement; inequity in the disbursement of resources; or misconduct by service providers such as "ghost" (or absent) workers. PETS are commonly used to encourage community participation; inclusion; accountability, transparency and access to information; shared responsibility; and access to equitable basic services. **These goals all reflect fundamental human rights principles and are elements of a rights-based approach**.

Implementing PETS generally involves developing a series of questionnaires addressed to the different actors on the supply side of service delivery (including at the level of the service providers, central administration, regional and district levels) and sometimes on the demand side (e.g. students, patients). They might focus on assessing the performance of the overall budget, covering a broad range of resource flows (e.g. recurrent expenditures in a sector, salaries and investments). Alternatively, they could focus on monitoring only a few specific resource flows (e.g. capitation grants), in-kind items (e.g. books) or programmes.

Source: OHCHR, *HRBA Training Materials* (not dated)

Although PETS can be very useful, they are quite challenging to conduct. In particular, accessing relevant information can be difficult. Financial records are often not disaggregated beyond the district level, which can make it hard to see how resources flow to municipalities or villages. They can also take a long time to complete; between 8-12 months, and sometimes longer.

12.6.2. Community score cards

Community Score Cards are "a community-based monitoring tool with a strong focus on empowerment and accountability as it includes an interface meeting between service providers and the community that allows for immediate feedback on quality and adequacy of services provided in the community".

Source: World Bank (2005), *Social Development Notes, SD Note 100*

As a type of survey, community score cards (CSC) can be a useful data collection tool for measuring public services against the AAAQ criteria (see Chapter 7). But they can also be helpful in uncovering gaps between inputs (what funds did the community receive?), outputs (how were the funds used?) and outcomes (how did the projects affect the community?) of government expenditures.

There are various approaches for conducting CSC. For example, the World Bank suggests preparing an input tracking scorecard, a community-generated performance scorecard and a service provider self-assessment scorecard, which are then discussed collectively at an "interface" meeting. Nevertheless, a key feature is that the **community as a whole** can express their **level of satisfaction** with a particular service or facility. A humorous approach to community score cards is shown in the example below.

Example: Scoring budgetary information

Transparency indicator	Grading key
Availability of budget information Timeliness of budget information Accuracy of budget information User-friendliness of budget information Comprehensiveness of budget information	A – Out of this world B – Damn good C – Not too impressive D – Quite bad, actually E – Very disappointing F – Terrible G – Worse than you can imagine

Source: OHCHR, *HRBA Training Materials* (not dated)

Although CSC focus on the community as a whole, ensuring that different perspectives within the community are captured, including the most disadvantaged, is crucial. For example, women, ethnic minorities and others may have very different experiences of service provision. It is critical that these perspectives are captured in the CSC; for example, by ensuring questions are framed to accommodate different perspectives or conducting scoring exercises with particular groups.

12.6.3. Quantitive service delivery survey (QSDS)

Quantitative service delivery surveys (QSDS) go beyond PETS, as they look at the *efficiency* of spending. It also attempts to quantify the factors affecting quality of service, such as incentives, accountability mechanisms, and the relationship between agents and principals.
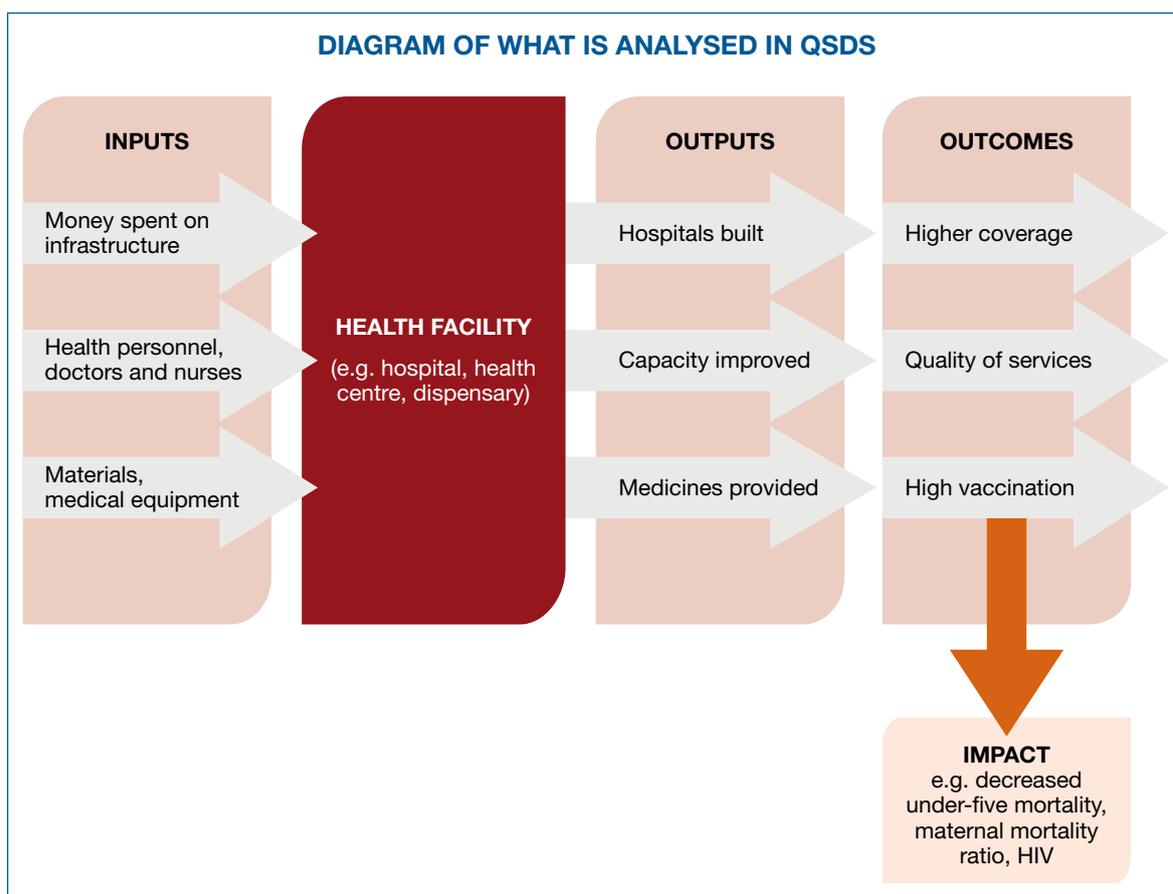
The QSDS is a tool that focuses on the facility (e.g. school, health centre) as the unit of analysis. It collects data about a service facility on:

- Physical infrastructure, staff and their characteristics
- Income and expenditures (budget inputs and outputs)
- Governance and management (supervision and oversight, operations and client feedback)
- Service outputs (accessibility and availability of services, quality, efficiency)
- Other issues of concern.

Public, private and non-profit facilities can all be the subject of a QSDS.

The QSDS is typically implemented in two steps:

1. **Consultations with key stakeholders:** to define the objectives of the survey, identify the key issues, determine the structure of resource flows and the institutional setup, review data availability, outline hypotheses and choose the appropriate survey tool.

2. **Survey instruments are then prepared and implemented:** QSDS collect data from many sources and carefully consider which sources and respondents have incentives to misreport.

DIAGRAM OF WHAT IS ANALYSED IN QSDS

INPUTS	HEALTH FACILITY (e.g. hospital, health centre, dispensary)	OUTPUTS	OUTCOMES
Money spent on infrastructure		Hospitals built	Higher coverage
Health personnel, doctors and nurses		Capacity improved	Quality of services
Materials, medical equipment		Medicines provided	High vaccination

IMPACT
e.g. decreased under-five mortality, maternal mortality ratio, HIV

Source: OHCHR, *HRBA Training Materials* (not dated)

12.7. IN PRACTICE: DECIDING WHEN AND HOW TO AUDIT EXPENDITURE

As noted above, whether and in how much detail you decide to evaluate resource expenditure will depend largely on whether concerns or red flags about spending came up in your analysis of policy efforts. For example, did service delivery providers complain about procurement dysfunctions in key informant interviews? Did policy evaluations note off-budget donor funds as a factor complicating the achievement of the policy's objectives?

If you have a lot of evidence that suggests dysfunctions in expenditure are the main cause for poor service delivery, you might decide to invest more energy in auditing expenditure through PETS, CSC or QSDS. As these approaches involve a fairly large degree of primary data collection, be sure to update your research plan accordingly (refer to Chapter 7 for more details).

If spending was less of an issue in your analysis of policy efforts, or if you are still not sure how much of an issue it is, a first step for looking at resource expenditure could be to review some basic expenditure-related indicators. Relevant indicators might include: the budget execution rate (the amount of allocated money actually spent) for relevant ministries; the percentage of funding that is off-budget; and the availability and accessibility of independent audits (see the Open Budget Index). If this analysis raises some red flags, it may be worth digging deeper into relevant audit reports or procurement documentation. As noted in Chapter 6, because of their ability to officially request (or subpoena) information, NHRIs might be better placed than other organizations to obtain this information or to advocate for its release to the public.

UPDATE FROM AHN

Ahn reviews the Auditor General's annual financial audit reports and notices that the health sector budget is often underspent. In fact, for the past three years, on average only 65% of the Health Ministry's recurrent budget was spent and only 80% of its development budget was spent.

Over the course of her study she has developed a cooperative working relationship with the Health Ministry. So she proposes doing a public expenditure tracking exercise with a sample of municipal hospitals to see where some of the leakages and bottlenecks in resource distribution might be. She does a rapid data assessment to see what information she can get from the hospitals, as well as from the Health Ministry at the national, state and municipal level. She finds that quarterly financial disbursements are released to municipalities very late, while statements of expenditure from the municipal hospitals are returned even later. These delays on both sides have made it difficult to utilize the money for its intended purpose, which in turn has led to wasteful spending.

REFERENCES AND FURTHER READING

This chapter is based on *Our Money, Our Responsibility: A Citizens' Guide to Monitoring Government Expenditures*, published by the International Budget Partnership in 2008.

The following references are also recommended for further reading:

Hakikazi Catalyst, *Follow the Money: A Resource Book for Trainers on Public Expenditure Tracking in Tanzania*

International Budget Partnership (2006), *Expanding Collaboration Between Public Audit Institutions and Civil Society*, Conference Report

Open Knowledge Foundation, *Open Spending Handbook*, available at: http://community.openspending.org/research/handbook/

World Bank, *Public Expenditure Tracking and Facility Surveys: a general note on methodology*

World Bank, *Community Scorecard Process: A Short Note on the General Methodology for Implementation*

World Bank (2002), *Survey Tools for Assessing Service Delivery*

UNICEF, *Public Expenditure Tracking Survey Manual: A social audit tool to monitor the progress of Viet Nam's Social and Economic Development Plan*

Part IV:
Communicating findings

Chapter 13:
Evaluating contextual factors

KEY QUESTIONS

- Why is it important to contextualize data?

- What tools and approaches can we use to analyse contextual factors that affect people's ability to enjoy their rights?

- What tools and approaches can we use to analyse contextual factors that affect the State's ability to fulfil its obligations?

INTRODUCTION

Parts II and III focused on how to collect and analyse quantitative data – including budgetary data – in order to answer the research questions that guide your monitoring activity. Part IV focuses on how to use that analysis to convincingly show whether and how a specific right (or multiple rights) has been violated, in order to advocate for greater accountability. Chapter 14 discusses how to organize findings and recommendations to form the basis of a compelling report. Chapter 15 introduces data visualization as a way to present evidence. Finally, Chapter 16 looks at how monitoring can support and strengthen broader advocacy strategies.

As discussed in Chapter 5, quantitative data has limitations. Although it is well suited to answering questions like "how much", "how many", "to what extent", "where" or "when", it is more limited in terms of answering "why" a situation is the way it is. This is a crucial question to consider before deciding what conclusions to draw from your research. In particular, it is important to have a good understanding of contextual factors. Accordingly, this chapter looks at how to contextualize quantitative data with qualitative analysis. Specifically, it focuses on step four of the OPERA framework: Assessment. It outlines some tools and approaches for analysing broader contextual factors that affect people's ability to enjoy their rights and the State's ability to fulfil its obligations.

13.1. THE 'A' OF OPERA: ANALYSING CONTEXTUAL FACTORS AND LIMITATIONS

Before making any overall conclusions about a country's compliance with its human right obligations, step four of OPERA provides a contextual analysis, in order to reflect on the broader factors that impact on the **ability of rights holders to claim the right(s)** being reviewed, as well as the **capacity of duty bearers to meet their obligations**.

Many of these issues will have been foreshadowed by the data collected in relation to the other steps in OPERA: outcomes, policy efforts and resources. But they are addressed more comprehensively here, by carrying out a kind of "political economy analysis". In effect, this kind of analysis attempts to uncover *why* government efforts have not been more successful. This ensures that the broader context in which the State operates is taken into account as part of the overall assessment. This is the crux of the analysis that OPERA seeks to facilitate: distinguishing between deprivations that might genuinely be beyond the control of the State and those for which the State should be held accountable. This analysis, discussed further in Chapter 14, is essential to ensure that the conclusions you reach are accurate and the recommendations you make are well targeted and actionable.

13.2. WHAT FACTORS MIGHT AFFECT RIGHTS HOLDERS?

There are often many factors that influence human rights enjoyment. This reflects the principle that human rights are indivisible and interdependent. One right is often a prerequisite for the enjoyment of another. As such, denials of one right can foster multiple levels of deprivation. Poor and socially excluded groups are less likely to be able to access information, organize, participate in policy debates and obtain redress, for example. Identifying other rights deprivations or socio-economic, political or cultural factors that inhibit people's ability to enjoy the right(s) under review, or to seek redress when they are the victims of a rights violation, can help identify responses that can be reasonably expected of the State. These can be thought of as "demand-side" factors. In the health sector, these underlying factors are described as "social determinants"; the economic and social conditions under which people live, which affect their health and which have an impact on health inequalities.

In this respect, understanding power relations within a community through a **gender perspective** is particularly important. Within the home, custom may dictate that women should be subordinate to their fathers, their husbands and members of their husbands' families. Young girls and childless women may have less power than older women. Women may be "inherited" by their deceased husband's relatives or divorced women may lose custody of their children. Men may not respect the right of women and girls to choose when to have sex. Socio-cultural norms can disempower women, limiting their ability to freely make decisions regarding their reproductive health. Within schools and workplaces, sexual harassment by teachers, employers or fellow workers is not unusual. Within the community, cultural and religious practices can reinforce the subordination of women to men or may violate women's rights more explicitly. Cultural attitudes, poverty and violence increase women's vulnerability to poor health; for example, to HIV/AIDS. All of these issues have a bearing on women's ability to enjoy their ESCR, although the connection may not always be immediately apparent.

