

**In the Search for  
Human Rights Indicators  
For Economic, Social and Cultural Rights**

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*“They say that figures rule the world. I  
do not know if that is true, but I do know  
that figures tell us if it is well or poorly  
ruled”*

Goethe, 1814

Thesis written for the

**European Master’s Programme in Human Rights and Democratisation, Venice**

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## **1. Abstract**

*Statistics are powerful arguments, and in order to exploit this in the field of human rights, quantitative indicators are needed. This thesis outlines the requirements for such a set of indicators and makes an initial proposal for indicators for four of the central rights in the Covenant on Economic, Social and Cultural Rights; that is housing, food, education and health. The indicators are created to measure states' compliance with the core obligations in both principle and result, and are based upon the core content of the rights as outlined by the Committee on Economic, Social and Cultural rights in their General Comments. Since the core obligations apply to all states regardless of available resources, the same set of indicators can be used for all countries. There is, however, a strong need for benchmarks regarding the minimum obligations. In order to evaluate the proposed indicators as practical tools, they are applied to the case of Egypt, which reveals difficulties with accessing disaggregatable data and data on housing and food. But in spite of these problems, the indicators are found generally functional and seem to be generating meaningful results, although more data should be collated in order to test the strength of the indicators.*

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## **2. Preface**

Writing this thesis has felt like doing a puzzle. At times I have doubted whether all the pieces were actually from the same box and meant to fit together; at other times the discovery of one key piece has suddenly helped all the other parts fit into one image.

In my search for useful pieces to my puzzle, several people have given helpful directions. For that I am thankful to Hans Otto Sano, Mayra Gomez, Marieke Radstaake, Ineke Boerefijn, Todd Landman, Jude Mesquita and Sally-Anne Way. Also thanks to Saskia Bal for being a wizard in the library. Special appreciation goes to Mette Krabbe who provided me with valuable information and good advice from the Royal Danish Embassy in Cairo.

Above all I owe very special thanks to Helle for celebrating all the findings of key pieces, and for being there when the whole puzzle suddenly fell to the floor again. Also thanks to Laura and Róisín for our joint run through the whole gamut of emotions during spring 2003 in Utrecht. The long discussions with the three of you about cultural diversities of Europe and other interesting issues have definitely been the most magical pieces of them all. I also want to thank my family for trying to understand what I was doing, and my boyfriend Jakob for giving me the energy and incentives to sprint in the final phase.

By keeping in mind the good advice about building the frame first and fill it afterwards, this thesis has slowly come to life. For valuable guidance and great enthusiasm along the way, I owe a special thank to my supervisor Professor Fred Grünfeld.

### 3. Introduction

It is often claimed that one cannot argue with statistics. While that is not entirely true, it is important to realise what a powerful tool statistics can be – also in the human rights debate. Statistics showing the inequalities between gender, the discrimination of minorities, the patterns of torture or the like can be efficient means in convincing governments, NGOs or the international society to take action. Reliable data on human rights violation can also be used for further analysis, which helps improve our knowledge about significant factors for a country's human rights performance.

It was my initial idea to write a thesis based on such analysis of possible causal relationships between different independent variables and human rights violations. However, I do not find that there is yet a set of reliable and valid indicators for human rights which will allow such analysis to be meaningful. Therefore, I chose to take 'a step down' and look at the operationalisation of human rights into quantitative indicators.

It is important to admit that quantitative statistics are correctly criticized for simplifying an often very complex situation. But that is exactly the strength of statistics. Unlike the qualitative reports assessing country situations, a set of quantitative indicators can give a quick overview of a situation and allow for easier cross-country comparisons. That being said, it is vital to realise the limitation of such quantitative measures, since they cannot give the same in-depth assessment as the qualitative ditto. The quantitative statistics can be good early-warning signs directing attention to certain cases. But in order to know more about the exact situation, one needs to dig into the qualitative assessments. The two ways of assessing a situation shall therefore be seen as complementary means and the limits of quantitative statistic should be kept in mind when using such indicators.

My focus is the economic, social and cultural rights as found in the International Covenant on Economic, Social and Cultural Rights (the Covenant)<sup>1</sup>. Not because I think the civil and political rights are sufficiently quantified, but more efforts seem to have been put into quantifications in this field - leaving the economic, social and cultural rights to be measured with development assessment tools (such as the UNDP Human Development Index). This is in my opinion a misunderstanding, since the obligations entailed in the Covenant are of a different kind than pure development goals. Some of the obligations are indeed development

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<sup>1</sup> *International Covenant on Economic, Social and Cultural Rights*, adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force 3 January 1976.

obligations, but other types of obligations have also been defined. By refusing to adopt a more rights-based approach to the measurement of state compliance, the economic, social and cultural rights will continuously be seen as second-hand rights for which the state can excuse non-compliance with the argument of lacking economical development.

When creating quantitative indicators for human rights, one has to strive for a balance between simplicity and meaningfulness. In order to reach such a balance, it is important with a firm theoretical foundation, since an agreement on *what* to measure is an unyielding requirement. Since the adoption of the Universal Declaration of Human Rights in 1948 the system of international human rights has developed into a broad range of rights. The UN Treaty Bodies have, among others, helped making many of these rights more specific and less ambiguous, and the starting point for my quantification of the economic, social and cultural rights is therefore the General Comments from the Committee on Economic, Social and Cultural Rights (the Committee) combined with the widely agreed upon Limburg Principles and Maastricht Guidelines.

A full quantification of all the rights in the Covenant is certainly desirable; however this is not the aim of this thesis. Not only because this task is not feasible within the different limitations to this thesis, but also because many of the rights in the Covenant are still so disputed and unclear that the requirement of a basic agreement on what to measure is far from fulfilled. Instead my aim will be to create indicators for the core content of four of the most central rights in the Covenant: The right to health, education and an adequate standard of living (housing and food). For the sake of covering the most central elements in the Covenant, I would have liked to include the right to work as well, but since the Committee has still not made a General Comment on this right, there is no authoritative definition and agreement on the core content. The indicators proposed do not measure the full scope of each of the rights respectively but the core content. Since non-compliance with the core content can be seen as a breach of the Covenant, the indicators proposed can be used to measure patterns of violations. Violations can be committed by both states and non-state actors, but since the main responsibility for the implementation of the Covenant is in the hands of the state, I focus on the violations committed by the state.

The main focal point of this thesis is of a methodological character, but in order to reveal some of the difficulties encountered when assessing in practice, the indicators suggested will be used to measure one country. I have chosen to evaluate the performance of Egypt for this purpose. The choice is rather random though keeping in mind that Egypt has been examined in the Committee recently (spring 2000), is a country in the middle group of the developing

countries and could be expected to have more available data than many other developing countries.

Hence, the main questions sought answered in this thesis will be:

- What are the main requirements for quantitative indicators for human rights?
- These requirements considered; how can a system of indicators look for four of the central economic, social and cultural rights?
- What are the problems encountered when assessing a country on the basis of these indicators?

The first question will be examined in the next chapter. After a brief outline of the central characteristics of the obligations in the Covenant (chapter 5), the second question will be considered in chapter 6 till 9. The last question will be answered via the application of the indicators to the case of Egypt which will be done right by right following each of the methodological chapters. This will finally lead to a conclusion, where the indicators will be assessed on the basis of the requirements outlined in chapter 4 and the empirical tests.

The method of work is a combination of a normative approach - with basis in the General Comments a list of preferred variables are outlined - and an explorative approach to the available data sources. The overall aim is to make rights-based indicators, and therefore the normative approach is needed. But if the project should be of any value it is necessary to build upon the available resources and make the indicators as instantly operative as possible; a strong focus on the existing data sources is therefore required as well. As a consequence of this two-faceted approach, some variables will be included even though data is not yet available if the elements are regarded as central to the core content of the right in question. But when existing data is seen as adequate for the purpose, these will be chosen. The main tool in my explorative work is the internet, where an increasing number of data collections are made available and where the search engines help shed light over hidden resources. But private contacts are also taken to different organisations in the search for data and benchmarks.

In my research, I have come across many articles stating the need for human rights indicators but few attempts to operationalise the rights have been found. Therefore the suggested indicators in this thesis are based upon my own ideas, and should not be seen as a final answer but a pilot project in the search for indicators for economic, social and cultural.



## 4. Requirements for indicators for human rights

In order to create valuable and useful quantitative indicators for human rights, it is essential to be aware of the statistical demands to such measures. In this chapter the central concepts and the main requirements for human rights indicators will be outlined.

### 4.1. *What is an indicator?*

The term 'indicator' is used in an inconsequently way in the literature and debate to describe both quantitative and qualitative types of information about realization and violation of human rights<sup>2</sup>. While recognising that indicators can also be of a qualitative character, the term 'indicator' for the purpose of this thesis is used to describe *a set of quantified statistics that measure a human right*. In accordance with this definition each indicator can consist of one or more variables that combined in a scale measure a right. Consequently, for instance the daily supply of calories is not seen as an indicator for the right to food since it is just one possible variable being part of an indicator for this right. Very often statistics on development are referred to as indicators for the social or economic rights, but although they might be of relevance for measurement of the rights, they are – according to the notion adopted here - not in themselves indicators for the rights.

### 4.2. *Clear theoretical concepts*

In order to make useful indicators it is necessary to define clear and unambiguous theoretical concepts. There is undoubtedly still disagreement on how to understand the different human rights, which complicates this part of the process, but due to the extensive work of the Committee many of the economic, social and cultural rights are now more clarified. Considering that the General Comments have received no opposing comments from the state parties<sup>3</sup>, I assume that the specification of the different rights dealt with herein can be seen as widely accepted definitions of the rights.

### 4.3. *Validity and Reliability*

In order to bridge the gap between theory and empirical data, the next step needed is to operationalise the theory into observable variables. Failure to operationalise the concepts in a meaningful way will lead to indicators without relevance for human rights measurement - to invalid measures. The concept of *validity* is thus very central in the discussion of human rights indicators, since many of the existing measures are criticised for not meeting this

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<sup>2</sup> M. Green, *What We Talk About When We Talk About Indicators: Current Approaches to Human Rights Measurement*, »Human Rights Quarterly«, vol. 23, 2001, pp. 1076-1084.

<sup>3</sup> M.M. Sepulveda, *The Obligations of the State under the International Covenant on Economic, Social and Cultural rights*, »School of Human Rights Research Series«, vol. 18, Intersentia, 2003, p. 42.

requirement. If there is no epistemic relationship connecting the theoretical understanding of a human right with the operational variables, the analysis made on the basis of the data collected cannot lead to meaningful conclusions. Validity thus refers to the relevance of the data used for the concept measured, and a valid indicator can be defined as “one that measures exactly what it is supposed to measure, no more and no less”<sup>4</sup>. A parallel requirement concerns *reliability* of the data, which has to do with the precision and consistency of the measurements. Separate data collections on basis of the same operational variables should lead to the same results. Reliability can be seen as “the extent to which measurements are consistent when repeated by the same observer, or by different observers using the same instrument”<sup>5</sup>. While the former tests the reliability of the instrument itself and thus the random errors, the latter tests for bias in the coding, which are more systematic errors. In order to ensure confidence in the reliability of a data set, it is important that the purpose and methods for the data collection are clarified.

#### **4.4. Dimensions**

A country’s human rights performance can be assessed according to several different dimensions. In the following some of the most important divisions will be outlined, and the choices of dimensions for my indicators will be explained.

##### **4.4.1. Severity, frequency and range**

Lopez and Stohl suggest that there are three important dimensions of relevance to human rights measurement: Those of *severity*, *frequency* and *range*<sup>6</sup>. The first dimension (*severity*) is concerned with the quality of human rights abuses focusing on the different degrees of harm that is done to the victim<sup>7</sup>. Lopez and Stohl underlines the importance of treating such variables as scales, so that states committing torture rank higher than states “only” committing degrading treatment. The dimension of *frequency* addresses the quantity of the violations, which is essential to analyse in connection with the severity. It might look as an improvement if the frequency decreases – but if the government in reality has changed the severity so that the violations have become fewer but greater, it should not be seen as a progress. As it is underlined; “*The point, of course, is that at any given level of intensity, an*

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<sup>4</sup> R.L. Barsh, *Measuring Human Rights: Problems of Methodology and Purpose*, «Human Rights Quarterly» vol. 15, 1993, p. 95.

<sup>5</sup> Idem. p. 94.

<sup>6</sup> These three dimensions are introduced as ‘scope’, ‘intensity’ and ‘range’ in M. Stohl, D. Carleton, G. Lopez and S. Samuels, *State Violation of Human Rights: Issues and Problems of Measurement*, in «Human Rights Quarterly», vol. 8, 1986, pp. 592-606. But the three dimensions are renamed in G. Lopez, M. Stohl, *Problems of Concept and Measurement in the Study of Human Rights*, in T.B. Jabine, and R.B. Claude (eds.), *Human Rights and Statistic: Getting the Record Straight*, Philadelphia, University of Pennsylvania Press, 1992, pp. 216-234.

<sup>7</sup> M. Stohl, D. Carleton, G. Lopez, S. Samuels, op. cit. p. 600.

*increase in scope should be recognized as a deterioration of the human rights situation*<sup>8</sup>. The third dimension (range) focuses on the size of the target population, which differs from the frequency dimension measuring the direct victims of the violations. Lopez and Stohl argue that there is a difference between a regime, which threatens a small minority of the population, and a regime that threatens a vast number of its citizens. They argue that we should wish to recognize the latter as more abusive than the former<sup>9</sup>. Goldstein points to the related difficulties in measuring the impact human rights violations have on frightening people into refraining from doing something they would otherwise have done; little political dissent can reflect both a satisfied society and a terrorized society<sup>10</sup>.

But this terrorizing effect is not only difficult to measure quantitatively; it is also not normatively evident that a regime, which targets its abuses towards a certain minority, is violating its human rights obligations to a smaller extent than a regime threatening all its citizens. The argument has its validation if it is accepted that the threat of having your rights violated amount to a violation in itself, since more people will then feel threatened in the regime with a higher range of its violations. But considering the strength of the obligation of non-discrimination, it can be argued that a regime targeting its abuses towards a minority are violating its human rights obligations even more – also since members of this minority will then have a much higher risk of actually having their rights abused. While the *range* dimension should be an important element in a qualitative analysis, I do not find it suitable for quantitative measurement because of these ambiguities, and it will therefore be left out of the indicators proposed in this thesis. With regards to *severity*, I will cover this dimension when devoting weights to each of the variables in an indicator (see 4.5), so that the most severe violations weigh most in the indicator. *Frequency* will be measured by using the outcome and result measures discussed below.

#### **4.4.2. Conduct and result or principle, practice and outcome**

Katarina Tomaševski points to another distinction when measuring human rights violations: The difference between *willingness* and *capacity*<sup>11</sup>. The willingness of a government to change policy is, according to Tomaševski, more important than the capacity, since measurements of the latter tend to punish countries with a low capability instead of reflecting a government's commitment to change the situation. This is especially relevant in connection

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<sup>8</sup> Idem. p. 602.

<sup>9</sup> G. Lopez, M. Stohl, op.cit. pp. 226-227.

<sup>10</sup> R.J. Goldstein, *The Limitations of Using Quantitative Data in Studying Human Rights Abuses*, in T.B. Jabine, and R.B. Claude (eds.), *Human Rights and Statistic: Getting the Record Straight*, Philadelphia, University of Pennsylvania Press, 1992, pp. 50-54.

<sup>11</sup> K. Tomaševski, *Indicators*, in A. Eide et. Al (eds.), *Economic, Social and Cultural Rights: A Textbook, Second Revised Edition*, Dordrecht, Matrinus Nijhoff, 2001, p. 540.

with the economic and social rights, where poor countries are often judged by wrong standards when compared with richer countries. This distinction is taken up by the Danish Centre for Human Rights in their indicator project, where focus is on the commitment of the governments instead of the capacity<sup>12</sup>. They furthermore divide the commitment into *formal* and *real* - the former evaluated according to the ratifications of international and regional human rights instruments, while the real commitment is assessed by indexing actual violations of civil and political rights and levels of government conduct in the field of economic, social and cultural rights (measured by the change in human development indicators on health and education and present average public expenditure on health and education as percentage of GDP or GNP). Landman makes another parallel distinction between the different dimensions by creating a tripartition between rights in *principle*, in *practice* and the *outcome* of government policy<sup>13</sup>. A regime's human rights performance can thus be assessed according to the rights enshrined in the constitution or other legal instruments (principle), according to the amount of violations and abuses committed (practice) or according to aggregated statistics mapping the effect of government policies (outcome). Measures concerning the outcome dimension are often used in the development field - the UNDP Human Development Index (HDI) being an example. Thus the principle and practice dimension are almost parallel to the formal and real commitment, and the outcome dimension to Tomaševski's capacity dimension.

Outcome variables cannot on their own measure the human rights performance of a state, but they cannot be left out either, since states have essential obligations regarding outcome. While Tomaševski has a point in underlining that states cannot be judged according to equal benchmarks, states should still be assessed according to minimal obligations and to the progressive realisation of the rights. It is a central argument in this thesis that certain minimal outcome obligations can be derived from the core contents of the rights, and therefore all states can be assessed on the basis of these obligations. At the same time it is important to evaluate whether the necessary steps are taken as regards legislation and policy – which can be seen as the commitment in principle of the state. This latter dimension is often the focal point of jurists, while development workers tend to focus on the outcome dimension. But in order to make human rights assessments, it is my (political science) belief that both dimensions shall be included.

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<sup>12</sup> H.O. Sano, L. Lindholt, *Human Rights Indicators - Country data and methodology 2000*, Danish Centre for Human Rights, Copenhagen, 2000, p. 66.

<sup>13</sup> T. Landman, *Measuring Human Rights: Principle, Practice, and Policy*, Paper from Seminar on »Statistics and Human Rights«, Brussels 27.-29. November 2002, Munich Centre for Economic, Environmental and Social Statistics.

In the methodology proposed I have accordingly chosen to use the division between ***principle*** and ***result***. The first dimension relates to the required national policies, legislation and strategies and is as such concerned with the political level and the willingness shown by states to adopt the relevant framework for creating changes and to make the necessary economical priorities. I leave out adoptions of international instruments, since such are seen as basic conditions for the countries to be measured; the goal of the indicators being to measure the realisation of obligations undertaken by the state. This dimension is parallel to the formal commitment used by the Danish Centre for Human Rights and to Landman's dimension of principle. The second dimension is concerned with the outcome and result of the policies including actual practice of the state. This dimension is parallel to Landman's outcome dimension, but it also includes elements from his dimension of practice. The latter is more clearly connected to the assessment of civil and political rights, and I found it difficult to keep the two dimensions apart when working with economic, social and cultural rights, and have instead chosen to combine them in one 'result' dimension.

According to the broadly accepted Maastricht Guidelines a state is violating the obligations under the Covenant if it fails to satisfy the minimum core obligations<sup>14</sup> or "the required standard of conduct and result"<sup>15</sup> (see chapter 5). Thus, by focusing on the core obligations and measuring compliance in both principle and result, the indicators can assess patterns of violations of the rights in question. This shall though not be seen as a full-scale assessment of breaches of the Covenant, since violations are not limited to non-compliance with the core contents<sup>16</sup>.

#### **4.4.3. Respect, protect and fulfil**

Another set of dimensions to take into consideration is connected to the duties of the states to *respect, protect and fulfil* the different rights. This tripartition that was introduced by Asbjørn Eide in 1984<sup>17</sup> has later been incorporated into the General Comments and is seen as relevant for all human rights<sup>18</sup>. The tripartition address the different levels of state obligations, the first being the obligation of the state to *respect* the freedoms of the individual, the resources owned and the freedom to use the necessary resources to satisfy

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<sup>14</sup> *The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, «Human Rights Quarterly» vol. 20, 1998, pp. 691-704; also published as UN Doc. E/C.12/2000/13, pp. 16-24, para. 9.

<sup>15</sup> *Idem.* para. 11.

<sup>16</sup> *Idem.* paras.14-15.

<sup>17</sup> According to K. Arambulo, *Strengthening the Supervision of the International Covenant on Economic, Social and Cultural Rights – Theoretical and Procedural Aspects*, «School of Human Rights Research Series», vol. 3, Intersentia, 1999, p.218.

<sup>18</sup> CESCR General Comment 12, The Right to Adequate Food (Art. 11), UN Doc. E/C.12/1999/5, 1999, para 15.

his or her own needs<sup>19</sup>. On the second level, the state has to *protect* the individual enjoyment of a right and the freedom of action against violations by third parties<sup>20</sup>, and on the third level, the state has the obligations to *fulfil* the rights of everyone. In the context of the economic, social and cultural rights, the obligation to fulfil is now seen as including both an obligation to *facilitate* and an obligation to *provide*<sup>21</sup>. Facilitate means that the state must actively try to strengthen people's access to resources and possibilities of using them to enjoy their rights. Facilitate can as such be seen as an obligation for the state to provide the necessary means for "self-help", while the obligation to *provide* entails making the necessary means available for people who, for a reason beyond their control, are unable to enjoy the right<sup>22</sup>. This two-faceted definition of fulfil underlines the need for measuring along several dimensions, since facilitating includes obligations to make the institutional framework for the enjoyment of the right (principle), while provide is more result-oriented.

