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# Delivering Development and Good Governance

## Making Human Rights Count

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Most nations face the perennial challenge of improving development outcomes and good governance, particularly at the grassroots level. Although policy makers, academics, and development practitioners have found fertile ground for research on this subject, durable and effective solutions remain elusive. Part of the problem is that analysts seek grand narratives rooted in ideological preferences that tend to oversimplify the issues and the linkages as well as causality underpinning the desired outcomes. The problem also relates to the inadequate use of evidence in policy making and institutional weaknesses in public delivery. As a result, solutions to complex issues have often been suboptimal. Over time, the lack of effective development outcomes leads to a loss of credibility in regard to state agency, to fatigue and frustration among development stakeholders, to inadequate participation in the design and implementation of policies, and eventually to public helplessness and indifference to state action. Lack of beneficial development thus perpetuates the vicious cycle of poor performance in the delivery of public goods, especially in developing countries.

This situation, however, does not imply a lack of research space for policy frameworks with universal applicability. Generic solutions to the common problems of accountability, transparency, and equity in the access to public goods and services, if suitably adapted to the local context, could improve development and governance outcomes. Indeed, the distilled development wisdom and governance practices of Western nations have guided the recent successful economic, social, and political transformation of East Asian countries as well as countries in other parts of the world. At the same time, nations that have succeeded in overcoming the shackles of poverty and underdevelopment and have sustained high growth for long periods have invariably done so by adapting and charting their own unique course to development.<sup>1</sup>

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The views expressed in this chapter are solely those of the author and do not reflect the position of the Government of India, from which he is on long-term leave, or the organization for which he currently works.

1 This is evidenced by the rise of China and, to a lesser extent, the emergence of Brazil, India, Indonesia, Turkey, Botswana, and Chile in recent times and the industrialized East Asian economies and Japan in previous decades. None of the successfully industrialized economies conformed to the dominant development thinking of the time. They evolved their own policy mixes and paths, taking advantage of a favorable global economy. They adopted a

Since World War II, at least two trends have been discernible at the global level that are relevant to this chapter. The first relates to rapid economic integration and the globalization of nations;<sup>2</sup> the second is the growing democratization of the polity across nations, which embodies the social and political facets of globalization.<sup>3</sup> These trends feed on each other and appear to be irreversible in most parts of the world.

The current era of globalization has been characterized by an extended period of economic expansion, the gradual dilution of borders between nation-states, and the rapid growth of market liberalism, all riding on an explosive deployment of information, communication, and transportation technology. These trends have raised people's expectations of the markets to deliver sustained global prosperity. Although significant progress has been seen for a great part of humanity for most of this period, some countries have grown faster than others, and some have seen a rise in income inequalities in the course of their development. Some regions have not benefited from the average improvement in global prosperity.<sup>4</sup>

In recent decades, systemic market failures have brought disappointment and economic disruption in both the developed and the developing world. Globalized economies have rapidly transmitted local weaknesses across borders, resulting in increased economic volatility and serious dislocation of economic activity in many countries. This was the experience with the East Asian currency crisis in late 1990s and in the wake of the 2008 global financial crisis. The resulting situation has encouraged development practitioners to seek a

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heterodox strategy involving a combination of proactive state shepherding of economic agents and allocation of domestic capital, a step up in the rate of savings and capital accumulation, gradual economic liberalization with a guarded opening up of the economy (using capital controls and active exchange rate management), and a limited prioritization of the social development agenda. They engineered a structural transformation that shaped and honed their economic comparative advantage and propelled them to a higher growth trajectory and rapid development.

- 2 Economic globalization can be seen as the international integration of commodity, capital, and labor markets. For the period 1950–2007, world trade expanded by 6.2 percent, which was more than the growth of 3.8 percent in world gross domestic product (GDP). This was also more than the trade expansion in the earlier wave of globalization from 1850 to 1913. Similarly, from 1950 to 1973, global foreign direct investment stock as a proportion of world GDP was 5.2 percent, which increased fivefold to 25.2 percent from 1974 to 2007. See World Trade Organization, [http://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/wtr08-2b\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/anrep_e/wtr08-2b_e.pdf).
- 3 In its 1999 *Freedom in the World Survey*, Freedom House reported that in 1900, no country could claim full universal suffrage or regular elections, and only 5 percent of the world's people were able to vote for their leaders. By 1990, this count had grown to 69 countries and 64 percent of the world's people. Since then, 49 members have been added to the world democratic community, reaching 118 in 2013. Freedom House, *Freedom in the World 2013*, <http://www.freedomhouse.org/report/freedom-world/freedom-world-2013#.U32y6MKKDmQ>.
- 4 The vast majority of the world's low- and middle-income countries saw a sharp slowdown in economic growth in the period 1980–2000 as compared with the period 1960–1980. The period 2000–2010 saw a rebound in growth to the levels seen in the period 1960–1980 for most of these countries, along with an improvement in their social indicators. See, for example, Mark Weisbrot & Rebecca Ray, *The Scorecard on Development, 1960–2010: Closing the Gap?* DESA Working Paper No. 106, ST/ESA/2011/DWP/106 (June 2011).

more proactive role for states in the development process. A well-founded case has been made for a larger regulatory role for states in macroeconomic coordination and financial system stability at the global level.<sup>5</sup> Thus, a state is expected to provide an effective social protection floor as insurance against the economic uncertainties of a deeply globalized world; at the same time, it must coordinate and cooperate with other states, parastatal actors, and supra-national agencies to foster a stable economic environment for sustained global growth and prosperity.

The democratization of societies has long been a human aspiration. An electoral democracy is considered among the best governance options for building state capacity to steer, deliver, and sustain human development.<sup>6</sup> However, evidence from the second half of the 20th century suggests that most nations that took that route did not realize the goals to the degree they desired.<sup>7</sup> The states that held back the process of democratizing their societies in favor of building an effective (authoritarian/centralized) developmental state—for example, some nations in Southeast Asia—witnessed unprecedented improvement in social and economic conditions. Yet a model of authoritarian governance, even when it is benevolent, is not likely to be an option in today's world. The empowerment of local stakeholders, including the media, and the unifying and aspirational influence of globalization make a centralized authoritarian model of governance difficult to sustain. Indeed, the trend in growth of electoral democracies in the past couple of decades has only accelerated.<sup>8</sup>

It is necessary, therefore, to analyze how an evolving electoral democracy could deliver development and governance more effectively, just as it is necessary to address the demands of globalization to secure and sustain development and good governance. Even as developing countries evolve their institutional framework and deepen democracy to overcome (where required) the weaknesses of an electoral democratic system, it is desirable to explore

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5 United Nations, *Report of Commission of Experts on Reforms of the International Monetary and Financial System* (Stiglitz Commission) (Sept. 2009), [http://www.un.org/ga/econcrisissummit/docs/FinalReport\\_CoE.pdf](http://www.un.org/ga/econcrisissummit/docs/FinalReport_CoE.pdf); and World Bank staff, *Rebalancing Growth and Development: An Interconnected Agenda* (World Bank Oct. 2011).

6 Freedom House defines an “electoral democracy” as a country or nonindependent territory such as Hong Kong with a two- or multiparty political system, regular elections, universal suffrage, and access to media for parties reflecting a representative spectrum of national opinion (see Freedom House, *supra* note 3).

7 In India, the first few decades of the postindependence period yielded less-than-desired growth in income. The inadequate trickle-down of benefits to the poor and the political-economy compulsions of vote-bank electoral politics led India to adopt a slew of redistributive development programs with an emphasis on meeting the basic minimum needs of the people. These policy preferences, in the face of slow growth in per capita income, poor targeting, implementation weaknesses, and leakages, resulted in suboptimal outcomes, a gradual buildup of policy contradictions, and economic instability, which, one could argue, have been addressed only partially in the context of the economic reforms initiated since the early 1990s.

8 Freedom House, *supra* note 3.

other factors and models that could support the governance of a social transformation process that moves in the desired direction and at the required pace.

This chapter explores the role of human rights and how their implementation can be tailored to the specific needs of countries in delivering development and good governance. The next section discusses why human rights matter for improving development delivery in the present global context. It elaborates on the human rights-based approach as commonly understood in the literature. The following section presents the human rights indicators framework and shows how this schema can be used to operationalize a human rights approach to development and good governance and, in the process, bridge the development and the human rights discourses. The concluding section discusses how such an approach to improve development delivery and governance is unfolding in India and its consequences for India's economy and society at large.

## Why Do Human Rights Matter for Development and Good Governance?

A nation's policy to improve development and governance effectiveness can be meaningfully anchored in human rights standards and the process of their implementation. As universally recognized values, human rights standards provide a normative basis for development and governance agenda setting in a society. At the same time, human rights principles and crosscutting norms offer the means and the methodology to harness the potential development and governance outcomes for human well-being. The notion of "good governance" can be related and benchmarked to a process that supports and sustains enjoyment of human rights. In an era when nations are challenged by the process of globalization and its attendant consequences, including the expectations of people regarding development and governance processes, equally pressing concerns arise out of the growing momentum for democratization and decentralization of governance within nations. These apparently competing trends necessitate the use of a framework that not only focuses on realizing socially desired outcomes but also ensures that conduct of that process is in compliance with certain valued principles, including those of equity, inclusion, and nondiscrimination.