13.3. WHAT FACTORS MIGHT AFFECT THE STATE?

The capacity of the State, as the primary duty bearer, is also relevant to consider. This involves identifying how influence from domestic or international factors might constrain the State's capacity to fulfil the right(s) under review. Although such constraints will vary greatly depending on the context, they may broadly relate to the conduct of third parts and structural dysfunctions.

	Domestic	**International**
Conduct of third parties	For example, corruption by officials; corporate misconduct; elite capture, etc.	For example, corporate misconduct; influence by donors or international financial institutions; conditions in trade agreements, etc.
Structural dysfunctions	For example, decentralization; electoral processes; parliamentary procedures; environmental volatility, etc.	For example, international tax systems; general investment climate; macroeconomic situation, etc.

For example, there may be weaknesses in:

- Institutional arrangements (e.g. lack of coordination, unclear roles and responsibilities)
- Leadership (e.g. nepotism, corruption)
- Knowledge (e.g. of human rights obligations) or expertise (e.g. to develop policies in line with these obligations)
- Accountability (e.g. absence of feedback mechanisms, audit systems)

These can be thought of "supply-side" factors.

Leader of Choti Tumbi gram panchayat in the Indian state of Madhya Pradesh addresses a community meeting. Photo by UNDP India, reproduced under a CC BY-NC-ND 2.0 license.

13.4. ANALYSING THESE FACTORS

In diagnosing how demand-side and supply-side factors might be limiting the realization of rights, it is important to go beyond general claims such as "lack of political will" or "poor governance". The key is to pinpoint precisely where the barriers, bottlenecks or other dysfunctions arise. In some cases, there may already be **secondary literature** that can assist your research. **Community consultation** is an important method for understanding demand-side factors. **Key informant interviews** are an important methodology for understanding supply-side factors. In other cases, the following analytical tools – which come mainly from international organizations working in the development field – might also be useful.

13.4.1. Power mapping

A power map is a visual tool that can help identify who influences a particular issue, what kind of influence they have (i.e. positive or negative), how they influence it and who they are influenced by. The mapping generally starts with a specific actor at the centre of the map and moves out concentrically from there, identifying other key actors and noting the nature of their relationships. Power mapping could start with either the rights holder or the duty bearer at the centre. However, this path might not always be very linear and the technique can be amended as required.

Power mapping can help visualize the flow of resources, influence and decision making. It can help untangle the complexities and the dynamics that lead to and sustain human rights abuses. Because of its visual nature, power mapping can be used to structure a participatory discussion with communities or other stakeholders. One advantage of power mapping is that it requires little technology. A whiteboard or single sheet of paper can be enough. It focuses on quickly collecting qualitative and relative information about the various actors and, therefore, does not require detailed quantitative data to be effective.

However, it is important to note that power-mapping is ultimately a brainstorming exercise. In some cases, it might not be enough to rely on the expertise (or assumptions) of those creating the map to establish that particular actors have a relationship or the nature of such a relationship. Gathering the evidence to confirm the nature of the relationship, especially a financial relationship, might require other tools, such as reviewing agreements or contracts, auditing or financial reports, or conducting surveys with relevant stakeholders.

13.4.2. Capacity gap analysis

Capacity gap analysis works on the basic assumption that rights are not realized because rights-holders lack the capacity to claim their rights and/or duty-bearers lack the capacity to meet their duties. The analysis starts by pinpointing what capacity is *needed* and then compares this with what capacity *currently* exists. The difference between the required capacity and actual capacity is the "capacity gap".

"Capacity" is defined here in a broader sense, incorporating the following five components.

Concept	Description
Responsibility, motivation, commitment, and leadership	This focuses on the personal knowledge, beliefs and motivations of individual duty bearers. For example, does the duty bearer acknowledge that he/she should do something about a specific problem? Has he/she accepted and internalized their duty in legal or moral terms? If not, what could convince him/her to do so?
Authority	Does the duty bearer have the permission to take the action that is needed? Does the rights holder have standing to challenge official actions? Laws, formal and informal norms and rules, tradition and culture largely determine what is and is not permissible.
Access and control of resources	Does the rights holder and/or duty bearer have the resources to act? The resources available to individuals, households, organizations and society as a whole may generally be classified into: human resources, economic resources and organizational resources.
Rational decision making and learning	Is the duty bearer able to act on the basis of logical, informed, evidence-based decisions?
Communication capability	Does the rights holder and/or duty bearer have the capability to communicate and to access information and communication systems? Communication is also important in "connecting" various key actors in the social fabric into functional networks able to address critical development issues.

A simple capacity gap analysis template lists the rights holders and relevant duty bearers, what action they should be taking and the "gaps" that prevent them from doing so. When using capacity gap analysis as a tool for assessing broader contextual factors, it is important to bear in mind that:

- Gap analyses often do not adequately recognize or value existing capacity, nor factor this into recommendations for change

- The statement of the "ideal situation" can sometimes be far too ambitious to be helpful in setting realistic goals and objectives for future action

- Effective gap analyses identify more than simply "hard" capacities (e.g. resources) and pay attention to "softer", less tangible capacities (e.g. influence, good will, personal connections).

13.4.3. Political economy analysis

Political economy analysis is concerned with the interaction of political and economic processes in a society. It is a tool that examines the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time. In this respect, it is more comprehensive than power mapping and capacity gaps assessment.

Political economy analysis might be carried out in a way that focuses on:

- **Macro-level country analysis:** to enhance sensitivity to the country context and understanding of the broad political economy environment

- **Sector-level analysis:** to identify specific barriers and opportunities within particular sectors (e.g. health, education, roads)

- **Problem-driven analysis:** to help understand and resolve a particular problem or examine a specific policy issue (e.g. public financial management reform).

Although there are a number of different approaches for conducting political economy analyses (e.g. interviews, community consultations), there are some common concepts they seek to address.

Concept	Description
Structures	Fixed or systemic features that affect the political economy of a country, which tend to change only slowly over time and are beyond the direct control of stakeholders. *Examples:* economic base and level of development, climate and geography, population dynamics, status of poverty and equity/inequality.
Institutions	Related to the "rules of the game," including formal and informal institutions. *Examples:* constitutional set-up, electoral rules, political system, body of law, structure of government and ministries, policy and budget processes, social norms and expectations, patronage networks, rent-seeking arrangements.
Actors, stakeholders and interest groups	Individuals and organized groups who have influences, power relations and positions. Where individuals or organizations have similar aims and face similar incentives, they may be recognizable as a distinct interest group. *Examples:* political parties, ministries, the military, business associations, NGOs, religious organizations, trade unions, farmers' associations, external donors, foreign investors, other governments, international crime organizations.
Incentives	Incentives are the driving forces of individual and organized group behaviour. They depend on a combination of: (i) the individual's personal motivations (material gain, risk reduction, social advancement, spiritual goals) and (ii) the opportunities and constraints arising from the individual's principal economic and political relationships. Perverse incentives are those that have an unintended and undesirable result (i.e. that encourage a duty bearer to act contrary to his or her obligations).
Historical legacies	Because historical legacies can shape current dynamics profoundly, summarizing key trends, events, processes and policies, especially in relation to the project that is being assessed (e.g., impact of colonial and postcolonial era on education policy choices).
Rents and rent-seeking	Income generated by privileged access to a resource or politically created monopoly rather than productive activity in a competitive market. Some political systems revolve around the creation and allocation of such incomes, hence "rent-seeking".
Patronage networks and "clientelism"	A political system where the holders of power (patrons) seek to maintain their position by directing privileges to particular individuals or groups (clients) in a manner that is intended to strengthen political support and/or buy off political opponents. Patronage politics is a common explanation of why governments often direct resources towards narrow groups of beneficiaries, rather than the public good. In such a system, formal and informal institutions (strongly) diverge, and informal rules destabilize formal ones.

13.4.4. Governance indicators

In addition to the qualitative methods outlined above, there are a number of initiatives that attempt to take a more quantitative approach to measuring contextual factors. They could also be a relevant source to cite under step four of OPERA.

For example, the **Worldwide Governance Indicators** (WGI) report aggregates individual governance indicators for six dimensions of governance: (1) Voice and accountability; (2) Political stability and absence of violence; (3) Government effectiveness; (4) Regulatory quality; (5) Rule of law; and (6) Control of corruption. These aggregate indicators combine the views of a large number of enterprise, citizen and expert survey respondents in industrialized and developing countries. They are based on 32 individual data sources produced by a variety of survey institutes, think tanks, NGOs, international organizations and private sector firms. Data on the WGI is available for 215 economies from 1996 onwards.

Similarly, the **Resource Governance Index** scores and ranks 58 countries based on the degree of transparency and accountability in their oil, gas and mining sectors. This index explores four key questions: Does the prevailing legal and institutional framework support transparency and accountability? What information is published about the resource sector? What safeguards are in place to promote integrity in its governance? Is the broader institutional environment conducive to accountability?

Transparency International's **Global Corruption Barometer** is another useful tool. It is the world's largest public opinion survey on corruption, collecting the views of over 114,000 people in 107 countries on 12 questions on corruption.

While these indicators can be helpful in some cases, it is also important to bear in mind that concepts like "rule of law" and "regulatory quality" are complex concepts that are open to different interpretations and different perspectives. By summarizing these concepts in a number, a lot gets hidden, especially biases and assumptions about what makes "good governance". For example, the World Bank publishes "Doing Business" rankings, which score countries on how they regulate business. They have been heavily criticized by social justice advocates for awarding some countries with high points when those countries have fewer regulations on the purchase of land, lower corporate tax rates and policies that can facilitate land grabs and resource exploitation.

13.5. IN PRACTICE: RESEARCHING CONTEXTUAL FACTORS

Quantitative data alone is not enough to draw conclusions about a State's human rights performance. Some degree of qualitative analysis is needed because it helps explore the contextual factors that influence "why" a situation is the way it is. For this reason, it is important to identify and reflect on these factors before making a final assessment of a State's compliance with its human rights obligations.

As noted above, it is likely that some these factors will have be identified from analysing the data previously collected for your research. In some cases, therefore, it may only be necessary to brainstorm how these different issues fit together so that you can explain them more clearly in your report. In other cases, these broader contextual factors might be so fundamental to the issue that your NHRI is investigating that additional research is needed.

If this is the case, there are a number of approaches that can be used to conduct further research into these contextual factors, including: secondary literature searches; community consultations: key informant interviews; power mapping; capacity gap analysis; political economy analysis; and governance indicators. Which approach is best in a particular context will depends on the goals and objectives of your monitoring activity and the capacity of your NHRI.

UPDATE FROM AHN

Ahn reviews the notes she took from her key informant interviews with health workers and administrators, as well as the focus group discussions with indigenous women's groups. On the basis of these notes, she develops a power map showing how different actors relate to one another. For example, many indigenous women noted that their husbands and mothers-in-law were the primary decision makers with regard to health care.

She also makes a list of the capacity gaps that these different actors face, as well as the other contextual factors that impact on them. For example, she heard many comments that women's ill health during pregnancy is often due to poor diet; changing weather patterns had made it harder to grow traditional crops.

The health administrators she speaks with note that local politicians have a lot of discretion about how community health initiatives are funded, particularly when the funding comes from international donors. This leads to a situation where their supporters and allies are privileged in procurement decisions, public-private partnerships and programme funding. She also conducts some additional desk research, finding secondary literature from academics focused on health economics. These articles describe how decentralization of the health care system has concentrated power within the health sector and fostered corruption.

EXERCISES

1. Review the measurement tools outlined above (Worldwide Governance Indicators, Resource Governance Index, Global Corruption Barometer). How does your country perform on their most recent rankings?

2. Compare each of the measurement tools. How would you assess them in terms of how clearly defined the indicators are, how relevant and legitimate they are, and how transparent their data sources are (see Chapter 4 for a discussion of these criteria)?

3. Can you suggest any other indicators that measure the broader contextual factors discussed in this chapter?

REFERENCES AND FURTHER READING

This chapter is based on *The OPERA Framework: Assessing compliance with the obligation to fulfil economic, social and cultural rights*, published by CESR in 2012.

The following references are also recommended for further reading:

CESR (2012), *Assessing fiscal policies from a human rights perspective: Methodological case study on the use of available resources to realize economic, social and cultural rights in Guatemala*

Department for International Development, United Kingdom (2009), *Political Economy Analysis How To Note*

Swedish International Development Cooperation Agency (2013), *Power Analysis: A Practical Guide*

University of Sydney [VIDEO], *Mapping for Human Rights and Social Justice Violations*.

Chapter 14:
Drawing conclusions and making concrete recommendations

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KEY QUESTIONS

- How can we combine different data collected and draw conclusions from it?
- What makes for a compelling, well-argued report?
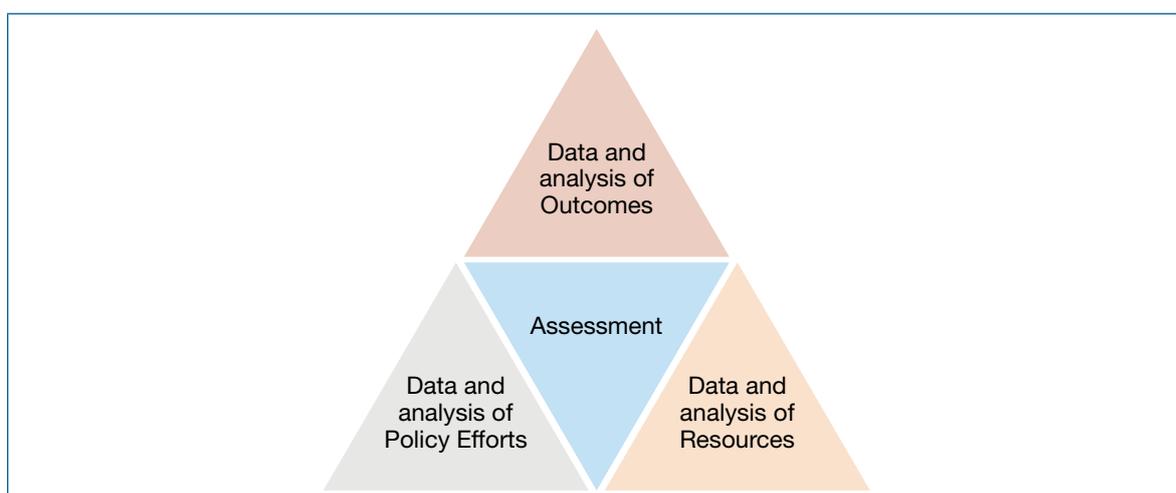- What makes recommendations effective?

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INTRODUCTION

The previous chapter discussed how to analyse and better understand the contextual factors that impact on rights holders and duty bearers. This information can then be reviewed and combined with the data on outcomes, policy efforts and resources, which has previously been analysed against various human rights norms, to make a final assessment of the State's compliance with its obligation to fulfil ESCR.

This chapter discusses how to draw together findings from each step of the OPERA framework, as well as how to organize those findings into a compelling report. In particular, it explains how to link poor outcomes with failures of policy efforts and resources, in order to make a well-evidenced argument that the State is not fulfilling ESCR. It then looks at how to make specific, actionable and measurable recommendations on the basis of the report's findings. These recommendations can, potentially, form the basis of future monitoring work.

14.1. TRIANGULATING FINDINGS

The different steps of OPERA each focus on particular human rights norms that need to be taken into consideration when judging a State's fulfilment of ESCR. Each step provides a piece of the puzzle. The real value of OPERA is the way that these different pieces of the puzzle all fit together.

Mother feeding her child, Gaza. Photo by Natalia Cieslik/World Bank, reproduced under a CC BY-NC-ND 2.0 license.

The assessment in step four of OPERA combines and cross-references quantitative data and qualitative information in **three key areas** – outcomes, policy efforts and resources – with broader contextual factors. By investigating an issue from a number of different dimensions, it is possible to illustrate the often **opaque causal relationships** between them. For example, let's say we have data that shows that:

- Severe, acute malnutrition is prevalent among children in pastoralist and semi-nomadic indigenous groups, much more so than any for other group, and

- The Government's food security initiatives are inaccessible to pastoralist and semi-nomadic indigenous groups, and

- The social welfare ministry, itself underfunded, has not dedicated resources to scaling up its initiatives because pastoralist and semi-nomadic indigenous groups are not a priority group, despite their economic marginalization.

If we were just monitoring malnutrition rates, or just monitoring service delivery, or just monitoring the allocation of resources, the interconnectedness of these issues – as well as the way they lead to patterns of discrimination, exclusion, impunity and powerlessness – would be hard to explain.

However, by connecting – or "triangulating", to use a social science term – findings on outcomes, policy efforts and resources, a much fuller picture should emerge about the **reasonableness** of the Government's efforts to progressively realize ESCR and about the barriers that prevent commitments made on paper translating into practical action that has a meaningful impact on the ground.

14.1.1. Correlation is not causation

This final assessment is not a mechanical, formulaic exercise, however. The conclusions about human rights compliance that can be drawn from quantitative data alone should **not be overstated**. Just because there is a relationship between two pieces of data (e.g. an increase in pension rates and a decrease in poverty rates), it does not necessarily mean that one *caused* the other. This is especially the case given the time-lag between the implementation of a particular policy decision and detectable effects on the ground. For this reason, human rights advocates will rarely be able to prove full, incontestable causality between the State's efforts and the results of those efforts.

There is no magic mathematical formula that will tell you whether or not the State is complying with its human rights obligations. The final judgment must be a **considered evaluation** of all the evidence. Quantitative data makes an important contribution to analysis at each step, however the final judgment must be a qualitative one, contextualizing numbers with human knowledge and interpreting available evidence regarding the State's obligations of conduct and result.
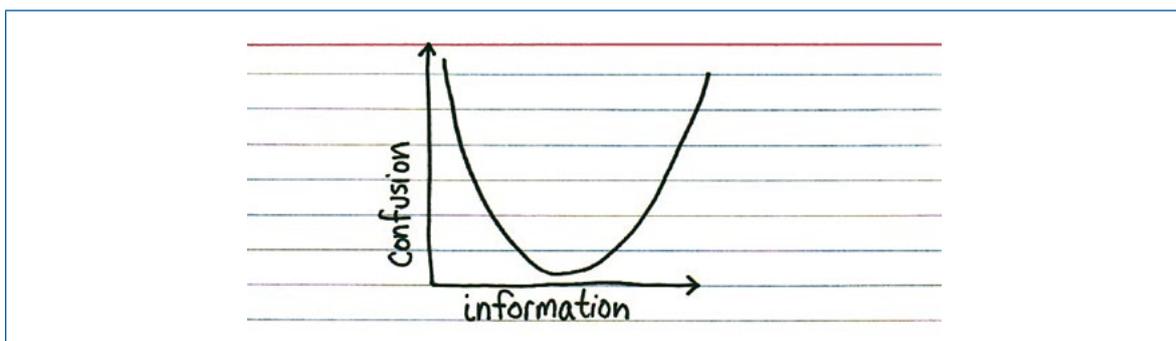
For this reason, it may not be possible to conclude, with total confidence, that the particular chain of events or factors uncovered in your research has led to a particular outcome. As discussed in Chapter 3, the links between the situation of rights holders and the conduct of duty bearers can be indirect. Nevertheless, it may not always be necessary to be so definitive; the degree of certainty with which conclusions need to be made will vary depending on the objectives of your monitoring activity.

As discussed in the introduction to this Manual, monitoring might be undertaken for a variety of purposes. Monitoring for the purpose of verifying complaints of alleged violations (i.e. fact-finding) might require a higher standard of proof or degree of substantiation of findings. More cautious conclusions might be appropriate when the purpose is to conduct a general study to raise questions about a particular situation (i.e. auditing). For example, reporting that the evidence "suggests" maximum resources are not being utilized, or that a policy "appears" to have a discriminatory effect, may be enough to draw correlations and identify "red flags" where improvements are needed, opening space for debate and dialogue about alternative approaches.

14.2. DRAFTING YOUR REPORT

Despite the wide range of monitoring activities and purposes, the objective of any monitoring report, broadly speaking, should be to inform the audience about a problem and persuade them to take action to improve the situation. However, this is not always an easy task. Having gathered a lot of valuable and interesting information during the course of the monitoring activity, it can be tempting to include everything.

Nevertheless, as the accompanying graph demonstrates, this can be counterproductive. Including everything can make it harder for your audience to understand your conclusions and the supporting evidence. If you try to cover too many points, you will lose the reader's attention. Concise reports – between 20 and 30 pages – generally have the most impact. It is also critical to focus on the main findings and develop solid arguments to support them.

Source: Jennifer Hagy, via Tactical Tech

14.2.1. The narrative "arc" of a report

Amnesty International recommends the following questions to help you structure a compelling and effective report:

- What should the report achieve?
- Who needs to read it – in other words, who can help make a difference?
- What are the main points about the problem which need to be highlighted?
- What action or actions should the responsible authorities take?
- How will principles such as accuracy and confidentiality be considered?

A common structure for a report is:

1. **Introduction:** Briefly describe what the problem is and what needs to be done.

2. **Explaining the problem:** The main body of the report should follow a logical narrative to show:

   - Who is affected by the problem and how it impacts their lives
   - What actions by the authorities or others caused the problem or allowed it to worsen
   - How current situation contradicts their human rights obligations under national laws, policies or international standards.

3. **Conclusion:** Summarize your main findings. No new information should appear in this section. Repeat and reinforce your main findings.

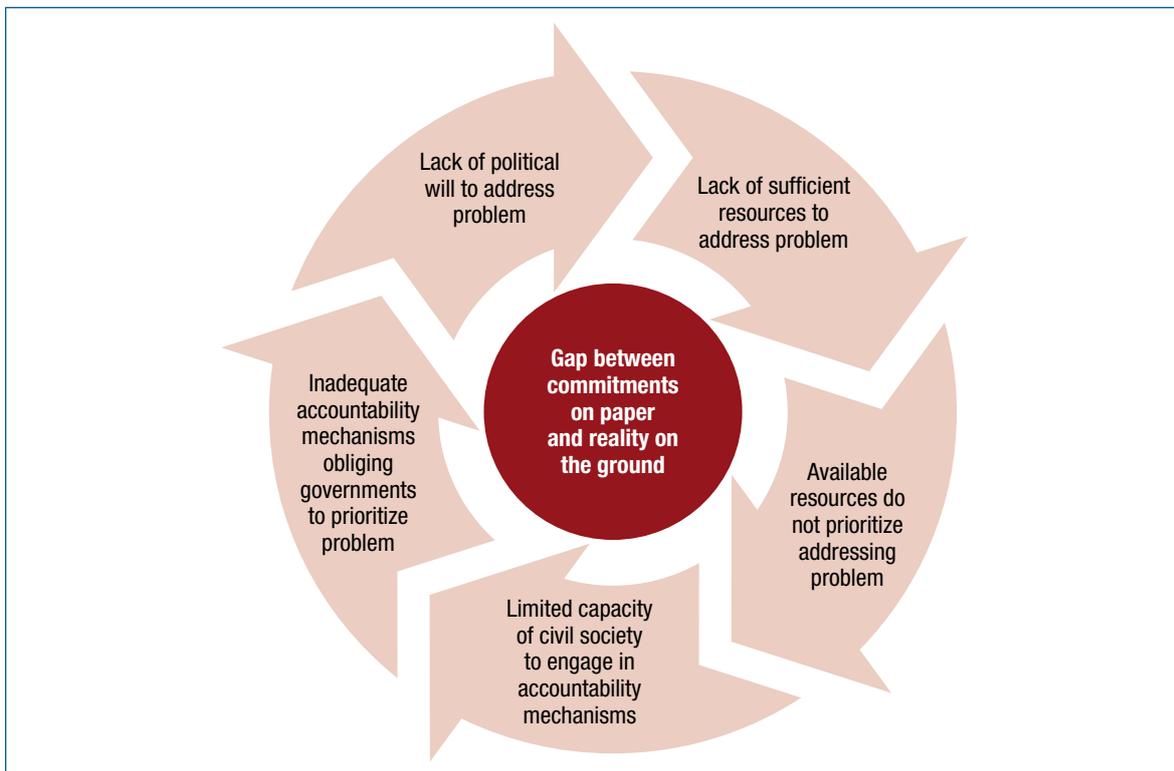4. **Recommendations:** Propose remedial action that should be taken.

Using OPERA as a structure to explain the problem can provide a logical flow for your narrative. In other words, the body of the report could include a section on outcomes, a section on policy efforts, a section on resources and a section to assess contextual factors.

It is also important that describe your research **methodology** in the introduction that clearly explains how you sourced the evidence that supports your findings and conclusions.

14.2.2. Thematic focus

As discussed above, OPERA can be used like a diagnostic chart, helping to establish the often opaque causal links between conduct and result. It may show, for example, that a particular problem is attributable to inadequate or discriminatory use of resources, inadequate policy efforts, a lack of participatory processes, or other factors. As shown in the diagram, these factors are often interrelated and feed into one another. However, you might find that one or two factors seem particularly problematic in relation to the issue that is the subject of your monitoring activity.

Accordingly, it might not be necessary to give equal weight to each of the four steps of OPERA in your report. You might choose to focus on a particular theme; for example, on fiscal policy, or corporate influence, or decentralization, or weaknesses in accountability mechanisms.

14.2.3. Case studies and stories

Including case studies and personal stories in your report can be tremendously powerful, both for the person whose story it is and for the person reading it. These stories give effect to the principle of empowerment, recognizing that human rights monitoring activities should be about people, first and foremost. They also give a "human face" to the report's analysis, helping readers to understand the impact of a particular situation on individual's lives and to identify with their experiences. For this reason, finding ways to capture personal stories – in writing, pictures, audio or video – is critical. Nevertheless, if confidential information is gathered from individuals or organizations, it should remain that way in your report. Changing or omitting names may be necessary. In line with a rights-based approach, it is crucial to ensure you have the informed consent of any individuals whose stories you feature in your report.

14.2.4. Writing style

There are some basic principles that should guide the report writing process, to ensure that the report can effectively communicate its key messages to its intended audiences for its intended purpose:

- Write in clear, concise language
- Be measured and avoid exaggeration; rely on fact rather than rhetoric
- Quote directly from the evidence, especially the evidence of affected individuals or communities
- Ensure sources are properly referenced or footnoted
- Clearly distinguish when the report is recording the views of others and when the NHRI's findings and conclusions are being expressed.

CASE STUDY: THE CANTERBURY EARTHQUAKE RECOVERY IN NEW ZEALAND

In its report, *Monitoring Human Rights in the Canterbury Earthquake Recovery* (see Chapter 2), the New Zealand Human Rights Commission (NZHRC) included "Community voices", one-page case studies profiling the stories of different Canterbury residents that related to the topic of a particular chapter. These stories come from excerpts of interviews with people who approached the NZHRC seeking assistance. They provide a powerful illustration of how the issues and concerns raised in the report impacted on people's everyday lives. The report was also informed by the NZHRC's community development work, including a project designed to empower young people to record and reflect on post-earthquake issues in their communities through photography. The photographs included in the report give the reader an insight into the challenges facing the community that text alone would not be able to convey.

Post-earthquake, Christchurch, Canterbury, New Zealand. Photo by seabirthnz, reproduced under a CC BY-ND 2.0 license.

14.3. MAKING RECOMMENDATIONS

Channels for securing accountability for failures to fulfil ESCR are generally less punitive than for violations of physical integrity and other civil and political rights. Even "hard" judicial remedies for ESCR violations often involve a "dialogic" approach. This means the court will declare that there has been a violation of a right but will leave it to the elected branches of government to decide on the manner and means of addressing it (within certain parameters). For this reason, rather than simply denouncing rights violations, the goal of a monitoring report should be to prod or push relevant decision makers to take a particular course of action.

Monitoring failures to fulfil ESCR is often more focused on identifying areas for structural reform, rather than identifying individual perpetrators. For this reason, recommendations are generally policy-oriented and propositional.

