

“Any legal or regulatory mechanisms, or networks or partnerships, set up to mobilise the data revolution for sustainable development should have the protection of human rights as a core part of their activities, specify who is responsible for upholding those rights, and should support the protection, respect and fulfilment of human rights.”

A World that Counts – Data Revolution Report

SDGs Indicator Framework: *A Human Rights Approach to Data Disaggregation to Leave No One Behind*

Draft background note (25.2.2015)

There has been a recurrent call for data disaggregation as part of the development of a new set of Sustainable Development Goals. The call is essential to match the ambition that “no one should be left behind” and “no target should be met, unless met for all groups”¹ in the new post-2015 development agenda. Disaggregated statistics will be key to support tailored and evidence-based policy formulation, as well as monitoring of the implementation of the development agenda. It is clear however that the greater level of disaggregation will pose a number of challenges to official statistics, and thus, discussions on this topic are timely and resonate with the discussion on the ‘Data Revolution’.

Despite the widespread call for data disaggregation², there has been relatively little discussion on the concrete implications, including definitional, methodological, legal and practical, of identifying the population groups for which data should be disaggregated at global, regional, national and even sub-national levels. Traditional household surveys, the most common data source for the Millennium Development Goals (MDGs), have been designed primarily to produce national averages and tend to mask disparities and exclude population groups that may be among the poorest of the poor³ or the most vulnerable and marginalized.

This note therefore aims to address these questions from a human rights perspective, by linking the levels of disaggregation to the grounds of discrimination that are prohibited under international human rights law. Developing disaggregated data is essential for human rights from the perspective

¹ The report of the High Level Panel of Eminent Persons states that ‘indicators should be disaggregated to ensure no one is left behind and targets should only be considered ‘achieved’ if they are met for all relevant income and social groups’, ‘Data must also enable us to reach the neediest, and find out whether they are receiving essential services. This means that data gathered will need to be disaggregated by gender, geography, income, disability, and other categories, to make sure that no group is being left behind’, <http://www.undatarevolution.org/report/>.

² Generally, the international human rights monitoring mechanisms have encouraged the disaggregation of data, see for example Article 31 of the Convention on the Rights of Persons with Disabilities, General Recommendation 9 of CEDAW on statistical data (1989), General Comment 34 of CERD on discrimination against people of African descent (2011).

³ See for instance Carr-Hill, R. (2013). Missing millions and measuring development progress. *World Development*, 46, 30–44.

of meeting the obligations of non-discrimination and equality. However, it must also be kept in mind, that there are human rights risks in the collection, processing and dissemination of data, which may interfere on the protection of the rights of populations. This background note recommends the adoption of a human rights-based approach to data disaggregation to address and overcome these challenges.

Disaggregation of data in accordance with the grounds of discrimination prohibited by international human rights law

One of the lessons commonly drawn from the MDGs is the need for the SDGs to provide more disaggregated statistics and analysis to account for the most vulnerable and marginalized populations and enhance measurement of discrimination and inequalities both within and among countries. The call for more disaggregated information has been unanimously made, including by civil society organisations,⁴ in the data revolution report ‘A world that counts’⁵, by international human rights mechanisms⁶, in the Synthesis Report of the UN Secretary-General,⁷ and by the Member States themselves.⁸ The further call for the close alignment of the indicators with international law and for a human rights-based approach in data collection and has also been largely supported.

Greater disaggregation and the use of a more exhaustive list of all relevant characteristics for disaggregation will be challenging for the statistical community due to various technical, legal, capacity and political constraints operating at global, regional or national levels⁹. However, progress

⁴ The first recommendation adopted by the 65th Annual UN DPI/NGO Conference, representatives of nongovernmental organizations (NGOs) from around the world, assembled at the United Nations, Headquarters in New York, from 27 to 29 August 2014, stated that “No (sustainable development) goal or target should be considered met until it is met for all groups that are affected, particularly the lowest quintiles of the national income distribution, ensuring that we leave no one behind”.

⁵ ‘No one should be invisible. To the extent possible and with due safeguards for individual privacy and data quality, data should be disaggregated across many dimensions, such as geography, wealth, disability, sex and age. Disaggregated data should be collected on other dimensions based on their relevance to the program, policy or other matter under consideration, for example, ethnicity, migrant status, marital status, HIV status, sexual orientation and gender identity, with due protections for privacy and human rights. Disaggregated data can provide a better comparative picture of what works, and help inform and promote evidence based policy making at every level.’

⁶ Treaty bodies and Special Rapporteurs of the Human Rights Council of the United Nations issued several statements on the Post-2015 development agenda, see

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15505&LangID=E> and <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13341&>

⁷ SG Synthesis Report: Road to Dignity by 2030 : ‘the agenda itself mirrors the broader international human rights framework, including elements of economic, social, cultural, civil, and political rights, as well as the right to development. Specific targets are set for disadvantaged groups. Indicators will need to be broadly disaggregated across all goals and targets.’

⁸ In the outcome document, target 18 in SDG 17 calls for data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.