To begin with, although globalization is a vital element in the transformation of societies and a means to enjoy growing prosperity, it has the potential to contribute to despair, social dissonance, and economic hardship, as seen, for example, in the post-2008 financial crisis world.<sup>9</sup> Rising prosperity, inexpensive communications, cross-border networks, and global footloose capital are contributing to a shift of power from the state to the people and nonstate

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9 See, for example, Joseph E. Stiglitz, *Globalization and Its Discontents* (W. W. Norton 2002); *Governing Globalisation: Issues and Institutions* (Deepak Nayyar ed., Oxford U. Press 2002); Jagdish Bhagwati, *In Defense of Globalization* (Oxford U. Press 2004).

actors. More important, the impact of globalization on people is being felt directly through social media. People are drawing inspiration and sustenance from each other in implementing major changes in their societies. The Arab Spring is evidence of this trend, as are social mobilization efforts in India, Bangladesh, Thailand, and several other countries.<sup>10</sup> Globally, there is an overwhelming buildup of support for common values and norms to anchor and guide policies for the social, political, and economic transformation of nations and to meet the concerns and rising aspirations of people. Such values and the objectives of social change that they serve are embodied in international human rights instruments and the standard-setting process spearheaded, for example, by the United Nations. Thus, in the face of a rapid convergence of purpose across what were in the past insurmountable cultural, social, and political barriers, especially in the developing world, there is a case for creating policy space and means to improve governance and development delivery anchored in the universal human rights normative framework.

Second, given the political and social consequences of globalization and the absence of recourse to authoritarian developmentalism (a model that has successfully delivered rapid economic and social transformation in several countries), there is a role for a human rights approach to support development and secure good governance.<sup>11</sup> This role seeks to make democracies, particularly electoral democracies in the developing world, more inclusive, accountable, and effective in delivering rapid development. It calls for a deepening of democracy and electoral system reform based on a human rights framework.

In the exercise of taking democracy from the national and subnational electoral politics to broad-based participation at the local level and in the process of improving development and governance outcomes, the notions of *voice*, *social contract*, and *accountability* come to the forefront. Each notion, in its operational context, stands to gain by being anchored in human rights standards

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10 “Arab Spring” refers to the civil unrest followed by a wave of demonstrations in the Arab world that surfaced in 2010 and resulted in regime change in countries including Tunisia, the Arab Republic of Egypt, and the Republic of Yemen and widespread protests in several other countries. In India, there was civil society mobilization to strengthen laws and enforcement to address issues such as violence against women (in Dec. 2012) and corruption (in 2010 and 2011). In Bangladesh, the focus was on crimes committed by collaborators of the regime during the war of their independence. In Thailand, the focus was on regime change.

11 In this chapter, the term “human rights approach” is preferred over “human rights–based approach.” In the development literature, particularly in the programming context, “human rights–based approach” is more commonly used. It gives primacy to the crosscutting norms or standards on procedural human rights (such as the right to nondiscrimination and equality in the Universal Declaration of Human Rights arts. 1, 2, and 7, or the right to participate in public affairs in art. 21) in its articulation. However, for a more general articulation of the approach that encompasses human rights standards and obligations related to both procedural and substantive human rights (such as the right to liberty and security of person, art. 3, or the right to education, art. 26), the use of “human rights approach” is more appropriate. Substantive human rights have a relatively clear content and may also have a progressive component in their realization. Procedural human rights are critical to the process of realizing substantive rights and may be easier to define and operationalize in the specific context of substantive rights, for example, the right to nondiscrimination in the context of the right to education.

and the state parties' obligations that flow from implementing those standards. Human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements, and human dignity.<sup>12</sup> An underlying feature of human rights is the identification of rights holders who, by virtue of being human, have a claim over certain entitlements, and duty bearers, who are legally bound to meet the entitlements associated with those claims. Thus, there are rights of individuals and there are correlate obligations, primarily for the state. The latter encompasses the human rights obligation to respect, protect, and fulfill and the obligation of conduct and results that empower the voice of development stakeholders, that strengthen the foundations of social contract in society, and that improve the accountability of public agencies in delivering development and good governance.<sup>13</sup>

The notion of voice highlights the importance of effective participation and meaningful stakeholder consultations in the decision making, implementation, and assessment of development and governance modalities that affect human well-being. The idea of social contract relates to a paradigm that recognizes the rights and obligations of parties and is guided by a sense of justice and equity in the use of available common resources in furthering the well-being of people. Such a paradigm must evolve in keeping with the needs of the times and the changing context of societies and could benefit from being explicitly anchored in a value system that has a universal acceptance and perpetual relevance. The concept of accountability implies effective development delivery and good governance, with recourse to redress mechanisms for individuals whose legitimate claims are not met. The very construct of a human right involving a normative standard with universal appeal (such as the right to take part in public affairs or the right to nondiscrimination and equality) and benchmarks of conduct in the form of specific obligations that need to be fulfilled in implementing those standards lends power to the notion of voice, social contract, and accountability in delivering improved development and governance outcomes.

Third, human rights by virtue of being embedded in a legal framework (and if effectively enforced) have the potential to rapidly alter the power relations and structural constraints of a decadent social order (e.g., the caste system in India or entrenched discrimination on grounds of color, sex, race, or religion elsewhere) that are at the root of persistent inequalities and deprivation within and across social groups in a society. Electoral democracies due to their context and weaknesses (such as in India, with its inherent dependence

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12 *Frequently Asked Questions on Human Rights Based Approach to Development Cooperation 1* (United Nations publication, sales No. E.06.XIV.10).

13 In the human rights literature, these are referred to as the Maastricht principles, which define the scope of state obligations, generally in the national context, but could apply to the nature of state obligations at the international level. See "*Maastricht Guidelines*" on Violations of Economic, Social, and Cultural Rights (Maastricht, Netherlands, Jan. 22–26, 1997). See also United Nations, *Human Rights Indicators: A Guide to Measurement and Implementation* 10–13 (U.N. Off. High Commr. Human Rights 2012).

on vote-bank politics, limitations of the first-past-the-post criterion in multi-cornered electoral contests, and a protracted decision-making process) may not always be able to overcome these constraints quickly enough and, therefore, need support to deliver development and good governance to facilitate the desired social transformation. Moreover, by providing a normative basis for the development and governance process, as well as a strategy involving well-defined redress and accountability mechanisms, a human rights framework can be used to implement and sustain social transformation.

Fourth, it is necessary to recognize and invoke the value-added of a human rights approach over a good development approach. The latter also recognizes many of the human rights crosscutting norms such as transparency, accountability, participation, and ownership of the policies and practices in seeking desirable social outcomes. A human rights approach to development agenda setting and its implementation can be distinguished in terms of an explicit focus on empowerment (of individuals, communities, and nations through specific legal entitlements anchored in international human rights instruments and by altering the governance structure of the development process) and accountability of development stakeholders (the various duty bearers, individually and collectively) to protect and promote human dignity and well-being. A human rights approach leverages legal systems to improve accountability, providing redress and addressing the vital concerns of equity (fairness in the distribution of development benefits and access to opportunities), equality (in publicly guided social outcomes and under the rule of law), and nondiscrimination (under prohibited grounds by law) in the development and governance process.<sup>14</sup> Most important, unlike a developmental approach, a human rights approach leverages the power of its normative framework to influence policy interventions in ensuring the well-being of all.

A human rights approach is not just about respecting and protecting legal entitlements. It is also about promoting public policies and programs that facilitate the enjoyment of human rights. Thus, implementing human rights requires an ad infinitum assessment of the efforts made by duty bearers in meeting their obligations, irrespective of whether those obligations are directed at promoting a right or protecting it. This requires engaging a diverse set of stakeholders at the national and subnational levels, including human rights practitioners, civil society organizations, policy makers, development practitioners, and administrative agencies encompassing social, economic, judicial, and law enforcement services. The human rights approach operates on a platform involving a larger set of stakeholders than does a development approach and is therefore a source of potential strength in providing holistic and durable solutions to improving development effectiveness and good governance.

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14 United Nations, *The Future We Want* (U.N. Conf. Sustainable Dev. [Rio+20] 2012), <http://www.un.org/en/sustainablefuture>; United Nations, *Realizing the Future We Want for All: Report to the Secretary-General, especially Towards Freedom from Fear and Want: Human Rights in the Post-2015 Agenda* (Thematic Think Piece, May 2012).

Some practitioners argue that a human rights approach is resource intensive. It requires public interventions to create legal entitlements for people, which could undermine the fiscal sustainability of the development process and the overall macroeconomic environment for growth. This is the argument extended, for example, in the case of India, where during 2004–2014, the federal (central) government, led by the United Progressive Alliance, created legal entitlements for individuals to access public information, education, and limited basic work opportunities (confined to unskilled labor) in rural areas. The government at that time also took steps to create legal entitlements to health services and food security. In the process, the government may have expanded its financial liabilities ahead of its ability to raise the required resources, thereby compromising the fiscal balance of the economy. This happened at a time when the post-global-financial crisis slowdown in economic growth impacted the government's revenue buoyancy. However, this need not be the case if the creation of legal entitlements is selectively and cautiously undertaken and accompanies a comprehensive rationalization of extant subsidies and social transfers in the society. The creation of new entitlements, particularly in resource-constrained developing countries, must also take into account a revamping of publicly provided services, notably education and public health, making them accountable to institutions of local governance for improved efficiency in delivery.