In UNDP's Human Development Report from 2000 it is stated that indicators for human rights need to concentrate on four related objectives: 1) The respect, protection and fulfilment of the rights; 2) The key principles such as non-discrimination, adequate progress, participation and effective remedies 3) The access to institutions and an economic system which ensure realisation of the rights. 4) Identification of critical non-state actors<sup>23</sup>. These four points are very relevant in a human rights assessment, but it is confusing to see them as different dimensions or objectives on the same level, since point 2 and 3 are principally essential elements of the first objective. However, though non-discrimination is inherent in the three obligations, it needs to be assessed separately by comparisons of results from disaggregated data (see chapter 4.7.1), and adequate progress is related to the notion of progressive realisation which needs to be assessed with time series (see chapter 4.7.2). While the fourth objective pointed to by UNDP is a relevant element in human rights analysis of a country specific situation, this point does not fit in my approach, since I am concentrating on state behaviour.

The tripartite division of the state obligations to respect, protect and fulfil is a highly useful division for analytical work and also seem constructive for the development of the obligations regarding each of the rights in the COVENANT. Therefore it was my initial idea to build on this tripartition in the development of the indicators combined with separate analysis of

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<sup>19</sup> A. Eide, *Economic, Social and Cultural Rights as Human Rights*, in A. Eide et al. (eds.) *Economic, Social and Cultural Rights. A textbook*, 2<sup>nd</sup> rev. ed., Dordrecht, Martinus Nijhoff, 2001. p. 23

<sup>20</sup> Idem. p. 24

<sup>21</sup> CESCR General Comment 12, op.cit. para. 15.

<sup>22</sup> Idem. para. 15; A. Eide, *Economic...*, op.cit. p. 24.

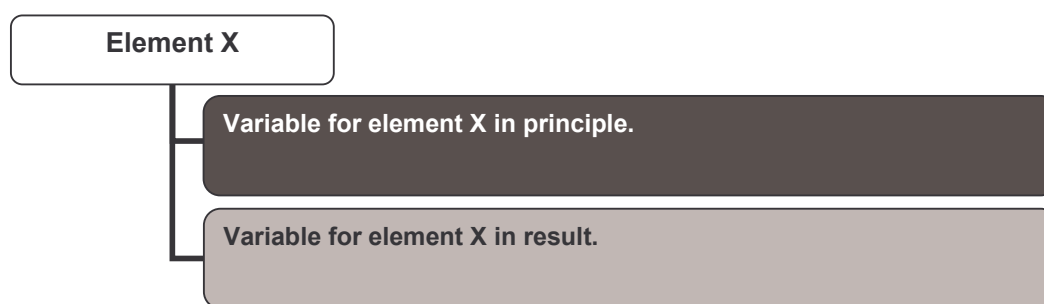
<sup>23</sup> UNDP, *Human Development Report 2000 – Human Rights and Human Development*, Oxford, Oxford University Press, 2000, p. 92.

discrimination and adequate progress. However, as progressing with the work the tripartition proved impractical and rather unconstructive, since the division often seemed artificial and worthless as such. It did not make sense to assess the country regarding the obligation to respect across the principle and result dimensions, leaving out the obligations to protect and fulfil. Therefore the tripartition did not add anything apart from restraining considerations as to whether one part of the right was an obligation to respect or rather fulfil. Moreover, the tripartition is often misunderstood as a rank of the obligations or a ladder to be climbed step-by-step, and this would be a fatal misinterpretation of the core contents. The tripartition may be of relevance when looking at the full scope of a right, but it seems irrelevant in connection with the core content.

#### 4.4.4. The dimensions proposed

The state compliance will be measured with regards to both principle and result, but the state obligations under each right will not be divided into the obligations to respect, protect and fulfil but treated as one group of obligations. The frequency is directly measured, while the severity of the violations will be dealt with when devoting weights.

In the development of the indicators, the needed variables will first be outlined in accordance with the different elements of the right. The variables chosen will be connected in either dark grey or light grey boxes, depending on the dimension concerned:



Afterwards the variables are reshuffled into two different tables – one for the principle-dimension, one for the dimension of result (the latter in the example below). In these tables the scores and weights for the different variables will be clarified. The variables in the two tables respectively will be summed up into a scale leading from 0 to 8 (see chapter 4.6)

	<b>Variables</b>	<b>Score</b>	<b>Weight</b>
1			
...			
	<b><i>The right in question – result</i></b>	<b>X = &gt;0&lt;8</b>	<b>1/1</b>



#### **4.5. Variables: Level of measurement and scores**

Variables can be divided into different levels of measurement depending on their nature. The level is decisive for the types of analysis that can be made with the data. A general guideline is that the higher the level of measurement; the more advanced statistical analysis can be made because variables on higher levels are seen as containing more information. It is important to treat the variables at the right level in order to generate meaningful results and not violate data.

The different levels are nominal, ordinal and scale. The first two are categorical variables like for example gender (male, female), colour (yellow, green, and red) or group of age (younger, elder). If the answers cannot be ranked (like gender) they are nominal variables, if they can be ranked they are ordinal variables. Scale variables are numerical and can be divided into discrete (interval) and continuous (ratio) – age being an example of the latter, since age can meaningfully be divided into infinite units. Scale variables can be recoded into categorical variables (as the example with age categories) depending on the hypothesis and analysis, but variables cannot be recoded into a higher level of measurement and therefore one needs to be as specific as possible from the beginning. The level should in general not be decided retrospectively when data are already collated, but should be based on clear theoretical considerations in advance, since this makes data more reliable.

All of the variables on the dimension of principle are on an ordinal level, except for variables regarding government expenditure which are on a scale level. The ordinal variables are based on qualitative data which is coded into numbers. The country can score either 0 (no realization of the obligation), 0.5 (some realization, but not fully satisfactory) or 1 (full realization of the obligation) on each of the variables included. The categories are kept this simple for the sake of reliability, since such simple categories can diminish the subjectivity that lies in the coding. With these three categories there should be little dissent regarding which score the country obtains on the variable in question, but they should still be sufficient to measure a country's achievements regarding its obligations. Even though the variables are thus coded as numeric, these numbers address distinct categories and are therefore not real scale variables.

In contrast, the variables used on the dimension of result are on scale level since they address numeric values of either discrete or continuous character. In order to turn all the variables into one scale it is necessary to recode the input figures into scores. This can be done in several ways – empirically according to for example frequency, means or cumulative percentages; or on a purely normative basis. The first option demands a full data set and can



therefore not be done in this connection. Anyhow, setting the standards according to the empirical situation is not in accordance with the idea behind the core obligations requiring a certain level no matter how many or few who already live up to it. Therefore schemes for scoring on each variable should be defined on a normative basis, preferably according to internationally accepted benchmarks. Whenever such exist, these will be used for devoting scores; when no benchmarks can be found the standards will be set according to my personal reasoning. The possible scores on each variable will range from 0-4 (4 being the best); the devoting of scores will be dealt with in the tables for each right accordingly.

#### **4.6. Creation of a scale**

A scale is made of several variables and is a way of simplifying and summarizing data. A creation of a scale results in some loss of information because the result is a summary of each of the variables included. Nevertheless, it is a useful tool for analyzing for instance a latent attitude, a phenomenon which is composed of several elements or a causality that lies behind the characteristic measured. At the same time more items combined strengthens the reliability, since the random errors counterbalances each other.

##### **4.6.1. Weights**

Different weights can be assigned to the various elements in the scale, which can be devoted on a theoretical basis or according to the explanation strength of the different factors with regard to the variance on the dependent variable. Gupta, Jongman and Schmid make an interesting re-scaling of Charles Humana's forty questions from the World Human Rights Guide<sup>24</sup>. In contradiction to Humana, they weigh the different components of the scale. The weights are derived on the basis of a discriminant analysis, which means that they are devoting weights to the different elements according to their explanation strength and not on a theoretical foundation. It can be argued whether this is the best way to devote weights in a scale measuring human rights abuses, but it is interesting to note that their results show the direct opposite of Humana regarding the general progress of human rights compliance, which underlines the importance of considering the weight of the different elements. In the indicators suggested in this thesis, weights will be devoted on a purely normative basis according to the perceived importance of the different variables, since I regard this as the best way to address the issue of severity of the violations (see chapter 4.4.1 above). But since the indicators proposed are indicators for the core content of the rights, all of the violations measured are violations of very central elements of the rights. I have therefore chosen to weigh each of the elements equally with a few extraordinary exceptions, where the

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<sup>24</sup> D.K. Gupta, A.J. Jongman, A.P. Schmid, *Creating a Composite Index for Assessing Country Performance in the field of human rights: Proposal for a new methodology*, «Human Rights Quarterly», vol. 16(1), 1994, pp. 131-162; C. Humana, *World Human Rights Guide*, London, Hodder and Stoughton, 1986.

elements have been of outstanding importance for the right and a violation seems particularly severe.

#### **4.6.2. Range of Scale**

When choosing the range of the scale, it is important to keep in mind the accurateness of the data, so that the measurement scheme fits the level of precision in the information employed<sup>25</sup>. Due to the weaknesses of the available information within the field of human rights, the range chosen should not give the impression of being extremely precise. I have therefore chosen a scale from 0-8 where all scores are rounded off to the nearest half figure (0, 0.5, 1, 1.5...), since data is not generally of good enough quality to have a scale with more decimals. This scale is used for both the indicators on the dimension of principle and of result.

#### **4.6.3. Test of the scales**

There are different ways of creating a scale and several requirements that need to be fulfilled. One of them is a demand for equal level of measurement of all the variables included in the scale, which is a good reason for keeping the principle dimension (which is measured on an ordinal level) separate from the result dimension (which is measured on a scale level). Another requirement normally considered concerns one-dimensionality, but this is of less importance in this particular connection, since the scales are created on a normative basis in order to measure rights containing several dimensions. For the strength of the indicators it is more important that each of the variables included do not measure exactly the same, since this element will then weigh unproportionally more in the final score. This can be tested by performing an item-item analysis, where all of the variables are independently tested towards each other. The variables should be somehow related in order to measure the same dimension, but not too related in order not to measure the same. The variables should also be tested in an item-scale analysis, where each of the variables is tested towards the rest collectively to show the importance of each element. Several other tests should be performed in order to evaluate the reliability of the indicators and to refine them by removing or adding variables. However, these tests can only be performed with a full data-set and will therefore not be undertaken in this thesis.

#### **4.7. Data**

One of the main problems with regards to measuring human rights violations is the access to reliable data. As framed by Goldstein; “the problem is quite simply that governments do not

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<sup>25</sup> M. Stohl, D. Carleton, G. Lopez, S. Samuels, op. cit. p. 604.

generally publish statistics on how repressive they are”<sup>26</sup>. Since it is not possible to observe and count the violations directly, the measurement has to rely on second-hand sources. Some countries do make relevant quantitative data available, but it is in general the countries with the best records that are willing to publish the data. As it has often been pointed out: That data is not available does not mean that no violations are committed!

One way to create quantitative indicators is to quantify the qualitative assessments made in the annual reports from for instance Amnesty International or the US State Department. Both of these sources have traditionally been accused of being biased in different directions, but recent comparisons have shown that these biases are only of a minor character, and that the reports have converged over time<sup>27</sup>. This supports a more general tendency to regard the US State Department Reports as one of the strongest report-based human rights assessments available. However, none of the two reports devote much attention to the economic, social and cultural rights. Another qualitative source that can be drawn upon is the government reports given to the Treaty Bodies. These reports are probably biased in favour of the state, but in combination with the “shadow” reports from different NGOs, the concluding comments from the Committees and other assessments from international organisations, a more realistic picture should emerge. When quantifying the qualitative information into ordinal scales, the strength is a relatively easy access to the information. The disadvantage is that the quantified measures cannot encapsulate the details, and the choices made when coding are therefore determining for the outcome, which increases the risk of bias and lack of reliability. As mentioned above, I have tried to forestall this by using very simple categories for the scores. But before the results are used for broader conclusions, more observers should be coding the material in order to test the correspondence of results. A different problem with the qualitative reports is that it is difficult to know the basis for the assessments and the choices that have been made when preparing the reports. It is therefore preferable to use as raw data as possible.

In spite of this apparent increase in the legitimacy of some of the qualitative reports, it is highly preferable if the sources of information enjoy a broad legitimacy across cultures and state parties, and even better if the data is already of a quantitative kind. Therefore I have as far as possible tried to build upon the data provided by the international organisations - such as FAO, UNESCO, WHO and the World Bank, who have collected good and useful data. In

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<sup>26</sup> R.J. Goldstein, op.cit. p. 45.

<sup>27</sup> For an interesting comparison of the reports over time, see S.C. Poe, S.C. Carey and T.C. Vazquez, *How are these Pictures Different? A Quantitative Comparison of the US State Department and Amnesty International Human Rights Reports, 1976-1995*, in «Human Rights Quarterly», vol. 23, 2001, p. 650-677.

connection with each of the rights in question in this thesis, the relevance and availability of data will be considered.

It would be preferable to have better access to raw information and to have a more systematized organisation of the gathering of data, so that the aims and purposes are clearer and the random errors eliminated. But given the data available at current times, it is important to follow a few guidelines as suggested by Stohl, Carleton, Samuels and Lopez<sup>28</sup>: Use multiple sources of information; explain the sources used; use measurement schemes that are matching the level of precision evident in the information used so false precision is avoided; use a multidimensional approach; and let the measurement be influenced by political analysis. While the latter are beyond the scope of this thesis, the other guidelines will be sought followed.

#### **4.7.1. Disaggregated data**

One of the fundamentals in human rights is non-discrimination. This element can be measured by calculating the realisation of the rights for the different groups and then comparing the means. In order to do this, data has to be disaggregatable. Not only is it of utmost importance to create a data set that can be disaggregated according to gender and minority, but also variables such as urban/rural and income groups are relevant for analysing discrimination. The main problem is that it is very difficult to access such data. UNDP has created a human development index based on gender (GDI), but the data used are still considered to be flawed. Instead of disaggregating the full indicator, variables can be included that measure relevant gaps - but this again demands disaggregated data. Collating reliable disaggregated data should be a high priority in the work for human rights indicators.

Another way of measuring inequality is proposed by Poe, Wendel-Blunt and Ho who have developed two human rights measures on women's political and economical rights respectively on the basis of the US State Department Reports<sup>29</sup>. They rate countries on a scale according to four or five categories depending on the dimension - equivalent to for instance PIOOM's Political Terror Scale<sup>30</sup>. Apodaca has made a more quantitatively based Women's Equitable Human Rights Achievement Index (WESHR)<sup>31</sup> in order to measure women's achievements within the field of social and economic rights. This is in my opinion one of the most potential initiatives found for the measurement of gender inequalities. But the

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<sup>28</sup> M. Stohl, D. Carleton, G. Lopez, S. Samuels, op. cit. pp. 603-605.

<sup>29</sup> S.C. Poe, D. Wendel-Blunt, K. Ho, *Global Patterns in the Achievement of Women's Human Rights to Equality*, «Human Rights Quarterly», Vol. 19(4), 1997, pp. 813-835.

<sup>30</sup> PIOOM, *World Conflict & Human Rights Map 2000*, Bedum, Scholma Druk, 2000.

<sup>31</sup> C. Apodaca, *Measuring Women's Economic, Social and Cultural Rights Achievements*, «Human Rights Quarterly», Vol. 20, 1998, pp. 139-172.

WESHR index cannot be seen as a sufficient indicator for the economic, social and cultural rights, since Apodaca works with a too simplified operationalisation of each of the rights – by for instance measuring the right to an adequate standard of living by the ratio of anemia rates of women and the total daily caloric intake per country<sup>32</sup>.

#### 4.7.2. Cross-temporal and cross-country

Two other very desirable features of a data set on human rights indicators are the availability of time series and the possibility of cross-country comparisons. Some of the older political scales like Freedom in the World from Freedom House<sup>33</sup> and the World Handbook of Political and Social Indicators<sup>34</sup> (the Handbook) have been published over such a long period that it should be possible to make comparisons over time with these scales. However, these measures have been criticised by a broad range of scholars for having flaws which make them problematic for human rights assessments: The Handbook has too much emphasis on the legal distinctions and uses for instance a definition of political executions which ignores all extrajudicial killings. Freedom House's scale is not only considered biased towards American foreign policy, but is mainly criticised for a lack of clarification regarding variables, the criteria used for scoring, the rules used to aggregate the elements into a scale and the sources used, which makes it impossible to ascertain the reliability of the results<sup>35</sup>. For cross-temporal comparisons it is further problematic that the Handbook no longer is updated and Freedom House has changed their definitions. Anyhow, none of the two measures are concerned with economic, social and cultural rights, and can therefore not be built upon in this thesis. The time element is however important because of the need for measuring progressive realisation, improvement in standards and non-retrogression<sup>36</sup>, and it is therefore worth allocating resources to make consistent measurements over time. However, it does demand much effort to make a historical assessment of past regimes' human rights violations, and maybe one just has to be patient and wait for newly developed indicators to grow older in order to make meaningful time analysis.

The possibility of making cross-country comparisons is politically sensitive, which was extremely evident when UNDP in 1991 received massive critique for having ranked countries

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<sup>32</sup> Idem. p. 143.

<sup>33</sup> Freedom House, *Freedom in the World 2003*, [www.freedomhouse.org/research/index.htm](http://www.freedomhouse.org/research/index.htm).

<sup>34</sup> B.M. Russett, K. Deutsch, H. Alker, H. Lasswell, *World Handbook of Political and Social Indicators 1961-1963*, Ann Arbor, Inter-university Consortium for Political and Social Research, 1968; C.L. Taylor, M.C. Hudson, *World Handbook of Political and Social Indicators II*, 2<sup>nd</sup> ed., New Haven, Yale University Press, 1972; C.L. Taylor, D. Jodie, *World Handbook of Political and Social Indicators III*, 3<sup>rd</sup> ed., New Haven, Yale University Press, 1983.

<sup>35</sup> R.J. Goldstein, op.cit. pp. 47-48; R.L. Barsh, op.cit. p. 105; G. Lopez, M. Stohl, op.cit. p.223.

<sup>36</sup> Green, op.cit. p. 1084.

according to their scores on Humana's Political Freedom Index<sup>37</sup>. Regardless, this feature is highly desirable since it allows for comparative studies and can improve the impact assessment of projects and policies. In order for the cross-country human rights assessment to be (more) political acceptable, it is vital that the indicators are based on clear and broadly accepted definitions and the operationalisations are valid as discussed in chapter 4.3.

#### **4.8. Main requirements – a summary**

The discussion on statistical requirements and problems regarding human rights indicators is endless, especially because of the limited access to information and the political nature of the issue. In this chapter, I have outlined some of the main requirements that I will take into consideration when creating a set of indicators. These can be summarised in the following points:

- It is important to have unambiguous theoretical concepts; I base my definitions on the General Comments made by the Committee.
- There must be a clear epistemic relationship connecting the theoretical understanding of a human right with the operational variables in order for the indicators to be valid; I strive for this by employing a normative approach to the choice of variables.
- The obligations in the Covenant can be seen as multidimensional and therefore the measures should be so as well; I choose to focus on the realisation of state obligations in principle and in result.
- It is necessary to consider the level of measurement of the variables and the weights devoted to each element in the scales; the variables on the dimension of principle are generally on an ordinal level, while the variables on the dimension of result are on scale level. The weights will be dealt with in connection with each of the indicators.
- Data should be as raw and reliable as possible, preferable disaggregatable, cross-temporal and cross-national; I will to the maximum extent possible rely on the resources available from the IGOs and use multiple resources when accessible.

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<sup>37</sup> For a brief overview of the debate see Barsh, op. cit. pp. 87-90.

## 5. Obligations in the Covenant

Traditionally the two Covenants on civil and political rights and economic, social and cultural rights have been seen as two totally different set of obligations for the State parties and have been connected to each their competing ideology during the Cold War. Since the beginning of the 1990s this attitude has slowly diminished and a notion of indivisibility of the two groups of rights is evolving. The economic, social and cultural rights have gained more acceptance as 'real rights' entailing immediate and minimum obligations that can be violated. This is not least due to the work done by the Committee by way of the General Comments on several of the rights.

### 5.1. *The nature of the State parties' obligations*

In General Comment 3 the Committee deals with the nature of the State parties' obligations as they are laid down in article 2.1 of the Covenant and outlined in the Limburg Principles<sup>38</sup>. The article differs from article 2 in the Covenant on Civil and Political Rights by speaking of obligations to "take steps", "to the maximum of its available resources", "achieving progressively the full realisation" and "by all appropriate means" instead of a language entailing more immediate obligations<sup>39</sup>. This has lead state parties to believe that there are no obligations with immediate effect in the Covenant, and that it only concerns a range of development goals. But in General Comment 3 the Committee frames the obligations differently, clarifying the overall responsibilities of the State parties to the Covenant: As a minimum states have immediate obligations to ensure that the enjoyment of the rights are not based upon any kind of discrimination in accordance with article 2.2 and 3 in the Covenant, and the obligation to take deliberate, concrete and targeted steps in order to realise the rights<sup>40</sup>. These steps must be taken with all the appropriate means, including the adoption of legislative measures – the latter often being indispensable<sup>41</sup>. The individual state decides the appropriateness of the means chosen, but the choice has to be justified to the Committee<sup>42</sup>. The notion of progressive realisation does not imply that the rights can be realised in any speed wanted by the state; on the contrary it imposes an obligation to "move

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<sup>38</sup> *The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights*, «Human Rights Quarterly», vol. 9, 1987, pp. 1222-135; also published as UN Doc. E/CN.4/1987/17, Annex, and E/C.12/2000/13, pp. 3-15.

