

聯合國十四項人權指標於各國落實情形 及執行效益

期末報告

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執行摘要

總統府人權諮詢委員會於民國 102 年第十一次委員會議決議成立人權評鑑小組，以對聯合國人權兩公約落實情形提出改善建議，為有效建立改善、監測與督考之機制，特委託本計畫團隊進行人權指標之研究。

聯合國人權事務高級專員辦事處(Office of the High Commissioner for Human Rights, OHCHR)於 2012 年出版《人權指標：測量與執行指引(Human Rights Indicators: A Guide to Measurement and Implementation)》，其中所列十四項人權指標係建構我國人權指標及建立人權監督機制之重要參考資料；本計畫之研究目的在於分析比較聯合國十四項人權指標於德國、英國、丹麥落實情形及執行效益，以了解各國建構人權指標的目的與方法，作為我國未來建構人權指標的參考。

本研究首先說明人權指標的概念與用途。依據國際社會對指標概念之理解，以及聯合國人權事務高級專員辦事處人權指標的定義，指標是窺見現實狀況的窗口，被用來記錄特定社會事實背後所隱喻之人權狀況，進而獲得更多人權相關的訊息。其次，針對各國對人權指標的建構目的以及方法論，作進一步說明。

研究結果發現德國尚未建立出人權指標，而丹麥和英國已有人權指標的使用。丹麥所提出的黃金指標，僅針對聯合國身心障礙者權利公約做成結果指標，尚未發展出完整的人權指標系統。至於英國則建立出人權測量框架(Human Rights Measurement Framework, HRMF)，將人權指標區分為結構、過程和結果指標，建立一個可以有效評估所有人權義務履行情況的標準框架。

參考英國與丹麥建立人權指標的經驗，本計畫歸納出建立人權指標需經過下列流程，作為我國未來建構人權指標的參考：

一、組成統籌規畫與意見諮詢小組：蒐集資料，規劃進行流程，統整意見。

二、確認指標定義：界定指標用途，決定範圍與方法。

三、確認人權指標架構中的權利項目：反映國際標準與國內背景條件。

四、確認權利屬性特徵：權利內容概念化後成為指標建構的方向。

五、確認選擇指標的標準：提升效率，集中焦點，並確保指標與人權狀態的關聯。

六、發展指標清單：諮詢利害關係者以討論暫時性清單，再聽取專家意見，適當調整暫時性清單。

七、發展指標的證據基礎：蒐集指標相關的質化與量化資料，以利測量、追蹤人權狀況。

八、確保達成共識：奠定人權指標的正當性基礎。

最後，鑑於建構人權指標的動態性與目的的不同，提出如下三點操作上的建議，期望在本計畫結束後，能有效促使我國持續為發展人權指標而努力。

一、人權指標建立的權責單位：建議以總統府人權諮詢委員會為主要權責單位。

二、涵蓋監督單一條約執行狀況的「單點發展策略」，與評估國家整體人權狀態的「整體發展策略」。兩種策略可同步進行。

三、建議在建立發展人權指標的過程中，將國家統計單位—行政院主計總處，以及與各項指標相關的主管機關，列為合作參與之對象，使人權指標的統計資料更容易取得。

第一章 緒論

第一節 研究緣起

我國於 2009 年通過「公民與政治權利國際公約」和「經濟社會文化權利國際公約」兩公約施行法，賦予兩公約國內法地位。落實兩公約所涵蓋各項權利，成為政府之義務。惟於人權逐步實現的過程中，為監督其進展，政府需要一套測量、監督人權的標準，為此總統府人權諮詢委員會於民國 102 年 4 月 9 日第十一次委員會議決議成立人權評鑑小組，針對兩公約初次報告列舉的人權缺失及待改進事項，建議改善、監測、督考機制。其中，尤以聯合國人權事務高級專員辦事處（Office of the High Commissioner for Human Rights, OHCHR）（下稱聯合國人權高專辦）2012 年所出版之《人權指標：測量與執行指引（Human Rights Indicators: A Guide to Measurement and Implementation）》受到人權法學界之矚目，蓋其中所列十四項人權指標，係建構我國人權指標及建立人權監督機制之重要參考資料；又保障人權為世界潮流，為瞭解聯合國人權高專辦十四項人權指標（下稱聯合國十四項人權指標）於各國落實情形及執行效益，前開議題有深入研究之必要。