Sustaining high growth can be a meaningful attribute in the objective function of a human rights approach to development because of the opportunities that it could generate for the society at large, and in relaxing the resource constraints for public interventions. Arjun Sengupta, the first UN Independent Expert on the Right to Development, makes a credible case for including economic growth as a right-to-development attribute to avoid the perception of a trade-off between a human rights approach and a policy focus on sustaining economic growth.<sup>15</sup>

Also a human rights approach has important resource-neutral components that have a direct bearing on the lives of the poor and deprived, as well as on overall governance standards in the society, that impacts the well-being of all. There is ample evidence to suggest that the poor are disproportionately affected by corruption and are often denied the benefits of rule of law in practice. Rule of law and administration of justice are cornerstones of the social and economic transformation of a society. Overcoming corruption requires transparency in administration, the elimination of discretionary powers vested in or deliberately acquired by public officials and agencies, improved oversight systems, incisive investigations, time-bound adjudication, and effective enforcement of law. All these measures, if effectively implemented through a human rights approach, can improve development delivery and governance.

Fifth, human rights can bring a certain purpose and vigor to the approach used to address the development and governance challenges of globalization

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15 See U.N. doc. /CN.4/2002/WG.18/6.

and the sustainability of efforts at the international level. Indeed, international cooperation holds the key to delivering desired outcomes, and incorporating the human rights principles of accountability and solidarity could strengthen the framework of cooperation. This is relevant in the post-2008 global financial crisis world, where policy options exercised in the national interest in one country have had detrimental consequences for recovery in other countries, and particularly so in some emerging economies. The commitment to international cooperation must be raised to the level of a collective obligation for global development, equality, and sustainability. Political commitment to international cooperation must recognize mutual and reciprocal responsibilities among nations, taking into account their respective capacities and resources and subject to effective accountability mechanisms. An operational framework for addressing this issue may not necessarily require new international modalities; rather, it requires better implementation and monitoring of existing international human rights instruments and mechanisms. In that process, a strategic use of human rights indicators, goals, and targets could play a significant role. Thus, sustained global economic recovery from a financial crisis could benefit from a human rights approach to global agenda setting and development cooperation.

Notwithstanding the ethical appeal and the conceptual feasibility of a human rights approach to development and good governance, the challenge to operationalize it is a serious one. For the human rights discourse to provide a normative and an instrumental guide to public policy, a language of rights must exist that can be accessed and used by policy makers and other stakeholders. This language has to be less prescriptive and legalistic than a legal narrative, and more concrete, accessible, and practicable to a broader set of stakeholders, including policy makers and public service providers. Such language requires the creative use of qualitative and quantitative human rights indicators. The next section outlines how the identification of such indicators can help operationalize a human rights approach to development delivery and good governance.

## Operationalizing the Human Rights Approach

The identification and application of human rights indicators in goal setting, policy articulation, implementation, and assessment is a potent way to incorporate human rights in the development and governance agenda at the national and international levels.<sup>16</sup> More important, these indicators can pro-

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16 This section draws on Rajeev Malhotra, *Towards Implementing the Right to Development: A Framework for Indicators and Monitoring Methods*, in *Development as a Human Rights* (Bard A. Andreasson & Stephen P. Marks eds., Harvard U. Press 2006); the work done by the author of this chapter in preparing U.N. Off. High Commr. Human Rights 2012 (see United Nations, *supra* note 13); Rajeev Malhotra, *Implementing the Right to Development: Towards Operational Criteria and Monitoring Framework*, in *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (U.N. Off. High Commr. Human Rights 2013); and Rajeev Malhotra, *India Public Policy Report 2014: Tackling*

vide a framework in which to operationalize and monitor the implementation of a rights approach in its role of protecting as well as promoting human rights for human well-being. Human rights indicators also provide a meaningful platform for the convergence of human rights and development discourses, in the process supporting improvement in public delivery and governance outcomes for human well-being. A human rights indicator

is specific information on the state or condition of an object, event, activity or an outcome that can be related to human rights norms and standards; that addresses and reflects the human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights.<sup>17</sup>

It is, therefore, a useful tool for articulating and advancing claims on duty bearers and in providing benchmarks to guide and monitor the implementation of a duty bearer's obligations and related policy response. The use of human rights indicators also promotes accountability and redress, thereby contributing to the value of a human rights approach.

The catalog of human rights is articulated in various human rights instruments. Their content is constantly elaborated on and clarified by different mechanisms under the international human rights system and human rights jurisprudence as it evolves.<sup>18</sup> The complex and evolving nature of human rights standards makes it necessary to have a well-structured framework that can assist in interpreting the normative standards, promote their implementation, and assess stakeholder compliance for improving development delivery and governance.

The framework as detailed by the UN Office of the High Commissioner for Human Rights builds a common approach to identifying indicators for promoting and monitoring civil and political rights, as well as economic, social, and cultural rights.<sup>19</sup> It contributes to strengthening the notion of the interrelatedness, interdependence, and indivisibility of all human rights. In ensuring

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*Poverty, Hunger, and Malnutrition* (Oxford U. Press 2014).

17 See United Nations, *supra* note 13, ch. 1. Defined in this manner, some indicators might be unique human rights indicators because they owe their existence to specific human rights norms or standards and are generally not used in other contexts. This could be the case, for example, with indicators such as the number of extrajudicial, summary, or arbitrary executions; the reported number of victims of torture by the police and the paramilitary forces; or the number of children who do not have access to primary education because of discrimination. At the same time, there could be a large number of other indicators, such as commonly used socioeconomic statistics (e.g., human development indicators used in the UN Development Programme's Human Development reports) that could meet (at least implicitly) all the definitional requirements of a human rights indicator as laid out here. In these cases, to the extent that such indicators relate to human rights standards and principles and could be used for human rights assessments, it is helpful to consider them human rights indicators.

18 It includes the general comments and recommendations of the various treaty monitoring committees and the work of the special procedures of the Human Rights Council. *See id.*

19 *Id.*

that the framework is workable, the focus is on using information and data sets that are commonly available and based on standardized data-generating mechanisms (such as official administrative statistics), which most states parties (to human rights treaties and other international agreements) find acceptable and administratively feasible to compile and follow. Furthermore, the framework focuses on identifying indicators for specific substantive and procedural human rights, as well as for crosscutting human rights norms.<sup>20</sup> These are then used as building blocks for elaborating on indicators at the level of human rights treaties or for specific human rights thematic issues such as violence against women.

### ***Anchoring Indicators in Human Rights Standards: The Importance of Attributes***

The conceptual framework used to identify human rights indicators requires that selected indicators be anchored in the normative content of a right, as enumerated in the relevant articles of the treaties and general comments of treaty monitoring committees. This is ensured by taking a two-part approach that includes identifying the attributes of a human right, followed by identifying a cluster of indicators that unpack specific aspects of implementing the associated standard.<sup>21</sup> An attribute of a right reduces the relevant narrative on the legal standard into a concrete categorization. This facilitates indicator selection and makes explicit the link between the indicator, on the one hand, and the relevant normative standards, on the other. Considerations in the identification of attributes include the need for the attributes to be non-overlapping or mutually exclusive in their scope and based on an exhaustive reading of the standard so that no part of the standard is overlooked in the choice of the attributes of a human right or in identifying the indicators for that right; collectively, the attributes of a right should reflect the essence of the normative content of that right.

Thus, in the case of the right to nondiscrimination and equality, the attributes identified are “equality before the law and protection of person,” “access to an adequate standard of living, health and education,” “equality of livelihood opportunities,” and “special measures including for participation in decision-making.” In the case of the right to education, the attributes identified are “universal primary education,” “accessibility to secondary and higher education,” “curricula and educational resources,” and “educational opportunities and freedom” (see tables 1, 2, 3, 4, and 5 at the end of this chapter).<sup>22</sup>

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20 *Supra* note 11.

21 United Nations, *supra* note 13, ch. 2.

22 In the case of the human rights where illustrative indicators have been identified (see United Nations, *supra* note 13), on average, four attributes are able to capture reasonably the essence of the normative content of those rights.

### ***Measuring Human Rights Commitments, Efforts, and Results***

Having identified the attributes of a human right, the next step is to implement a consistent approach to selecting and designing indicators for the normative standards and the obligations corresponding to those attributes. In that context, the framework focuses on measuring three aspects:

- The commitments of duty bearers to their human rights obligations
- The efforts they undertake in implementing those obligations in the form of policies and public programs, irrespective of whether such efforts are directed at respecting, protecting, or promoting the standards
- The results of a duty bearer's efforts to support the realization and enjoyment of human rights by the people

Consequently, the framework uses a cluster of indicators—namely, structural, process, and outcome indicators, or, in other words, commitments, efforts, and results indicators—to measure the different facets of a duty bearer's obligations.

*Structural indicators* capture the ratification and adoption of legal instruments and the existence as well as the creation of basic institutional mechanisms deemed necessary for the promotion and protection of human rights. They reflect the commitment and the intent of a state to implement the accepted standards once it has ratified a human rights treaty. Foremost, structural indicators focus on the enactment and the enforcement of domestic law as relevant to a right. They also focus on the policy framework and strategies required by a state to implement the standards and the corresponding obligations on a right, particularly in the form of government's stated policy position, for example, on free elementary education or on affirmative action for minorities and marginalized sections of the population. Structural indicators set the basis for the justiciability of the standard and its related obligations in the domestic legal system.

*Process indicators* measure the duty bearer's efforts to transform human rights commitments into desired results. Unlike structural indicators, these indicators seek to continuously assess the policies and specific measures being undertaken by a duty bearer in implementing its commitments on the ground. A process indicator links state policy measures with milestones that, over time, could result in the desired human rights outcomes. By defining process indicators in terms of an implicit cause-and-effect relationship and as a monitorable intermediate between commitments and results, the conduct of the process and the accountability of a state for its human rights obligations can be better assessed.

There are two important considerations in the selection and formulation of process indicators. It is necessary to ensure that a process indicator links a structural indicator to its corresponding outcome indicator, preferably through a conceptual and/or an empirical relationship, and that a process indicator explicitly brings out some measure of an effort being undertaken by

a duty bearer in implementing its obligation. Also, it is desirable that a process indicator be measured in terms of the physical milestone that it generates, rather than in terms of the public expenditure that goes into the process.<sup>23</sup>

*Outcome indicators* capture individual and collective attainments that reflect the enjoyment of human rights in a given context. An outcome indicator consolidates over time the impact of various underlying processes that can be captured by one or more process indicators. For example, life expectancy or mortality indicators could be a function of immunization programs for children, public health awareness of the population, accessibility to adequate nutrition, or a reduction in physical violence and crime in a society. It is sometimes helpful to view process and outcome indicators as flow and stock variables, respectively. An outcome indicator, or a stock variable, is often slow moving and less sensitive to capturing momentary changes than a process indicator.<sup>24</sup> However, it reflects more appropriately, and perhaps more comprehensively, the sense of well-being that an individual enjoys as a result of the desired (public) action. Process and outcome indicators may not always be mutually exclusive. A process indicator for one human right can be an outcome indicator for another right.<sup>25</sup>

### ***Indicators of Crosscutting Human Rights Norms***

The indicators that capture crosscutting human rights norms or principles need not be exclusively identified with a specific human right; they are meant to capture the extent to which the process of implementing and realizing human rights respects, protects, and promotes, for example, nondiscrimination and equality, participation, transparency, access to remedy, and accountability.<sup>26</sup> There is no easy or unique way to reflect these transversal norms and principles explicitly in the selection of indicators. When capturing the norm of nondiscrimination and equality in the selection of structural, process, and outcome indicators, for example, a starting point is to seek disaggregated data

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23 Experience across countries and across regions within a country reveals that there is no monotonic relationship between public expenditure and the physical outcome that such expenditure generates. The physical outcome is a function of resources and other institutional and noninstitutional factors that vary from place to place, making it difficult to interpret indicators on public expenditure (see also note 24).

24 Some similarity in process and outcome indicators derives from the fact that any process can be measured in terms of the inputs going into a process or in terms of the immediate outputs that the process generates. Thus, a process indicator of the immunization of children can be measured in terms of the public expenditure going into immunization programs (which is the input variant) or in terms of the proportion of children covered under the program (which is an output variant). Both these indicators are process indicators. They contribute to lowering child mortality, which is an outcome indicator because it captures the consolidated impact of the immunization program over a period of time and can be directly related to the enjoyment of the right to health attribute on child mortality and health care.

25 For example, the proportion of people covered by health insurance can be categorized as a process indicator for the right to health and as an outcome indicator for the right to social security.

26 The list of crosscutting norms is neither sacrosanct nor complete.

about discrimination on such grounds as sex, disability, ethnicity, religion, language, and social or regional affiliation. Or it can also be addressed as a procedural right that has a bearing on the realization of a specific substantive right and hence is defined in reference to that right. Thus, the procedural standard on nondiscrimination and equality could be assessed in the context of the realization of the right to education or to work opportunities across different population segments.

In the case of the human rights principle of participation, the objective is to reflect whether local stakeholders have a say in the adoption and implementation of measures that a duty bearer takes in order to fulfill its obligations. At a more aggregative level, changes in the magnitude of indicators such as the Gini coefficient or the share of income accruing to the bottom population decile could be used. Such indicators reflect the distribution of household consumption expenditure and income in the population and help researchers assess whether a society encourages participation, inclusion, and equality in the distribution of returns from the development process. Indicators on work participation rates and educational attainment of the population in general and of specific groups in particular (e.g., women and minorities) could be useful in this context.

The first steps in the implementation of the principle of accountability are being taken as one translates the normative content of a right into relevant and reliable quantitative and qualitative indicators. Indeed, the availability of information sensitive to human rights, and collection and dissemination of that information through independent mechanisms using transparent procedures, reinforces accountability. Moreover, the process indicators, by definition, seek to promote accountability of the duty bearer in discharging its human rights obligations.

Each of the categories of indicators, through their respective information sets, highlights the steps being undertaken by states to meet their human rights obligations, be it respecting, protecting, or fulfilling a right or determining the obligations of conduct and result that underpin the implementation of human rights standards. Human rights obligations are captured through indicators that reflect human entitlements, acts of commission or omission of public policy, outcomes that influence human well-being, and legal and administrative mechanisms of accountability and redress. The collective use of structural, process, and outcome indicators helps in establishing the value of a rights approach to monitoring and assessment.<sup>27</sup> Moreover, the use of said configura-

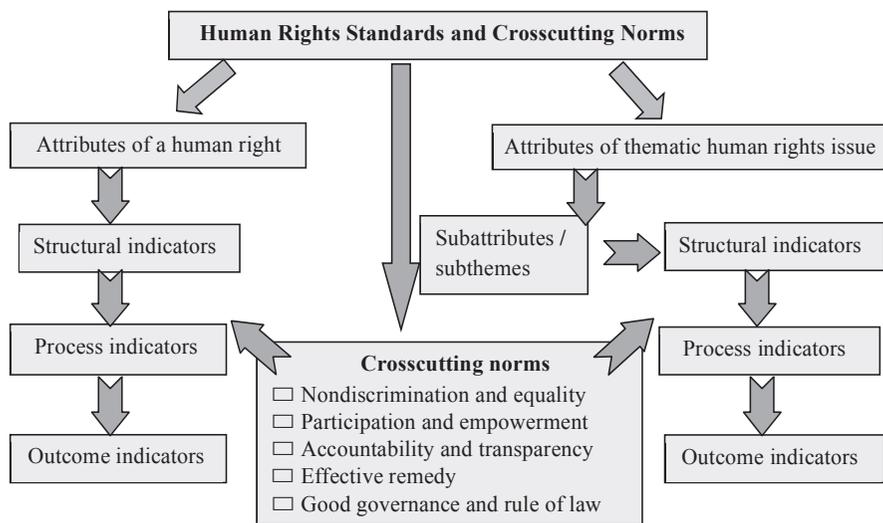
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<sup>27</sup> See Malhotra, *Towards Implementing the Right to Development*, *supra* note 16, for details. The need to monitor the outcomes, as well as the underlying processes in undertaking human rights assessments, is not equally recognized in the two sets of human rights: the civil and political rights, and the economic, social, and cultural rights. In the case of the latter, it is more obvious to accept it. In many situations, particularly in the context of developing countries, these rights can be realized only progressively because of resource constraints. In such cases, it is logical to monitor the process of the progressive realization of the human right. However, even the civil and political rights that are ratified and guaranteed by a state and can in principle be enjoyed must be protected *ad infinitum*. It is recognized in the literature that the implementation and realization of civil and political rights require resources as well as time—for example, to set up the requisite judicial and executive institutions and to design policy and regulatory and enforcement frameworks to protect those rights. In other words,

tion of indicators also encourages the use of contextually relevant, available, and potentially quantifiable information for populating the chosen indicators.

Figure 1 shows the framework for identifying human rights indicators. Steps used in elaborating indicators on the standards and obligations related to a specific human right are depicted on the left. Methods to tweak the framework to identify indicators on human rights thematic issues, such as violence against women, that may involve implementing standards on more than one human right, are shown on the right. The middle section depicts crosscutting norms applicable to the elaboration of the indicators. Using this framework, tables 1, 2, 3, 4, and 5 identify indicators for some procedural and substantive rights and on the issue of violence against women.

**Figure 1. Framework for human rights indicators**



Violence against women (table 4) is a human rights thematic issue that cuts across civil, cultural, economic, political, and social rights, and thus its indicators need to reflect multiple standards. A life-cycle perspective is best used to identify the attributes of violence against women. Phases, events, and situations where a woman is likely to experience violation of her physical and mental integrity are considered to identify the attributes, namely, sexual and reproductive health and harmful traditional practices; domestic violence; violence at work, forced labor, and trafficking; community violence and abuse by law enforcement officials; and violence in conflict, postconflict, and emergency situations. These are then further decomposed to isolate subthemes related to the applicable human rights standards around which the indicators are identified.

in monitoring the realization of the civil and political rights, it is also important to assess the conduct of the process that supports the protection of such rights.