<sup>39</sup> *International Covenant on Civil and Political Rights*, adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force 23 March 1976, art. 2.

<sup>40</sup> CESCR General Comment 3, *The Nature of State Parties Obligations (Art. 2, para. 1)*, Contained in UN Doc. E/1991/23, December 1990, para. 2.

<sup>41</sup> *Idem.* para. 3.

<sup>42</sup> *Idem.* para. 4.



as expeditiously and effectively as possible”<sup>43</sup>. Consequently, any deliberate retrogressive measures amount to a violation of the rights in the Covenant<sup>44</sup>.

## **5.2. The core obligations**

In General Comment 3 the Committee proclaims that state parties have certain fundamental obligations: “The Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every state party”<sup>45</sup>. These minimum essential levels are therefore not depending on the available resources<sup>46</sup> - but if the resources are anyhow proven inadequate, the state party has an obligation to make all efforts to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances and to take special precautions regarding the most vulnerable by adopting low-cost targeted programmes<sup>47</sup>. Therefore the core contents can be seen as standards against which all states can be measured regardless of level of development. This does not mean, however, that the minimum core content is a sufficient level for compliance with the obligations in the Covenant – but it is an absolute minimum from where to start the progressive realisation of the other obligations which are then dependent on the available resources. The strength of the core obligations is underlined by the fact that non-compliance is seen as a violation of the Covenant in the Maastricht Guidelines<sup>48</sup> - an approach that has been further developed by Chapman and Russell<sup>49</sup>. The minimum essential levels with regards to the specific rights have been specified in later General Comments, although the Committee is unfortunately not entirely consistent in its use of language. The core obligations concerning each right are dealt with in the beginning of each of the following chapters and constitute the basis for the indicators created.

## **5.3. Resource constraints**

As stated above, the core obligations are defined as minimum obligations for all states regardless of resources. It is though to some extent recognised that the resources might be problematic for some states which seem somehow contradictory. As stated by Chapman and Russell, “One can argue that the somewhat abstract international human rights system has not grappled fully with the potential contradictions in the minimum State obligations approach. States are assumed to have access to the resources needed to meet their

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<sup>43</sup> Idem. para. 9.

<sup>44</sup> Retrogression can only be justified by reference to all the economic, social and cultural rights and if the maximum of the available resources have been used - Idem. para. 9.

<sup>45</sup> Idem. para. 10.

<sup>46</sup> Idem. para. 10 and *Maastricht Guidelines*, op.cit. paras. 9-10.

<sup>47</sup> CESCR General Comment 3, op.cit. para. 11.

<sup>48</sup> *Maastricht Guidelines*, op.cit. para. 9.

<sup>49</sup> A.R. Chapman, A “Violations Approach” for Monitoring the International Covenant on Economic, Social and Cultural Rights, «Human Rights Quarterly», vol. 18, 1996, pp. 23-66 and A. Chapman, S. Russell (eds.), *Core obligations: Building a Framework for Economic, Social and Cultural Rights*, Antwerp, Intersentia, 2002.



minimum obligations, but in fact they may not, and wealthier States frequently disregard their international obligations”<sup>50</sup>. While this argument certainly has some strength, it does not change the approach of this thesis: The minimum essential level of each right applies to all states regardless of resources, and the states can therefore be measured according to the same minimum yardsticks. When it comes to judging whether the individual states are in violation of the Covenant when non-compliance with the core content is shown, is then another question; then an assessment of the available resources can be taken into consideration. It should though be avoided turning this into a generally legitimate argument, since that would deprive the Covenant of its *raison d’être* – as said in General Comment 3, para 10<sup>51</sup>.

#### **5.4. The essential rights**

When explaining the core contents of the rights, the Committee states in General Comment 3 that; “A State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligation under the Covenant”<sup>52</sup>. This is presented as just an example of the core contents of the Covenant but does nevertheless help to underline some of the most fundamental rights in the Covenant. This is supported by the fact that exactly these rights have been dealt with by the Committee in the General Comment up to date. The focus on health, education, an adequate standard of living (housing and food) as the most essential economic and social rights is also supported by other UN agencies (UNRISD, UNICEF, and the World Bank)<sup>53</sup> with the addition of the right to work. Since the core content of the latter has still not been clarified in a General Comment, I have chosen to focus on the remaining four rights.

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<sup>50</sup> A. Chapman, S. Russell, *Introduction*, in A. Chapman, S. Russell (eds.), *Core obligations: Building a Framework for Economic, Social and Cultural Rights*, Antwerp, Intersentia, 2002, p. 11.

<sup>51</sup> CESCR General Comment 3, op.cit. para 10.

<sup>52</sup> CESCR General Comment 3, op.cit. para. 9.

<sup>53</sup> C. Apodaca, op.cit. pp.142-143.

## 6. Right to Adequate Housing

Right to adequate housing is a part of the right to an adequate standard of living found in article 11.1 of the Covenant. It is seen as one of the most central rights of great importance for the enjoyment of all the other rights<sup>54</sup>. It is dealt with in General Comment 4 and the subheading of forced evictions is further clarified in General Comment 7. The General Comment on adequate housing is unfortunately not very specific regarding the core content of the right. This deficiency has been addressed by the special rapporteur on adequate housing<sup>55</sup>, Miloon Kothari, but he has not yet shed more light on the issue. It is in the following therefore necessary to consult other sources for a clarification on this matter.

### 6.1. The core content

In spite of the lack of clarity regarding the core content, General Comment 4 does outline some immediate obligations in accordance with the general state obligations under the Covenant. The state party has to abstain from “certain practices” and “commit to facilitate ‘self-help’ by affected groups”<sup>56</sup>. If the state does not have the means, it has an obligation to engage in international cooperation in order to acquire the resources needed<sup>57</sup>, and give due priority to housing when seeking international financial cooperation<sup>58</sup>. The government also has to give priority to the most vulnerable groups living in unfavourable conditions, and any retrogression without compensatory measures due to deliberate decisions made by the state party are a violation of the right to adequate housing<sup>59</sup>. It is underlined that forced evictions are “prima facie incompatible with the requirements of the covenant”<sup>60</sup>. In accordance with this, the United Nations Housing Rights Programme (UNHRP)<sup>61</sup> states that a minimum core requirement with respect to the right to adequate housing entails the duty to abstain from forced evictions and other retrogressive measures, but also a duty to immediately address the housing needs of the population if any significant number of individuals are deprived of basic shelter and housing<sup>62</sup>. The Sub-Commission’s Special Rapporteur on Adequate

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<sup>54</sup> CESCR General Comment 4, *The Right to Adequate Housing (Art. 11(1))*, contained in UN Doc. E/1992/23, 1991, para. 1.

<sup>55</sup> M. Kothari, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, UN Doc. E/CN.4/2002/59, 2002, pp. 12-14 and UN Doc. E/CN.4/2003/5, 2003, p. 15.

<sup>56</sup> CESCR General Comment 4, para. 10.

<sup>57</sup> *Idem.*

<sup>58</sup> *Idem.* para. 19.

<sup>59</sup> *Idem.* para. 11.

<sup>60</sup> *Idem.* para. 18.

<sup>61</sup> Joint initiative by UN-HABITAT and OHCHR.

<sup>62</sup> UNHRP, Report no. 1, *Housing Rights legislation – review of international and national legal instruments*, Geneva and Nairobi 2002, available at [www.unhabitat.org/programmes/housingrights/documents/HS-638.pdf](http://www.unhabitat.org/programmes/housingrights/documents/HS-638.pdf), p. 37.

Housing<sup>63</sup> underlined in 1995 that the right to housing should not be taken to imply that the State is required to build dwellings for the entire population, or that housing is to be provided free of charge by the state to everyone requesting it<sup>64</sup>. But although the state is not directly obliged to construct housing for everyone, it is acknowledged in laws, jurisprudence and among experts in the field that the state is required to provide some persons or groups with housing under certain circumstances<sup>65</sup>.

In General Comment 4 it is underlined that the right to adequate housing shall be understood in a holistic way as the right to live in security, peace and dignity<sup>66</sup>. The crux of the comments is the concept of adequacy, which is a relative concept dependent upon social, economic, cultural, climatic, ecological and other factors<sup>67</sup>. However, there are certain aspects that need to be taken into account in every context<sup>68</sup>: a) Legal security of tenure, b) Availability of services, materials, facilities and infrastructure, c) Affordability, d) Habitability, e) Accessibility, f) Location and g) Cultural Adequacy. The adequacy concerns the privacy, space, security, lightning and ventilation, basic infrastructure and location with regard to work and basic facilities. All this has to be ensured at reasonable cost<sup>69</sup>.

Combining all these elements seem to bring us further than the core content of the right to adequate housing. When trying to narrow the scope of the right down, the most important elements appear to be the legal security of tenure, forced evictions and adequacy. However, the latter includes elements which are difficult to measure quantitatively (availability of services etc, location and accessibility) and elements which are measured by disaggregating data (non-discrimination as part of cultural adequacy) or more related to civil and political rights (the right to privacy of the home as part of cultural adequacy), and these are therefore not included in the indicators below. But the elements of affordability and habitability should be quantitatively measurable. In accordance with the core content of other rights in the Covenant, as outlined by the Committee in other General Comments (see the following chapters), there are also certain 'political steps' which should be seen as core: Making a national strategy, devoting adequate attention to the issue legally, politically and economically, and monitor the situation effectively. Finally, there is a core obligation to give due priority to the most vulnerable groups and provide the most disadvantaged with housing

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<sup>63</sup> The full title is Special Rapporteur on Promoting the Realization of the Right to Adequate Housing of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

<sup>64</sup> R. Sachar, *The Right to Adequate Housing*, UN Doc. E/CN.4/Sub.2/1995/12, 1995, paras. 4-5.

<sup>65</sup> UNHRP Report no. 1, op.cit. pp. 17-19.

<sup>66</sup> CESCR, General Comment 4, op.cit. para. 7.

<sup>67</sup> Idem, para. 8.

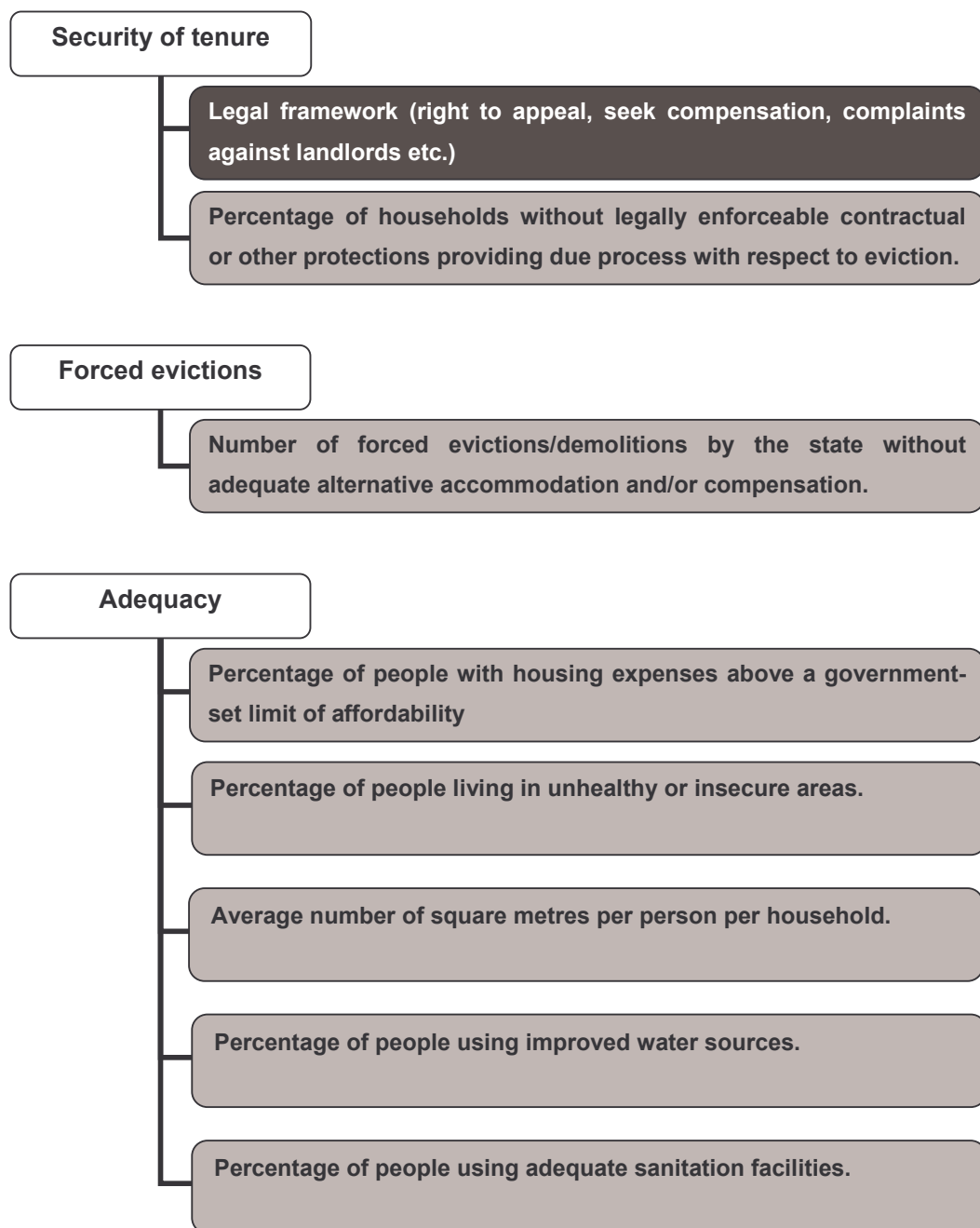
<sup>68</sup> Idem, para. 8.

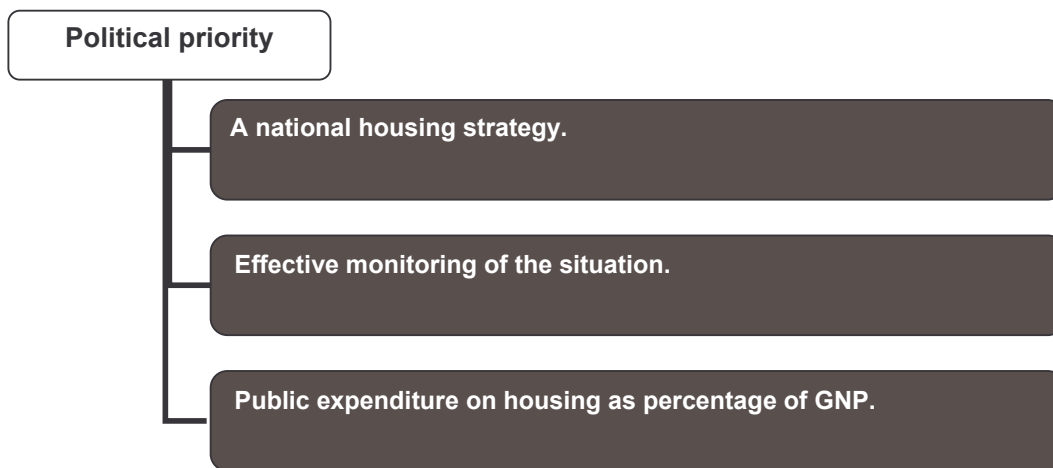
<sup>69</sup> Idem, para. 7.

– which means allocating the needed resources to building houses for the most vulnerable people, especially for people being homeless as a consequence of natural disasters or alike.

## **6.2. An indicator for the right to adequate housing**

Considering the obligations outlined above, an indicator for the right to adequate housing could be composed of the following elements:





### 6.3. Variables and Weights

On the dimension of **principle** (the dark boxes), I considered to include a variable covering the states' obligation to give priority to housing when contemplating international financial cooperation. However, since it is very unclear, what 'adequate priority' means, this variable was left out. There is no official benchmark with regards to the level of government expenditure on housing, for which reason a general 5%-level is used, though recognising that this level might be too high to be regarded as a minimum. The four variables included are equally important and are therefore given the same weight. Since the scale should range from 0-8, the final sum is timed by 2.

	<i>Variables</i>	<i>Score</i>	<i>W</i>
1	Legal framework (right to appeal, seek compensation, complaints against landlords etc.)	Yes = 1 Partly = 0.5 No = 0	1
2	A national housing strategy.	Yes = 1 Partly = 0.5 No = 0	1
3	Effective monitoring of the situation	Yes = 1 Partly = 0.5 No = 0	1
4	Public expenditure on housing as percentage of GNP.	>5% = 1 3-5% = 0.5 <3% = 0	1
	<b><i>Right to housing – principle</i></b>	<b>2(Sum) = X</b>	

The list includes seven variables on the dimension of **result** (the light boxes). The variables included are chosen on a primarily normative basis since accessible data is sparse. COHRE has taken initial steps to develop a Housing Rights Composite Index<sup>70</sup>, where they have made similar but not entirely corresponding choices regarding elements and variables. This work has been an inspiration to include the average square meters per person per household as a variable measuring adequacy, and to use the ‘percentage of households without legally enforceable contractual or other protections providing due process with respect to eviction’ to measure the security of tenure.

Since there do not exist any accepted benchmarks, the scores are assigned according to ideal minimum requirements as I perceive them. Percentage of people using adequate sanitation facilities and improved water sources are both included as indicators for the Millennium Development Goals, but the benchmarks used in that connection are relative to the present situation (“Halve, by 2015, the proportion of people...”)<sup>71</sup>. I have instead chosen to apply a 100%-benchmark, since the access to water and sanitation are regarded as basic essentials for the realisation of the right to housing. In connection with percentage of people with housing expenses above a government-set limit of affordability and people living in unhealthy or insecure areas, a 95% yardstick is used instead, since it might be impossible to live up to a 100% level if people’s right to freedom of movement and choice of residence shall be respected. The same yardstick is applied for households without legally enforceable contractual protections.

With regards to forced evictions, one can either code the qualitative information contained in reports and articles into categories such as “few”, “considerable amount”, “many” or equivalent and give points accordingly. Or one can use the estimated number of people or families evicted and scale the information accordingly. The latter seems preferable, since the former is too relative and the result is highly dependent upon the judgments of the person coding. However, it is difficult to draw the lines between each score - how many evictions are needed to get 0 instead of 1 point? Considering that evictions are prima facie incompatible with the obligations under the Covenant, I opt for a more drastic version: If forced evictions and/or demolitions take place, the state gets 0 points regardless of the number of abuses. If no evictions take place, the state gets 4 points. Furthermore, the variable is devoted double weight because of the importance devoted to this matter by the Committee and the relatively simple requirement for the state to abstain from the practice.

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<sup>70</sup> COHRE, *Global Housing Rights Challenge: Development of a Housing Rights Composite Index*, Working Paper prepared by COHRE for UNHCHR and HABITAT, Geneva, Switzerland, 2002.

<sup>71</sup> The World Bank Group, *Millennium Development Goals*, [www.developmentgoals.org](http://www.developmentgoals.org), -About the Goals.

The most difficult benchmark to set is the average number of square metres per person per household, where no accepted standard can be found<sup>72</sup>. However, the Office of the High Representative in Bosnia and Herzegovina defines "appropriate accommodation" as having a minimum of 8 square metres per person<sup>73</sup>. This seems to be a very low level, but is in the absence of other guidelines used as the level for adequacy. The absolute minimum (3 square meters) for obtaining points is parallel to the requirements in disasters used by Medecins Sans Frontieres and other aid agencies<sup>74</sup>.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Percentage of households without legally enforceable contractual or other protections providing due process with respect to eviction.	<5% = 4 5-10% = 3 10-15% = 2 15-20% = 1 >20% = 0	1
2	Number of forced evictions/demolitions by the state without adequate alternative accommodation and/or compensation.	0 = 4 >0 = 0	2
3	Percentage of people with housing expenses above a government-set limit of affordability (based on ability to pay or as a ratio of income).	<5% = 4 5-10% = 3 10-15% = 2 15-20% = 1 >20% = 0	1
4	Percentage of people living in unhealthy or insecure areas.	<5% = 4 5-10% = 3 10-15% = 2 15-20% = 1 >20% = 0	1
5	Average number of square metres per person per household.	>8 = 4 7-8 = 3 5-6 = 2 3-4 = 1 <3 = 0	1
6	Percentage of people using improved water sources	100% = 4 94-99% = 3	1

<sup>72</sup> This observation has been supported in private email communication by S.A. Way, Senior Researcher at the Research Unit on the Right to Food, 25 June 2003.

<sup>73</sup> According to M. Gomez, COHRE, Private email communication, 26. June 2003.

<sup>74</sup> Idem.