SMART

S – Specific
M – Measurable
A – Ambitious
R – Realistic
T – Time-bound

As with the benchmarks discussed in Chapter 4, recommendations should be "SMART" so that their implementation can be monitored. To develop SMART recommendations, it is useful to ask the following questions:

What is the change you want to see? Identifying "real world" outcomes keeps the focus on those people affected by the human rights violation. Examples might include reducing the illiteracy gap between girls and boys over the next 15 years or increasing health insurance coverage to 80% of the population in the next seven years.

What is the action needed to make that change? Identifying the policy efforts and resources needed is important to foster accountability among duty bearers by requiring them to explain and justify failures to take the actions recommended.

Who is responsible for taking action? In most cases, there will be different recommendations for different branches of government. However, you may also have recommendations for companies, civil society organizations and other groups.

If recommendations are presented in a quantified way, they can be used as benchmarks for ongoing monitoring. Consulting sector experts can be helpful in ensuring that such benchmarks are ambitious, as well as realistic and achievable.

14.4. IN PRACTICE: PREPARING A FIRST DRAFT OF YOUR REPORT

A helpful way to compile and organize your evidence is to prepare a rough outline of your report. At this point, the strongest correlations and main themes will become apparent. Based on this, you may want to revise your outline to prioritize the most important and compelling arguments, as well as remove information that is less relevant. Once you have completed a first draft, it can be valuable to have an external reviewer read through the report to look for untested assumptions, possible gaps, inconsistencies, inaccuracies and bias.

UPDATE FROM AHN

By adopting a robust analytical framework and methodological approach, Ahn has been able to conduct a rigorous policy analysis that uncovers the reasons for indigenous women's high maternal death rates. She drafts her report, focusing on the theme of resource expenditure. She includes detailed recommendations to the Government on the need for higher social spending, a better distribution of this expenditure and stronger systems of social auditing and accountability. In consultation with public health specialists, she sets out targets and timeframes for each recommended action.

QUESTIONS FOR REFLECTION

The aim of this exercise is to help you think about the recommendations that your NHRI has made in previous monitoring reports.

1. Find an example of a recommendation in a previous monitoring report that:

    • Compares well to the SMART criteria. What is good around it?

    • Compares poorly to the SMART criteria. How could it be improved?

REFERENCES AND FURTHER READING

This chapter is based on *Haki Zetu – Economic, Social and Cultural Rights in Practice: Main Book* [Part II: Working with economic, social and cultural rights], published by Amnesty International in 2010.

The following references are also recommended for further reading:

CESR (2012), *The OPERA Framework: Assessing compliance with the obligation to fulfil economic, social and cultural rights* [Step 4 – Assessment: Understanding constraints before assessing compliance]

CESR (2012), *Assessing fiscal policies from a human rights perspective: Methodological case study on the use of available resources to realize economic, social and cultural rights in Guatemala*

Rights and Democracy (2011), *Getting it Right: Human Rights Impact Assessment Guide* [Phase E: Analysis and Report], available at: http://hria. equalit.ie/en/index.html

Chapter 15:
Data and design:
Communicating through visualization

KEY QUESTIONS

- How can data visualization help communicate the report's key findings?

- What are some of the basic types of data visualization and what can they be used to show?

- What are some of the key principles of data visualization?

INTRODUCTION

As you draft your report, it is important to consider how best to present the evidence that supports your findings. To have an impact, findings needs to be presented, shared, explained and promoted to a variety of audiences: policymakers, decision makers, the media, civil society organizations, the general public and the rights holders themselves. It is therefore important to communicate your findings in a clear, compelling and easy-to-understand way.

This chapter introduces the concept of "data visualization", which is an important tool to your audiences and convey vital information. It also discusses some of the key features and principles of data visualization.

Data visualization does not need to be overly complex; after all, people have represented information graphically for thousands of years, all the way back to the earliest cave drawings. The concepts introduced in this chapter will be relevant whether you are preparing basic graphs yourself or collaborating with a professional designer on more advanced infographics.

15.1. THE IMPORTANCE OF VISUALIZATION IN ADVOCACY

The clichéd saying that "a picture speaks a thousand words" – or, in this case, a graph can replace a table full of numbers – is particularly relevant in relation to the use of data in reports on ESCR. Reports filled with numbers and statistics can easily lose a reader and hide important information. To effectively meet their advocacy objective, it is not enough for NHRIs to simply cite a lot of quantitative data in their reports. They need to *interpret* this data and highlight insights and important findings about the State's compliance with its human rights obligations in ways that are easy to understand. Consider, for example, the table and the graph below, which both contain the same information about the percentage of the budgetary spending on health in selected countries in South-East Asia. Which sends the clearer message about trends in Myanmar's spending on health?

Country name	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Cambodia	8.35	14.78	16.52	11.64	6.71	7.21	6.39	5.94	6.14	6.21	6.72
Laos	6.06	6.74	5.37	4.11	6.85	5.67	5.48	9.06	5.41	6.08	6.08
Myanmar	10.29	1.60	1.65	0.99	1.35	1.09	1.24	1.30	1.59	1.50	1.50
Thailand	9.77	12.98	12.37	12.36	13.74	14.47	15.82	14.70	13.93	15.35	14.21
Vietnam	6.26	6.00	5.49	5.24	7.48	9.20	8.04	8.52	10.10	10.15	9.47

HEALTH EXPENDITURE, PUBLIC (% OF GOVERNMENT EXPENDITURE)

Source: World Bank Data

Presenting information visually allows the reader to quickly identify patterns, trends and outliers in the data. It helps to highlight information that may otherwise remain hidden. For this reason, it is a valuable tool for prompting your reader to think about an issue in a new way.

Nevertheless, using data to create a narrative for advocacy requires a careful balancing act. It is important to:

- **Think strategically about the position of your audience:** What do they already know or not know? What is it that you want them to understand and why?

- **Work outwards from the data:** Be clear about what the data does and does not say. Consider whether the data needs to be simplified, contextualized or complemented with other data to make your key point.

- **Design your data:** How will you bring your story together with the details in your data? How can you frame it in a succinct and compelling way without misleading or over-generalizing?

- **Find visual stories:** What visual devices will you use to present the information in an engaging way? How will the visual design help organize and give meaning to the information?

These questions can help you decide on the type of data visualization most appropriate for your report.

CASE STUDY: ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFGHANISTAN

In its 2011 report on ESCR, the Afghanistan Independent Human Rights Commission (AIHRC) uses visualized data derived from interviews (see Chapter 7). For example, to illustrate demographic data about their interviewees, the AIHRC created bar and pie graphs on the ethnicity, gender and province of the individuals, as well as whether or not they identified as a "returnee" from Iran, Pakistan or other countries. Visualized data was also used to show the problems in public health services. For example, pie graphs illustrated the main categories of problems: "lack of medicine and equipment" and "no health services in our village" were two of the most frequent answers. Further, as this report is part of a series monitoring the ESCR status of Afghan citizens, the graphics offer future opportunities for time-series comparisons.

15.2. TYPES OF DATA VISUALIZATION

Graphs are a visual representation of the relationship between different pieces of quantitative data (called variables). Some types of graphs illustrate some types of relationships better than others. The first question in deciding what kind of graph to use is: What is the type of relationship that you want to show? Do you want to compare one variable over time? Rank multiple variables? Show one variable as a percentage of another? Your analysis of the data (see Chapter 8) should help to answer this question. The following table provides an overview of some of the different visualization formats you can use to present the data.

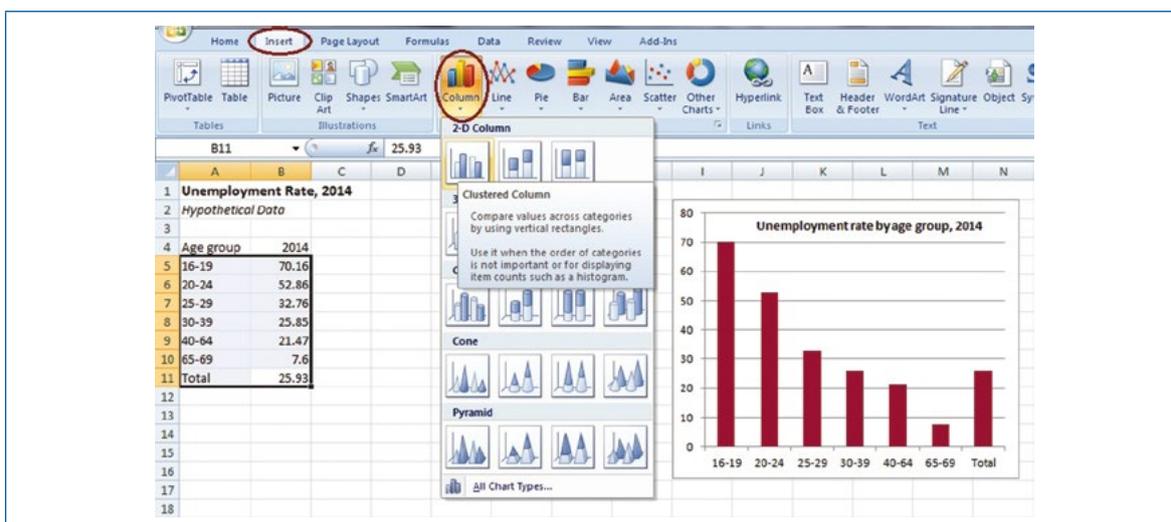| What do you want to do?	Chart format
Compare values from different variables	Column or Bar
Follow values over time (time series)	Line
Show proportional breakdowns	Pie
Show the interaction between two values	Scatter

15.2.1. Column and bar charts

Column and bar charts are the most common way to present quantitative data. They are simple to create and to understand. They are best used when comparing data from different categories. For example, you might want to show differences in the unemployment rate across age groups.

Reading column and bar charts is simple. The values are usually ordered as categories on the "X" or "Y" axis (for column and bar charts, respectively). In the example below, these values are the age groups. The values are expressed as bars (horizontal) or columns (vertical) and the extent of the bars is the value. As simple as it is there are a few rules to keep in mind:

- Do not overload column and bar charts. Although you can do multiple colours and multiple categories, if there are too many categories the chart becomes confusing.
- Always label your axes. The reader needs to understand what units or values presented.
- It is generally advisable to start your values at "0" so that the chart shows contrast in an appropriate scale.

You can build column or bar charts in Excel by following these steps:
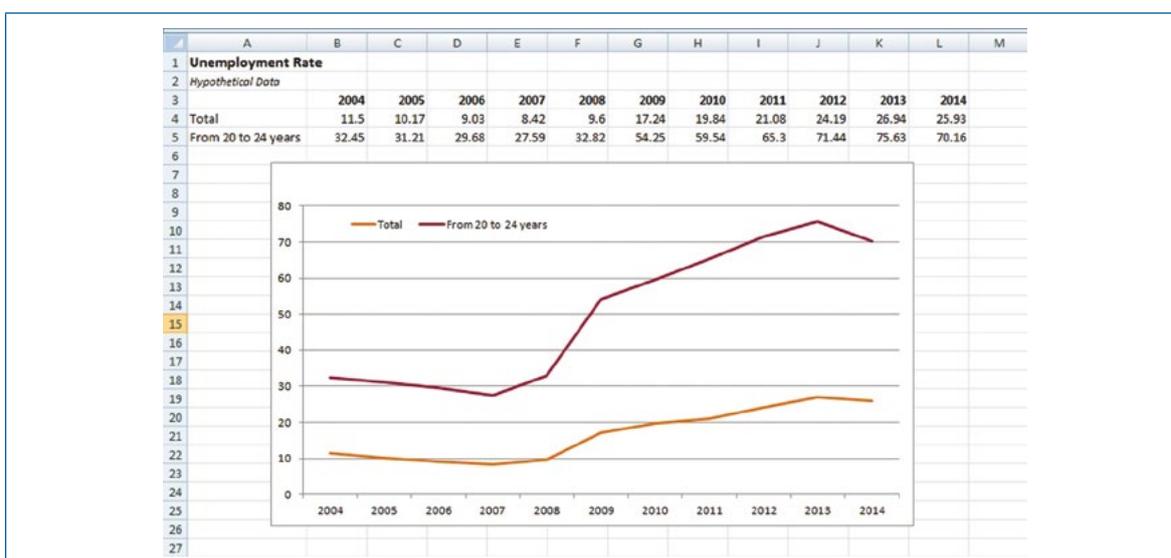
1. Filter and sort the data you are interested in visualizing (sorting by ascending or descending order makes the chart easier to read).

2. Select the data you want to use to create the chart and select "Column" from the "Insert" tab at the top of the page.

Experiment with the "Chart layouts" and "Chart styles" settings to remove or reposition the legend, change the colour of your columns and so on. You can also change it to a bar chart using these settings. You can also experiment with other types of chart by following the same instructions.

15.2.2. Line charts

Line charts are appropriate when you have categories and values over time (e.g. unemployment rates by age groups from 2004–2014). The values will remain on the "Y" axis, with time on the "X" axis. For example, you might want to show the evolution of youth unemployment over the past ten years. You can also add multiple lines to the chart and you could compare the trend in youth unemployment with that of total unemployment.
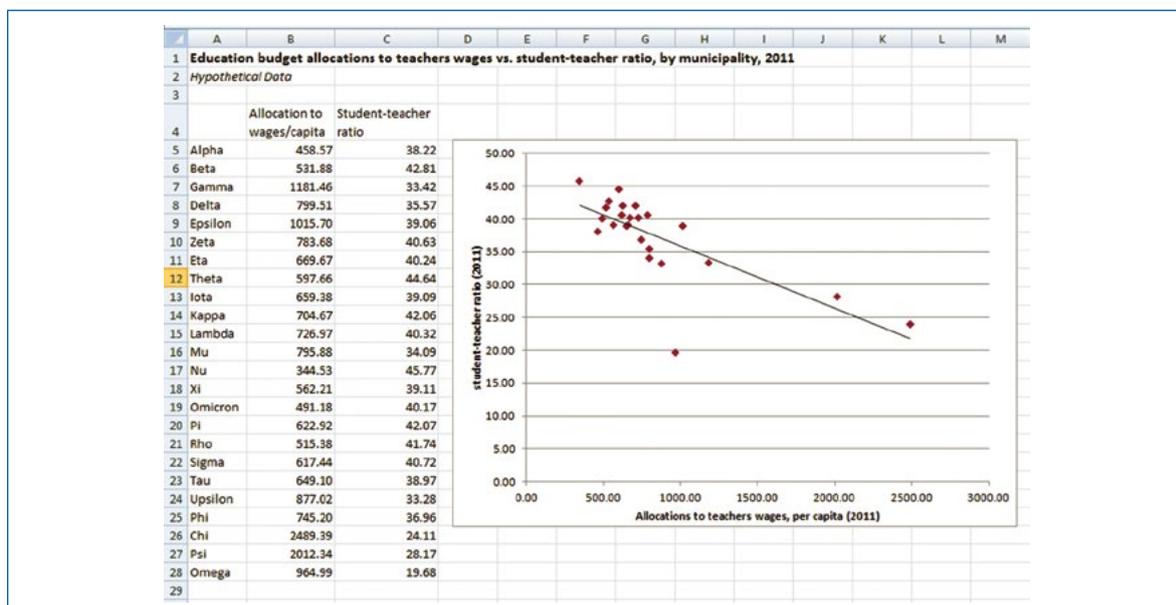
15.2.3. Pie charts

Pie charts are generally used to show percentage or proportional data. Generally, the percentage represented by each category is provided next to the corresponding slice of pie. These are a visual way of displaying data that might otherwise be given in a small table. They are useful for displaying data that are classified into nominal or ordinal categories (e.g. reasons why people are unable to access health services or how satisfied people are with the quality of education in their country). Like column and bar charts, pie charts should display data for around eight categories or fewer. More than this makes it difficult for the reader to distinguish between the relative sizes of the different sectors, making the chart difficult to interpret.

15.2.4. Scatter plots

Scatter plots are useful to show how different variables interact with and relate to each other. One variable is plotted on the "Y" axis and another on the "X" axis; their intersecting points show the relationship patterns. For example, in investigating the right to education in your country, you might seek to chart the relationship between expenditure on teachers' wages and student-teacher classroom ratios across municipalities.

The relationship between the two variables is called their correlation. When the two data sets are strongly linked, it can be said that they are "highly correlated". Correlation is positive when the values increase together, and correlation is negative when one value decreases as the other increases. In this example there is a negative correlation between the two variables; more spending on teachers' wages is associated with lower student-teacher ratios.

You can also add a trend line to the scatter plot to make the negative/positive relationship clear for the reader. This is particularly useful when you have only few data points. The R^2 coefficient provides a statistical estimate of how closely the data points are correlated. An R^2 of 1 indicates that the two data points are perfectly correlated; an R^2 close to 0 indicates that there is very little relationship between the two data points.

15.3. BASIC DESIGN PRINCIPLES

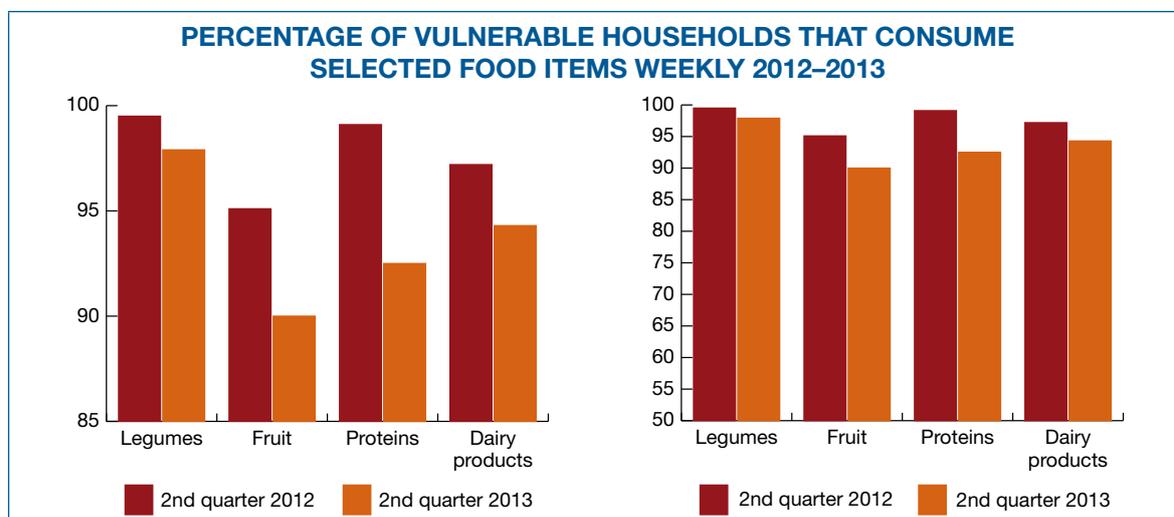The effectiveness of data visualization can be judged according to its:

- **Appeal:** It should attract the reader's attention
- **Comprehension:** It should enable clear understanding of the information, so the reader can get meaning from it
- **Retention:** It should be memorable, so that the reader takes away a key message.

The weight given to each of these factors will depend on the objective you are trying to achieve (discussed further in Chapter 17). For example, if you are presenting your findings to a parliamentary committee, it is important that the information is seen as clear and unbiased. As such, comprehension would be the primary goal. On the other hand, if the data is being used to support a public awareness campaign, retention might be the key priority because you want people to share what they have learned with others.

Do not to manipulate data into a pre-defined narrative. Bad visualization can harm an advocacy message, draw attention away from the main point or, in the worst case, become misleading. Below are some basic principles to follow for accurate and effective data visualization.

15.3.1. Size matters

In data visualization, the size of the axis really does matter. For example, the two column charts here show the percentage of vulnerable households that consumed selected food items weekly in 2012, compared to 2013.

PERCENTAGE OF VULNERABLE HOUSEHOLDS THAT CONSUME SELECTED FOOD ITEMS WEEKLY 2012–2013
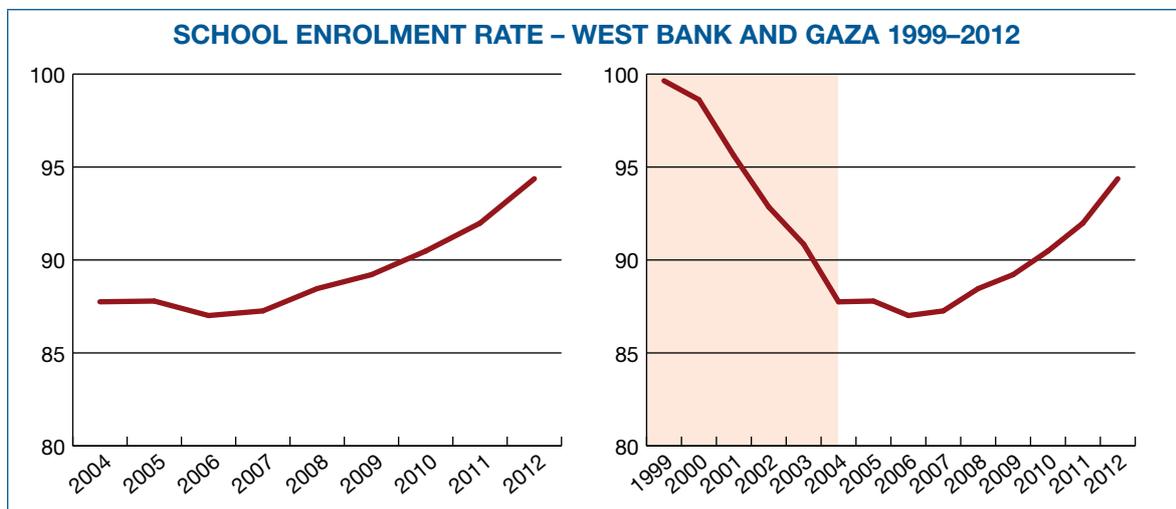
Source: Hypothetical data

What conclusions would you draw from each of these graphs? For the graph on the left, you might assume there was a large drop in the consumption of nutritious food. For the graph on the right, you might conclude consumption had remained relatively stable, even though both graphs show exactly the same data.

Generally, the "Y" axis (the vertical axis) ranges from "0" to the maximum value of the data. However, sometimes the range may be changed to better highlight the differences. Taken to an extreme, this technique can make differences in data seem much larger than they are.
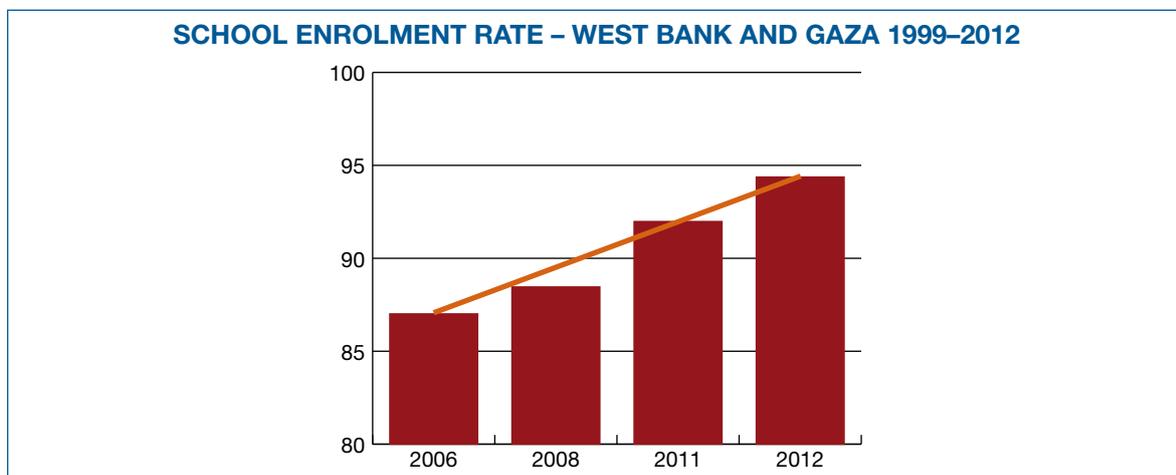
15.3.2. Timelines matters

Timelines are also critical when displaying data.

First, the overall date range will affect how readers interpret the trends in the data. For example, the two graphs here visualize World Bank data on school enrolment rates in the West Bank and Gaza. What conclusions would you draw from each?

SCHOOL ENROLMENT RATE – WEST BANK AND GAZA 1999–2012

Source: World Bank Data

Second, the date intervals need to be consistent. It is not uncommon for a data series to be missing years. However, it is important to avoid misleading the reader about the consistency or rate of change. The same data on school enrolments is shown below. How might it be misleading? How could it be corrected?

SCHOOL ENROLMENT RATE – WEST BANK AND GAZA 1999–2012

Source: World Bank Data

15.3.3. Clarity matters

To be effective, a reader looking at a graphic for the first time should be able to sum up the main message in a few words or short sentences. Accordingly, it is important that all the relevant pieces of information that he or she needs to understand the graphic are clearly labelled and that different presentation elements (e.g. colours, layout, fonts) do not distract the person's attention from the key message.

15.4. IN PRACTICE: INCORPORATING VISUALIZATION INTO YOUR REPORT

A good starting point for deciding what forms of visualization to include in your report is to brainstorm the following questions: Who is the intended audience? (see Chapter 16 for further guidance on this question) and what do we want to say to them? This will help you to identify those issues or ideas that your audience would be interested to know more about.

Once you have some ideas for your graphics, go back to the spreadsheets that you analysed in your research (see Chapter 8) and experiment with the data to see what options are possible. If you have ideas that you are not able to create yourself, consult with colleagues or a professional graphic designer.

Data visualization can be added to your report wherever you want to emphasize a particular finding of your research. There is no set number of visualizations that should be included in a report. It will depend entirely on the data that you want to show. As discussed in Chapter 17, data visualization can also also be incorporated into additional advocacy materials.

UPDATE FROM AHN

Ahn works with her NHRI's communications department to design graphics that highlight some of the most powerful data she has found in her research. For example, she makes:

- A line graph comparing her country's maternal mortality rate to neighboring countries, and showing how it had changed over time

- A bar graph comparing the maternal mortality ratios of indigenous and non-indigenous women in the country

- A map of the country showing the different percentage of births assisted by skilled attendants, disaggregated by region

- A scatter plot showing the correlations between health spending by region and number of emergency obstetric care services available, by region

- A pie chart showing the amount of money allocated to the health sector that remains unspent.

REFERENCES AND FURTHER READING

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Chapter 16:
Reporting, advocacy and follow up

KEY QUESTIONS

- Who should be involved in finalizing the report?
- What other advocacy materials might accompany the report?
- What other accountability mechanisms could be harnessed to advocate for the report's implementation?

INTRODUCTION

The report is the most tangible output of your monitoring activity. However, publishing it is not the end of the process. The report should form the basis of ongoing advocacy aimed at ensuring the implementation of the report's recommendations. For the most part, NHRIs do not have the power to enforce the recommendations they make. For this reason, it is crucial to leverage other accountability mechanisms, including judicial, political, administrative and social accountability mechanisms – at the national, regional and international levels – to build sustained pressure so that decision makers act on the report's recommendations. That said, each of these audiences will need their own strategies and entry points for advocacy. This, in turn, impacts the way a report might be communicated and the type of follow up activities that will be effective. This chapter discusses these questions, considers who should be involved in finalizing a report and identifies additional advocacy materials and follow up activities that might be effective with different audiences.

16.1. FINALIZING AND PUBLISHING THE REPORT

The report is a piece of "persuasive communication" with multiple purposes.

Investigation	It presents the evidence collected and the findings.
Analysis	It provides the underlying context and causes.
Information	It gives basic data to inform the community.
Education	It increases knowledge of human rights.
Recommendation	It makes the case for the recommendations.
Empowerment	It offers victims and their supporters a basis for advocacy and action

Source: APF (2012), *Manual on Conducting a National Inquiry into Systemic Patterns of Human Rights Violation*

Because of these various purposes, when finalizing your report, it is important to think about how to present findings and conclusions in a way that can influence your subsequent advocacy strategies.

It is good practice to circulate a draft of your report to solicit comments from stakeholders who have been involved in your research. There is a chance, however, that you might receive conflicting comments; for example, about whether accessibility to or quality of a particular service should be more of a priority, or about what contextual factors are the most relevant. It may not be possible to integrate all the comments you receive, so responsibility for agreeing on the final draft should be clearly defined. If there is a major difference of opinion among NHRI team members or other stakeholders about the report's findings and conclusions, and there is a failure to come to an agreement, it might be necessary to note the difference of opinion in the final draft. Before finalizing the report, it is also important to validate the report with the rights holders involved in the study and to give the relevant duty bearers the opportunity to make an official response.