The elaboration of indicators on different rights and on the issue of violence against women is presented in a matrix format in tables 1 through 5. The normative standard as captured in the attributes of a right is placed on the horizontal axis and the different categories of indicators—the structural, process, and outcome indicators—appear on the vertical axis (under each attribute) to permit a systematic coverage of the normative standard and the corresponding obligations of the right.

Given the framework presented here for identifying human rights indicators, the use of a standardized template is desirable. Because each table exhibits the range of indicators that are relevant to adequately capture the normative content and the corresponding obligations of a human rights standard, it permits stakeholders to make an informed choice in selecting a few indicators from among the set to meet the specific needs of the context. Some structural and process indicators presented in the tables cut across more than one attribute. Similarly, some outcome indicators are relevant for more than one attribute or common to a set of process indicators. In all these instances, a meaningful choice of indicators can help in limiting the overall basket of indicators required to articulate policy and monitor the implementation of the human rights approach. This template also facilitates the contextualization of indicators for human rights standards that are universal in their scope.<sup>28</sup>

A conceptual framework that helps in identifying indicators for use in human rights assessments must be backed by a robust methodological approach to populate those indicators with the required data. Indicators are not meaningful in promoting the implementation and monitoring of human rights unless they are explicitly and precisely defined; based on an acceptable standardized methodology of data collection, processing, and dissemination; and available on a regular basis. The indicators identified in the tables are based on two types of data-generating mechanisms: indicators that are or can be compiled by official statistical systems using census, statistical surveys, and/or administrative records; and indicators or standardized information more generally compiled by national human rights institutions and civil society sources focusing on alleged violations reported by victims, witnesses, or others. The intention here is to explore and exhaust the use of commonly available information, particularly from objective data sets that can be easily quantified for tracking human rights implementation, and in the process contribute to operationalizing the approach and assisting in its acceptance by the stakeholders.<sup>29</sup>

Although appropriate indicators may help in identifying development outcomes/goals that embody normative human rights concerns and facilitate the articulation of the required policy interventions, it is the implementation of those policies that ultimately helps in attaining the desired outcomes and goals. Besides its conceptual appeal, the human rights approach to develop-

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28 See United Nations, *supra* note 13, ch. 4.

29 *Id.*, ch. 3.

ment and good governance needs an adequate empirical basis to be considered a serious option for application across different contexts.

## Does the Rights Approach Work? Some Evidence and Concluding Remarks

There are only a few examples of a well-articulated human rights approach being used to improve development delivery and governance practice. Between 2004 and 2014, India's federal government adopted a strategy for inclusive development that included creating new entitlements and strengthening others by providing limited legal guarantees on some aspects of life seen as vital for an individual's well-being and inclusion in the economic and social mainstream of society. The motivation behind the approach was to remove political, social, economic, and bureaucratic barriers to empowerment of marginalized segments of the society. The initiative gave shape to a human rights approach to the social protection floor, or the social safety net.

India's efforts in this regard include the following:

- The Mahatma Gandhi National Rural Employment Guarantee Act (2005) provides for 100 days of unskilled manual labor to every rural household on demand within 15 days ordinarily within a distance of five kilometers of the place of residence and at an inflation-indexed wage rate.
- The Right to Education Act (2009) provides for free education for children up to 14 years of age in keeping with norms and benchmark, including those related to school infrastructure, curriculum, and nutrition, through the provision of midday meals at schools.
- The National Food Security Act (2013) provides for subsidized cereals for up to 67 percent of the population, with greater entitlements for destitute families.
- The Draft National Health Bill (2009) seeks to provide universal health entitlement to all citizens (a major part of this initiative in the rural areas is being implemented under the National Rural Health Mission); and social pensions, under the National Social Assistance Programme, that are being gradually expanded for persons in old age and single woman pensioners.<sup>30</sup>

In addition, initiatives on housing for rural and urban areas with limited entitlements to affordable housing for the urban poor are being implemented. These measures seek to improve the current entitlements of the poor and enhance the scope of their future exchange entitlements.<sup>31</sup> Moreover, the

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30 The draft bill is still under consideration.

31 See A. K. Sen, *Starvation and Exchange Entitlements: A General Approach and Its Application to the Great Bengal Famine*, 1 Cambridge J. Economics (1977); A. K. Sen, *Poverty and Famines* (Oxford U. Press 1981) for an elaboration of the notion of entitlements and the importance of improving the exchange entitlements of the poor and the marginalized to lift them out of their chronic deprivation.

human rights approach is bringing about greater accountability and transparency in the implementation and delivery of India's public programs in the social welfare sector.

Although it is too simplistic to make a definitive conclusion about the impact of these interventions in the short span of their implementation, the evidence suggests that trends in selected outcome/process indicators for these interventions show a significant improvement. This evidence includes indicators such as private real rural wage rates (influenced by the implementation of the employment guarantee program in rural areas), rural inequality in household consumption, school enrollment rates, nutrition status of children, health indicators on child and maternal mortality, and head count incidence of poverty.<sup>32</sup>

Two other measures that are contributing to the empowerment of people, particularly the marginalized, are the creation of a right to information (for information in the public domain) and the formalization of an identity instrument to improve people's access to public service delivery and their entitlements. The Right to Information Act (2005) has been instrumental in bringing greater transparency and accountability in the functioning of public agencies at the federal and the state levels. It has contributed to unearthing corruption and political scams in the allocation of scarce public resources. The Unique Identification Authority of India was set up in 2009 to create a universally acceptable identity instrument called *Aadhaar* and address the critical gap in the effective delivery of public services to the intended beneficiaries. It provides a digital identity to every individual, making each individual a part of the economy. This initiative has the potential to radically improve the delivery efficiency of social welfare programs when it is fully rolled out, including by supporting location portability for accessing public benefits and social transfers.<sup>33</sup> If the targeted population groups are correctly identified and the significant inefficiencies associated with India's public programs are monitored, government subsidies will decrease, improving the fiscal space for other reforms. This potential is attested to by the success of pilot programs implemented using the *Aadhaar* platform.

The results from India's gradually evolving human rights approach to social protection floor appear promising. However, potential pitfalls need to be avoided. The rights approach, which focused on selected issues and is being implemented in a few sectors, must be seen as part of a larger policy reform process—a process that, while seeking to expand the overall opportunities for people (through sustained high and inclusive growth), supports a social safety net to check unintended and unanticipated consequences for a growing market economy in an globalized world. Legal entitlements for meet-

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32 See Malhotra, *India Public Policy Report*, *supra* note 16, for details on some of these indicators and related assessment.

33 Location portability of benefits will help poor migrant labor, which is forced to give up welfare entitlements as it migrates in search of work to avail those benefits in the new place of work.

ing basic needs must be created selectively, without undermining the fiscal sustainability of the growth process in the medium term and long term.

Over the past few years, several provincial governments (state governments) in India have taken the initiative to legislate a right to public services with the explicit objective of improving accountability in public delivery and addressing corruption. These efforts include statutory laws that guarantee time-bound delivery of various public services provided by the government along with mechanisms for redress, with provisions for punishing the public servant who fails to fulfill his or her mandated responsibilities. The Madhya Pradesh government was the first to take a lead in this regard in 2010; many other provincial governments have followed since then. India's federal government introduced the right of citizens for time-bound delivery of goods and services and redress of their grievances bill in the parliament in December 2011. The proposed bill would have made it mandatory for every public authority to publish a Citizen's Charter listing the goods and services provided by a public authority, the person or agency responsible for providing the goods or services, the time frame within which the goods or services must be provided, and the category of people entitled to the service. Unfortunately, the bill lapsed.

As of April 1, 2014, India's federal government made it mandatory for business entities (with net worth, turnover, and net profits above specified thresholds) to spend at least 2 percent of their net profits on certain activities under the corporate social responsibility (CSR) initiative. This provision in the Companies Act (2013) makes India perhaps the only country that has a legislative basis for CSR spending. Although the practice of CSR activities is not new to India, the new legislation has significantly increased likely CSR spending and provides a structured business responsibility to India's development agenda.

To sum up, a human rights approach is an option for countries seeking to speed up their social transformation in the face of hurdles imposed by an unjust historical social order and political economy weaknesses in decision-making processes. It also promises results for countries that are grappling with corruption and accountability issues in public agencies and need to decentralize their governance systems to improve development delivery. It is not just an approach that seeks to protect legal entitlements; this approach is about promoting an equitable and just process of development and change using normative considerations and creating a cohesive society with empowered individuals engaged with social causes in the collective interest. It is about coordinating state and nonstate actors to contribute to the process of social transformation through a framework of rights and responsibilities.

Although universal in its scope and relevance, a human rights approach can be contextualized to meet the needs of countries at different levels of development, quality of institutions, and aspirations. In that context, the framework to identify and design human rights indicators outlined in this chapter could play a significant role. The challenge is to weave the identified indicators creatively but purposefully into the fabric of policy articulation, implementation, and assessment so they can guide the transformation of the society.

**Table 1. Indicators of the right to liberty and security of persons (Universal Declaration of Human Rights [UDHR], Art. 3)**

	<b>Arrest and Detention Based on Criminal Charges</b>	<b>Administrative Deprivation of Liberty</b>
<b>Structural</b>	<ul style="list-style-type: none"> <li>• International human rights treaties relevant to the right to liberty and security of person</li> <li>• Date of entry into force and coverage of the right to liberty and security of persons in the</li> <li>• Date of entry into force and coverage of domestic laws for implementing the right to</li> <li>• Time frame and coverage of policy and administrative framework against arbitrary grounds (e.g., immigration, mental impairment, educational purposes, vagrancy)</li> <li>• Type of accreditation of national human rights institutions by the rules of procedure of</li> </ul>	
	<ul style="list-style-type: none"> <li>• Legal time limits for an arrested or detained person before being informed of the reason or having the case reviewed by an authority exercising judicial power; and for the trial</li> </ul>	
<b>Process</b>	<ul style="list-style-type: none"> <li>• Proportion of received complaints on the right to liberty and security of persons mechanisms and the proportion of these responded to effectively by the government</li> <li>• Proportion of communications sent by the UN Working Group on Arbitrary Detention</li> <li>• Proportion of law enforcement officials (including police, military, and state security punishment)</li> </ul>	
	<ul style="list-style-type: none"> <li>• Number/proportion of arrests or entries into detention (pre- and pending trial) on the basis of a court order or due to action taken directly by executive authorities in the reporting period</li> <li>• Number/proportion of defendants released from pre- and trial detentions in exchange for bail or due to nonfiling of charges in the reporting period</li> </ul>	<ul style="list-style-type: none"> <li>• Number/proportion of arrests or entries into detention under national administrative provisions (e.g., security, immigration control, mental impairment and other medical grounds, educational purposes, drug addiction, financial obligations) in the reporting period</li> <li>• Number/proportion of releases from administrative detentions in the reporting period</li> </ul>
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• Number of detentions per 100,000 population, on the basis of a court order or due to action by executive authorities at the end of the reporting period</li> <li>• Reported cases of arbitrary detentions, including posttrial detentions (e.g., as reported to the UN Working Group on Arbitrary Detention) in the reporting period</li> </ul>	

*All indicators should be disaggregated by prohibited grounds of discrimination, as applicable*

Effective Review by Court	Security from Crime and Abuse by Law Enforcement Officials
ratified by the state constitution or other forms of superior law liberty and security of persons deprivations of liberty, whether based on criminal charges, sentences, or decisions by a court or administrative the international coordinating committee of national institutions	
for the arrest or detention; before being brought to duration of a person in detention	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy and administrative framework on security, handling of criminality, and abuses by law enforcement officials</li> </ul>
investigated and adjudicated by the national human rights institution, human rights ombudsperson, or other responded to effectively by the government force) trained in rules of conduct concerning proportional use of force, arrest, detention, interrogation, or	
<ul style="list-style-type: none"> <li>• Proportion of cases where the time for arrested or detained persons before being informed of the reasons of arrest; before receiving notice of the charge (in a legal sense); or before being informed of the reasons for administrative detention exceeded the respective legally stipulated time limit</li> <li>• Number of habeas corpus and similar petitions filed in courts in the reporting period</li> <li>• Proportion of bail applications accepted by the court in the reporting period</li> <li>• Proportion of arrested or detained persons provided with access to a counselor or legal aid</li> <li>• Proportion of cases subject to review by a higher court or appellate body</li> <li>• Reported cases where pre- and trial detentions exceeded the legally stipulated time limit in the reporting period</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of law enforcement officials formally investigated for physical and nonphysical abuse or crime, including arbitrary arrest and detention (based on criminal or administrative grounds)</li> <li>• Proportion of formal investigations of law enforcement officials resulting in disciplinary actions or prosecution in the reporting period</li> <li>• Proportion of uniformed police and other law enforcement officials with visible government-provided identification (e.g., name or number)</li> <li>• Number of persons arrested, adjudicated, convicted or serving sentence for violent crime (including homicide, rape, assault) per 100,000 population in the reporting period</li> <li>• Proportion of law enforcement officials killed in line of duty in the reporting period</li> <li>• Firearms owners per 100,000 population/number of firearms licenses withdrawn in the reporting period</li> <li>• Proportion of violent crimes with the use of firearms</li> <li>• Proportion of violent crimes reported to the police (victimization survey) in the reporting period</li> </ul>
<ul style="list-style-type: none"> <li>• Proportion of arrests and detentions declared unlawful by national courts</li> <li>• Proportion of victims released and compensated after arrests or detentions declared unlawful by judicial authority</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of population feeling “unsafe” (e.g., walking alone in area after dark or alone at home at night)</li> <li>• Incidence and prevalence of physical and nonphysical abuse or crime, including by law enforcement officials in line of duty, per 100,000 population, in the reporting period</li> </ul>

**Table 2. Indicators of the right to participate in public affairs (UDHR, Art. 21)**

	<b>Exercise of Legislative, Executive, and Administrative Powers</b>
<b>Structural</b>	<ul style="list-style-type: none"> <li>• International human rights treaties, relevant to the right to participate in public</li> <li>• Date of entry into force and coverage of the right to participate in public affairs</li> <li>• Date of entry into force and coverage of domestic laws for implementing the association, and assembly</li> <li>• Date of entry into force of universal suffrage, right to vote, right to stand for with respect to the right to participate in public affairs at the national and</li> <li>• Quota, time frame, and coverage of temporary and special measures for</li> <li>• Type of accreditation of national human rights institutions by the rules of</li> <li>• Number of registered and/or active nongovernmental organizations (NGOs)</li> </ul>
	<ul style="list-style-type: none"> <li>• Periodicity of executive and legislative elections at the national and local levels</li> <li>• Date of entry into force and coverage of laws establishing an independent national electoral body</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• Proportion of received complaints on the right to participate in public affairs other mechanisms and the proportion of these responded to effectively by</li> <li>• Number of suffrages (election, referendum, and plebiscite) at national and local levels held during the reporting period</li> <li>• Number of legislations adopted by national and subnational legislatures during the reporting period</li> <li>• Proportion of elections and sessions of nationally and locally elected bodies held as per the schedule laid out by constitutional or statutory bodies</li> <li>• Proportion of election campaign expenditures at the national and subnational levels met through public funding</li> <li>• Proportion of elected personnel whose term of service was interrupted, by cause of interruption</li> <li>• Proportion of women and target groups included in the membership of national political parties or presented as candidate for election</li> </ul>
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• Proportion of seats in parliament,* elected, and appointed bodies at subnational and local levels held by women and target groups</li> </ul>
<i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable</i>	
<i>* Millennium Development Goal (MDG)-related indicator</i>	

Universal and Equal Suffrage	Access to Public Service Positions
<p>affairs, ratified by the state</p> <p>in the constitution or other forms of superior law</p> <p>right to participate in public affairs, including freedom of opinion, expression, information, media,</p> <p>election, legal provisions defining citizenship, and limitations (including age limits) on permanent residents</p> <p>local levels</p> <p>targeted populations in legislative, executive, judicial, and appointed bodies</p> <p>procedure of the international coordinating committee of national institutions</p> <p>per 100,000 persons involved in the promotion and protection of the right to participate in public affairs</p>	
	<ul style="list-style-type: none"> <li>• Date of entry into force and coverage of legal provisions guaranteeing access to public service positions without discrimination</li> <li>• Date of entry into force and coverage of administrative tribunals or dedicated judicial redress mechanism for public service matters</li> </ul>
<p>investigated and adjudicated by the national human rights institution, human rights ombudsperson, or the government</p>	
<ul style="list-style-type: none"> <li>• Proportion of the voting-age population registered to vote</li> <li>• Reported irregularities (intimidation, corruption, or arbitrary interference) with registration, maintenance, and review of electoral rolls</li> <li>• Number of complaints per elected position recorded and addressed in the election process by national and subnational electoral authorities</li> <li>• Share of public expenditure on national and subnational elections spent on voter education and registration campaigns</li> <li>• Number of political parties registered or recognized at the national level</li> <li>• Proportion of voting age population not affiliated with political parties</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of vacancies in (selected) public authorities at the national and subnational levels filled through the selection of women and candidates from target population groups</li> <li>• Proportion of cases filed in administrative tribunals and dedicated judicial redress mechanisms for public service matters adjudicated and finally disposed during the reporting period</li> <li>• Proportion of positions in the public service reserved for nationals or citizens</li> </ul>
<ul style="list-style-type: none"> <li>• Average voter turnout in national and local elections, by sex and target groups</li> <li>• Proportion of invalid and blank votes in elections to national and subnational legislatures</li> </ul>	<ul style="list-style-type: none"> <li>• Reported cases of denial of access to public service or position on account of discrimination</li> <li>• Proportion of public service positions held by women and members of target groups</li> </ul>

**Table 3. Indicators of the right to education (UDHR, Art. 26)**

	Universal Primary Education	Accessibility to Secondary and Higher Education
<b>Structural</b>	<ul style="list-style-type: none"> <li>• International human rights treaties, relevant to the right to education, ratified by the</li> <li>• Date of entry into force and coverage of the right to education in the constitution or</li> <li>• Date of entry into force and coverage of domestic laws for implementing the right to educational institutions barrier free, and inclusive education (e.g., children with</li> <li>• Date of entry into force and coverage of domestic law on the freedom of individuals</li> <li>• Number of registered and/or active NGOs per 100,000 persons involved in the</li> </ul>	
	<ul style="list-style-type: none"> <li>• Time frame and coverage of the plan of action adopted by the state to implement the principle of compulsory primary education free of charge for all</li> <li>• Stipulated duration of compulsory education and minimum age for admission into school</li> </ul>	<ul style="list-style-type: none"> <li>• Time frame and coverage of national working and street children)</li> <li>• Time frame and coverage of national</li> <li>• Date of entry into force and coverage of</li> <li>• Proportion of education institutions at</li> <li>• Proportion of education institutions with</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• Proportion of received complaints on the right to education investigated and and the proportion of these responded to effectively by the government</li> <li>• Public expenditure on primary, secondary, and higher education as proportion of proportion of public expenditure on education*</li> </ul>	
	<ul style="list-style-type: none"> <li>• Net primary enrollment ratio* by target groups, including children with disabilities</li> <li>• Drop-out rate for primary education by grades for target groups</li> <li>• Proportion of enrolled children in public primary education institutions</li> <li>• Proportion of students (by target groups) covered under publicly supported additional financial programs or incentives for primary education</li> <li>• Proportion of public schools with user charges for services other than tuition fees</li> <li>• Proportion of primary education teachers fully qualified and trained</li> <li>• Proportion of children getting education in their mother tongue</li> <li>• Proportion of students in grade 1 who attended preschool</li> </ul>	<ul style="list-style-type: none"> <li>• Transition rate to secondary education by target groups</li> <li>• Gross enrollment ratio for secondary and higher education by target groups</li> <li>• Drop-out rate for secondary education by grades for target groups</li> <li>• Proportion of enrolled students in public secondary and higher education institutions</li> <li>• Share of annual household expenditures on education per child enrolled in public secondary or high school</li> <li>• Proportion of students (by target groups) receiving public support or grant for secondary education</li> <li>• Proportion of secondary or higher education teachers fully qualified and trained</li> <li>• Proportion of students enrolled in vocational education programs at secondary and postsecondary level</li> </ul>
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• Ratios of girls to boys in primary education* by grades for target groups</li> <li>• Proportion of students starting grade 1 who reach grade 5 (primary completion rate)*</li> <li>• Proportion of out-of-school children in primary education age group</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio of girls to boys in secondary or higher education* by grades</li> <li>• Proportion of children completing secondary education (secondary completion rate)</li> <li>• Number of graduates (first-level university degree) per 1,000 population</li> </ul>
	<ul style="list-style-type: none"> <li>• Youth (15–24 years)* and adult (15+) literacy rates (i.e., reading, writing, calculating,</li> </ul>	
<p><i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable.</i></p> <p><i>* MDG-related indicator</i></p>		

Curricula and Educational Resources	Educational Opportunity and Freedom
<p>state other form of superior law education, including prohibition of corporal punishment, discrimination in access to education, making disabilities, children in detention, migrant children, indigenous children) and groups (including minorities) to establish and direct educational institutions promotion and protection of the right to education</p>	
<p>policy on education for all, including provision for temporary and special measures for target groups (e.g., policy on vocational and technical education regulatory framework, including standardized curricula for education at all levels all levels teaching human rights/number of hours in curricula on human rights education mechanisms (student council) for students to participate in matters affecting them</p>	
<p>adjudicated by the national human rights institution, human rights ombudsperson, or other mechanisms gross national income; net official development assistance (ODA) for education received or provided as</p>	
<ul style="list-style-type: none"> <li>• Proportion of schools or institutions conforming to stipulated national requirements on academic and physical facilities</li> <li>• Periodicity of curricula revision at all levels</li> <li>• Number of educational institutions by level recognized or derecognized during the reporting period by relevant regulatory body</li> <li>• Average salary of schoolteachers as a percentage of regulated minimum wages</li> <li>• Proportion of teachers at all levels completing mandatory in-service training during reporting period</li> <li>• Ratio of students to teaching staff, in primary, secondary, public, and private education</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of education institutions engaged in “active learning” activities</li> <li>• Proportion of adult population covered under basic education programs</li> <li>• Proportion of students, by level, enrolled in distance and continuing education programs</li> <li>• Number of institutions of ethnic, linguistic minority, and religious population groups recognized or extended public support</li> <li>• Proportion of labor force availing retraining or skill enhancement at public or supported institutions</li> <li>• Proportion of higher learning institutions enjoying managerial and academic autonomy</li> <li>• Personal computers in use per 100 population*</li> </ul>
<ul style="list-style-type: none"> <li>• (Improvement in) density of primary, secondary, and higher education facilities in the reporting period</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of women and targeted population with professional or university qualification</li> </ul>
<p>problem-solving, and other life skills)</p>	

**Table 4. Indicators of violence against women (UDHR, arts. 1-5 and 16)**

	<b>Sexual and Reproductive Health and Harmful Traditional Practices</b>	<b>Domestic Violence</b>	
<b>Structural</b>	<ul style="list-style-type: none"> <li>• International human rights treaties, relevant to the elimination of discrimination against women,</li> <li>• Date of entry into force and coverage of the principle of nondiscrimination between men and women</li> <li>• Date of entry into force and coverage of domestic law(s) criminalizing VAW, including rape, early or forced marriage, honor killing or maiming, and fetal sex-determination</li> <li>• Date of entry into force and coverage of legal act instituting an independent oversight body with</li> <li>• Time frame and coverage of policy or action plan for the elimination of discrimination and all forms</li> <li>• Number of registered or active nongovernmental organizations and full-time equivalent</li> </ul>	<ul style="list-style-type: none"> <li>• Date of entry into force and coverage of legislation criminalizing marital rape and incest</li> <li>• Date of entry into force and coverage of legislations protecting gender equality and women's ability to leave abusive relationships (e.g., equal inheritance, asset ownership, divorce)</li> </ul>	
	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy to eliminate harmful traditional practices (HTP), including female genital mutilation, early or forced marriage, honor killing or maiming, and fetal sex-determination</li> <li>• Legally stipulated minimum age for marriage</li> </ul>		
<b>Process</b>	<ul style="list-style-type: none"> <li>• Proportion of received complaints on all forms of VAW investigated and adjudicated by the government</li> <li>• Proportion of public social sector expenditure on national awareness-raising campaign on all</li> <li>• Number of perpetrators of VAW (including HTP, domestic violence, trafficking, sexual</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of women reporting forms of domestic violence to law enforcement officials or initiating legal action</li> <li>• Number of available places in shelters and refuges per 1,000 population (urban and rural)</li> <li>• Number of adopted civil protection orders prohibiting perpetrators of domestic violence from further contact with the victim(s)</li> <li>• Proportion of men and women who think that abuse or violence against women is acceptable or tolerable</li> </ul>	
	<ul style="list-style-type: none"> <li>• Proportion of women of reproductive age, or whose partner is using contraception and effective preventive measures against sexually transmittable diseases (e.g., HIV/AIDS)*</li> <li>• Unmet need for family planning*</li> <li>• Number of safe and unsafe abortions per 1,000 women of reproductive age</li> <li>• Proportion of women whose age at marriage is below 18 years#</li> <li>• Proportion of managerial and other leader positions (e.g., religious leader) occupied by women</li> </ul>		
<b>Outcome</b>	<ul style="list-style-type: none"> <li>• Proportion of women subjected to female genital mutilation#</li> <li>• Sex ratio at birth and ages 5–9 years</li> <li>• Maternal mortality ratio* and proportion of deaths due to unsafe abortions</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of women who have experienced physical and/or sexual violence by current or former partner in the last 12 months/during lifetime#</li> <li>• Proportion of women subjected to psychological and/or economic violence by the intimate partner#</li> </ul>	
	<ul style="list-style-type: none"> <li>• Femicide rates (e.g., murder by intimate partner, sexual murder, killing of prostitutes, honor</li> <li>• Proportion of women who have experienced physical, sexual, and psychological violence during</li> <li>• Proportion of victim-survivors of physical, sexual, or mental violence, including trafficking and</li> <li>• Suicide rates by sex</li> </ul>		
<p><i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable</i></p> <p><i>* MDG-related indicator</i></p> <p><i># United Nations Economic Commission for Europe indicator</i></p>			