		85-94% = 2 75-84% = 1 <75% = 0	
7	Percentage of people using adequate sanitation facilities	100% = 4 94-99% = 3 85-94% = 2 75-84% = 1 <75% = 0	1
	<b>Right to housing – result</b>	<b>Sum<sup>75</sup>/3.75 = X</b>	

#### 6.4. Data

According to Scott Leckie, the available indicators for housing rights “are probably more sparse and unreliable than all other indicators linked directly to other economic, social and cultural rights”<sup>76</sup>. This is due to the fact that few governments collect the data required. In General Comments 7 on forced evictions, the state parties are asked to submit information on the number of people evicted within the last five years, or currently lacking legal protection against eviction, and on the legislation regarding security of tenure, protection from and prohibiting of eviction<sup>77</sup>. Furthermore, the Committee asks for information regarding measures taken during different redevelopment or restoration projects or in connection with major events<sup>78</sup>. It is underlined that it is a state obligation to monitor the situation on the right to adequate housing effectively, and that it is therefore an obligation of the state to collect appropriate data<sup>79</sup>. However, the availability of this data is still unsatisfactory, and there is a great need for collecting new data in this field.

Some data on forced evictions can be found in the “Global Survey on Forced Evictions” published yearly by the COHRE. Entailed herein are mostly qualitatively data collated randomly from different sources. The main source, according to COHRE<sup>80</sup>, is local organizations working directly with the evicted communities, which is an asset of the Survey. In addition COHRE also looks to secondary sources for further information - including human rights reports, UN reports, and newspaper accounts. All of this is compiled and organized by

<sup>75</sup> Variable 2 is timed by 2 in the calculation in order to obtain double weight.

<sup>76</sup> S. Leckie, *Keeping People Housed: Using Statistics and Digital Technology in Support of Housing Rights*, paper from IAOS Conference on Human Rights and Statistics, Montreux, September 2000, p. 5.

<sup>77</sup> CESCR General Comment 7, *The Right to Adequate Housing (at. 11.1 of the Covenant): Forced Evictions*, contained in UN Doc. E/1998/22, annex IV, 1997, para. 19.

<sup>78</sup> Idem. para. 20.

<sup>79</sup> Idem. para. 21.

<sup>80</sup> M. Gomez, COHRE, Private email communication, 27. May 2003.



country to give as complete a picture as possible of the forced evictions trends in a particular country over a given period of time<sup>81</sup>.

The main problem is a lack of an international organisation that collects information on housing rights. WHO and UNICEF have relevant data on the issue of water and sanitation which is generated in a joint monitoring programme between the two organisations<sup>82</sup>. The UN Human Settlement Programme (HABITAT) provides some information of relevance for the right to housing through their Global Urban Observatory unit (GUO), which has data on the housing situation in a wide range of countries<sup>83</sup>. GUO has several databases, such as the Key Indicator Database which should contain indicators on both urban and national level including 'tenure types' and 'evictions'. But unfortunately data is missing, or is only measured for certain cities. Another database is the Human Settlements Statistical Database which has data on national level. It comprises data from population and housing surveys and data from various UN publications and databases. Most of the data found are not directly related to the right to housing but are for instance general demographic or economical measures, but data on public expenditure on housing as percent of total government expenditure (but not of GNP or GDP) is included. The main focus of GUO seems to be the city level and much of the data is not suitable for aggregation to country level, since it does not cover the country fully. But it is noteworthy that GUO is planning a new project with the purpose of ascertaining and updating slum statistics "in order to improve the lives of people living in informal settlements especially in Africa and Asia"<sup>84</sup>, which is highly desirable from a human rights perspective.

GUO also has some qualitative data of relevance for an assessment of the right to housing including answers to the following questions: a) does the constitution or national law promote the right to adequate housing? b) Does the constitution include protections against eviction? C) Are there impediments to women owning land; impediments to women inheriting land and housing, and impediments to women taking mortgages in their own name?<sup>85</sup> Again the data is reported with regards to a few cities, but since the constitution should not differ from town to town, the answers should in general be applicable to the whole nation. Unfortunately, it is difficult to uncover how the data is collected; whether it is reported by the government or by independent sources.

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<sup>81</sup> Idem.

<sup>82</sup> WHO/UNICEF, *Global Water Supply and Sanitation Assessment 2000 Report*, available at [www.who.int/water\\_sanitation\\_health/monitoring/globalassess/en/](http://www.who.int/water_sanitation_health/monitoring/globalassess/en/), 2000.

<sup>83</sup> UN-HABITAT, *Global Urban Observatory and Statistics*, [www.unhabitat.org/programmes/guo/guo\\_indicators.asp](http://www.unhabitat.org/programmes/guo/guo_indicators.asp).

<sup>84</sup> UN-HABITAT, *Searching for Slum Statistics in Asia and Africa*, 17 June 2003, [www.unhabitat.org/slum\\_statistics.asp](http://www.unhabitat.org/slum_statistics.asp).

<sup>85</sup> UN-HABITAT, *Global Urban...op.cit.*– Qualitative Data.

UNHRP has published a report series comprising compilations of both international and national housing rights legislation. Of particular interest is Report No. 3 on “National Housing Rights Legislation”<sup>86</sup> which is a compilation of constitutional clauses and text of selected legislation related to housing. The compilation contains an extensive amount of information and it could be a useful tool in a human rights assessment, although it does not cover globally. Finally, it should be noted that security of tenure is included as an indicator under the goal to ensure environmental sustainability (goal 7) in the Millennium Development Goals<sup>87</sup>. However, this does not seem to have been devoted much attention and little data is available.

### **6.5. An indicator for right to housing in Egypt**

In order to assess the indicator created, it will in the following be used to evaluate the situation in Egypt. The year of reference is 1998, which has been chosen because Egypt’s initial report to the Committee is from this year. If data cannot be found for 1998, a 2-year rule is applied – allowing data from the period 1996-2000 will be used. The assessment is first and foremost meant as an illustration in order to shed light on some of the difficulties encountered and the choices to be made when using the indicators.

#### **6.5.1. Housing rights in principle**

With regards to the housing situation in Egypt, access to information is scarce. However, relevant information can be found in the state report to the Committee<sup>88</sup>, in the ‘shadow’ report made by the Egyptian Center for Housing Rights<sup>89</sup>. Regarding the legal framework for security of tenure, the Egyptian Center for Housing Rights is very critical towards the conditions in Egypt. In the state report there is reference to the legal Act no. 4 of 1996, by which all the exceptional legislation made since 1976 is reverted. According to the state report this is done in order to “bring closed housing units onto the rental market, encourage owners to retain their rented real estate, and promote investment in the construction sector”<sup>90</sup>. But according to the Center for Housing Rights, the consequence is a lack of protection to the tenant, because the rental relationship between the landlord and tenant terminates when the contract period ends, allowing the landlord to raise the rent as much as wanted and evict the tenant without any cause<sup>91</sup>. Furthermore, the government has

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<sup>86</sup> UN-HABITAT, Report No. 3, *National Housing Rights Legislation*, Nairobi, 2002, available at [www.unhabitat.org/programmes/housingrights/unhrp\\_reports.asp](http://www.unhabitat.org/programmes/housingrights/unhrp_reports.asp)

<sup>87</sup> The World Bank Group, *Millennium...*, op.cit. – About the Goals.

<sup>88</sup> CESCR, *Initial Report: Egypt*, UN Doc. E/1990/5/Add.38, 1998.

<sup>89</sup> The Egyptian Center for Housing Rights, *Report to CESCR in response to the Egyptian Government report regarding the right to housing (issues 27 & 32)*, available at [www.echr.org/en/asd/02/rep-un.htm](http://www.echr.org/en/asd/02/rep-un.htm).

<sup>90</sup> CESCR, *Initial...*, op.cit. para. 157(d).

<sup>91</sup> The Egyptian Center for Housing Rights, op.cit. para. II.

presented a bill which shifts the burden of maintenance and repair from the landlord to the tenant and opens for eviction of the poor from their dwellings, because it authorises the landlord to confiscate the tenants' personal belongings if they refuse or fail to pay these costs<sup>92</sup>. In the HABITAT Report no. 3 mentioned above, there is no data on the security of tenure in Egypt. In GUOs Qualitative Data it is stated that the constitution and/or legislation promote the right to adequate housing and that the constitution includes protection against evictions<sup>93</sup>, while COHRE states that Egypt's constitution does not recognise the right to housing<sup>94</sup>. Even if the constitution would recognise the right to housing, the current legislation does not ensure the security of tenure, and the legal framework is therefore not regarded as satisfactory.

The government does have a housing strategy in the form of a five-year plan<sup>95</sup>, but the monitoring of the situation is lacking – which is for instance shown in the lack of statistics and assessments regarding the housing problems. The Human Settlement Statistical database has information on public expenditure on housing as percent of total government expenditure (which could be recalculated into percent of GNP), but unfortunately the latest data on Egypt on this matter is from 1989 and is therefore of no use here.

This information can be translated into the following scores. Although one variable is missing, the indicator is calculated with the remaining three variables, amounting to a final score of 2.67, which is rounded off to 2.5. If data on the last variable would be included, the score could end between 2 and 4.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Legal framework (right to appeal, seek compensation, complaints against landlords etc.)	No	0	1
2	A national housing strategy.	Yes	1	1
3	Effective monitoring of the situation	No	0	1
4	Public expenditure on housing as percentage of GNP	-	-	
	<b>Right to housing – principle</b>	(0+1+0)2.67	<b>2.5</b>	

### 6.5.2. Housing rights in result

In the databases hosted by GUO, the cities of Ismailia and Tanta are included, but data on the relevant variables are missing<sup>96</sup>. With regard to informal housing, the Centre for the

<sup>92</sup> Idem.

<sup>93</sup> UN-HABITAT, *Global Urban...* op.cit. – Qualitative Data.

<sup>94</sup> COHRE, *Global Survey 8 - Forced Evictions: Violations of Human Rights*, Primavera, Amsterdam, 2002, p. 53.

<sup>95</sup> CESCR, *Initial...*, op.cit. paras. 157(d) and 160.

<sup>96</sup> UN-HABITAT, *Global Urban...*, op.cit.

Support of Decision Making in the governorates estimated the population in the informal housing areas to be 11,561,000 in 1996<sup>97</sup>. Since there are no signs that this number should have decreased until 1998 (rather the opposite as a consequence of the rapid population growth), this estimate is used. According to the World Development Indicators, the total population in Egypt in 1998 was 61,580,000<sup>98</sup>, meaning that approximately 19% were living in informal housing. Considering that this number is an estimate of the people living in the informal areas – the so-called “shantytowns” - and that many people could possibly be living in other areas but still lacking a contract, this figure can be considered to be a gentle estimate.

WHO/UNICEF and the World Bank all have corresponding data on the access to an improved water source (95%) and on access to adequate sanitation facilities (98%)<sup>99</sup>. Forced evictions do take place in Egypt – according to COHRE<sup>100</sup>, the Committee<sup>101</sup> and the Egyptian Centre for Housing Rights<sup>102</sup>, and it is clear that the evictions are generally executed without offering any adequate alternatives. Since the scope of the violation has been considered to be irrelevant for the devotion of scores, Egypt gets 0 point on this variable.

Extensive research has been carried out in order to find more information on the right to housing on a local, national or global level, but the result has been disappointing, and it is therefore not possible to calculate a full indicator for the right to housing in result. However, if the indicator should be calculated with the available information, the result would be as follows:

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Percentage of households without legally enforceable contractual or other protections providing due process with respect to eviction.	19%	1	1
2	Number of forced evictions/demolitions by the state without adequate alternative accommodation and/or compensation.	At least 75 families	0	2
3	Percentage of people with housing expenses above a government-set limit of affordability.	-	-	-

<sup>97</sup> The Egyptian Center for Housing Rights, op.cit. para. VIII.

<sup>98</sup> The World Bank Group, *World Development Indicators – Data Query*, available at <http://devdata.worldbank.org/data-query/>

<sup>99</sup> Idem ; WHO/UNICEF, *Global Water...* op.cit.

<sup>100</sup> COHRE, *Global Survey 8...*, op.cit. p. 53; COHRE, *Global Survey 9 - Forced Evictions: Violations of Human Rights*, Primavera, Amsterdam, 2003, p. 21.

<sup>101</sup> CESCR, *Concluding Observations: Egypt*. UN Doc. E/C.12/1/Add.44, 2000, para. 22.

<sup>102</sup> The Egyptian Center for Housing Rights, op.cit. para. VIII.

4	Percentage of people living in unhealthy or insecure areas.	-	-	-
5	Average number of square metres per person per household.	-	-	-
6	Percentage of people using improved water sources	95%	3	1
7	Percentage of people using adequate sanitation facilities	98%	3	1
<b>Right to housing – result</b>		$(1+(2*0)+3+3)/2.5$	<b>3</b>	

The score on this dimension adds together to 2.8, which is rounded off to 3. Because it is calculated in spite of three missing variables, it is interesting to look at the possible results if the three would have been included (this should be seen as no more than an illustrative thought experiment): Had Egypt scored 4 on all three of the missing variables, the country would have gotten a final score of 5 (4.75) instead. However, this is highly unlikely considering that 23% are living under the national income line<sup>103</sup>, and one can therefore imagine that many are unable to afford the rents. The percentage of people with housing expenses above a government-set limit of affordability could be around 20% or higher, which gives the country 0 point on that variable. At the same time a considerable amount of the Egyptians seem to live in unhealthy or insecure areas. Although it is difficult to estimate how high a percentage of the population this group amounts to, a very cautious estimate could be around 10-15% - giving Egypt 2 points on that variable. With regards to the average number of square metres per person, it is extremely difficult to estimate the average in Egypt. Without this variable the total would be 2.5 (rounded off from 2.57). Depending on the score on variable 5, the final score could then range between 2.25 and 3.25.

This can evidently not lead to the conclusion that the other three variables might as well be left out of the indicator, since one can easily picture a different situation where the scores on each of the variables will differ more, and Egypt might as well come out with different result than envisaged above. However, some of the variables could measure the same and therefore it is essential to refine the indicator further. As explained in chapter 4.6, this can best be done with a bigger data set so that different tests can be performed in order to analyse whether several of the variables are too overlapping. However, the variables should not be left out if they are theoretically measuring different elements, although the relation between them seems too strong. From this perspective, such tests should concentrate on testing the correlation between variable 1, 3 and 4, where some overlap might be possible.

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<sup>103</sup> Estimate from the World Bank according to UNDP Egypt, *Egypt Country Profile*, [www.undp.org.eg/profile/egypt.htm](http://www.undp.org.eg/profile/egypt.htm).

## **6.6. Concluding observations on the indicators for the right to housing**

It is difficult to create a human rights indicator for the right to housing. First of all because of the difficulties with setting benchmarks and devoting weights due to the lack of agreed upon priorities and an extremely weak General Comment on this right. Secondly, data is highly inaccessible, inconsistent and incomplete. There is no obvious justification for this lack of data – it should be just as feasible to produce statistic within this field as within the others. Apparently, initiative has been taken to create a Housing Rights Composite Index for quantitative measurement for the right to housing<sup>104</sup>, which is a very promising initiative that might help the poor data situation. Furthermore, the newly launched GUO project regarding slum statistics should be noted with contentment, and one can hope that more emphasis will be put on collecting data on security of tenure in connection with the Millennium Development Goals.

But in spite of the difficulties accessing data, it was possible to make an assessment of the housing situation in Egypt which clearly indicates that the situation on housing rights in both principle and result is highly problematic. This is in accordance with the general impression, which has been acknowledged by the delegation of Egypt at the examination in the Committee<sup>105</sup>. However, it should be underlined that the generated results are problematic due to the uncertainty of data and the unavailability of information regarding some variables (although this might not affect the final score considerably). The indicator should be further refined when it is possible to assess whether each of the variables included adds additional information respectively. In order to do this more cases are needed.

Right to housing is an essential right of great importance for the realisation of the other human rights as well as for human development in general. It is therefore of utmost importance to devote more attention to the area. Setting benchmarks, clarifying the core content of the right, and creating better statistics for the monitoring and assessment of the situation on both national and local level should be important elements in such work.

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<sup>104</sup> COHRE, *Global Housing...* op.cit.

<sup>105</sup> CESCR, *Concluding...*, op.cit. para. 22.

## 7. Right to Adequate Food

The right to food is a part of the right to an adequate standard of living and is found in the Covenant article 11.1. The Committee has dealt with this right in General Comment 12. It is seen as a right linked to the dignity of the human person and important for the enjoyment of all other human rights<sup>106</sup>.

### 7.1. The core content

The right is about physical and economic access at all times to adequate food or its procurement<sup>107</sup>. Adequacy is determined by social, economical, cultural, climatic, ecological and other conditions and is linked to sustainability, which concerns the availability and accessibility of food and food security for both present and future generations<sup>108</sup>. The core content can consequently be divided into the following elements:

- The obligation to ensure *freedom from hunger*, which includes a state obligation to “take the necessary action to mitigate and alleviate hunger”<sup>109</sup>, meaning that the state has to provide food to people who are unable to feed themselves.
- The obligation to ensure the right to feed oneself: This element can be divided into the obligation to ensure the *general availability* of food in a quantity and quality covering the dietary needs of people. This is achieved when sufficient quantities of food are consistently available to all individuals within a country. The food should be free from adverse substances and culturally acceptable. The other part of this element is the obligation to ensure the *accessibility* to such food in sustainable ways without violating other human rights. Food access is ensured when all individuals have adequate resources to obtain appropriate foods for a nutritious diet. Access therefore depends on income available to the household and on the price of food, and it is therefore essential that the state respect the right of people to have an income from economic activities rather than just sharing. This includes ensuring legal guarantees for the right to land and a minimum income<sup>110</sup>.
- The obligations of the state to adopt a *national strategy* identifying the available resources and the most effective way of using them<sup>111</sup>, which includes effective monitoring of the situation and an obligation to engage in activities facilitating the

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<sup>106</sup> CESCR General Comment 12, *The Right to Adequate Food (Art. 11)*, UN Doc. E/C.12/1999/5, 1999, para. 4.

<sup>107</sup> Idem. para. 6.

<sup>108</sup> Idem. para. 7.

<sup>109</sup> Idem. para. 6.

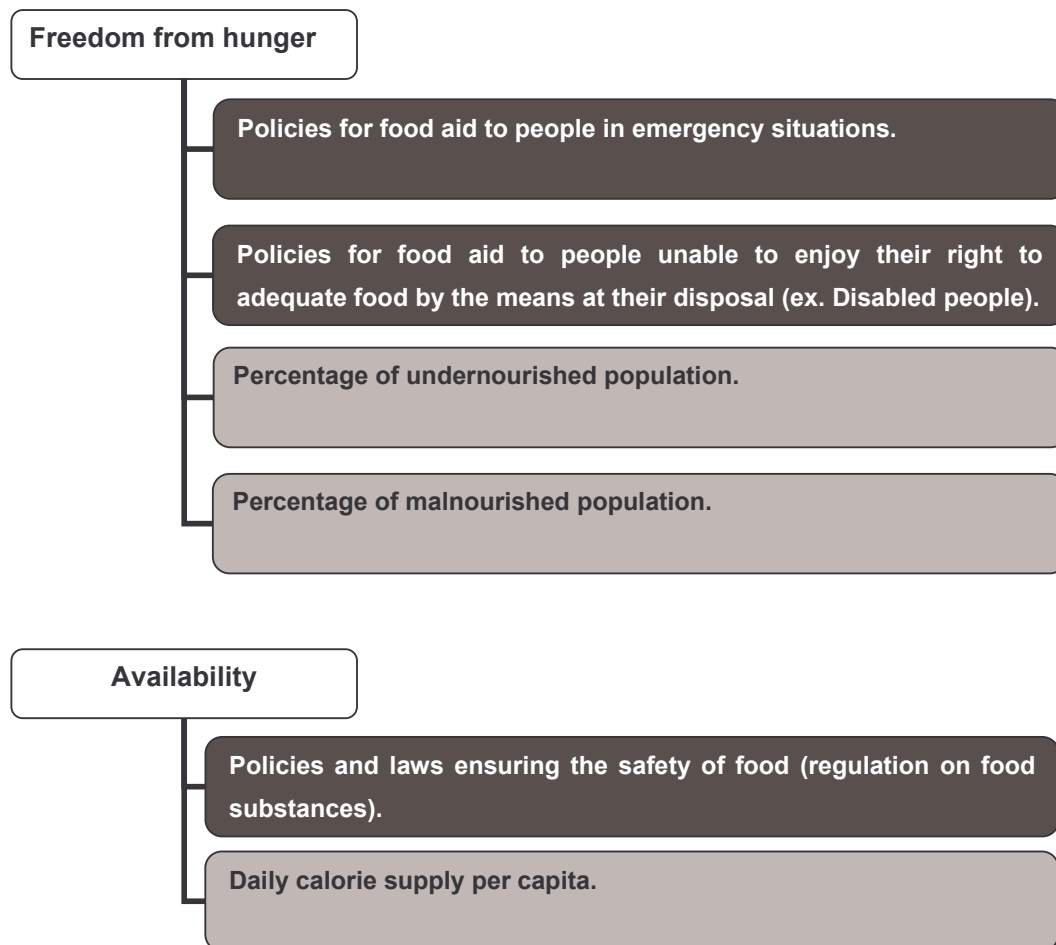
<sup>110</sup> Idem. paras. 8-13.

<sup>111</sup> Idem. para. 21.

accessibility to and availability of food<sup>112</sup> (such as prioritising and improving the supply and production of food and ensuring accessible food prices).

## **7.2. An indicator for the right to adequate food**

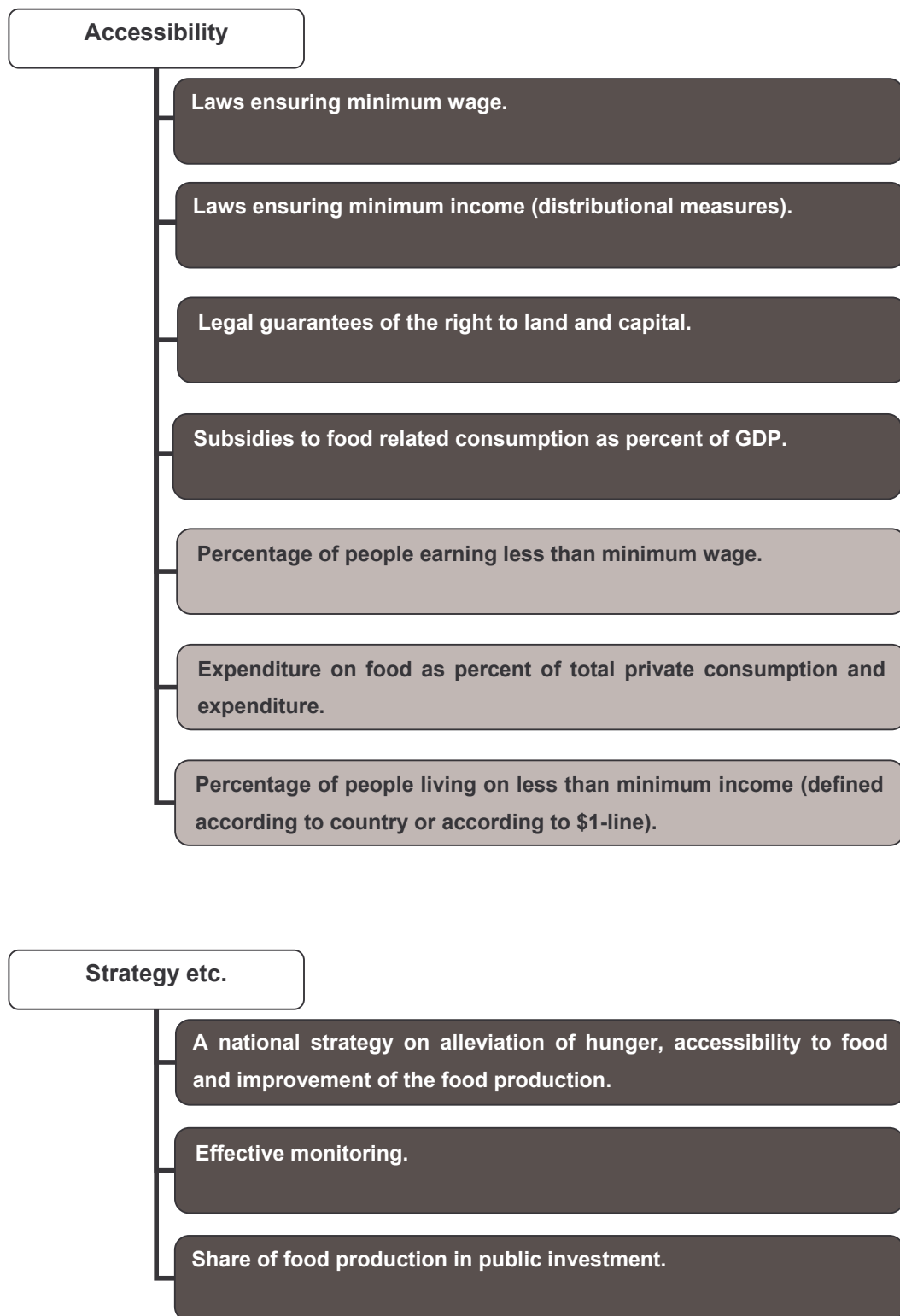
Considering these core obligations, an indicator for the right to adequate food could be composed of the following elements:



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<sup>112</sup> Idem. para. 15.





### 7.3. Variables and Weights

Ten variables are included on the dimension of **principle**. The most disputable variable of the included is 'laws ensuring minimum income', since this concern a choice of political

system and distribution of income in society. However, there is a close connection between the accessibility of food and the minimum income and a clear obligation to ensure that few people live on less than the minimum income (as confirmed in connection with the Millennium Development Goals), and therefore the obligation regarding laws and policies should follow. Regarding the benchmarks, the levels used for public expenditure on food subsidies as percent of GDP and share of food production in public investment has been difficult to establish. Especially the former is context dependent, though a certain level of food subsidies is relevant in all countries in order to ensure access for everyone to the most basic foodstuff. There is no variable of particular importance, and they are therefore given the same weight. Since the scale should range from 0-8, the final score is divided by 1.25.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Policies for food aid to people in emergency situations.	Yes = 1 Partly = 0.5 No = 0	1
2	Policies for food aid to people unable to enjoy their right to adequate food by the means at their disposal (ex. disabled people).	Yes = 1 Partly = 0.5 No = 0	1
3	Policies and laws ensuring the safety of food (regulation on food substances).	Yes = 1 Partly = 0.5 No = 0	1
4	Laws ensuring minimum wage.	Yes = 1 Partly = 0.5 No = 0	1
5	Laws ensuring minimum income (distributional measures).	Yes = 1 Partly = 0.5 No = 0	1
6	Legal guarantees of the right to land and capital.	Yes = 1 Partly = 0.5 No = 0	1
7	Subsidies to food related consumption as percent of GDP	>2% = 1 1-2% = 0.5 <1% = 0	1
8	A national strategy	Yes = 1 Partly = 0.5 No = 0	1

9	Effective monitoring.	Yes = 1 Partly = 0.5 No = 0	1
10	Share of food production in public investment.	>5% = 1 3-5% = 0.5 <3% = 0	1
	<b><i>Right to food – principle</i></b>	<b>Sum/1.25</b>	

The dimension of **result** consists of six variables. Again, it has proven difficult to set the scoring schemes because of a lack of benchmarks for many of the variables and great difficulties in accessing information on the matter. Information has been sought by various means; development literature, statistics, internet resources of the UN Food and Agriculture Organisation (FAO) and other international organisations, NGOs, and contact has been taken to the Research Unit on the Right to Food for the UN Special Rapporteur on the Right to Food in Geneva. This has all been helpful, but none of the needed benchmarks been found. For most of the variables included, the scores are therefore devoted on the basis of my reasoning. For other variables, one benchmark have been found but leaving the underlying categories open – such as the daily calorie intake, where FAO has set a widely recognized benchmark of 3200 calories per day (this is also included in the Millennium Development Goals). The expenditure on food as percent of total private consumption and expenditure is used instead of an indicator on food prices. It is generally acknowledged that this variable can be used as a part of an indicator for food security - if people are spending a too high share of their total expenditure on food, they are living in a constant fear of hunger and undernourishment. But again a broadly accepted benchmark is lacking, and nobody is willing to set one even for the sake of an estimate (this leaves one wondering how it can be used as an indicator for food security). The levels set are therefore again of a preliminary kind that should be revised according to internationally agreed standards. The scoring scheme with regards to percentage of undernourished is taken from FAO's report on food insecurity<sup>113</sup>, which is divided according to frequency. The same scheme is used with regard to malnourishment.

Since poverty and the right to food are closely related and income programmes seen as a part of the state obligations, poverty measures are included. In connection with the Millennium Development Goal concerning a reduction in the number of people living in extreme poverty three indicators have been agreed upon to monitor the progress made.

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<sup>113</sup> FAO, *The State of Food Insecurity in the World 2002*, Italy, 2002, available at [www.fao.org/docrep/005/y7352e/y7352e00.htm](http://www.fao.org/docrep/005/y7352e/y7352e00.htm).

These are: Proportion of population below \$1 per day, Poverty gap ratio (incidence x depth of poverty) and the share of poorest quintile in national consumption<sup>114</sup>. While the \$1-line is a universally accepted level for extreme poverty, poverty is better measured according to national poverty lines (where available) in order to capture the relativity of poverty. I considered including a variable on percentage of food consumed containing adverse substances, but it proved impossible to find data on this and it will also be complicated to set the standards needed. FAO does have some data on this kind of food safety, but it is very specific information with regards to the different substances, and it is not evident that an aggregate of this information would provide the information needed. Another relevant variable concerns the domestic food supply (production + import + stock changes – export), but it was impossible to set a benchmark on this variable and the statistics provided by FAO is disaggregated fully with regards to all kinds of goods.

Figures on undernourishment are based on calculations of the amount of food available in each country (national dietary energy supply or DES) and a measure of inequality in distribution derived from household income/ expenditure surveys<sup>115</sup>, there might be overlaps between this variable and the variable on food expenditure as percentage of income and some of the other poverty-related measures. However, it is left for further statistical tests to measure such correlations. It can also be considered to develop the nutritional element with measures like child underweight, stunting and wasting, but I find that the variables included cover the element sufficiently.

The final indicator for the right to food in result consists of the following six variables, which are all devoted equal weight. In order to make the final score range from 0-8 the sum of the points is divided by 3.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Percentage of undernourished population.	<2.5% = 4 2.5-5% = 3 5-20% = 2 20-35% = 1 >35% = 0	1
2	Percentage of malnourished population.	<2.5% = 4 2.5-5% = 3	1

<sup>114</sup> See for instance UN Statistic Division, *Millennium Indicators*, <http://millenniumindicators.un.org>.

<sup>115</sup> FAO, *The State of...*, op.cit.

		5-20% = 2 20-35% = 1 >35% = 0	
3	Daily calorie supply per capita.	>3200 = 4 28-3200 = 3 24-2800 = 2 20-2400 = 1 <2000 = 0	1
4	Percentage of people living under minimum income (defined according to country or according to \$1-line).	<5% = 4 5-10% = 3 10-20% = 2 20-30% = 1 >30% = 0	1
5	Percentage of people earning less than minimum wage.	<5% = 4 5-10% = 3 10-15% = 2 15-20% = 1 >20% = 0	1
6	Expenditure on food as percent of total private consumption and expenditure.	<50% = 4 50-60% = 3 60-70% = 2 70-80% = 1 >80% = 0	1
	<b><i>The right to adequate food – result</i></b>	<b>Sum/3 = X</b>	

#### 7.4. Data

Data sources of relevance for an assessment on the right to food are primarily concerned with nutrition, such as Social Watch indicators on calories, low weight at birth and malnutrition (for under-fives)<sup>116</sup>, or UNICEF's indicators on underweight, stunting and wasting<sup>117</sup>. Another relevant data source is FAOSTAT, the statistical database of FAO<sup>118</sup>. It contains a broad range of information regarding food production, trade, balance, fertilizers and pesticides, forest production, population, food aid, fishery and more. It has more than 1 million time-series with global coverage. Although most of the information is not relevant for a

<sup>116</sup> Social Watch, [www.socwatch.org](http://www.socwatch.org).

<sup>117</sup> UNICEF Statistical databases, *Progress Since the World Summit for Children*, [www.childinfo.org](http://www.childinfo.org).

<sup>118</sup> FAO, *FAO Statistical Databases – FAOSTAT*, <http://apps.fao.org/default.htm>.

human rights assessment, there is useful data on food production per capita, the food balance and domestic supply. FAO furthermore makes good estimates about the undernourishment in developing countries and countries in transition found in their reports on the state of food insecurity in the world<sup>119</sup>. As mentioned above, the World Bank has useful poverty measures – and due to the Millennium Developments Goals the data is updated and easily accessible<sup>120</sup>. UNRISD does supposedly have data on the expenditure on food as percent of the total private consumption and expenditure. However, this data has proven impossible to find.

### **7.5. An indicator for right to food in Egypt**

The indicators will again be applied to the case of Egypt in order to make a more practical evaluation of the indicators as tools for human rights assessment. The year of reference is continuously 1998 (+/- 2 years).

#### **7.5.1. Food rights in principle**

Information on the state of the right to food in principle in Egypt has been collected through various sources: The Royal Danish Embassy in Cairo has provided information on the barely non-existing income subsidy system in Egypt and on the policies for food aid to people in need. The latter do exist but are inadequate since they only address emergency situations and not people in general need<sup>121</sup>. FAO has some information on the subsidies to food-related consumption as percent of GDP, but the latest data found is from 1993, and since Egypt has made several changes since then, such data is useless. According to a report by IFPRI, the food subsidies came to 3.74 billion LE in 1996/97, equivalent to 1.1 billion \$<sup>122</sup>. Since the GDP was 75,870210,000 \$ in 1997, the food subsidies amounted to 6.9% of the GDP. The state report submitted to the Committee concentrates on the reclamation of land, which has been carried out through the 1990s in order to improve the food production<sup>123</sup>. However, it has not been possible to find any figures for the investment in food production.

The Egyptian government adopted the New Land Law in the beginning of the 1990s which (after a transitional period until 1996/97) liberalized the rental relationship between the landowner and the tenant<sup>124</sup>. This land law shows the difficulty in balancing between security

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<sup>119</sup> FAO, *The State of...*, op.cit.

<sup>120</sup> The World Bank Group, *Millennium...*, op.cit.

<sup>121</sup> M. Krabbe, The Royal Danish Embassy in Cairo, Egypt, Private email communication, 24 June 2003.

<sup>122</sup> A.U.Ahmed, H.E. Bouis, T. Gutner, H. Lofgren, *Conclusion for Policy*, in «Research Report 119», *The Egyptian Food Subsidy System: Structure, Performance, and Options for Reform*, IFPRI, 2001, Chapter 9, available at [www.ifpri.org/pubs/abstract/119/rr119ch09.pdf](http://www.ifpri.org/pubs/abstract/119/rr119ch09.pdf).

<sup>123</sup> CESCR, *Initial...*, op.cit. paras. 150-154.

<sup>124</sup> Idem. paras 152-154; A.S. El Dawla, *The eternal pyramid*, in Social Watch, *Country by Country – Egypt, 1998 Report*, available at <http://www.socialwatch.org/en/informesNacionales/251.html>.

of tenure and the right to land and private property, since the law meant that some peasants were being evicted from plots of land they have farmed for generations<sup>125</sup>. This point may need some more clarification, but in this connection the New Land Law is seen as a legal guarantee of the right to land and capital. With regards to monitoring, Egypt has taken some important initiatives during the 1990s, when they evaluated their subsidy system with support from IFPRI over a three-year period from 1996-1999 in order to assess whether the subsidies provided reached the intended groups<sup>126</sup>, and also made an integrated household survey with IFPRI and USAID in order to monitor the food consumption, access to facilities, migration, subsidized food expenses, all food expenses, non-food expenses, and much more<sup>127</sup>. According to a country report given in connection with a FAO/WHO Global Forum of Food Safety Regulators in Morocco in January 2002, Egypt has several laws regarding safety of food. The country is currently looking into changing the regulations in order to gather all of the legislation in one law, but this is work in progress and does not change the fact, that regulations already exist<sup>128</sup>.

The assessment of the right to food in principle in Egypt will be based on 9 variables. The final sum will therefore be divided by 1.125 in order to place the score on a scale from 0-8. The result is 6.67, which is rounded off to 6.5 placing Egypt in the better end of the scale. If Egypt would have gotten a score of 1 on the missing variable, the final score would be 6.8 which would be rounded off to 7, while a 0.5 would have resulted in a score of 6.5 (rounded off from 6.4). A 0 would have brought the country score down to 6.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Policies for food aid to people in emergency situations.	Yes	1	1
2	Policies for food aid to people unable to enjoy their right to adequate food by the means at their disposal.	Partly	0.5	1
3	Policies and laws ensuring the safety of food.	Yes	1	1
4	Laws ensuring minimum wage.	Yes	1	1
5	Laws ensuring minimum income.	No	0	1
6	Legal guarantees of the right to land and capital.	Yes	1	1
7	Subsidies to food related consumption as percent of GDP	6,9%	1	1
8	A national strategy	Yes	1	1

<sup>125</sup> A.S. El Dawla, op.cit.

<sup>126</sup> A.U.Ahmed, H.E. Bouis, T. Gutner, H. Lofgren, op.cit.

<sup>127</sup> IFPRI, [www.ifpri.org](http://www.ifpri.org).

<sup>128</sup> Z.A. El Haleem, A. Hamza, *Country Report proposed by Egypt, WHO/FAO Global Forum on Food Safety Regulators*, Marrakech, Morocco, 2002.

9	Effective monitoring.	Yes	1	1
10	Share of food production in public investment	-	-	-
<b>Right to food – principle</b>			<b>6.5</b>	

### 7.5.2. Food rights in result

On the dimension of result, information regarding malnourishment and undernourishment has been found at FAO and at the database of Social Watch<sup>129</sup>. Data on the daily calorie supply per capita is broadly available wherever the Millennium Development Goals are cited, just as the percentage of people living under minimum income is easily accessible. The data used here is found at Social Watch and the World Bank<sup>130</sup>. Data on the percent of people earning less than minimum wage has been inaccessible as has data on expenditure on food as percent of total private consumption and expenditure. Therefore, the right to food on the dimension of result will only be measured by four variables, giving Egypt a score of 5.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Percentage of undernourished population	4%	3	1
2	Percentage of malnourished population.	12%	2	1
3	Daily calorie supply per capita.	3319	4	1
4	Percentage of people living under minimum income (defined according to national poverty line).	23%	1	1
5	Percentage of people earning less than minimum wage.	-	-	1
6	Expenditure on food as percent of total private consumption and expenditure.	-	-	1
<b>Right to food – result</b>			<b>5</b>	

The two remaining variables might change the result considerably, especially since they are both poverty related measures (more than nutrition related) where Egypt has many problems – as it is also reflected in the low score on variable 4. If Egypt would get 0 points on both of the remaining variables the final score would be 3.5, whereas two top scores of 4 would raise the result to 6. However, variable 6 is overlapping with variable 4 since the national poverty line is estimated on the consumption of food bundles and other expenditure. For this reason one of them should perhaps be removed (as described earlier this should be tested with a full

<sup>129</sup> FAO, *FAO Statistical..op.cit.*; Social Watch, *op.cit.*

<sup>130</sup> Social Watch, *op.cit.*; The World Bank Group, *Millennium...*, *op.cit.*



data set). If only one more variable is to be included, the final result would range between 4 and 5.5 depending on the score on variable 5.

#### **7.6. *Concluding observations on the indicators for the right to food***

While the General Comment on the right to food is more elaborated regarding the core content than the General Comment on the right to housing, the core obligations can still be much clearer, especially concerning the state obligations regarding accessibility of food. It would also be highly preferable, if the Committee would develop some kind of minimum yardsticks regarding the core obligations. One would expect that the benchmarks are available on most of the variables within the field of development, like FAO's yardstick regarding calorie intake per day, but they are nowhere to be found. In connection with the Millennium Development Goals several benchmarks have been set, but they are all of a relative character and therefore not suitable as absolute minimum requirements for all countries. Another issue to be addressed is food safety, where the state obligations should be more specific, especially since it is presented as a part of the core content in the General Comment. The task of generating useful data on food safety should not be an insuperable task since FAO already has a broad database on this matter.

The indicator developed for the right to food in principle consists of ten variables. This is quite a high number, and it would on the one hand be desirable to reduce the quantity of variables in order to make the indicator simpler and less demanding regarding data. But on the other hand, many variables reduce the dependency on each variable - as shown in the assessment of Egypt, the fact that one variable is lacking has only a minor affect on the final score. But most importantly, all of the variables included are covering different elements of relevance for the core content of the right, and the assessment on the case of Egypt showed no greater problems in finding the required information. Information on the variable that had to be left out (share of food production in public investment) could be required from the government in the examination procedures in the Committee, or could be estimated by FAO or the World Bank. It is more problematic to deal with benchmark regarding public expenditure on food subsidies, since this is highly context dependent, and it is difficult to imagine a general minimum requirement.

On the dimension of result the indicator consists of six variables, but here the assessment of Egypt showed more problems regarding access to the required information. Estimates should be available on the expenditure on food as percent of total private consumption and expenditure, but have not been found in spite of insisting efforts. In order to cover this part of food insecurity in a different way with more obtainable data, the variable on food expenditure

and the variable on daily calorie supply can be changed with the *proportion of population below minimum level of dietary energy consumption*, which is used as a measure for hunger in the Millennium Development Goals. However, there might be an overlap with the variable on malnourishment. There might also be a strong correlation between percentage of people living under minimum income and percentage of people earning less than minimum wage, but the latter is more concerned with the implementation of minimum wage legislation and therefore in itself relevant. It is rather surprising that no data can be found on this matter since for instance ILO should have an interest therein, but maybe it is necessary to look for another way of addressing this issue.

All in all, the indicator on the right to food in result can need some refinement and it is important to test the relationship of the different variables. The indicator for the right in principle seems more functional. In spite of some problems with data for the right in result, there is a relatively good supply of relevant data and it should be possible to make meaningful assessments on the basis of the data found through the various international organisations.