16.1.1. Validating your report with the community

The findings, conclusions and recommendations in your report must be relevant to the local context and the local constraints. This could be confirmed by holding community validation workshops, for example. When presenting your report to an affected community, some questions to ask include:

- Is the information presented an accurate reflection of the situation?

- Does the analysis correctly identify which rights are not realized, who is affected, what the authorities are doing, who the stakeholders are, and what should be done to improve the situation? If not, what should be clearer?

- What other comments or recommendations are there?

Sharing the draft report can also encourage a sense of investment in and ownership of the report and its findings, which is crucial to build public support and sustain the pressure on relevant decision makers to act on the report's recommendations.

16.1.2. Requesting an official state response

Some NHRIs share their draft reports with relevant government stakeholders prior to publishing them, as a matter of standard practice. This is an important strategy. It can encourage a broader search for solutions, for example. Even in cases where a request for an official response is not answered, the fact that a request was made but unanswered can be noted in the report.

There may, however, be circumstances where the NHRI does not want to share the report in advance. For example, there may be a risk that the Government could use the draft report to prepare a media campaign to discredit the research and refute its findings. It is therefore important to consider potential reactions the Government might have to the report: Is it like to engage substantively in the implementation of your recommendations? Engage, with limited commitment, in implementing some of your recommendations? Engage, but not agree with your findings? Ignore the report and not even read it? Be completely against your report and discredit the findings? The answers to these questions will influence the way you go about advocating for action on the report.

16.1.3. Other factors to consider

To have a positive impact, a report needs to be able to withstand critical bureaucratic and academic examination, as well as be read and understood by a wider audience. Other factors about how the report is presented will also influence its effectiveness, such as:

- The **title**, which should communicate in an official way what the report is about, but can also communicate a stronger message by expressing a key message in a few words

- The **cover**, which might include a photograph, drawing or some kind of illustration to communicate the key message in a visual format

- The **design and layout** (including graphics, font, print size, colours, highlights, text boxes), which affect how easy the report is to read and understand. It can also assist in highlighting the principal messages or particular aspects of the report.

16.2. PREPARING ACCOMPANYING ADVOCACY MATERIALS

The report's findings and conclusions need to be circulated to decision makers, opinion leaders, influencers and other stakeholders. They should reach the relevant actors whose support is needed to act on its recommendations. For this reason, a range of accompanying advocacy materials may be needed in addition to the report.

Format	Audience and purpose	Style and other requirements
Public statement	To call attention to a violation. May be sent to politicians, public officials, NGOs and other stakeholders at the sub-national, national, regional and international levels.	Concise and to the point.
Press release	To reach the widest possible audience. To be published in the printed press, radio and electronic media. May be the basis of interviews with journalists.	As above; and must be newsworthy.
Policy memorandum	Provide detailed, tailored information to specific duty-bearers, outlining what action is needed from them; for example, to change a policy. Initially, these are not public documents. A good tactic is to inform the official that it will be published at a later date. This may encourage the official to respond to the memorandum.	Clear and logical. Add data and statistics, as appropriate. Should be sent with a cover letter explaining its purpose.
"Popular" versions of the report	A version of the report that is specifically written for the public to mobilize their support for its implementation. Often a shorter, more condensed and less technical version of the full report.	Clear and simple. Add maps, graphs or photos, as appropriate. Avoid technical terms or explain them if they are necessary.
Visual storytelling	Uses graphic design, infographics, illustration, photography or video to convey information in the most engaging and informative way. Useful if public campaigns are part of planned follow up to a report.	See Chapter 15 on requirements for effective visualization.

16.3. STRATEGIES FOR EFFECTIVE ADVOCACY

Advocacy involves talking, explaining, following up and persuading. For this reason, it is important to think creatively about your audiences and how to engage with them in different ways.

- **One size does not fit all:** The formats used to package your research have to be right for your different audiences, so it is important to be creative. Additional advocacy materials such as one-page key points, eye-catching working papers, or online videos are all formats that can appeal to policymakers, for example.

- **Be serious but not dull:** It is right to be serious about the purpose, the importance and the "game-changing" nature of your findings and conclusions. However, communicating this in a dull way will fail to engage your audiences.

- **Think about intermediaries or "knowledge brokers":** These are the people who can take your conclusions and findings and repackage and present them to others that your NHRI may not be able reach as effectively.

- **The media is a key intermediary but require "newsworthy" information:** What do journalists need in order to write accurate and powerful articles that can influence government officials, for example? A 50-page report on their desk is not going to do it. However, an executive summary, selected graphs, personal stories and a press release with strong quotes from the NHRI will better meet their needs.

Left by Asian Development Bank, reproduced under a CC BY-NC-ND 2.0 license; top right by UN Women, reproduced under a CC BY-NC-ND 2.0 license; bottom right by World Bank, reproduced under a CC BY-NC-ND 2.0 license.

16.3.1. Get the idea, get the picture, get the details

Tactical Tech advises that effective advocacy should allow the audience to:[12]

- **Get the idea**, which is about exposing the audience to the issue through techniques such as shock, humour, subversion and metaphor to make them think differently.

- **Get the picture**, which is about helping the audience to understand your key points and enticing them to learn more about the issue, presenting evidence selectively to lend credibility to the your main arguments, but without "dumbing them down".

- **Get the details**, which is about allowing the audience to explore the issue themselves by giving them all the information you have, in ways that are both useful to them and helpful to your advocacy.

Thinking about these three layers of communication can be helpful in order to design effective advocacy materials to accompany your report.

16.3.2. Use "killer facts"

Duncan Green, from Oxfam International, describes "killer facts" as punchy, memorable, headline-grabbing statistics that can "cut through" the technicalities to inspire people up to change the world and "kill off" opposing arguments.

Type of killer fact	Example
Big number: the single statistic showing the size of the problem.	Armed conflict costs Africa $18 billion a year.
Juxtaposition to highlight injustice and double standards.	A woman's risk of dying from pregnancy-related causes is 1 in 18 in Nigeria and 1 in 8,700 in Canada.
Absurdity can make a juxtaposition much more memorable.	Every EU cow receives over $2 per day in support and subsidies, more than the income of half the world's people.
Surprising statistics.	More people die of road traffic accidents in developing countries than die of malaria.
Humanizing abstract issues.	12 million more children will go hungry by 2050 because of climate change.
Human scale: Statistics can be so big that we can't comprehend what they mean. They need to be re-scaled.	UK aid spending per person per day is less than the price of a cup of coffee.

Source: Duncan Green (2012), 'How to write Killer Facts and Graphics – what are your best examples?', From *Poverty to Power* [BLOG]

Coming up with these kinds of facts is simply a matter of applying some basic calculations in a creative way. For example, say you find that 1.3 million people fall into poverty ever year. This is a large number that may be difficult to relate to. But you can scale down that number in a variety of different ways to make it easier for readers to relate to. First, you can divide it by the total population. If the population is 10.4 million people, that would mean one in eight people in the country fall into poverty every year. You could also calculate how many people fall into poverty every day, by dividing the annual figure by 365: that is, more than 3,500 people *every day*.

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12   Tactical Tech, 'Data & Design How-to's Note 4: Visualisation basics – the three gets', *Notes on Data & Design* [WEBSITE].

When using killer facts, make sure to:

- Use a reliable and respected data source that is as up to date as possible; be ready to provide sources to media or politicians
- Check that the fact cannot be misinterpreted (i.e. that the language is not too convoluted); journalists will attempt to re-write it in plain terms and may accidentally twist your meaning
- Check with a statistics expert to make sure you are not making any statistical fallacies
- Include the best killer facts in the report's executive summary and accompanying press release
- Plan ahead, as killer facts can take a long time to develop and often involve calculating statistics in a way in which that they are not usually added up.
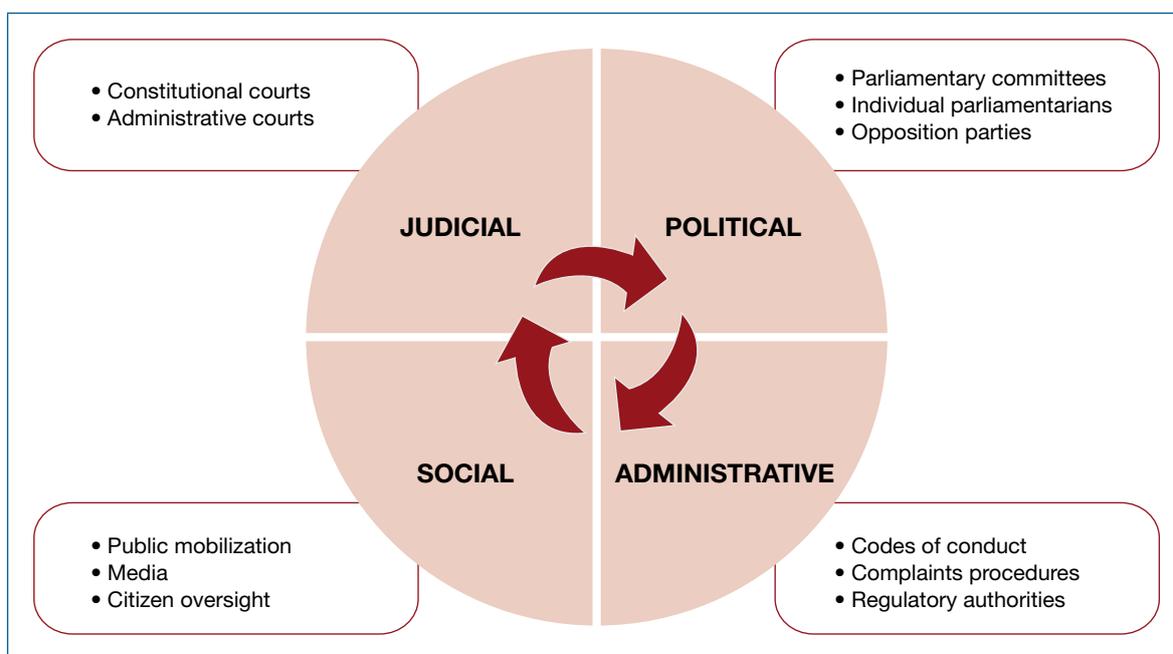
Make sure **not** to:

- Use too many killer facts in one report; focus on the most powerful to prevent overwhelming the reader
- Rely on facts that have been overused in the past; keep it contemporary, relevant, and interesting
- Use a fact that is not credibly sourced, even if it fits your message. It is not worth damaging your credibility for a quick hit.

Killer facts will be particularly effective for engaging audiences like the media and the public. They can also provide useful talking points for politicians and policymakers.

16.4. FOLLOW UP: ENGAGING NATIONAL ACCOUNTABILTIY MECHANISMS

For the most part, NHRIs do not have the power to enforce the recommendations they make. For this reason, it is crucial to leverage other accountability mechanisms.

There is a broad range of follow up activities that NHRIs can carry out after publishing a monitoring report to engage these various mechanisms, including:

- Organizing workshops and seminars to share the report and accompanying materials with affected communities

- Distributing the report to relevant government agencies and other concerned actors

- Organizing roundtables to initiate a dialogue with relevant government actors to discuss the report's recommendations and their implementation of the recommendations

- Tabling the report in parliament (this is often a statutory requirement NHRIs) and participating in the public debate through the media and in other forums

- Organizing advocacy and media campaigns at the national level (e.g. with journalists, various ministries, civil society organizations, other policymakers) for implementation of the report's relevant recommendations

- Undertaking advocacy, both regionally and internationally, for implementation of the report's recommendations

- Based on the report's conclusions and with the concerned communities' support, assessing the possibility of taking legal action to obtain reparation or to ensure that those responsible for the violations are brought before the courts

- Exploring other ways to lobby and pressure various stakeholders beyond the State (i.e. highlighting the role of development banks in financing investment projects, national contact point of the OECD, and making contact with the World Bank)

- Continuously monitoring the implementation of recommendations; for example, reporting on progress – or the lack of progress – in future annual reports.

These activities are part of a longer-term process. As such, a separate action plan should be developed for each activity. It is clearly not possible to do everything so it will be necessary to choose from the follow-up actions described above, based on your specific context and advocacy goals. The decisions, requests and wishes of the affected communities, as well as the general condition of each situation (the failure or success of your dialogue with relevant stakeholders, for example), will also help determine what follow up actions to prioritize.

Photo by Mik Efford, reproduced under a CC BY-NC-ND 2.0 license.

CASE STUDY: THE CLOSE THE GAP CAMPAIGN IN AUSTRALIA

Experience from Australia demonstrates the importance of provisions that require reports by the NHRI to be tabled before the parliament. This means that the reports go on the public record and, where there is open debate on their findings and recommendations, this can prompt a formal or informal response from the Government. It may be that the Government's acceptance of the NHRI's finding can amount to a commitment to take action which then forms a reference point against which to measure progress.

This was the case with "Close the Gap", a campaign to close the 17-year gap in life expectancy between Aboriginal and Torres Strait Islander people and the broader Australian community. The campaign originated with the Australian Human Rights Commission's 2005 *Social Justice Report*, which recommended that the Government adopt the following targets: 25 years to achieve equality in life expectancy and ten years to achieve equal opportunity to access to primary health care and to infrastructure that supports health.

Following the launch of the report, a coalition of 40 Aboriginal and Torres Strait Islander bodies and NGOs worked with the Aboriginal and Torres Strait Islander Social Justice Commissioner, located within the Commission, to develop the campaign, which culminated in the National Indigenous Health Equality Summit in March 2008. There, the Prime Minister, other government ministers and leaders of health bodies, committed to achieve equality in life expectancy by 2030 and to measure, monitor, and report on their joint efforts against a range of supporting sub-targets and benchmarks. The Indigenous Health Equality Targets were then developed through expert working groups, to be integrated into a variety of existing government monitoring frameworks.

Since 2009, the Government has submitted annual reports to the parliament on its progress to "close the gap", while the Campaign's Steering Committee provides its own "shadow" report. This ongoing reporting process ensures regular data collection, which is used to identify successes and areas needing greater attention. These reports foster long-term accountability and have affirmed the Campaign's gradual, but continued effectiveness.