Violence at Work, Forced Labor, and Trafficking	Community Violence and Abuse by Law Enforcement Officials	Violence and (Post-) Conflict and Emergency Situations
<p>including all forms of violence against women (VAW), ratified by the state without reservations women and prohibition of all forms of VAW in the constitution or other forms of superior law domestic violence, trafficking, traditional harmful practices, stalking, and childhood sexual abuse specific VAW mandate (e.g., accredited national human rights institution) of violence against women and including data collection and dissemination program employment (per 100,000 persons) involved in the protection against VAW</p>		
<ul style="list-style-type: none"> <li>• Time frame and coverage of policy or program against workplace sexual harassment</li> <li>• Time frame and coverage of policy to combat trafficking, sexual exploitation, and forced labor and provide protection and access to remedy for victims</li> </ul>	<ul style="list-style-type: none"> <li>• Date of entry into force and coverage of legislation defining rape in relation to a lack of consent rather than use of force</li> <li>• Time frame and coverage of policy to combat community violence and abuse by police forces</li> </ul>	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy or program to prevent or address sexual violence in conflict, postconflict, or emergency situations</li> <li>• Time frame and coverage of special measures for participation of women in peace processes</li> </ul>
<p>national human rights institution, human rights ombudsperson, or other mechanism and the proportion of these forms of VAW (including HTP) and on national prevention program integrated into school curriculum exploitation, and forced labor) arrested, adjudicated, convicted, and serving sentences (by type of sentence)</p>		
<ul style="list-style-type: none"> <li>• Proportion of and frequency of business organizations inspected for conformity with labor standards</li> <li>• Proportion of migrants working in the sex industry</li> <li>• Proportion of informal sector workers (e.g. domestic workers) shifted to formal sector employment</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of new recruits to police, social work, psychology, health (doctors, nurses and others), education (teachers) completing a core curriculum on all forms of VAW</li> <li>• Proportion of victims of rape who had access to emergency contraception or safe abortion, prophylaxis for sexually transmitted infections/HIV</li> <li>• Proportion of sexual crimes (e.g. rape) reported to the police (population survey)</li> <li>• Proportion of formal investigations of law enforcement officials for VAW cases resulting in disciplinary actions or prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of health staff trained in medical management and support for victims of sexual and other violence</li> <li>• Proportion of victims of sexual and other violence accessing appropriate medical, psycho-social and legal services</li> <li>• Proportion of reported cases of sexual or other violence where victims (or related third parties) initiated legal action</li> <li>• Proportion of expenditure on relief and emergency assistance devoted to women and child welfare</li> </ul>
<ul style="list-style-type: none"> <li>• Reported cases of women/men victims of trafficking (within and across countries), sexual exploitation, or forced labor</li> <li>• Proportion of working women who have been victims of workplace sexual abuse/ harassment</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of women/men who report feeling unsafe in public places or limiting their activities because of safety or harassment</li> <li>• Proportion of women who have experienced physical violence or rape/sexual assault during the last year (lifetime) #</li> </ul>	<ul style="list-style-type: none"> <li>• Reported cases of death, rape (attempted or completed) and other violence against women incidents that occurred in conflict, postconflict, or emergency situations</li> </ul>
<p>killing, female infanticide, dowry deaths) the last year (lifetime), by severity of violence, relationship to the perpetrator, and frequency# forced labor, who received assistance, compensation, and rehabilitation services</p>		

**Table 5. Indicators of the right to nondiscrimination and equality (UDHR, Arts. 1, 2, and 7)**

	Equality before Law and Protection of Persons	Direct or Indirect Discrimination by Public Nullifying or Impairing Access to an Adequate Standard of Living, Health, and Education
<b>Structural</b>	<ul style="list-style-type: none"> <li>• International human rights treaties relevant to the right to nondiscrimination and</li> <li>• Date of entry into force and coverage of NDE, including the list of prohibited</li> <li>• Date of entry into force and coverage of domestic laws for implementing NDE,</li> <li>• Date of entry into force and coverage of legal act constituting a body responsible</li> <li>• Periodicity and coverage of the collection and dissemination of data relevant to</li> <li>• Number of registered or active NGOs and full-time equivalent employment (per</li> </ul>	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy or program for equal access to education at all levels</li> <li>• Time frame and coverage of policy and programs to provide protection from discriminatory practices interfering with access to food, health, social security, and housing</li> </ul>
	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy and programs to ensure equal protection, security, and handling of crimes (including hate crimes and abuses by law enforcement officials)</li> <li>• Date of entry into force and coverage of domestic laws ensuring equal access to justice and treatment, including for married, unmarried couples, single parents, and other target groups</li> </ul>	
<b>Process</b>	<ul style="list-style-type: none"> <li>• Proportion of received complaints on cases of direct and indirect discrimination other mechanisms (e.g., an equal opportunity commission) and the proportion</li> <li>• Proportion of targeted population (e.g., law enforcement officials) trained on</li> </ul>	
	<ul style="list-style-type: none"> <li>• Proportion of victims of discrimination and bias-driven violence provided with legal aid</li> <li>• Number of persons (including law enforcement officials) arrested, adjudicated, convicted, or serving sentence for discrimination and bias-driven violence per 100,000 population</li> <li>• Proportion of women reporting forms of violence against self or children initiating legal action or seeking help from police or counseling centers</li> <li>• Proportion of requests for legal assistance and free interpreters being met (criminal and civil proceedings)</li> <li>• Proportion of lawsuits related to property where women appear in person or through council as plaintiff or respondent</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio of targeted population (e.g., girls) in the relevant population group in primary and higher education levels* and by kind of schools (e.g., public, private, special school)*</li> <li>• Proportion of health care professionals (landlords) handling requests from potential patients (candidates) in a nondiscriminatory manner (source: discrimination testing survey)</li> <li>• Proportion of public buildings with facilities for persons with physical disabilities</li> <li>• Proportion of targeted populations that was extended sustainable access to an improved water source, sanitation,* electricity, and garbage disposal</li> </ul>

<b>and Private Actors</b>  <b>Equality of Opportunity for Livelihood</b>	<b>Special Measures, Including for Participation in Decision Making</b>
<p>equality (NDE) ratified by the state grounds of discrimination (see list below), in the constitution, or other forms of superior law including on the prohibition of advocacy constituting incitement to discrimination and hatred for promoting and protecting NDE assess the implementation of NDE (100,000 persons) involved in the promotion and protection of NDE</p>	
<ul style="list-style-type: none"> <li>• Time frame and coverage of policies for equal access to decent work</li> <li>• Time frame and coverage of policy for the elimination of forced labor and other abuses at work, including domestic work</li> </ul>	<ul style="list-style-type: none"> <li>• Time frame and coverage of policy to implement special and temporary measures to ensure or accelerate equality in the enjoyment of human rights</li> <li>• Date of entry into force and coverage of quotas or other special measures for targeted populations in legislative, executive, judicial, and other appointed bodies</li> </ul>
<p>investigated and adjudicated by the national human rights institution, human rights ombudspersons, or responded to effectively by the government implementing a code of conduct for the elimination of discriminatory practices</p>	
<ul style="list-style-type: none"> <li>• Proportion of enterprises (e.g., government contractors) that conform with certified discrimination-free business and workplace practices (e.g., no HIV test requirements)</li> <li>• Proportion of job vacancy announcements stipulating that among equally qualified (or comparable) candidates a person from targeted population groups will be selected (e.g., women, minority)</li> <li>• Proportion of employers handling applications of candidates in a non-discriminatory manner (e.g., ILO discrimination testing survey)</li> <li>• Proportion of employees (e.g., migrant workers) reporting discrimination and abuse at work who initiated legal or administrative action</li> <li>• Proportion of time dedicated to unpaid domestic work and caregiving charged to women</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of targeted population groups accessing positive action or preferential treatment measures aiming at promoting de facto equality (e.g., financial assistance, training)</li> <li>• Proportion of education institutions at all levels teaching human rights and promoting understanding among population groups (e.g., ethnic groups)</li> <li>• Proportion of members of trade unions and political parties who are women or from other targeted population groups and the proportion thereof presented as candidates for election</li> </ul>

<b>Outcome</b>	<ul style="list-style-type: none"> <li>• Prevalence/incidence of crimes, including hate crime and domestic violence, by target population groups</li> <li>• Reported cases of arbitrary killing, detention, disappearance, and torture from population groups ordinarily subject to risk of discriminatory treatment</li> <li>• Conviction rates for indigent defendants provided with legal representation as a proportion of conviction rates for defendants with lawyer of their own choice</li> </ul>	<ul style="list-style-type: none"> <li>• Educational attainments (e.g., youth and adult literacy rates) by targeted population groups*</li> <li>• Birth, mortality, and life expectancy rates disaggregated by targeted population groups</li> </ul>	
	<ul style="list-style-type: none"> <li>• Reported number of victims of direct and indirect discrimination and hate crimes period</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of targeted populations below after social transfers*</li> </ul>	
<p><i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable.</i></p> <p><i>* MDG-related indicator</i></p>			

<ul style="list-style-type: none"> <li>• Employment-to-population ratios* by targeted population groups</li> <li>• Wage gap ratios for targeted population groups</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of relevant positions (e.g., managerial) in the public and private sectors held by targeted population groups</li> <li>• Proportion of seats in elected and appointed bodies at subnational and local levels held by targeted population groups*</li> </ul>
<p>national poverty line (and Gini indices) before and</p>	
<p>and proportion of victims (or relatives) who received compensation and rehabilitation in the reporting</p>	