⁹ For more detailed discussion on some of these challenges, see Office of the High Commissioner for Human Rights (OHCHR), Human Rights Indicators: A Guide to Measurement and Implementation (2012) and University of Essex, Disaggregated Data and Human Rights: Law, Policy and Practice (2013).

must be made as this can no longer be put forward as an excuse for not including marginalized groups in development.

From a human rights perspective, governments have also agreed to international human rights norms and principles, including non-discrimination and equality standards, as well as specific lists of grounds of discrimination prohibited by human rights instruments – which provide helpful guidance on the variables that should be used in data disaggregation. Non-discrimination and equality are fundamental components of international human rights law and essential to the exercise and enjoyment of civil, cultural, economic, political and social rights which are crucial for the achievement of the SDGs for all. They are enshrined in the Universal Declaration of Human Rights and other international human rights instruments. The Universal Declaration of Human Rights¹⁰ obliges State to guarantee that the enunciated rights and freedoms shall be exercised without discrimination of any kind as to *race*¹¹, *colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*. As the inclusion of “other status” indicates the list of prohibited grounds of discrimination is not exhaustive and other grounds may be incorporated in this category. International human rights mechanisms have since specified that the list shall also include (but shall not be limited to), *age*¹², *nationality*¹³, *marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation and other grounds*.¹⁴

General comment No. 20 (2009) of the Committee on Economic, Social and Cultural Rights provides an illustrative listing of prohibited grounds of discrimination which may require the disaggregation of data. The Covenant prohibits any discrimination, whether in law or in fact, whether direct or indirect, on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, nationality, marital and family status, health status (including HIV/AIDS), sexual orientation and gender identity, place of residence, economic and social situation, and civil, political or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of a human right.

While the listed prohibited grounds of discrimination may not always easily translate into operational definitions and characteristics for producing disaggregated data in all instances, they constitute a universally accepted legal standard, and an obligation to which governments are already committed to. As such they provide authoritative guidance for data disaggregation efforts at global, regional, national and sub-national levels.

¹⁰ The Universal Declaration of Human Rights and the two international Covenants on Civil and Political Rights and on Economic, Social and Cultural rights.

¹¹ The use of the term ‘race’ does not imply the acceptance of theories which attempt to determine the existence of separate human races.

¹² With special attention to youth and older persons

¹³ Including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.

¹⁴ Everyone should be protected by human rights law, e.g. women, children, persons with disability, migrants and their families, indigenous peoples, minorities, people from African descent, etc.

Data collection challenges and associated human rights safeguards

Developing disaggregated data, and even more so disaggregated statistics, by all the prohibited grounds of discrimination will clearly entail many different challenges at global, regional and national levels. As underlined in the data revolution report, it will require additional capacity, new partnerships and innovative approaches involving new data producers (e.g. targeted population surveys implemented by relevant civil society organisations) and users (e.g. national human rights institutions), using multiple data sources (statistical surveys and administrative records), non-traditional data sources (e.g. big data and ICT¹⁵). It also implies enhanced legal, institutional and policy frameworks to ensure relevance and reliability of collected information.

A human rights approach to data disaggregation requires not only reaching the most vulnerable and marginalized groups,¹⁶ such as the populations who are the most at risk of not enjoying their rights, but it implies ensuring that human rights safeguards are in place for the collection, processing, analysis and dissemination of that data. These safeguards should include ensuring the rights to data protection, registration and self-identification. These also include producing trustworthy statistics by protecting the independence of official statistics and ensuring appropriate participation of rights-holders (e.g. indigenous peoples¹⁷, persons with disabilities, or their representatives, national human rights institutions¹⁸) in data definition, collection and analysis. The adequate and safe use of the disaggregated indicators should be linked to commitments and policies to eliminate discrimination and reduce inequalities. All of these aspects will be critical for the development of robust data disaggregation efforts at global, regional, national, and sub-national levels.

See also OHCHR background note on **‘Official Statistics and Human Rights – Statistics matter for human rights, and human rights matter for statistics’** accessible from:

http://unstats.un.org/unsd/post-2015/activities/egm-on-indicator-framework/docs/Background%20note%20by%20OHCHR-%20Statistics%20and%20Human%20Rights-EGM_Feb2015.pdf

¹⁵ See for instance use of technology to reach the hard to reach group – e.g. mobile technology in Indonesia and Kenya (www.devex.com/news/dfat-s-james-gilling-we-are-trying-to-make-ourselves-more-open-85104 ; www.devex.com/news/a-new-tool-for-understanding-urban-emergencies-85072)

¹⁶ See for instance community-based mechanisms/localized MDG monitoring, e.g. Thailand’s MDG Star by vulnerable groups, Brazil by ethnicity and Philippines by geographical unit (<http://mdgs.un.org/unsd/mdg/Host.aspx?Content=Capacity/manila.htm>)

¹⁷ Examples of features relevant to a human rights-based approach to data collection on the situation of indigenous peoples are accessible from :

<http://undesadspd.org/IndigenousPeoples/CrossThematicIssues/DataandIndicators.aspx>

¹⁸ Most countries have a national human rights institution accredited according to the Paris Principles on status of national institutions, adopted by the General Assembly in 1993. See also the open letter on National Human Rights Institutions and the Post-2015 Development Agenda at nhri.ohchr.org.