## 8. Right to Education

The right to education is found in article 13 of the Covenant. It is regarded as one of the central rights, because education is fundamental for enabling the individual with the ability to enjoy all other human rights. The Committee has dealt with this right in General Comment 13. Furthermore, article 14 stresses the need for free, compulsory primary education, which is dealt with in General Comment 13. The right to education has, on the initiative of the UN Special Rapporteur Katarina Tomaševski, been framed according to “the four A’s”: *Availability* – concerned with the quantity of institutions and programmes. It also concerns the logistic requirements, which are contextual dependent<sup>131</sup>. *Accessibility* – which has three dimensions: 1) Non-discrimination; 2) Physical accessibility and 3) Economic accessibility underlining the need for education to be affordable to all and at least primary education to be free<sup>132</sup>. *Acceptability* – concerning cultural adequacy and the acceptability of the form, substance and methods of the education to students (and parents). Minimum educational standards may be approved by the state<sup>133</sup>. *Adaptability* – concerning the flexibility of the education so that it can adapt to the particular needs of the communities and the students.

### 8.1. The Core Content

The General Comment is very clear on the core content of the right to education and establishes that it includes an obligation for the state on the following five points<sup>134</sup>:

1. *“Ensure the right of access to public educational institutions and programmes on a non-discriminatory basis”*

This is very central and underlines the need for disaggregated data.

2. *“Ensure that education conforms to the objectives set out in article 13(1)”*

The objectives are fundamentally concerned with the idea, that education shall be directed towards the development of the full person and the “sense of dignity”, it shall “enable all persons to participate effectively in a free society” and promote understanding across ethnicity, race, religion, gender etc. and respect for the environment<sup>135</sup>.

3. *“Provide primary education for all in accordance with article 13(2)(a)”*

Primary education shall be understood as basic education<sup>136</sup> outside the family. It shall be universal and guarantee to satisfy all children’s “basic learning needs”<sup>137</sup>, which are

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<sup>131</sup> CESCR General Comment 13, *The Right to Education* (Art. 13), UN Doc. E/C.12/1999/10, 1999, para. 6(a).

<sup>132</sup> Idem. para. 6(b).

<sup>133</sup> Idem. para. 6(c).

<sup>134</sup> Idem. para. 57.

<sup>135</sup> Idem. paras. 4-5.

<sup>136</sup> Primary education is not equivalent to basic education but “the most important component of basic education”, Idem. para. 9.

<sup>137</sup> Idem. para. 9.

defined in accordance with article 1 of the World Declaration as “essential learning tools (...) and the basic learning content (...) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning”<sup>138</sup>. Primary education further has to be cultural adequate and take into consideration the needs and opportunities of the community. It is of utmost importance that the primary education is compulsory and free to all<sup>139</sup>. ‘Free’ means that the education “shall be without charge to the child, parents or guardians”<sup>140</sup>, but it also includes indirect costs e.g. compulsory levies on parents or an obligatory and expensive school uniform<sup>141</sup>. Ensuring primary education to everyone is an immediate obligation<sup>142</sup>, which at the very minimum requires the state to adopt a plan of action indicating a timeframe for the fulfilment of this obligation within a reasonable number of years<sup>143</sup>.

4. *“Adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education”*

With regards to the secondary, higher and fundamental education, the state does not have an immediate obligation to provide it on a free and compulsory basis. But the state does have an obligation to provide a flexible and student responsive system of secondary education, which is generally available – meaning that admittance should not be dependent on students’ capacity or ability, and the education possibilities should be distributed throughout the state to ensure availability on the same basis to all. The state further has an obligation to progressively ensure free access to secondary schooling<sup>144</sup>. This implies that the introduction of school fees will be retrogression and as such be in violation of the Covenant. With regard to higher education, the same obligations apply, though it should not be made ‘generally available’ but available on the basis of capacity<sup>145</sup>. Fundamental education is concerned with the very basic learning needs and is a right for everyone, wherefore the state has an obligation to provide curricula and education systems suitable for students of all ages<sup>146</sup>. Adopting and implementing a national educational strategy including indicators and benchmarks by which progress can be closely monitored<sup>147</sup> are immediate obligations for the state.

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<sup>138</sup> Idem. note 5.

<sup>139</sup> Idem. paras. 8-10.

<sup>140</sup> CESCR General Comment 11, *Plans of Action for Primary Education*, UN Doc. E/C.12/1999/4, 1999, para. 7.

<sup>141</sup> Idem. para. 7.

<sup>142</sup> CESCR General Comment 13, op.cit. para. 14 and para. 51.

<sup>143</sup> CESCR General Comment 11, op.cit. para. 1 and para. 3.

<sup>144</sup> CESCR General Comment 13, op.cit. paras. 11-13.

<sup>145</sup> Idem. paras. 17-20

<sup>146</sup> Idem. paras. 21-24.

<sup>147</sup> Idem. para. 52

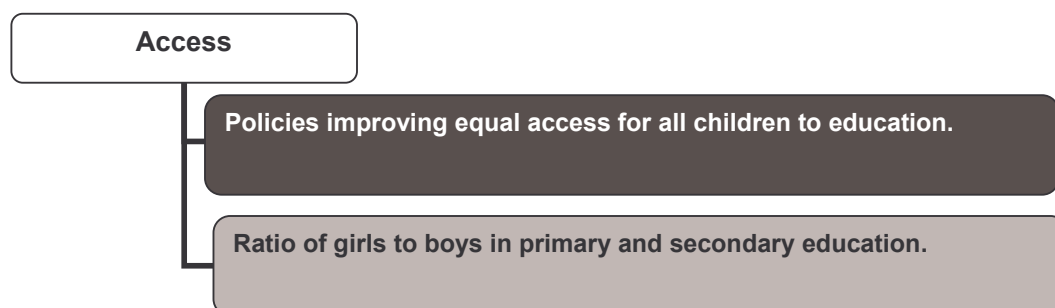
5. *“Ensure free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards” (art. 13(3) and (4))”*

The right to educational freedom entails two elements: 1) Freedom of parents to choose an education for their children which is in compliance with their own beliefs. Consequently, if public education provides instruction in a particular religion or belief, provisions need to be made for non-discriminatory exemptions or alternatives. 2) Freedom of parents to choose other than public schools. This means that parents shall have the right to establish and direct educational institutions – but at the same time, the state has an obligation to ensure that this does not cause extreme disparities in the society and an obligation to ensure certain standards for these private institutions<sup>148</sup>.

It is further stressed that the right to education can only be enjoyed if the academic freedom of staff and students, especially in higher educations, is ensured<sup>149</sup>, but since this is covered by the right to freedom of opinion and expression, it is left out of the indicator proposed here for the right to education, though the indivisibility of the rights is highly acknowledged.

## **8.2. An indicator for the right to education**

Considering the core content of the right, the following elements could be included in an indicator for the right to education:



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<sup>148</sup> Idem. paras. 28-30.

<sup>149</sup> Idem. paras. 38-40.

## Primary education

Legislation ensuring free, compulsory primary education.

Estimated public expenditure on education as percent of GNP.

Net enrolment ratios in primary education.

Percentage of cohort reaching Grade 5.

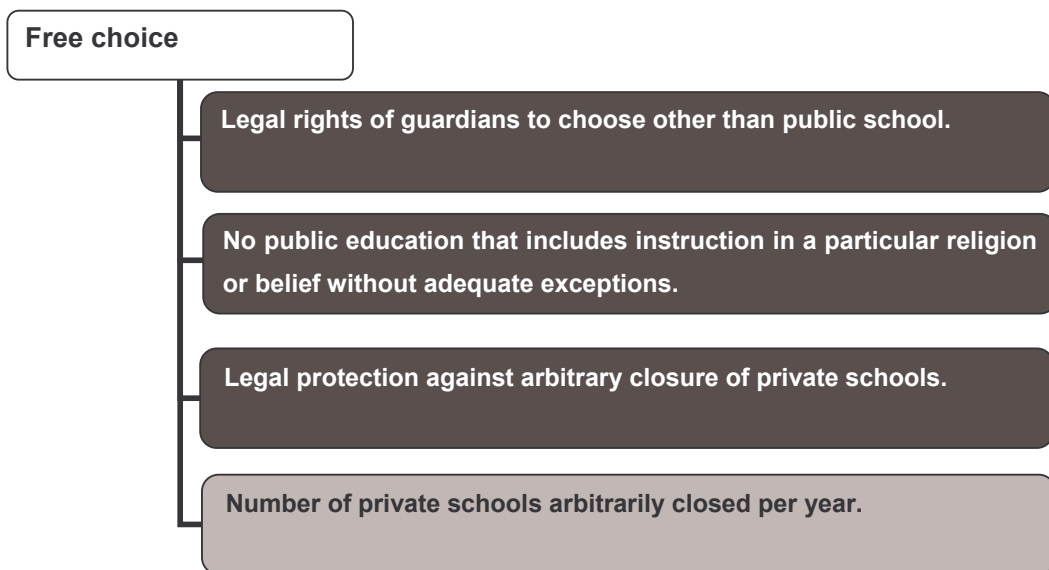
Average private cost per pupil for primary schooling.

## Objectives and strategy

A national strategy on education.

Minimum educational standards.

Effective monitoring.



### 8.3. Variables and Weights

The dimension of **principle** will be measured with eight variables that all reflect essential elements of the core obligations and therefore all weigh equally in the scale. Regarding benchmarks for public expenditure on education, there are diverging opinions as to what constitutes an adequate level of expenditure. But according to Tomaševski, proposals tend to converge between 5% and 7%<sup>150</sup> and therefore this is used as the optimal level here. Again, the indicator shall lie between 0 and 8 and therefore the final score is the mere sum of the result on each of the eight variables.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Policies improving equal access for all children to education.	Yes = 1 Partly = 0.5 No = 0	1
2	Minimum educational standards.	Yes = 1 Partly = 0.5 No = 0	1
3	Effective monitoring.	Yes = 1 Partly = 0.5 No = 0	1
4	Legislation ensuring free, compulsory primary education.	Yes = 1 Partly = 0.5	1

<sup>150</sup> K. Tomaševski, *Preliminary Report of the Special Rapporteur to the Right to Education*, UN Doc. E/CN.4/1999/49, 1999, para. 34.

		No = 0	
5	Estimated public expenditure on education as percent of GNP.	>5% = 1 4-5% = 0.5 <4% = 0	1
6	A national strategy on education.	Yes = 1 Partly = 0.5 No = 0	1
7	Legal rights of guardians to choose other than public school.	Yes = 1 Partly = 0.5 No = 0	1
8	No public education that includes instruction in a particular religion or belief without adequate exceptions.	Yes = 1 Partly = 0.5 No = 0	1
	<b><i>Right to education – principle</i></b>	<b>Sum = X</b>	

On the dimension of **result** the suggested indicator includes five variables of different type. Since the core content refers to primary schooling, the enrolment ratios etc. for other school levels are left out, apart from in connection with discrimination in access. On the secondary and tertiary level the core content is more concerned with policy decisions, which are included in the indicator for principle above. It was also considered to include the number of private schools, but since this variable does not necessarily reflect the freedom to form private schools, but possibly the either poor or good quality of the public schools or alike, it is regarded as unsuitable for the purpose.

The illiteracy rate is very often used as an indicator for the right to education. But there are certain problems with this variable: First of all the core content of the right to education does not entail an obligation to eliminate illiteracy. While the variable can be seen as an indicator of the quality of the education system, a low illiteracy rate can also be due to a past with scarce education, and countries truly fulfilling their core obligations may be judged inappropriately hard because of this. Illiteracy rate is indeed a very relevant development measure and it is also interesting to note the development on this variable with regard to progressive realization, but I do not consider it to be a variable related to the core content on the right to education as it is laid out in the General Comment. There is also accessible data on pupil-teacher ratio and teachers' emoluments as percentage of total current expenditure. The former is problematic because there is no distinction between part-time and fulltime teachers, and because the relationship between quantity of teachers and quality of the education is a highly debated issue. The other variable concerning teachers' emoluments is



relevant, but statistics on the salaries compared to national average income would be more useful. But although this information seems highly valid for the right to education, it is not evident that it concerns the core obligations.

Although it is highly preferable to disaggregate all indicators according to gender, minorities etc. and compare the results in order to measure discrimination; this element is of such importance in connection with the right to education that a variable on gender imbalances is included directly in the indicator. It should be underlined that this is not regarded as a fulfilling way of measuring the full range of discrimination, but a tool of relevance until a full disaggregation is possible. The variable used is the ratio of girls to boys in primary and secondary education, which is taken from the Millennium Development Goals. There it is used in connection with goal 3 on gender equality with an absolute benchmark of 100%; this yardstick is also applied here.

The enrolment ratio is calculated as both gross and net enrolment ratio. The difference is that the gross enrolment ratio is the total enrolment in primary education regardless of age, divided by the population of the age group corresponding to primary schooling. The net enrolment ratio includes only enrolment of children in the age group corresponding to the official school age of primary education<sup>151</sup>. The latter therefore seems to be most relevant in a human rights context, where the aim is 100% and therefore the requirement for the state to obtain 4 points in the scoring scheme below.

UNESCO has information on apparent intake rate in primary education and school life expectancy, but since these variables cover the same as the enrolment rate, and since the core content of the right is still very much focused on primary education (and the obligation with regards to school life expectancy therefore not clear), these variables are left out. But in order to capture the fact that many children leave primary school too early, the variable of percentage of a cohort reaching Grade 5 (5 years of primary education) is included. This variable is estimated on the basis of the 'Reconstructed Cohort Method', which uses data on enrolment and repeaters for two consecutive years<sup>152</sup>. Since it should be avoided that a country, which only enrolls 30% of its children in primary education but makes 100% of them reach grade 5 gets a better score than a country enrolling all of its children but having a higher drop-out, the two variables are tied together: A country can only get points on variable

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<sup>151</sup> UNESCO, *World Education Report 2000 – The Right to Education: Towards Education For All Throughout Life*, UNESCO Publishing, 2000, available at [www.unesco.org/education/information/wer/](http://www.unesco.org/education/information/wer/), p. 124.

<sup>152</sup> Idem.

3 (percentage of a cohort reaching grade 5) if it gets more than 0 points on variable 2 (enrolment ratio).

It is more difficult to set benchmarks on the average private cost per pupil, since the acceptable level is highly context dependent. There is no doubt that the goal is completely free education, which is therefore the requisite to gain 4 points, but the subcategories are left open – and maybe they should just stay that way on the basis of the same reasoning as with forced evictions and demolitions, meaning that any school fees or other hidden costs amount to a violation of the right to education regardless of the quantity of the violations. This approach is taken with regards to arbitrary closure of a private school.

It could be considered to let the first two variables weigh more than the rest emphasising the goals which have also got special attention in the Millennium Development Goals. However, it is not totally unambiguous that these elements are more important than the rest, since for instance the concept of ‘free’ primary education has also received much attention from the Special Rapporteur and the Committee. Consequently, the variables are weighed equally here. In order to make the final score range between 0 and 8, the sum is divided by 2.5.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Ratio of girls to boys in primary and secondary education.	100% = 4 <100-95% = 3 95-90% = 2 90-85% = 1 >85% = 0	1
2	Net enrolment ratio in primary school.	100% = 4 <100-95% = 3 95-85% = 2 85-75% = 1 >75% = 0	1
3	Percentage of a cohort reaching grade 5.	100% = 4 <100-95% = 3 95-85% = 2 85-75% = 1 >75% = 0	1
4	Average private cost per pupil for primary schooling.	0 = 4 >0 = 0	1

5	Number of private schools arbitrarily closed per year.	0 = 4 >0 = 0	1
	<b><i>Right to education – result</i></b>	<b>Sum/2.5 = X</b>	

#### **8.4. Data**

Due to the work of UNESCO there is a relatively good access to data on education, the main source being the World Education Report including both regional and country specific data on several variables relevant for the right to education<sup>153</sup>. Other sources of relevance is the homepage of the Right to Education Project<sup>154</sup>, providing information on legal and real access to primary education and charges in primary schooling with regard to certain countries, and Social Watch where a few country-specific variables on education are found<sup>155</sup>. But the latter is referring to information from UNESCO Information and the figures are therefore similar to the ones found in the World Education Report; this is also the case for the Millennium Development Goals apart from their data on gender indifference<sup>156</sup>. The International Bureau of Education under UNESCO also has a useful databank – including good country dossiers with overview of the educational situation in a range of countries<sup>157</sup>. Another gateway to data on education is Eldis, where access to information on an extensive list of development issues is found; Eldis Education Resource Guide provides useful links, summaries and overviews of information on education gathered from a range of sources and in various forms<sup>158</sup>.

#### **8.5. An indicator for right to education in Egypt**

In order to test the indicators for the right to education in practice, the measures will be applied to the case of Egypt. As with the case of the former applications, the year of reference is 1998 (+/- 2 years).

##### **8.5.1. Education rights in principle**

The state report of Egypt to the Committee contains much information on the right to education in principle. It is clear that Egypt gives very high priority to education - especially to the primary level, to ensuring equal access to education and to the elimination of illiteracy. They are monitoring the situation rather effectively and are providing quantitative as well as

<sup>153</sup> Idem.

<sup>154</sup> Right to Education Project: a Human Rights Resource, [www.right-to-education.org](http://www.right-to-education.org).

<sup>155</sup> Social Watch, op.cit.

<sup>156</sup> The World Bank Group, *Millennium...*, op.cit.

<sup>157</sup> UNESCO - International Bureau of Education (IBE), *Country Dossiers*, available at [www.ibe.unesco.org/International/Databanks/Dossiers/mainfram.htm](http://www.ibe.unesco.org/International/Databanks/Dossiers/mainfram.htm).

<sup>158</sup> Eldis, *Education Resource Guide*, [www.eldis.org/education/index.htm](http://www.eldis.org/education/index.htm).

qualitative information to the Committee. There exist minimum educational standards<sup>159</sup>, there are legal guarantees for the right to free, compulsory education in both constitution<sup>160</sup> and in other legislation<sup>161</sup>, there is a wide-ranging national strategy on education<sup>162</sup> and guardians have a legally guaranteed right to choose other than public schools<sup>163</sup>. Regarding religion it is stated that the religious curricula should be “in conformity with the religion professed by the student”<sup>164</sup>. The Royal Danish Embassy in Cairo conveys that this is the content in the Egyptian constitution – but that this is only for Christians, Jews and Muslims (the only recognised religions)<sup>165</sup>. It is possible to create private schools in Egypt – and they do exist - but it is problematic for the unrecognised religious groups. For this reason, Egypt gets only 0.5 points on this matter. The figure on public expenditure as percent of GNP is from 1996 and found in the World Education Report<sup>166</sup>.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Policies improving equal access for all children to education.	Yes	1	1
2	Minimum educational standards.	Yes	1	1
3	Effective monitoring.	Yes	1	1
4	Legislation ensuring free, compulsory primary education.	Yes	1	1
5	Estimated public expenditure on education as percent of GNP.	4.4%	0.5	1
6	A national strategy on education.	Yes	1	1
7	Legal rights of guardians to choose other than public school.	Yes	1	1
8	No public education that includes instruction in a particular religion or belief without adequate exceptions.	Partly	0.5	1
	<b>Right to education – principle</b>		<b>7</b>	

All in all the score on the eight variables for the right to education in principle give Egypt a score on 7, which underlines the high priority and great willingness of the government to act in this field. This is in accordance with the Committee’s impression as it is expressed in the concluding comments<sup>167</sup>, where the interest shown by the government to improve the educational situation in Egypt is acknowledged. The same is underlined in several other reports such as the UNDPs Country Profile<sup>168</sup> and the UNESCO Country Dossier<sup>169</sup>.

<sup>159</sup> CESCR, *Initial...op.cit.* paras. 223-227.

<sup>160</sup> Idem. para. 52 and para. 196.

<sup>161</sup> Idem. para. 203 and paras. 232-233. Confirmed in UNESCO, IBE..., *op.cit.*– Egypt.

<sup>162</sup> CESCR, *Initial...op.cit.* para. 195 and para. 235.

<sup>163</sup> Idem. para. 228.

<sup>164</sup> Idem. paras. 229-231.

<sup>165</sup> M. Krabbe, the Royal Danish Embassy in Cairo, Egypt, private email communication, 24 June 2003.

<sup>166</sup> UNESCO, *World Education...op.cit.*

<sup>167</sup> CESCR, *Concluding...op.cit.* para. 3.

<sup>168</sup> UNDP Egypt, *op.cit.*

### 8.5.2. Education rights in result

The data on the result-dimension of the right to education is found in several of the databases mentioned above: Data on the gender gap can be found wherever the Millennium Development Goals are cited<sup>170</sup>. However, figures for Egypt have only been available for either 1995 or 2000. Instead the gap has been calculated from the male (98%) and female (88%) net enrolment rate as found in the World Education Report<sup>171</sup>. UNESCO does not have data on the percentage of a cohort reaching grade 5 for Egypt, but the relevant figure for 1997/98 was included in the latest report on the status of the Millennium Development Goals in Egypt<sup>172</sup>. According to the government report to the Committee and the UNESCO country dossier, school is free in Egypt for all children<sup>173</sup>. It has not been possible to find any information on the hidden expenses (such as school uniforms etc), so there is a possibility that such exist. However, the Right to Education Project provides a list of 58 countries in which primary school is not free, or it is not compulsory, or it is neither free nor compulsory, and here Egypt is not mentioned<sup>174</sup>. The average private cost for primary schooling is therefore accepted as being 0. In spite of the range of sources with information on education it has not been possible to find any information on arbitrary closure of schools.

The indicator is calculated with the remaining four variables, which is not seen as problematic from the perspective that there are no indications that closure of schools is a problem area in Egypt, and the remaining four variables should cover the most essential parts of the right. However, it makes a difference for the final result – which is 4.5 without the last variable. If Egypt would score 4 on the missing variable, the final score would be 5 (5.2) instead, while a 0 would decrease the result to 3.5 (3.6). Regardless though, the result shows that there are still problems with ensuring the right to education in Egypt in spite of the good intentions.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Ratio of girls to boys in primary and secondary education.	89%	1	1
2	Net enrolment ratio in primary school.	92%	2	1
3	Percentage of a cohort reaching grade 5.	87%	2	1
4	Average private cost per pupil for primary schooling.	0	4	1

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<sup>169</sup> UNESCO, IBE, op.cit.

<sup>170</sup> For instance The World Bank, *Millennium....*op.cit.

<sup>171</sup> UNESCO, *World Education....*, op.cit.

<sup>172</sup> UN Country Team and PARC, *Reporting on the Millennium Development Goals at the Country Level; Egypt*, Cairo, June 2002. Available at [www.undp.org/mdg/countryreports.html](http://www.undp.org/mdg/countryreports.html).

<sup>173</sup> CESCR, *Initial....*, op.cit. para 232; UNESCO, IBE, op.cit.

<sup>174</sup> *Right to Education Project: a Human Rights Resource*, op.cit.

5	Number of private schools arbitrarily closed per year.	-	-	1
	<b>Right to food – result</b>	$(1+2+2+4)/2$	<b>4.5</b>	

#### 8.6. *Concluding observations on the indicators for the right to education*

The General Comment on the right to education is a lot more elaborative than those on food and housing, which is an asset when it comes to using the core content as a base for indicators. Since the Committee is more explicit regarding the core obligations, this creates a better background for constructing valid indicators. However, some variables can be exchanged with others, more variables can be included and some left out, and the indicators should still be put through reliability tests once a bigger data set is collated.

There exist more explicit absolute requirements regarding education than in the context of the right to housing or food. This makes the question of benchmarks less problematic, although one problem was encountered in connection with the average private cost per pupil. But here the benchmark is actually clear, and it is only a question of setting reasonable sub-categories – which might even be left open. Access to (what seems to be) reliable data is generally good, although the variety of variables is not impressive. It would be beneficial if data could be generated with regards to average private cost per pupil and the number of private schools arbitrarily closed. The latter could at least be assessed qualitatively – parallel to COHRE's reports on forced evictions and demolitions.

The indicator developed for the right to education in principle consists of eight variables, each covering different elements of the right. Although the national strategy should entail some of the other elements – such as policies regarding equal access of all children, they are not entirely overlapping and are seen as two different obligations in the General Comment. The application of the indicator on the case of Egypt showed no problems in finding the required information, and there is therefore not currently any reason to exclude any of the variables. The indicator for the right in result includes five variables, where data is easily accessible and seemingly reliable on three of the five. As mentioned above, problems have been encountered when searching for information on the practice of closing schools and the average private cost per pupil. But initiatives have been taken by the Right to Education Project concerning the latter, and one could expect that UNESCO could generate estimates on this issue. Both of the variables are regarded as important for an assessment the right to education, and should not be left out. It can be argued that the illiteracy rate (of young people) should be included as an indicator of the quality of the education provided, but

this should be based on a clear formulation by the Committee stating that this obligation is a part of the core content.

It is interesting to note the difference between the scores on the two dimensions. This is a confirmation of the need to use a multidimensional approach, since Egypt deserves credit for its many initiatives in the field of education – which are reflected in the indicator for the right in principle, but it is at the same time important to emphasise that the core obligations are still not fulfilled in practice; as mirrored in the indicator for the result dimension.

## 9. Right to Health

The right to health is found in article 12 of the Covenant and is dealt with by the Committee in General Comment 14. It is an extremely inclusive right embracing not only health care and information, but also elements related to an adequate standard of living and even environmental issues. The right has been framed over a typology of *Availability*, *Accessibility*, *Acceptability* and *Quality*. The availability concerns the quantity of health programmes, facilities, goods and services, which should be sufficient. The nature of the facilities required is relative to for instance the development level of the country, but it does include the “underlying determinants of health” i.e. safe drinking water, sanitation, hospitals, doctors etc<sup>175</sup>. The accessibility has four overlapping dimensions: Non-discrimination, physical accessibility (“safe physical reach”), economic accessibility (“affordable for all”) and information accessibility (“right to seek, receive and impart information”)<sup>176</sup>. The acceptability relates to the need for health facilities, goods and services to be “respectful of medical ethics and culturally appropriate”<sup>177</sup>. Finally, quality concerns the need for skilled health professionals, approved drugs and equipment, safe water, adequate sanitation etc<sup>178</sup>.

### 9.1. The Core Content

In the definition of the core content of the right to health, the Committee refers back to the Alma-Ata Declaration from 1978, which in conjunction with newer instruments “provides compelling guidance on the core obligations arising from article 12”<sup>179</sup>. In the Alma-Ata Declaration it is strongly reaffirmed that “health, which is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right”<sup>180</sup>. The core content of the right entails obligations for the state on the following 6 points<sup>181</sup>:

- *“To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups”*  
This is mainly measured by disaggregated data though it does entail a policy obligation with regards to the most vulnerable groups.
- *“To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone”*

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<sup>175</sup> CESCR General Comment 14, *The Right to the Highest Attainable Standard of Health*, UN Doc. E/C.12/2000/4, 2000, para. 12(a).

<sup>176</sup> Idem. para. 12(b).

<sup>177</sup> Idem. para. 12(c).

<sup>178</sup> Idem. para. 12(d).

<sup>179</sup> Idem. para. 43.

<sup>180</sup> *Declaration of Alma-Ata*, Int. Conference on Primary Health Care, Alma-Ata, USSR, 1978, para. I.

<sup>181</sup> CESCR General Comment 14, op.cit. para. 43.



This point is an illustration of the interrelationship between the rights. Since the access to food is covered in connection with the right to food it is left out of the indicators for the right to health.

- *“To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water”*

As above, this point again shows the interrelationship of the rights. The access to basic shelter and housing are covered under the right to housing. The access to sanitation and safe drinking water can be seen as both part of the right to an adequate standard of living (article 11) and the right to health (article 12)<sup>182</sup>. Since they are closely connected to the place of living, I choose to include them in the indicator for the right to housing.

- *“To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs”*

The WHO Drug Action Programme updates the list of essential medicines and drugs regularly<sup>183</sup>. It is seen as a list of relatively basic and very important drugs for people to have access to.

- *“To ensure equitable distribution of all health facilities, goods and services”*

This point is related to the physical and economic accessibility to health services.

- *“To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups”.*

Furthermore, the Committee confirms that several other obligations are “of comparable priority”<sup>184</sup>:

- Reproductive, maternal and child health care.
- Immunization against the major infectious diseases.
- Measures to prevent, treat, and control epidemic and endemic diseases.
- Education and access to information concerning the main health problems in the community, including methods of preventing and controlling them.
- Appropriate training for health personnel.

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<sup>182</sup> This is confirmed in the General Comment no. 15 on the Right to Water, para. 3. CESCR, November 2002, E/C.12/2002/11.

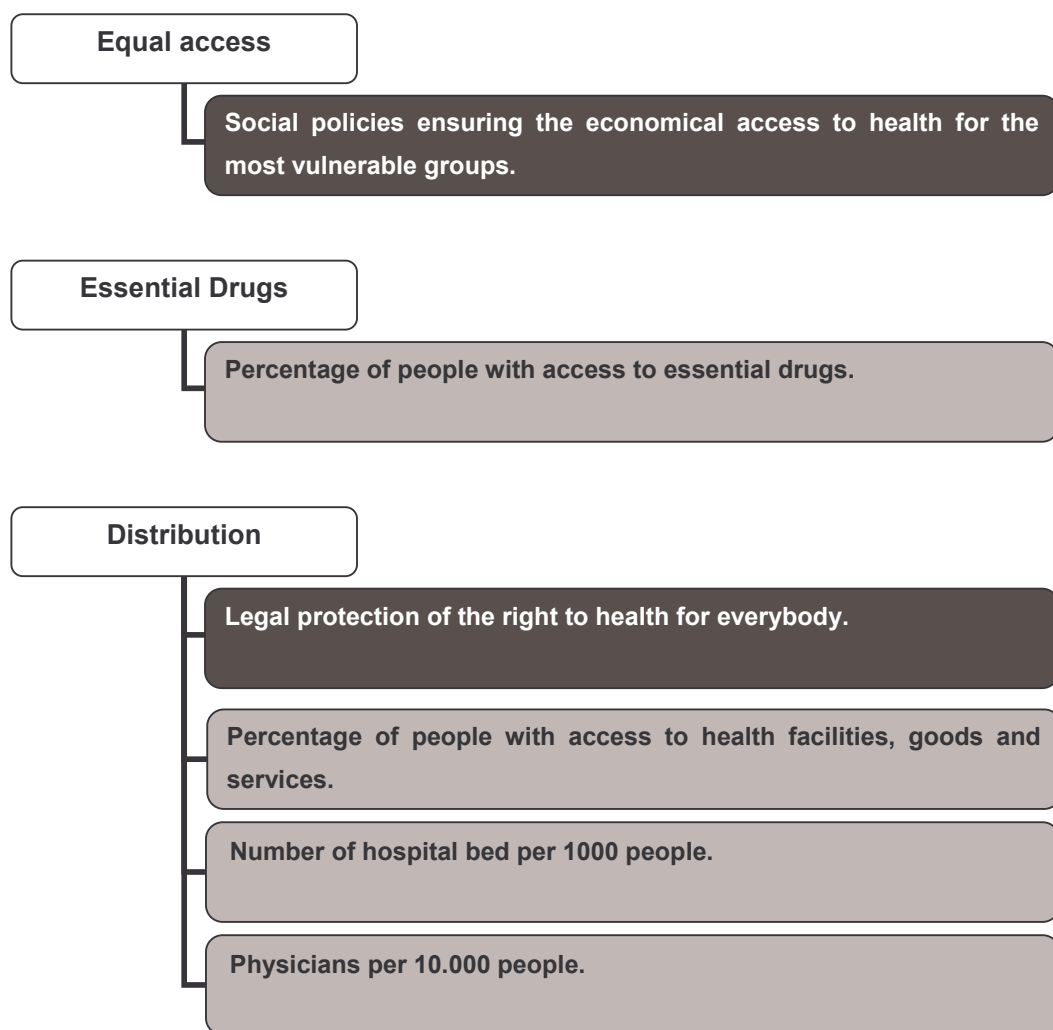
<sup>183</sup> WHO, *The Rationale of Essential Medicines*, [www.who.int/medicines/rationale.shtml](http://www.who.int/medicines/rationale.shtml).

<sup>184</sup> General Comment 14, op.cit. para. 44.

Since these points are considered to be comparable to the core obligations, they are included in the indicators below. However, the last two points are left out since they both seem very context dependent and would be better assessed by qualitative measures.

### **9.2. *An indicator for the right to health***

In spite of the inclusiveness of the right, the following elements and variables can in my opinion be regarded as a comprehensive list for a quantitative assessment of the realisation of the core obligations in principle and result:

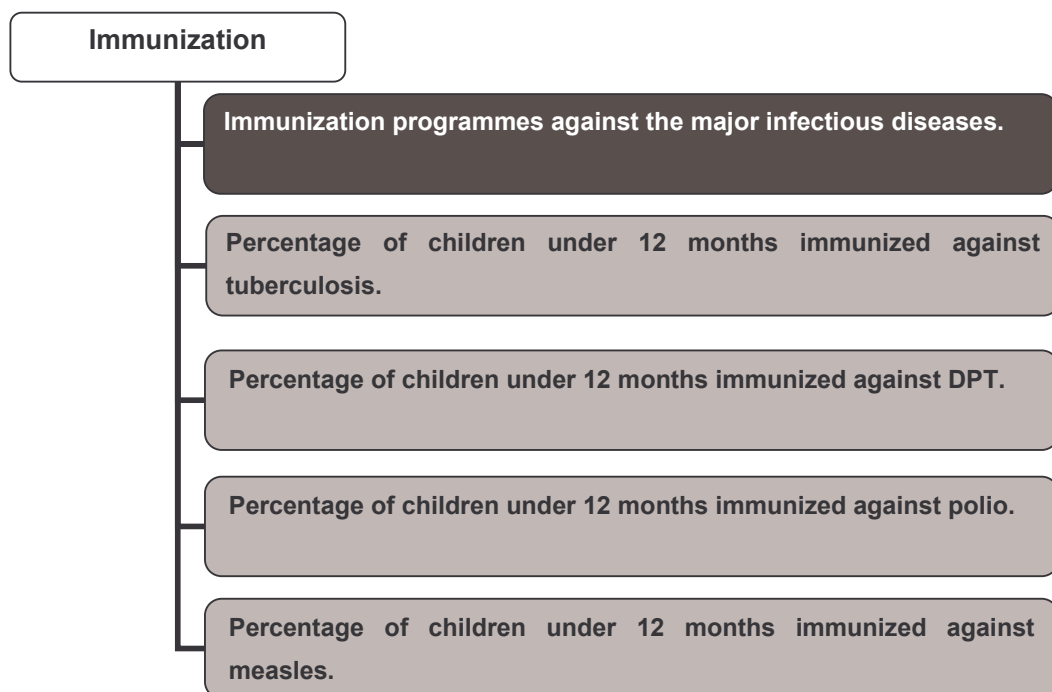


**National strategies etc**

- A national health policy.**
- Effective monitoring.**
- Policies on how to handle epidemics.**
- Social policies ensuring the economical access to health to the most vulnerable groups.**
- Expenditure on health as percent of GNP.**

**Reproductive, maternal and child health care**

- Legal protection of the right to family planning.**
- Policies regarding traditional practices (broadening the knowledge and changing the attitude).**
- Percentage of deliveries attended by skilled personnel.**
- Practice of Female Genital Mutilation or equivalent harmful practices.**
- Contraceptive prevalence rate.**



### 9.3. Variables and Weights

Pertaining to the dimension of **principle**, the indicator on the right to health consists of nine variables. None of the variables seem to be of outstanding importance, and they are therefore all devoted equal weights. In order to get a final score between 0 and 8, the sum of the variables is divided by 1.125. Again it has been problematic to set the needed benchmark for the public expenditure as percent of the GNP, so a 5%-level has been applied in lack of better yardsticks.

	Variables	Score	W
1	Legal protection of the right to health for everybody.	Yes = 1 Partly = 0.5 No = 0	1
2	A national health policy.	Yes = 1 Partly = 0.5 No = 0	1
3	Effective monitoring.	Yes = 1 Partly = 0.5 No = 0	1
4	Policies on how to handle epidemics.	Yes = 1 Partly = 0.5 No = 0	1

5	Social policies ensuring the economical access to health to the most vulnerable groups.	Yes = 1 Partly = 0.5 No = 0	1
6	Expenditure on health as percent of GNP	>5% = 1 4-5% = 0.5 <4% = 0	1
7	Legal protection of the right to family planning.	Yes = 1 Partly = 0.5 No = 0	1
8	Policies regarding traditional practices	Yes = 1 Partly = 0.5 No = 0	1
9	Immunization programmes against the major infectious diseases.	Yes = 1 Partly = 0.5 No = 0	1
	<b><i>The right to Health – principle</i></b>	<b>Sum = X/1.125</b>	

On the dimension of **result** eleven variables are included in the indicator. This is a rather high number and creates a considerable need for data, but since the right to health is very inclusive even in its core content, it is important to cover several elements. Moreover data should be relatively easily accessible on most of the variables, although it might be difficult to get reliable data on the practice of FGM in spite of considerable work done in this field by UNFPA and other organisations. But it is a central element of the right to health and efforts should be made to incorporate it.

On the issue of the scoring schemes, the subdivisions on the variable concerning access to essential drugs are based on groupings made by the WHO<sup>185</sup>, but with a subdivision of the “low access”-group (50-79%). The second variable is slightly overlapping, but since the variable concerns a broader access to health facilities, the levels applied here are stricter. One of the more difficult benchmarks to set was the number of hospital beds pr. 1000 people, since there is no obvious goal. According to an article by Assefzadeh about assessing the need for new hospitals, certain rough criteria have been developed for the general hospital needs of a population in a fairly developed or advanced country; the estimated requirements range from three to six short-term beds per 1000 people. When total hospital beds (including psychiatric, chronic diseases, tuberculosis, and geriatric beds) are

<sup>185</sup> According to UNDP, Human Development Report 2002 – Deepening Democracy in a Fragmented World, New York, Oxford University Press, 2002.

included, the figures range from 11 to 16 per 1000 people<sup>186</sup>. But the need varies according to stages of development, and therefore the benchmarks are here set at a lower level than the criteria outlined by Assefzadeh. Similar problems were experienced in connection with the number of physicians per 10.000 people, where it again has proven impossible to find an official requirement. One option would be to make the scheme on the basis of the cumulative percent distribution on the basis of the figures from the UNDP Human Development Report 2002. Such a distribution shows that the top 20% have more than 297 physicians per 10.000; the next 20% have over 163; the middle fifth more than 79; while the group from 60-80% have more than 16. The lowest number available is 3. But as stated in chapter 4.5, this method of standard setting is not in accordance with the idea behind the core obligations requiring a certain level regardless of the realities. From a different perspective it can also be observed that such an approach would not take into account the decreasing marginal utility of the extra beds at a certain level. Again, one can only hope for international standards on the matter. Until then, the scores are set according to the overall average, which amounts to 145 physicians per 10.000 people, and with the lowest level at 50.

The contraceptive prevalence rate is another problematic issue, since a rate of 100% is not an obvious target to seek after. UNICEF does not provide any goals in figures, but gives an overview of the situation of today, where the average for the industrialized countries is 78% (the highest being 84% in East Asia and the Pacific)<sup>187</sup>. Considering that the freedom to access and use contraceptives is fairly well-established in most Western countries, this can be regarded as a “natural level” if there is a free and informed choice; the scores are therefore devoted accordingly. Regarding the percentage of births attended by skilled personnel, a 99%-target has been applied since nature can make it difficult to reach a 100%-target. Pertaining to Female Genital Mutilation, the same approach is taken as with forced eviction and arbitrary closure of private schools: It is a violation of the right, regardless of the quantity of the abuses.

As regards immunisation, the official development goal from the World Summit of Children is 90% before year 2000<sup>188</sup>. But this is a development goal and not a human rights goal. Instead a 100% goal has been used here for devoting the maximum score, but the 90%-level is employed for devoting 3 points. I considered creating one overall immunisation variable of the four contained, but instead each of the immunisation variables has been given half weight in the indicator. This is done in order to avoid that the immunisation element weigh

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<sup>186</sup> Assefzadeh, S., *Assessing the need to establish new hospitals*, «The Eastern Mediterranean Health Journal», vol. 2 issue 2, 1996, pp. 334-339.

<sup>187</sup> UNICEF Statistical databases, op.cit.

<sup>188</sup> Idem.

unproportionally in the overall indicator. The sum of the scores is divided by 6 in order to get an indicator between 0-8.

	<b>Variables</b>	<b>Score</b>	<b>W</b>
1	Percentage of people with access to essential drugs (min. 20 of the listed drugs continuously and affordably available max one hour from home).	95-100% = 4 80-94% = 3 65-79% = 2 50-64% = 1 >50% = 0	1
2	Percentage of people with access to health facilities, goods and services	100% = 4 <100-95% = 3 94-85% = 2 84-75% = 1 >75% = 0	1
3	Number of hospital bed per 1000 people	>8 = 4 6-7 = 3 4-5 = 2 1-3 = 1 <1 = 0	1
4	Physicians per 10.000 people	>145 = 4 110-145 = 3 80-110 = 2 50-80 = 1 <50 = 0	1
5	Contraceptive prevalence rate (Proportion of women in union aged 15-49 who are using contraception or whose partner is using contraception)	>75% = 4 60-75% = 3 50-59% = 2 40-49% = 1 <40% = 0	1
6	Percentage of deliveries attended by skilled personnel	>99% = 4 90-99% = 3 80-89% = 2 70-79% = 1 >70% = 0	1
7	Practice of Female Genital Mutilation or equivalent harmful practices.	0 = 4 >0 = 0	1

8	Percent of children under 12 months immunized against tuberculosis.	100% = 4 <100-90% = 3 90-80% = 2 80-70% = 1 >70% = 0	0.5
9	Percent of children under 12 months immunized against DPT.	100% = 4 <100-90% = 3 90-80% = 2 80-70% = 1 >70% = 0	0.5
10	Percent of children under 12 months immunized against polio.	100% = 4 <100-90% = 3 90-80% = 2 80-70% = 1 >70% = 0	0.5
11	Percent of children under 12 months immunized against measles.	100% = 4 <100-90% = 3 90-80% = 2 80-70% = 1 >70% = 0	0.5
	<b><i>The right to health – result</i></b>	<b>Sum<sup>189</sup>/4.5 = X</b>	

#### 9.4. Data

Unlike with most other human rights, there is a broad amount of information available of relevance for the right to health. This is mainly due to the extensive work done by WHO, who annually publishes the World Health Report<sup>190</sup>. This report entails a broad range of data on the health systems in many countries. UNICEF and the World Bank also provide useful data, such as the different immunization rates<sup>191</sup>, and the UNFPA has information on the contraceptive prevalence rate<sup>192</sup>. Furthermore, Social Watch gives easy access to some information on the right to health, but like many other organisations with data on the right to health, the source is WHO. The same is the case with the health-related information entailed in the UNDP Human Development Report.

