

The Framework Convention on Global Health (FCGH) and indicators to assess the progressive realization of the right to health

Submitted September 5, 2013, by Professor Benjamin Meier, University of North Carolina at Chapel Hill

Progressive realization: How should the FCGH operationalize the ICSECR requirement that states progressively realize the right to health? What are the appropriate metrics to measure progressive realization? Should progressive realization be measured through comprehensive metrics (such as changes in life expectancy)? Changes in key indicators (such as maternal mortality)? With metrics for a wide range of health issues (e.g., improvements with respect to HIV, different non-communicable diseases, maternal mortality, and so forth)?

ICESCR obligations and current interpretations: What have human rights scholars, UN special rapporteurs, the Committee on Economic, Social and Cultural Rights, and domestic courts said about measuring and operationalizing these explicit elements of the ICESCR (maximum available resources, progressive realization, highest attainable standard)? In the context of the right to health? For maximum available resources and progressive realization in the context of other rights in the ICESCR? What can we learn about current approaches to understanding these obligations from how they have been interpreted in the context of the right to food, water, and other economic, social, and cultural rights?

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I believe the two topics above are interrelated, and to the extent that the FCGH seeks to develop indicators for assessing the progressive realization of the right to health, these indicators should be based upon the work developed by both the Committee on Economic, Social and Cultural Rights (Committee) and the Office of the High Commissioner for Human Rights (Office of the High Commissioner).

With indicators allowing for transparent assessments of rights subject to progressive realization, indicators have shown great promise in the implementation of economic, social and cultural rights (Welling, 2008). By allowing practitioners to move beyond a focus on minimum core obligations, indicators can be assessed longitudinally for each attribute of the right in question (de Beco, 2013), allowing for periodic assessments of the progressive fulfillment of rights through resource-dependent national policies and assuring that the principle of progressive realization is not used as an ‘escape hatch’ to avoid state accountability for rights realization (Felner, 2009).

Working with the Office of the High Commissioner and various right-specific UN special rapporteurs and independent experts, the Committee has sought a methodologically sound evidence base for promoting, implementing, and assessing the rights under its monitoring authority. Through a process spearheaded initially by Paul Hunt, then the UN Special Rapporteur on the right to health, the UN endorsed specific indicators for the human right to health (Hunt, 2006). To build upon this and establish a universal process of indicator development, the Office of the High Commissioner now seeks to delineate the attributes of a wide range of rights, employing these attributes to frame, identify, and review standardized lists of ‘illustrative indicators’ to structure state reporting for all human rights (OHCHR, 2012).

de Beco, G. 2013. ‘Human Rights Indicators: From Theoretical Debate to Practical Application’. *Journal of Human Rights Practice*.

Welling, J. 2008. ‘International Indicators and Economic, Social, and Cultural Rights’. *Human Rights Quarterly* 30 (4): 933-958.

Felner, E. 2009. ‘Closing the ‘Escape Hatch’: A Toolkit to Monitor the Progressive Realization of Economic, Social, and Cultural Rights’. *Journal of Human Rights Practice* I (3): 402-435.

Hunt, P. 2006. ‘Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt’. New York: NY, UN Economic and Social Council: E/CN.4/2006/48.

OHCHR, 2012. Human Rights Indicators: A Guide to Measurement and Implementation. New York and Geneva: United Nations. Available at http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf.