**Justice 2015: Legal Empowerment and the Global Development Framework**

**Annex: Possible Indicators and Rationale**

*Here, we expand on the indicators offered in the discussion note, and consider each target according to a standard set of criteria for global development goals.[[1]](#endnote-1) We also cite sources that propose similar indicators.*

***16.3 Promote the rule of law at the national and international levels, and ensure equal access to justice for all***

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| **16.3 Promote the rule of law at the national and international levels, and ensure equal access to justice for all** | | |
| **Possible Indicators** | **Data Collection Method** | **Similar proposals** |
| The proportion of the population who live within reasonable reach (measured in km or time of travel) of a legal forum whose resolutions are fair and enforced | Administrative data, GIS, Public surveys | Lawson-Remer (12), World Justice Project (11) |
| The proportion of the population who live within reasonable reach of a primary justice service provider (e.g. a qualified lawyer, paralegal, or other person trained to act as a legal advisor) | Administrative data, GIS | World Justice Project (11) |
| The proportion of persons who report confidence that they can access affordable and effective primary justice services in the event that they need legal advice or assistance | Public surveys | Lawson-Remer (12), World Justice Project (11), DFID (21), UNDP, G7+ (5), Bates-Earner (CIGI, 55), Frecheville (CAFOD) 13-14 |
| Ratio of primary justice service providers per capita (on national, state, and local level) | Administrative data | Brinkman (12), UNDP Mongolia (88-98), G7+ (5) |
| The proportion of persons who report confidence in the quality of primary justice services they received or could receive | Public surveys | Willis (5), UNDP, DFID (21), G7+ (5) |
| The proportion of overall budget allocated to primary justice services as ratio of total government expenditure. | Budget analysis, legal analysis | G7+ (5), DFID (22) |

The table below provides our rationale for proposing these targets and indicators.

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| **Criteria** | **Evaluation** |
| *Relevance to Theme* | Physical and economic barriers often prevent the poor from accessing legal forums or obtaining legal assistance when needed. These commitments focus on improving access in the face of common constraints. |
| *Data Availability* | Government data on legal forums is readily available. Governments and civil society would need to cooperate to collect data on legal aid/ primary justice service providers, as services are often provided by NGOs. However, this may be problematic in fragile and conflict-affected states, states lacking political will, and regions with poor communication and transportation infrastructure. Increasingly, Geographic Information Systems (GIS) can overlay geographic population data with that of justice services so as to generate per capita ratios of coverage. |
| *Robust: Reliable, Valid, Comparable, Verifiable* | Again, data on the presence of legal forums and services is relatively reliable and verifiable. Regarding primary justice services, differing definitions of what bundle of services should be provided, and of “access” and “affordability,” will make comparability across countries difficult. This may be appropriate, however, given the variations in country context. |
| *Action-Oriented* | These indicators motivate greater accessibility to legal forums, and more equitable, higher-quality, and systematic delivery of legal aid services. |
| *Universally Applicable* | All countries could improve on the availability of legal forums and legal aid. One of the most universally needed of these commitments is the affordability requirement. Although in some developed nations there is no shortage of lawyers, financial barriers to obtaining legal assistance, traveling to legal forums, or paying court fees still remain for many. |
| *Equality-Sensitivity* | Increased provision of affordable legal services is likely to make a difference for the most marginalized. Measuring by a per capita ratio not only at the national level, but also across smaller administrative units can address some of the sub-national distribution problems in such a commitment. |
| *Absence of Perverse Incentives* | First, public perception may not be the most appropriate way to assess whether legal forums are functioning effectively, or whether people are receiving high quality legal aid. Also, scaling up low quality services could be harmful. Nevertheless, legal aid has been a low priority in most countries thus far, and simply increasing coverage can be a useful first step to increasing state commitment. Second, there is the potential that paralegals and other legal aid providers could use their position for corrupt purposes, rather than the public interest. Community oversight mechanisms could lessen this risk. |

***Target 16.9 By 2030 provide legal identity for all including birth registration***

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| **Universal birth registration implemented by law for all children in all countries.** | | |
| **Possible Indicators** | **Data Collection Method** | **Similar proposals** |
| Existence of legislation requiring births to be registered by an official institution, which makes allowances for late birth registration | Legal analysis | UNICEF, Lawson-Remer (13), Soros and Abed, Langford, Plan and UNHCR |
| Proportion of babies who receive registration at birth per year | Administrative data, 3rd party monitoring | UNICEF, Lawson-Remer (13), Brinkman (12), Andrews |