<sup>189</sup> Variable 8, 9, 10 and 11 are timed by 0.5 in order to obtain half weight in the indicator.

<sup>190</sup> WHO, *The World Health Report 2000 – Health Systems: Improving Performance*, WHO, France, 2000.

<sup>191</sup> UNICEF Statistical databases, op.cit. ; The World Bank Group, *World Development...*, op.cit.

<sup>192</sup> UNFPA, *State of World Population 2002 – People, Poverty and Possibilities*, Denmark, Phoenix Trykkeriet as, 2002. Available at [www.unfpa.org/swp/swpmain.htm](http://www.unfpa.org/swp/swpmain.htm).



## 9.5. *An indicator for right to health in Egypt*

Again the indicators created are applied to the case of Egypt in 1998 in order to get a better picture of the possible difficulties encountered when using the measures.

### 9.5.1. Health rights in principle

According to the government report to the Committee, the right to health is laid down in the Egyptian constitution<sup>193</sup>. Egypt has several development plans including a national health policy with multifaceted goals<sup>194</sup>. There is a certain degree of monitoring (several statistics and development trends are reported), but the Committee does request more statistics on for instance the mentally ill and the prevalence rate of FGM<sup>195</sup>. The policies and strategies regarding epidemics are broadly developed and address other endemic diseases as well<sup>196</sup>. According to WHO's International Digest of Health Legislation, Egypt has a decree of 18 May 2000, which entitles orphans, divorced, older, and disabled persons (defined as men or women of less than 65 years, who are unable to work and need medical assistance) to monthly allowances<sup>197</sup>. It is unclear which legislation was amended by the decree, and therefore this information is included here in spite of the reference year being 1998. However, there is still a big group of vulnerable people without access to health, since the system is based on insurance schemes through work or studies<sup>198</sup>. Consequently, the policies must be regarded as only partly ensuring the access to health for the most vulnerable groups.

Regarding public expenditure on health as percent of GDP, UNFPA approximates the figure to be 1.8%<sup>199</sup>. WHO does not provide a figure on this variable, but calculating from the numbers in the World Health Report 2000 the estimate will be less than 1%<sup>200</sup>. Giving the benefit of the doubt to Egypt (considering it does not make any difference for the score) the higher number is included here. There is no mentioning of the legal protection of the right to family planning in the government report, but according to the report on the Millennium Development Goals, Egypt has since the 1980s had a strongly supported national family planning programme<sup>201</sup>. This is also supported by several NGOs working in the field, such as

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<sup>193</sup> CESCR, *Initial...*, op.cit. para. 171.

<sup>194</sup> Idem. para. 179.

<sup>195</sup> Idem. para. 180; CESCR, *Concluding...*, op.cit. para. 39 and para. 42.

<sup>196</sup> CESCR, *Initial...*, op.cit. paras. 187-188.

<sup>197</sup> WHO, *International Digest of Health Legislation*, [www3.who.int/idhl-rils/frame.cfm?language=English](http://www3.who.int/idhl-rils/frame.cfm?language=English).

<sup>198</sup> CESCR, *Initial...* op.cit. para. 175; ILO, NATLEX - *Bibliographic database featuring national laws on: Labour, social security and related human rights*, <http://natlex.ilo.org>.

<sup>199</sup> UNFPA, *State of World Population 2002...*, op.cit.

<sup>200</sup> WHO, *The World Health Report 2000...* op.cit.

<sup>201</sup> UN Country Team and PARC, op.cit. p. 17.

the International Planned Parenthood Federation<sup>202</sup> and Family Health International<sup>203</sup>. Although it has not been possible to find explicit information on the legal protection of the right to family planning, the information found indicates such strong governmental support to the issue that it is taken as a satisfactory protection for now. It should though be underlined that such uncertainties should be clarified before the indicators are used for analytical or other purposes.

The government report does not mention policies regarding traditional practices either, but information from the Danish Embassy in Cairo underlines that the government is making a considerable effort to change the customs – such as cooperating with UNICEF in relevant projects, running campaigns in the newspapers and letting the religious leaders take exception to the custom<sup>204</sup>. The same picture is drawn in the US State Department Report on Egypt from 1999<sup>205</sup>. But although the initial steps have been taken, the practice is still not considered a crime when it is performed by a medical practitioner<sup>206</sup>, and therefore the policies are only partly sufficient. According to the government report, Egypt has good immunization programmes against major infectious diseases<sup>207</sup>. This is supported by WHO's Immunization Profile of Egypt<sup>208</sup>.

All in all this results in a final score on the indicator for the right to health in principle of 6.22; this is rounded off to 6.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	Legal protection of the right to health for everybody.	Yes	1	1
2	A national health policy.	Yes	1	1
3	Effective monitoring.	Partly	0.5	1
4	Policies on how to handle epidemics.	Yes	1	1
5	Social policies ensuring the economical access to health to the most vulnerable groups.	Partly	1	1

<sup>202</sup> International Planned Parenthood Federation, *Country Profiles – Egypt*, [ippfnet.ippf.org/pub/IPPF\\_Regions/IPPF\\_CountryProfile.asp?ISOCODE=EG](http://ippfnet.ippf.org/pub/IPPF_Regions/IPPF_CountryProfile.asp?ISOCODE=EG).

<sup>203</sup> Family Health International, *Reproductive Health – Egypt*, [www.fhi.org/en/ReproductiveHealth/CountryPages/CountryprofileEgypt.htm](http://www.fhi.org/en/ReproductiveHealth/CountryPages/CountryprofileEgypt.htm)

<sup>204</sup> M. Krabbe, the Royal Danish Embassy in Cairo, Egypt, private email communication, 24 June 2003.

<sup>205</sup> US State Department, *Country Reports on Human Rights Practices, 1999 – Egypt*, Bureau of Democracy, Human Rights, and Labor, 2000. Available at [www.state.gov/g/drl/rls/hrrpt/1999/408.htm](http://www.state.gov/g/drl/rls/hrrpt/1999/408.htm).

<sup>206</sup> CESCR, *Concluding...*, op.cit. para. 16.

<sup>207</sup> CESCR, *Initial...*, op.cit. para. 183 and para. 188.

<sup>208</sup> WHO Vaccines, Immunization and Biologicals; Immunization Profile – Egypt, [www-nt.who.int/vaccines/GlobalSummary/Immunization/CountryProfileResult.cfm?C='EGY'](http://www.nt.who.int/vaccines/GlobalSummary/Immunization/CountryProfileResult.cfm?C='EGY').

6	Expenditure on health as percent of GNP	1.8%	0	1
7	Legal protection of the right to family planning.	Yes	1	1
8	Policies regarding traditional practices	Partly	0.5	1
9	Immunization programmes against the major infectious diseases.	Yes	1	1
<b>Right to health – principle</b>		$(6*1+2*0.5+0)/1.125$	<b>6</b>	

### 9.5.2. Health rights in result

The data on access to essential drugs is found at the WHO Essential Drug Monitor, while both Social Watch<sup>209</sup> and the World Bank's Health, Nutrition and Population Statistics<sup>210</sup> has statistic on access to health facilities, goods and services. The UNDPs Egypt Human Development Report 2000-2001 provides two different numbers on hospitals beds per 1000 for 1998: One according to the Ministry of Health (2.1) and one UNDPs estimate (1.8)<sup>211</sup>. The rounded off number of 2 is used here. Figures regarding physicians are obtainable in the UNDP Human Development Reports, where the numbers are taken from WHO's Estimates of Health Personnel<sup>212</sup>. Data on the contraceptive prevalence rate is accessible both through UNICEF<sup>213</sup>, UNFPA<sup>214</sup> and Social Watch<sup>215</sup> and found in UNDPs Egypt Human Development Report 2000-2001<sup>216</sup>. There is, however, a slight difference in the numbers, which is due to the fact that only Social Watch reports for the year 1998 (51.7%), while both UNICEF and the UNDP report provide figures for 2000 (56.1%), and UNFPA provides figure from surveys made in the period 1987-1996 (47%). Therefore Social Watch's data is used here. Figures for births attended by skilled staff can be found through a range of sources: Social Watch, UNFPA, UNDP Human Development Report, and the Millennium Report on Egypt. The numbers are not entirely corresponding, but this is again due to different years of reference. Social Watch is again the only one providing a figure for exactly 1998 (56.2%), but this

<sup>209</sup> Social Watch, op.cit.

<sup>210</sup> The World Bank Group, *World Development...*, op.cit.

<sup>211</sup> UNDP Egypt, *Egypt Human Development Report 2000-2001*, Cairo, Commercial Press-Kalyop, 2001, available at [www.undp.org.eg/publications/hdr2000/NHDR2000.htm](http://www.undp.org.eg/publications/hdr2000/NHDR2000.htm).

<sup>212</sup> WHO, *Statistical...* op.cit.

<sup>213</sup> UNICEF's source is the UN Population Division. UNICEF Statistical Databases, op.cit.

<sup>214</sup> UNFPA, *State of World Population 1999 – 6 billion: A time for Choice*, U.S.A, Prographics Inc, 1999. Available at [www.unfpa.org/swp/1999/pdf/swp99.pdf](http://www.unfpa.org/swp/1999/pdf/swp99.pdf).

<sup>215</sup> Social Watch, op.cit.

<sup>216</sup> UNDP, *Human Development Report 2000*, op.cit.

corresponds to the development drawn in the Millennium Report, where the figures are 45% in 1995 and 61% in 2000<sup>217</sup>.

According to the Danish Embassy in Cairo the rate of female circumcisions in Egypt is approximately 90%<sup>218</sup>, and in the conclusion from the Committee they are referring to WHO statistics estimating a 97% prevalence rate of FGM in 1995<sup>219</sup>, which is also referred in the US State Department Report<sup>220</sup>. For the purpose here these estimates are sufficient for devoting scores, since they show the continuous prevalence of FGM. On the issue of immunisation, WHO/UNICEF have made a very good Review of the National Immunization Coverage 1980-2001, where the different estimates and reported numbers regarding the immunization of children in Egypt are compared in order to make stronger estimates<sup>221</sup>. The four figures regarding percentages for immunization in 1998 are taken from this report.

All in all this result in a final score of 3.78 which is rounded off to 4, placing Egypt in the middle of the range. This low score is mainly due to the lack of skilled personnel at many deliveries, the on-going practice of female genital mutilation and the low number of hospital beds in the country.

	<b>Variables</b>	<b>Input</b>	<b>Score</b>	<b>W</b>
1	% of people with access to essential drugs (min. 20 of the listed drugs continuously and affordably available max one hour from home).	87%	3	1
2	Percentage of people with access to health facilities, goods and services	99%	3	1
3	Number of hospital bed per 1000 people	2	1	1
4	Physicians per 10.000 people	107,1	2	1
5	Contraceptive prevalence rate	56%	2	1
6	Percentage of deliveries attended by skilled personnel	56.2%	0	1
7	Practice of Female Genital Mutilation or equivalent harmful practices.	90%	0	1
8	Percent of children under 12 months immunized against tuberculosis (BCG).	99%	3	0.5
9	Percent of children under 12 months immunized against DPT.	91%	3	0.5

<sup>217</sup> UN Country Team and PARC, op.cit. p. 17.

<sup>218</sup> M. Krabbe, the Royal Danish Embassy in Cairo, Egypt, private email communication, 24 June 2003.

<sup>219</sup> CESCR, *Concluding...*, op.cit. para. 16.

<sup>220</sup> US State Department, op.cit.

<sup>221</sup> WHO/UNICEF, *Review of National Immunization Coverage 1980-2001 – Egypt*, [www.who.int/vaccines-surveillance/WHOUNICEF\\_Coverage\\_Review/pdf/Egypt.PDF](http://www.who.int/vaccines-surveillance/WHOUNICEF_Coverage_Review/pdf/Egypt.PDF), 2002.

10	Percent of children under 12 months immunized against polio.	95%	3	0.5
11	Percent of children under 12 months immunized against measles.	98%	3	0.5
	<b><i>The right to health – result</i></b>	$(3+3+1+2+2+0+0+(0.5(4*3)))/4.5$	<b>4</b>	

#### 9.6. ***Concluding observations on the indicators for the right to health***

The General Comment on the right to health is the latest of the General Comments used in this context, and is also the best with regards to outlining the core content of the right. The right to health is a very inclusive right, and the indivisibility with other rights – such as the right to an adequate standard of living – is evident. Nevertheless, it is my belief that it is possible to cover the essential core obligations by employing the elements and variables outlined above.

Both of the indicators proposed include a high number of variables, but since access to information is better than in most other fields, this is not in itself problematic. As showed in the application of the indicators to the case of Egypt, the difficulties concerning access to data are minuscule, and most of the information seems to be of a fairly good quality and reliable. However, tests should still be done in order to refine and strengthen the indicators. On the issue of excluding some of the variables, it is possible that the variable on access to health services are overlapping with the access to essential drugs, but these two aside the variables in the indicator for the right in result are all measuring substantial different areas. As mentioned in the context of the right to education, the national strategy should contain some of the other elements measured by separate variables in the indicator for the right in principle – such as policies regarding epidemics and immunisation. But in spite of this possible overlap, they are so far dealt with as different obligations as in the General Comment.

A benchmark of 100% completion can be applied to many of the variables in the indicators above, which makes the need for international yardsticks less acute. But some benchmarks are still needed in order to make reasonable subcategories and in connection with number of physicians and hospital beds, where it has been particularly difficult to set the levels, although one would believe that such estimates should exist.

Although the assessment of Egypt shows a good access to the needed information, more can be done to clarify and verify the information provided in for instance the government

report to the Committee. Although most of the international databases seem to refer back to the same sources, they are not always providing corresponding information – as seen in the evaluation of the right to health in result. However, this is mostly due to different year of reference, but nevertheless underlines the need for using multiple sources whenever possible. When collating information for a broader database it is therefore important to systematise the sources used and maybe rank them according to presumed reliability. The Review of the National Immunization Coverage made by WHO and UNICEF can serve as a prototypical example of how different estimates of the same item can be compared in order to obtain a more reliable figure.

## 10. Conclusion

The aim of this thesis has been to make an initial proposal for how to construct more rights-based indicators within the field of economic, social and cultural rights. By focusing on the core contents of the rights it should be possible to create one set of indicators that can assess compliance in all countries, since the core obligations apply to all states regardless of available resources. By definition such indicators of the core content can measure patterns of violations of the Covenant (though not to a full extent). I have chosen to focus on the right to adequate housing, adequate food, education and health, since the core content of these four rights have been dealt with by the Committee in their General Comments, and these rights are seen as some of the most essential rights in the Covenant of importance for the enjoyment of all other rights.

By building upon the General Comments I have sought to fulfil the central requirement of *clear theoretical concepts*, since the Comments can be seen as generally accepted, authoritative definitions. The General Comments have proven to be of very different quality in this regard, since an outline of the core content is almost non-existing for the right to adequate housing and rather vague for the right to adequate food, whereas the General Comments on the right to education and health are much more elaborative and less ambiguous. It is therefore desirable if the Committee would further clarify the core obligations regarding some of the rights, although I believe that the main core elements can be deduced from the General Comments as they are, and form the basis for quantitative indicators. On this basis, the next step has been to operationalise each of the elements in a way that ensures the *epistemic relationship* between the theoretical concept and the variables chosen. By applying both a normative and an explorative approach, I have strived to outline a range of variables that validly measure the core obligations and are as operational as possible with the available resources.

Since the obligations entailed in each human right are *multidimensional*, the evaluation measures need to be so as well. I have chosen to make two different indicators for each of the rights in order to measure compliance in both principle and result. The two have been kept apart because the obligations are of a different character, and because the variables have different *levels of measurement* which makes it more problematic to include them in one scale. Each indicator has been rescaled into a range between 0 and 8 in order to make them comparable, but with limited decimals (half points) in order to avoid 'false precision' since data is generally not strong enough to claim a reliable difference between a country

score of 6.1 and one of 6.2. In connection with the creation of scales some of the variables have been given heavier *weight* in order to let the indicators reflect the fact that some violations are more severe than others. In other cases the variables have been given half weight in order to avoid that the particular element becomes too determinative for the final score on the indicator. Unequal weights have though only been used in a few cases, since the different elements are generally regarded as equally important.

Another central requirement is that *data should be as raw and reliable as possible*. Since it is necessary to rely heavily on already collated information in order for the whole project of human rights indicators to be realistic, the question of reliability is mainly a matter of judging the sources used. To facilitate the highest possible reliability of the information used, I have predominantly relied on international sources of information in the assessment of Egypt, since these sources usually enjoy high credibility. On the dimension of principle, the assessments is built upon the government report to the Committee, which is (or should be) a good source of the required information. In order to reduce the risk of bias due to the assessments made by the person coding, I have chosen very simple scoring categories (yes, partly, no). But it would be preferable to have several people coding, and a clear code book has to be developed in order to make clear-cut definitions and unambiguous requirements for devoting scores on each of the variables. The figures obtained in the assessment of Egypt have to some extent been verified or refuted by other sources, but the use of *multiple sources* is an important component and should be carried out more systematically.

To facilitate evaluation of non-discrimination in the enjoyment of the rights, data should be *disaggregatable*. The access to disaggregated data is unfortunately scarce, and the element of discrimination has therefore not been assessed fully by the indicators proposed. In order to help this shortcoming, a variable on gender gap was included in the indicator for the right to education, but more work should be done within this field. Until a full set of disaggregated data is available, a separate indicator on non-discrimination could be developed on the basis of the accessible data, or more variables concerning “gaps” can be included in the indicators proposed. It should though be underlined that these are half-measures and priority should be given to collate more disaggregated data.

For the assessment of retrogression and progressive realisation, *cross-temporal* data is needed. But since there is no useful longstanding system of indicators for the rights in the Covenant historical assessments should be made in order for such evaluations to be possible – or a new set of indicator to should be applied and allowed to grow older. In my opinion, the main concern is to gather *cross-national* data in order to facilitate comparisons



and statistical tests of the indicators' validity and reliability, so further refinements of the indicators can be made.

The indicators created contain very different number of variables. While simplicity is worth striving for so as to make the results more explicable and moderate the requirements for data, it is more important that the essential elements of the rights are covered. Moreover, few variables make the indicator more vulnerable to missing data, as the following summary shows:

<b>The Right</b>	<b>No. of Variables</b>	<b>Missing Data</b>	<b>The Indicator</b>	<b>Possible score</b>
The right to adequate housing – principle	4	1	2.5	2-4
The right to adequate housing – result	7	3	3	2-5
The right to adequate food – principle	10	1	6.5	6-7
The right to adequate food – result	6	2	5	3.5-6
The right to education – principle	8	0	7	-
The right to education – result	5	1	4.5	3.5-5
The right to health – principle	9	0	6	-
The right to health – result	11	0	4	-

The column to the far right contains the possible range of score if all the requested data were available, whereas the column to the left thereof shows the indicators calculated with the accessible data. Comparing for instance the right to housing in principle to the right to food in principle underlines the logical strength of having more variables, since the former is much more vulnerable to missing data on one variable than the latter. Moreover, there is no connection between the number of variables and the missing data - the availability of data varies according to the right in question: While sufficient data is available within the field of health, it is far more problematic to access the data needed for an assessment of the right to adequate housing.

The assessment of Egypt proves the value of the two-dimensional approach, since an interesting difference can be noted between the findings in principle and result: The former is always better than the latter! This seems to be in accordance with the evaluations made in

various reports on Egypt – for instance concerning the difference between education rights in principle and in result. The disparities between the different rights are also in accordance with the qualitative assessments where Egypt is for instance observed to have more problems and less willingness to ensure housing rights than educational rights. This is supportive of the validity of the indicators, although one case is not sufficient basis for drawing wider conclusions in this regard.

One of the main obstacles encountered in the process has been the almost total lack of benchmarks. Since the core contents are seen as minimum obligations, it should be possible to establish quantifiable benchmarks on some central variables. There is a widely shared fear of doing so, although the Millennium Development Goals can be seen as important steps in this regard. Something similar could be done within the field of human rights, but it would be preferable if the goals were less relative to the present state in order to be in accordance with the idea of minimum essential obligations.

In spite of some problems concerning vague General Comments, unobtainable data and missing benchmarks, I believe that it has been possible to create a meaningful set of indicators for the core content of the right to housing, food, education and health respectively. More refinement is still needed - some variables should be omitted, others maybe included; particular attention should be given to the right to food in result where adjustments are most likely to be necessary. Moreover, there is a great need for generating data regarding housing and disaggregatable data in order to measure discrimination. But all in all the indicators have proven functional and seem to be generating meaningful results. Still, one should not draw broader conclusions on the basis of a single case, and therefore the next step is to collate a broader data set in order to test and improve the indicators. This will hopefully in the end lead to a set of indicators of use for testing some of the dogmas within the field – such as the relationship between realisation of the rights and economic development or democracy, or between compliance in principle and compliance in result.

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*Note: All internet pages have been updated at the 13 July 2003*