16.5. FOLLOW UP: ENGAGING INTERNATIONAL ACCOUNTABILTIY MECHANISMS

The international human rights mechanisms provide another channel through which NHRIs can disseminate the findings of their monitoring activities and advocate for implementation of their recommendations. Independent information provided by NHRIs can carry considerable authority with these mechanisms, and can either corroborate or challenge the State's interpretation of its performance to respect, protect and fulfil human rights. At the same time, States should, theoretically, be more receptive to international critique if it is underpinned by information gathered through an official process at the national level.

16.5.1. United Nations treaty bodies

Treaty bodies monitor the implementation of their respective treaty. In addition to the Committee on Economic, Social and Cultural Rights, the work of several other treaty bodies touches on ESCR-related issues, including the:

- Human Rights Committee
- Committee on the Elimination of Racial Discrimination
- Committee on the Elimination of Discrimination against Women
- Committee against Torture
- Subcommittee on Prevention of Torture
- Committee on the Rights of the Child
- Committee on Migrant Workers
- Committee on the Rights of Persons with Disabilities.

NHRIs can submit parallel reports when the treaty body is reviewing their State's periodic reports. These reports should be organized according to the articles of the relevant treaty. They might cover all articles, or select a few priority articles. Either way, it is important to provide the treaty body with concise information that gives a picture of the overall context, examines fiscal policy (in accordance with the obligation to dedicate maximum available resources) and summarizes the situation of each substantive right, including by giving a snapshot of the key issues with regards to outcomes and policy efforts.

Attending a review of the State and providing additional briefing materials to the treaty body (modalities for this will vary depending on the treaty body in question) is another opportunity for advocacy. For example, short factsheets summarizing key data and statistics, timelines or tables summarizing key concerns, questions and recommendations can be very useful resources for treaty body members, who generally have a heavy workload and limited capacity to do in-depth research on every country they review.

16.5.2. Human Rights Council

The Universal Periodic Review (UPR), conducted by the Human Rights Council, is another important channel through which NHRIs can advocate for action in line with recommendations made in their monitoring reports. NHRIs can submit information their own independent assessment to the UPR process. They can also advocate directly with the members of the Human Rights Council, suggesting questions and recommendations for them to make to the State's delegation when it appears before the UPR.

Again, information shared with Human Rights Council members should be concise. Short, one-page briefing notes can be a very useful way to place issues on the agenda. It is also important to find out which members are most likely to be interested in these issues and, therefore, to ask questions and make recommendations on them. Tailoring advocacy materials accordingly will increase their likelihood of being effective.

HELPFUL TIP

UPR-Info, a Geneva-based NGO, has a wealth of helpful resources on its website and tips for advocacy in the UPR process. It also maintains a database of all recommendations made during the UPR, categorized by right and by the country that made them. This can help determine which country missions to prioritize in your advocacy.

Visit: www.upr-info.org

16.5.3. Special procedures mandate holders

Several special procedures mechanisms intervene directly with governments on specific allegations of violations of human rights that come within their mandates. The process, in general, involves the mandate holder sending a letter to the concerned State to request information and comments on the allegation and, where necessary, asking that preventive or investigatory action be taken. The decision to intervene is at the discretion of the mandate holder and will depend on the various criteria established by him or her.

OHCHR advises that communications requesting the mandate holder to intervene should outline:

- **The alleged victim(s):** individual(s), community, group, etc.

- **The alleged perpetrator(s) of the violation:** including non-State actors if relevant.

- **The person(s) or organization(s) submitting the communication:** as a general rule, the identity of the source of information on the alleged violation is always kept confidential

- **Date, place and detailed description of the circumstances of the incident(s) or violation:** the information submitted can refer to violations that are said to have already occurred, that are ongoing or about to occur.

Letters from mandate holders can be useful in addressing individual cases, as well as drawing attention to general trends and patterns of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation considered to be not fully compatible with international human rights standards. As with other international mechanisms, the information provided should be concise and well-evidenced.

16.6. EVALUATING IMPACT

Like all activities that NHRIs undertake, it is important to evaluate the monitoring activity to identify the outcomes it achieved and the impact it had on the ground. There are a multitude of methods that can be employed to evaluate a particular monitoring activity. Evaluations can be internal or external; they can be conducted immediately after an activity or over a longer time period; and they can be quantitative or qualitative.

Nevertheless, all evaluations should focus on answering at least the following broad questions:

- What went well?
- What could have been done better?
- What do the stakeholders think of the monitoring activity, in terms of its process and outcomes?
- What results were achieved?
- What lessons have we learned for future monitoring activities?

A good approach is to evaluate the monitoring activity against the objectives you set at the start of the process, asking a key question about each objective.
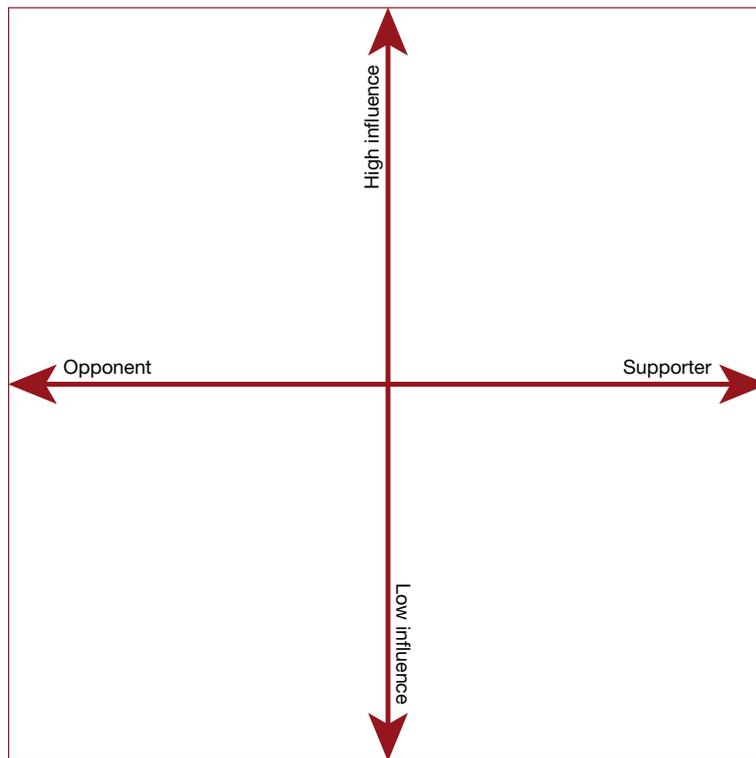
16.7. IN PRACTICE: PREPARING FOR ADVOCACY

The actions outlined in this chapter – finalizing your report, developing additional advocacy materials and carrying out follow up activities with national and international accountability mechanisms – can all be incorporated into an **advocacy strategy**. This should be developed around the time that you draft the report or earlier. Similar to the research plan, it should clearly identify what needs to be done, by whom and by when. Indicators for measuring the impact of your monitoring activity should also be included.

A stakeholder map is another useful tool that can assist in the preparation of an advocacy strategy. Stakeholders include anyone involved or impacted by the change you are seeking (e.g. members of affected communities, the media, government officials).

Mapping these individuals and groups helps to identify supporters, neutral parties and opponents:

- **Supporters** are the people who are already engaged and support your recommendations.
- **Neutral parties** are the people who neither oppose nor support your recommendations
- **Opponents** are people who actively oppose your recommendations.

The stakeholder map helps identify how influencial different stakeholders are in facilitating or blocking action. Drawing lines between stakeholders that have relationships can also help identify intermediaries and "knowledge brokers" who can influence those stakeholders that your NHRI might not be able to reach. In doing this mapping, it is important to not overlook those stakeholders who are directly affected by the issue but may lack influence. Consider how your NHRI could support them to advocate for those actions that would make a difference on the ground.

As discussed previously, different stakeholders will have different information needs and will be more or less influenced by different advocacy approaches. For instance, generally speaking supporters need to be *mobilized*, neutral parties need to be *educated* (to transform them into supporters), and opponents need to be *countered*.

UPDATE FROM AHN

Ahn's report was the first time in her country that the problem of maternal mortality had been framed as a human rights imperative. This gave the report's recommendations for reform additional force. It put pressure on the Government to fully justify its position and ultimately secured the Government's commitment to increase spending and push through reforms to improve the way health sector financing is governed. Local NGOs were very supportive of the recommendations and this prompted and strengthened national-level and local-level monitoring by civil society groups.

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Summary

This Manual provides NHRIs with support on monitoring socio-economic policies and development plans from a human rights perspective. It was developed in consultation with senior staff from NHRIs across the Asia Pacific region, building on the lessons learned from a series of pilot projects conducted in the region. The Manual introduces the OPERA framework, as well as a range of tools and techniques for collecting and analysing data – both qualitative and quantitative – under each of its four steps. OPERA is not a one-size-fits-all model to follow. It sets out the broad categories of issues that need to be addressed when monitoring ESCR. Within each of these categories, there is a checklist of indicative questions and suggested methods for answering them. But it will ultimately be up to each NHRI to determine which questions demand greater attention for the purposes of a particular monitoring activity and how they can best be answered, depending on the objectives, priorities and practical constraints involved.

Part I: Defining the issues to be monitored

Chapter 1: Poverty, development and human rights: Making the connections

The Asia Pacific region faces considerable challenges related to poverty. The human rights-based approach to development is a useful way to frame poverty as a human rights concern. Monitoring in is an important component of the human rights-based approach because it can provide the evidence needed to demand accountability when development plans and socio-economic policies cause, continue or worsen deprivations of ESCR.

Chapter 2: Economic, social and cultural rights standards

ESCR have been defined and interpreted in international and domestic law. In particular, the jurisprudence of the Committee on Economic, Social and Cultural Rights and other national and international bodies has clarified the standards and principles that underpin States' human rights obligations. States are obligated to respect, protect and fulfil ESCR. This involves both obligations of conduct and obligations of result. While obligations of result can generally be achieved progressively, obligations of conduct are immediate. These obligations include taking steps to increase the availability, accessibility, acceptability and quality of relevant goods and services for all, without discrimination. Maximum available resources should be dedicated towards such steps.

Chapter 3: Monitoring the fulfilment of economic, social and cultural rights

There is a difference between events-based monitoring (which focuses on gathering and corroborating primary evidence from victims and witnesses) and policy monitoring (which takes a "macro" approach). Policy analysis is often more appropriate when monitoring failures to fulfil ESCR. OPERA is a four-step analytical framework that can be used for policy monitoring. It analyses Outcomes, Policy Efforts, Resources, in order to make an Assessment about the fulfilment of rights.

Chapter 4: Working with indicators and benchmarks

Indicators are essentially a way of framing questions in a simple, precise way, while benchmarks provide a reference point for judging the information captured by an indicator. Indicators and benchmarks can be used to measure the different human rights norms covered by OPERA. There are various approaches for identifying indicators and benchmarks, such as consultations with rights holders, using government commitments and drawing on recommendations made by international agencies.

Part II: Collecting and analysing data

Chapter 5: The role of data in monitoring economic, social and cultural rights

Data provides the information necessary to answer the questions set the by indicators. There has been a trend towards quantification in human rights monitoring; the value-add of quantification is that it provides a standardized, comparative unit of measurement that can be analysed to identify patterns and trends among variables, such as population groups, geographic areas or periods of time. Nevertheless, quantification has limitations and should always be complemented with qualitative data and human knowledge.

Chapter 6: Finding secondary data

Secondary data is data collected by someone else or for some other purpose. Different types of secondary data include events-based data, administrative statistics, perception-based data and expert judgments. Different types of secondary data can be useful for indicators related to the four steps of OPERA: outcomes, policy efforts, resources and assessment. A large amount of secondary data is available online. If data is not available online, a formal request to access information – for example, to a government ministry or municipal government – may be necessary. The quality of secondary data depends on a range of different factors, such as accuracy, reliability impartiality and how complete it is.

Chapter 7: Collecting primary data

Primary data is collected by the researcher for the specific task at hand, providing more specific data – both quantitative and qualitative – tailored to a particular monitoring activity. Primary data is relevant for indicators related to outcomes, policy efforts, resources and assessment, but is especially useful in gathering data about how policies translate into goods and service on the ground. Primary data can be collected through surveys, direct observation, interviews and focus groups. It is important to ensure a community-focused, rights-based approach to collecting primary data. Although primary data collection can be time intensive and resource intensive, many NHRIs already use these data gathering techniques in their regular work (e.g. in complaints handling). Strengthening this capacity may involve being more methodical and systematic.

Chapter 8: Analysing data: A short introduction to working with spreadsheets

Spreadsheets are an important tool for organizing and analysing data. Creating a spreadsheet and sorting and filtering its cells can reveal a lot about the data that has been collected. With some basic formulae (e.g. adding, subtracting, multiplying, dividing) it is possible to learn even more about the data. Understanding basic statistical concepts, such as range, count, averages, variation and normalization, is important for this. Nevertheless, it is important to be cautious about the conclusions that can be drawn from the data because correlation does not equal causation.

Part III: Assessing resources

Chapter 9: Evaluating resources

Step three of the OPERA framework considers whether the State is dedicating the *maximum of its available resources* to ESCR. Policy areas relevant to this question include: government expenditure; government revenue; development assistance; debt and debt financing; and monetary policy and financial regulation. The human rights norms that these policies should be judged against include minimum core obligations, non-discrimination and progressive realization. Process principles are also critically important and all stages of the budget cycle – formulation, approval, execution and oversight – should be assessed according to whether they are transparent and participatory.

Chapter 10: Analysing public budgets

The budget is the key policy document prepared by the Government, which determines how much money it intends to raise, from whom and how will be spent. Resource allocations can be assessed according to whether they advance minimum core obligations, non-discrimination and progressive realization through simple calculations like ratios, averages, per capita and indexing for inflation. These simple calculations make it possible to compare spending priorities, identify the beneficiaries of spending and show spending trends over time.

Chapter 11: Analysing resource mobilization

Tax policy is an important policy area to investigate when analysing resource mobilization. There are a number of useful indicators for judging whether the State is mobilizing *sufficient* resources, including the amount of money lost through tax avoidance and evasion. To judge whether it is mobilizing resources *equitably*, it is necessary to calculate who bears the biggest burden of both *direct* and *indirect* taxes. The tax burden on corporations is particularly relevant.

Chapter 12: Auditing public spending

It is important to differentiate between *budgeted* spending and *actual* spending. There are a number of reasons why resources can be diverted away from spending on basic rights. Uncovering the reasons in a particular context can be done by monitoring government oversight and auditing; monitoring the public procurement process; or monitoring the *impact* of public expenditure. Expenditure tracking techniques – such as public expenditure tracking surveys, community score cards and quantitative service delivery surveys – are all tools that can be useful in monitoring the impact of public expenditure.