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| **Provide legal identity for all** | | |
| **Possible Indicators** | **Data Collection Method** | **Similar proposals** |
| The proportion of people in a state who possess a registered form of legal identification | Administrative data, 3rd party monitoring | UNHCR, Podesta, Brinkman (12) |
| A fair, transparent and accessible process for obtaining legal identification exists | Legal analysis, 3rd party monitoring, public surveys |  |
| The proportion of requests for identity documents fulfilled or rejected on stated grounds within a reasonable amount of time, defined as X days | Administrative data, 3rd party monitoring | UNHCR |
| The proportion of people denied access to services (e.g. healthcare, education) because of lack of identity documentation | Administrative data, 3rd party monitoring |  |

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| **Criteria** | **Evaluation** |
| *Relevance to Theme* | Possession of identity documents reduces political, economic, and social vulnerability. |
| *Data Availability* | Legal identity documents and birth registration is tracked by many national governments as well as UNICEF and the World Bank population indicators. |
| *Robust: Reliable, Valid, Comparable, Verifiable* | The indicators chosen look at the existence of a law or a proportion of state populations, making for objective and comparable indicators across nations. While it will be difficult to ensure that states accurately report populations of stateless persons, numerous third party sources measure these populations. |
| *Action-Oriented* | These indicators incentivize governments to expand access to legal identity and eliminate discrimination against those who lack legal identity. |
| *Universally Applicable* | The issue of undocumented persons affects all states, whether due to migration flows, conflicts, discrimination, or low administrative capacity. High-income countries do have much higher rates of legal identity and birth registration, however. Reforms would therefore fall disproportionately to middle and low-income countries, and those with large indigenous populations. |
| *Equality-Sensitivity* | This goal seeks to address the present inequality experienced by undocumented persons, empowering both the current population and those yet-to-be-born with one of their universal human rights. The implementation of nondiscriminatory laws and practices for granting identity documents offers strong protection of undocumented persons’ rights.[[2]](#endnote-2) |
| *Absence of Perverse Incentives* | This law inherently deprives individuals of some privacy by documenting their personhood in state institutions. Some governments may seek to misuse these procedures, for example to persecute or deport certain minorities. A focus on legal identity may also lead governments to rely on formal documentation too much by implementing identity requirements for basic services. The indicator measuring the proportion of people denied access to services for lack of identity addresses this risk. |

***16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements***

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| **Universal and effective implementation of comprehensive right to information legislation** | | |
| **Possible Indicators** | **Data Collection Method** | **Similar proposals** |
| Existence of a Right to Information Law that establishes (1) citizens’ access to information, including budget documents and expenditures, (2) defines a time limit for responding to RTI requests, and (3) establishes a mechanism for appeal in the event of denial. | Legal analysis | Banisar (Privacy International), Coliver (OSJI), Dokeniya, Frecheville (CAFOD), Global Integrity, International Budget Partnership, Global Campaign for Aid Transparency, Mendel, Vleugels |
| RTI law has been published and publicized, with information posted online and in public physical spaces | 3rd party monitoring, public surveys |  |
| The number of citizen requests for information per capita | Administrative data, 3rd party monitoring | Dokeniya, Pape–Yalibat |
| The rate of refusals for requests for information per total number of requests for information | Administrative data, 3rd party monitoring | Pape–Yalibat |
| The proportion of requests for information answered fully in a reasonable amount of time, defined as X days | Administrative data, 3rd party monitoring | Global Integrity, Dokeniya |
| The proportion of requests for information provided at a reasonable, pre-defined cost, no higher than X proportion of median income | Administrative data, 3rd party monitoring | Global Integrity |

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| **Criteria** | **Evaluation** |
| *Relevance to Theme* | When there is space for civil society to exercise influence, RTI laws present a significant opportunity for building responsive governments. When citizens are actively engaged and aware of RTI laws, they can use RTI to uncover corruption and press for effective delivery of state services. |
| *Data Availability* | This data is generally available in administrative records, although not all countries reliably measure these statistics. Widely available and comprehensive global transparency and governance indices can help make up for gaps in data. |
| *Robust: Reliable, Valid, Comparable, Verifiable* | As stated above, numerous global transparency and governance indices measure RTI laws (some merely their existence, others their functionality), so 3rd party monitoring can enhance accuracy. The suggested indicators document common features of RTI laws and are comparable internationally. |
| *Action-Oriented* | The target requires legislative action and the development of an oversight mechanism. It also requires action to meet quality thresholds for RTI regimes in the areas of affordability, awareness, and responsiveness. |
| *Universally Applicable* | In nations without existing RTI laws, this goal has the potential to be transformative, enhancing transparency and opening up space for accountability efforts. In countries with RTI laws, these indicators provide universal benchmarks for effective implementation and sustainability of the law. |
| *Equality-Sensitivity* | This target seeks to empower all citizens globally with the right and ability to access state information. If implemented effectively, it empowers people to monitor the actions of those who make decisions affecting their lives. |
| *Absence of Perverse Incentives* | Few perverse incentives exist, although the release of sensitive security information may jeopardize the safety of some individuals or groups. |

***Land Tenure and Natural Resource Rights***

Target 1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance

Target 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws

12.2 By 2030, achieve the sustainable management and efficient use of natural resources

12.8 By 2030, ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature

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| **Increase the amount of land for which 1) communities have secure land tenure and 2) decisions about land and natural resource use are taken through a process of local democratic governance.** | | |
| **Possible Indicators** | **Data Collection Method** | **Similar proposals** |
| The number of countries that legally recognize customary land tenure and/or community land and resource rights | Legal analysis | USAID, Alden Wily (Rights and Resources Initiative) |
| Amount of land (ha) for which a) local communities possess rights to own, use, and conserve, and b) decisions about land and natural resource use are taken through a process of local democratic governance | Administrative data, 3rd party monitoring | a) FAO, Ubiñas (Ford Foundation)  b) Knight et al., Deininger et al. |
| Confidence in tenure security: The proportion of households who believe that household and community land will not be confiscated or wrongfully acquired | Public surveys | Wilusz |
| Proportion of households who believe they have a fair say in decisions about local land and natural resources | Public surveys | Wilusz |
| Reduction in amount/proportion of communal land expropriated per year for private purposes, or through compulsory state acquisition | Administrative data, 3rd party monitoring | Deininger et al. |

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| **Criteria** | **Evaluation** |
| *Relevance of Indicator to Theme* | *De jure* recognition is worth little if the laws are not implemented. The indicators, including the amount of land expropriated and the confidence in land tenure security, seek to assess the quality of implementation of community land rights laws. |
| *Data Availability* | Most national governments collect data on land tenure within their borders. The Land Portal extensively documents land transfers. Tenure systems vary greatly, however, so each country would need to determine the meaning of “local” and “community.”[[3]](#endnote-3) |
| *Robust: Reliable, Valid, Comparable, Verifiable* | Data on legal frameworks and amount of land held under various types of tenure is robust at the national level. External actors could verify the data collection methods and record keeping, particularly in remote areas. Data on citizen participation in decision-making, on the other hand, is subjective. This indicator would need to be carefully defined and monitored by external actors to be comparable and verifiable. |
| *Action-Oriented* | The initial indicator calls for law reform in states without an enabling legal framework. The remaining indicators call for *implementation* of land laws recognizing community rights, in particular recognizing community claims and strengthening local land governance.[[4]](#endnote-4) |
| *Universally Applicable* | Lack of secure ownership or use rights to land and natural resources is a more significant problem in low-income and some middle-income countries compared to high-income countries, where land is largely already mapped. However, individuals from countries with secure land rights are responsible for much of the investment that takes advantage of weak land rights, so cooperation/restraint on their part is necessary as well. A two-part commitment, each applying to a different subset of countries, may be required for these targets. |
| *Equality-Sensitivity* | Large-scale acquisitions and concessions are disproportionately concentrated in countries where land rights are weakest, despite the various problems and conflicts associated with this practice.[[5]](#endnote-5) Legislating and enforcing community control over land ownership and use should decrease the imbalance of power between landholders and investors. |
| *Absence of Perverse Incentives* | One major risk in strengthening community land rights is capture by local elites. The requirement of transparent, participatory local governance is meant to mitigate that risk. |

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1. We describe the rationale for these targets in light of criteria adopted at a recent OHCHR-UNDP consultation on measuring governance and human rights. See <http://www.worldwewant2015.org/node/277879>. See also Langford, M. (2012). The Art of the Impossible: Measurement Choices and the Post-2015 Development Agenda. *United Nations Sustainable Development Knowledge Platform.* [↑](#endnote-ref-1)
2. Based on consultations with the Open Society Justice Initiative, 2013. [↑](#endnote-ref-2)
3. Almeida, Fernanda and Jeffrey Hatcher. (2011). Measuring the Depth of Indigenous Peoples and Community Forest Tenure: Preliminary Findings from a Legal Analysis of 33 Forest Tenure Regimes in 15 Countries. *Rights and Resources Institute*, 8. <http://www.rightsandresources.org/documents/files/doc\_2493.pdf>. [↑](#endnote-ref-3)
4. See Knight et al, 2012. [↑](#endnote-ref-4)
5. *Ibid.*  [↑](#endnote-ref-5)