Part IV: Communicating findings

Chapter 13: Evaluating contextual factors

Although quantitative data is well suited to answering questions like "how much", "how many", "to what extent", "where" or "when", it is more limited in terms of explaining "why" a particular situation is the way it is. For this reason, step four of OPERA – Assessment – analyses contextual factors before drawing any final conclusions. A number of tools can be useful for analysing contextual factors, including power mapping, capacity gap analysis, political economy analysis, and governance indicators.

Chapter 14: Drawing conclusions and making concrete recommendations

The different steps of OPERA each focus on particular human rights norms that need to be considered when judging the degree to which the State is fulfilling ESCR. Each provides a piece of the puzzle. The real value of OPERA, however, is the way that these different pieces fit together, in light of contextual factors identified. Effectively presenting these conclusions requires a well-structured report (e.g. with a logical narrative arc, reflecting an overarching thematic focus, including stories and case studies). The recommendations made in a report should be concrete, actionable, and measurable.

Chapter 15: Data and design: Communicating through visualization

Data visualization can be a powerful tool for communicating findings. Presenting information visually allows the reader to quickly identify patterns, trends and outliers in the data and highlights information that would otherwise remain hidden. Different types of data visualizations are better suited for showing different types of things. For example, line graphs follow values over time, while pie graphs show the proportional breakdown of different values. Effective data visualization ensures the appeal, comprehension and retention of the data presented. However, it is important to not manipulate data into a pre-defined narrative.

Chapter 16: Reporting, advocacy and follow up

A report's findings and conclusions need to be circulated and should reach the relevant actors whose support is needed to act on the recommendations. For this reason, a range of accompanying advocacy materials should be prepared in addition to the report. Effective advocacy means tailoring communication styles to the needs and interests of different audiences. Channelling advocacy through other accountability mechanisms at the national and international level (e.g. to parliament, courts, UN mechanisms) is important to build and sustain pressure for the implementation of a report's recommendations.

Exercise answers

Chapter 2: Economic, social and cultural rights standards

1. Has your country signed and/or ratified the Covenant on Economic, Social and Cultural Rights? If so, in which year?

   The answer to this question will be country-specific. Tip: visit the OHCHR Treaty Body database: http://tbinternet.ohchr.org/ and then search for your country.

2. Which countries in the Asia Pacific have ratified the Optional Protocol?

   As of 31 December 2014, 17 countries had ratified the Optional Protocol, but Mongolia was the only country in the Asia Pacific to have done so. In addition, the Maldives, Solomon Islands and Timor Leste were signatories but were yet to ratify.

3. Review your country's constitution. Does it protect any ESCR? If so, which ones? Are they fully justiciable?

   The answer to this question will be country-specific. Tip: "Fully justiciable" means that individuals can go to court if their rights are violated.

4. What number is the general comment on health? General Comment No.14.
   What number is the general comment on forced evictions? General Comment No.7.

5. Find a concluding observation from another treaty body that relates to ESCR. What does it say?

   Examples include:

   - CEDAW: General Recommendation No. 13 on equal remuneration for work of equal value; General Recommendation No. 16 on unpaid women workers in rural and urban family enterprises; General Recommendation No. 24 on women and health; General Recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution.

   - CERD: General Recommendation No. 25 on gender-related dimensions of racial discrimination; General Recommendation No. 23 on the rights of indigenous peoples; General Recommendation No. 22 on article 5 of the Convention on refugees and displaced persons.

   - CRC: General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health; General Comment No. 17 on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts; General Comment No. 4 on adolescent health and development.

6. In what year did the Special Rapporteur on Extreme Poverty and Human Rights report on the importance of social protection measures in achieving the Millennium Development Goals (MDGs)? 2010.

Chapter 3: Monitoring the fulfilment of economic, social and cultural rights

Violation	Forced eviction	Discrimination	Immunization
Respect, protect or fulfil?	Respect	Protect	Fulfil
Negative or positive obligation?	Negative	Positive	Positive
Immediate or progressive?	Immediate	Immediate	Progressive
Dependent on available resources?	No	No	Yes
Individual perpetrator?	Yes	No	No
Events-based or policy analysis?	Events-based	Policy-based	Policy-based

Chapter 4: Working with indicators and benchmarks

1. Review the following indicators. What could they be used to measure? Do they relate to outcomes, policy efforts or resources?

   • School completion rates. **Measures outcomes for right to education.**

   • Number of schools per municipality. **Measures policy efforts for right to education.**

   • Access to improved sanitation. **Measures outcomes for right to water and sanitation.**

   • Number of men-headed and women-headed households evicted from their dwellings during the past five years. **Measures discrimination in relation to outcomes for the right to housing.**

2. Review the benchmarks described below. How do these different types of benchmarks compare to the SMART criteria? What are some of the strengths and weaknesses of each?

   • Reduce poverty from 25% to 23% in the next five years. **Specific, measurable and time-bound. Realistic, but not very ambitious.**

   • Improve living standards. **Not specific, measurable or time-bound.**

   • Increase the proportion of the population with health insurance from 30% to 60% in the next seven years. **Specific, measurable and time-bound. Appears to be ambitious but realistic, but would need more information to fully judge.**

Chapter 6: Finding secondary data

1. Go to the World Bank data portal (data.worldbank.org) and identify an indicator that relates to outcomes and one that relates to policy efforts for:

   a) The right to education.

   Examples of outcome indicators include: youth literacy rate; primary school enrolment rate; primary school completion rate; children out of school. Examples of policy effort indicators include: student-teacher ratio; trained teachers in primary schools (% of total teachers)

   b) The right to work.

   Examples of outcome indicators include: employment rate; long-term unemployment rate; labour force participation rate; vulnerable employment (% of total employment). Examples of policy effort indicators include: generosity of unemployment benefits.

   c) The right to water and sanitation.

   Examples of outcome indicators include: improved water source (% of population with access); improved sanitation source (% of population with access)

   How does the data for your county compare:

   a) To other countries?

   b) Over time?

   Answers to this question will be country-specific. Tip: There may not be data for your country on each of the indicators identified. Make a note of this, if this is the case.

   Do you see any problems with the adequacy of this secondary data?

   Examples include: data that is out of date, data missing for some years, data not available for all countries.

2. Find a national source of data that relates to the right to housing. Reflect on your experience to find this data. Was it easy? If so, why? If not, why not?

   The answer to this question will be country-specific. Tip: Start by looking for the website of your country's official statistical agency.

Chapter 7: Collecting primary data

Residents in a rural village claim that pesticides from a nearby factory settlement are polluting their water sources and affecting their health. What would be the pros and cons of each method for collecting data to investigate this claim? Which would you suggest using?

A. Convene focus groups and ask participants in-depth questions about the quality of water in their community and the health of their families (before and after the factory opened).

   Pros: could explore issue in depth. Cons: depending on what data is to be used for, might be too anecdotal or not representative of community as a whole.

B. Survey households about water quality and health (before and after the factory opened).

   Pros: sampling a "statistically significant" number of households would provide valuable quantitative data. Cons: would be fairly resource intensive.

C. Sample water sources used by the community and measure pollutant levels.

   Pros: would produce scientific, quantitative data. Cons: does not capture human impact; community could be excluded.

D. Examine hospital records and record the number of patients suffering from waterborne diseases (before and after the factory opened).

   Pros: should be fairly easy to access; quantitative data. Cons: questionable accuracy, as not everyone who gets sick would go to hospital.

E. Use the results from a recently published scientific study in a nearby city to estimate the degree to which pesticides run off contributes to increased levels of water pollution.

   Pros: already available; rigorous methodology. Cons: cannot assume that results will be equally applicable.

You decide to conduct a survey on the degree to which pesticides contribute to water pollution. How would you improve the following questions?

1. What is the main source of water used by your household for drinking, cooking and hand washing?

   Separate into three questions.

2. How often do you treat your water to make it safe to drink? ☐ Sometimes ☐ Often ☐ Frequently.

   Use more specific terms, like all the time; a quarter of the time; half of the time etc.

3. In the past month, has a member of your household suffered from any form of disease caused by pathogenic microorganisms?

   Remove the jargon; use plain language.

4. The use of pesticides by factories near the Ariel Settlement has not impacted on members of my household's health. ☐ Strongly agree ☐ Agree ☐ Disagree ☐ Strongly disagree.

   The question uses a double negative. Rephrase as "has" impacted.

Chapter 8: Analysing data: A short introduction to working with spreadsheets

1. How much did your country spend on health **per capita** in the most recent year for which you have data? How does this compare to neighbouring countries?

   To calculate health spending per capita, first calculate how much money is spent on health. The formula for this is: GDP*(health spending/100). Remember, to use the formula in Excel, click on the relevant cells for GDP and health spending. Next, divide this amount by the population. Make sure you are using data from the same year for each of these calculations.

2. What is the **mean value** of per capita health expenditure across countries in your region in the most recent year for which you have data? How does your country compare to the average?

   To calculate the mean value, select the data you are interested in (i.e. the results from question one) and use the formula =AVERAGE. Is your country high or lower than this?

3. Is the mean a good estimate of what is normal across countries in your region? What is the minimum value, what is the maximum value? Consider whether a different measure of the average may be more appropriate.

   To find the minimum and maximum values, sort the data from smallest to largest, or use the formulae =MIN and =MAX. If the minimum or maximum value is particularly low or high, it might skew the average. If that is the case, the median may be a better way of calculating the average. To do this, use the formula =MEDIAN.

4. What has been the annual **percentage change** in per capita health expenditure?

   Tip: to calculate the percentage change, first subtract the old value from the new value. Then divide that change by the old value. Then multiply by 100. For example, say health expenditure increased from USD 5 billion to USD 7 billion in one year. This is a USD 2 billion increase. Divide this by the old value (USD 5 billion) and you get: 2/5=0.4, which is 40% when converted into a percentage.

5. What is the relationship between per capita health expenditure and life expectancy? What can be inferred from this information?

   Do countries that spend more on health per capita have a higher life expectancy? Tip: Visualizing this data in a graph will help you to see the correlations more clearly. Chapter 15 introduces data visualization in more detail.

Chapter 10: Analysing public budgets

1. Find your country's most recent enacted budget. Calculate the amount spent on health and education as a ratio of the overall budget.

   The answer to this question will be country-specific. Tip: To calculate government health spending as a ratio of the overall budget, simply divide the amount budgeted to health by the total budgeted amount.

2. Calculate the Government's real revenue and expenditure in 2005 prices. Is it increasing in inflation adjusted terms? What about its expenditure?

   Revenue and expenditure in 2005 prices is:

	2005	2006	2007	2008	2009	2010
Revenue (real)	318	339.361	382.7601	375.8761	383.5994	440.9346
Expenditure (real)	343.8	378.2097	433.6682	445.6183	470.7681	548.8696

   After adjusting for inflation, we can see that there is still an increase in revenue and expenditure, but that the rate of increase is much less than it was in nominal terms.

Chapter 11: Analysing resource mobilization

Compare two families where the head of the household of each family pays taxes on the entire income of their respective households. One family, Family A, has a total annual income of **$150,000**. The other family, Family B, has a total annual income of **$9,000**. Further, Family A spends $40,000 of their post-tax income every year on items consumed in their household. Family B meanwhile spends all their remaining post-tax income on consumption of basic goods and services (food, water, schoolbooks, transport etc).

1. Calculate the annual income tax each family would pay, and how much income they would have remaining?

    Family B pays $450 (5%) and has $8,550 remaining. Family A pays $18,375 tax (12.25%) and has $131,625 remaining.

Income bracket (in dollars)	Percentage
1–40,000	5%
40,001–80,000	10%
80,001–125,000	15%
125,001–200,000	22.5%
Over 200,000	30%

2. The government decides to impose a value added tax (VAT) of 15% on all household consumables, with no exemptions. Now calculate from the remaining (post-tax) income what each household would pay in VAT tax. As a percentage of total income?

    Family B spends 15% of $8,550 = $1,282. This amounts to 14.25% of their total income of $9,000. Family A spends 15% of 40,000 = $6,000. This amounts to 4% of their total income of $150,000.

3. How much would each family pay in total (income and VAT) taxes as a proportion of their pre-tax income? Compare the two.

    Family B pays $450 + $1,282 of $9,000 = 19.25%. Family A pays $18,375 + $6,000 of $150,000 = 16.25%.

4. Family A hires a tax accountant, who is able to shift a portion of the family's tax liabilities overseas. As a result of this tax avoidance, only $100,000 of the family's income in the country is reported to the tax authorities. Repeat the calculations to determine the amount Family A would pay in taxes as a proportion of their pre-tax income. What amount of income tax do they pay as a percentage of their overall real income?

    Family A pays 5% on their first $40,000, 10% on their next $40,000 and 15% on their last $20,000. This equals $9,000, which is 6% of their total income of $150,000.

5. How would you say this tax system (income and VAT) affects both families? What if the income rate of the top brackets was decreased and the VAT rate was increased without exemptions?

    Family B pays a higher percentage of their income in VAT, so increasing it would impose a bigger burden on them. Family A pays a higher percentage of their income in income tax, so decreasing it would reduce their tax burden.

6. What general or preliminary conclusions can you draw from this simplified exercise? In particular, how does the tax system affect each family differently?

    The tax system is regressive because the burden on the poorer household is notably higher than on the richer household.

7. Can you distinguish from these numbers who benefits? What else would we need to know to determine whether the tax system is equitable or not?

   To determine whether the tax system is equitable or not we would also need to know what other subsidies, benefits and entitlements each family received.

Chapter 13: Evaluating contextual factors

1. Review the measurement tools outlined above (Worldwide Governance Indicators, Resource Governance Index, Global Corruption Barometer). How does your country perform on their most recent rankings?

   The answer to this question will be country-specific.

2. Compare each of the measurement tools. How would you assess them in terms of how clearly defined the indicators are, how relevant and legitimate they are, how transparent their data sources are (see Chapter 4 for a discussion of these criteria)?

   Tip: Find the methodology section for each of these tools to help answer this question.

3. Can you suggest any other indicators that measure the broader contextual factors discussed in this chapter?

   The answer to this question will be country-specific.