惟聯合國十四項人權指標僅具有指引性質，表徵世界人權的原則趨向，並不適宜完全移植成為我國人權指標。因此，本計畫研究各國人權指標設置的過程與成果，試圖從其中分析聯合國十四項指標對各國設立人權指標的影響為何，以及假使聯合國十四項人權指標確實具有引導人權實踐的重要性，我國應如何利用這十四項人權指標建構我國自身的人權指標與人權監測機制，如人權影響評估等問題。本研究主要聚焦在各國人權指標之設立與聯合國十四項人權指標之關聯性，此研究成果未來將有助於確認我國人權指標之設置應如何與聯合國十四項人權指標產生關連性，並進而協助我國設立制度完善之人權指標與監測系統，以落實人權政策。

我國已於 101 年 4 月間提出兩公約初次國家人權報告，又於 102 年 2 月舉辦中華民國初次國家人權報告國際審查會議，邀請十位國際人權學者專家參與審查，提出八十一點「結論性意見與建議」，國際人權專家肯定我國主動實踐國際人權標準之作為，現階段當有必要深入研究聯合國十四項人權指標於各國落實情形及執行效益，以建立符合我國國情之人權指標，做為評鑑人權機制之重要工具。

第二節 研究主旨

本研究之主要目的，是在分析他國人權指標之建構，研究聯合國十四項人權指標如何影響各該國家人權指標架構之建立，並試圖對我國人權指標架構建制提

出建議。亦即，本研究主要處理的問題如下：

- 一、他國是否有建立人權指標的系統？其架構及運作機制為何？
- 二、各國之各項人權指標如何產生？聯合國十四項人權指標於各國之落實情形及執行效益如何？
- 三、我國應循何種途徑或程序產生或建立我國之人權指標？

第三節 研究方法、範圍與限制

第一項 研究方法

本計畫的研究方法主要以聯合國人權指標建構的方法論為基礎，亦即建構人權指標所需資料來源，例如人權侵犯事件資料（events-based data on human rights violations）、社會經濟與公務統計（socioeconomic and administrative statistics）、認知與意見調查（perception and opinion surveys）、專家評斷（expert judgments）等四大類，針對已完成人權指標建構之國家如英國，以及關心人權指標建構之國家如德國、丹麥的資料，經由政府公開資訊瞭解各國建構人權指標的過程、障礙與執行效益，俾進一步瞭解各國在設立人權指標上有關方法論的使用、遭遇的困難、實踐的方法及實踐成效，據以建議我國如何建構人權指標。

由於本計畫主要聚焦在英國、德國或丹麥等國家發展人權指標架構的實際狀態與成果，方法上需倚賴文獻資料之蒐集。主要蒐集國際法學期刊中有關人權指標的文章與各國官方公布之文獻資料，用以探討英國、德國或丹麥等國在建置人權指標上所用之方法論，以及其與聯合國人權高專辦所提出的人權指標指引的關係。

論述方法方面，本計畫使用比較法學方法，以敘述性的方式呈現外國法制之實際面貌，不做價值判斷。惟比較法學研究方法上有其限制，無法表現內部觀點，因此在規範分析方面，僅能呈現外部觀點，並且依據各國統計資料來判斷人權指標是否真的在人權保障上發揮效果，達到促進人權的目標。

第二項 研究範圍與限制

基於黃嵩立教授所提出之《建構我國人權指標及調查之研究》中，已對於聯合國十四項人權指標概念架構，以及其所建議人權指標的建構方法論做了詳盡研究與介紹，故本研究不再對於聯合國人權指標的作用、建構方法論再為闡述，而

將集中於分析各國對於聯合國十四項人權指標的落實方法論與執行效益。

再者，本研究不包括美國、日本等正在建構人權指標之國家，蓋美國、日本等國家之人權指標尚未建構完全，無法分析其執行效益，亦無法進一步瞭解其所建構人權指標之方法論是否適用於我國之規範背景，故本研究有意省略美國、日本等正在建構人權指標的國家，僅著重分析已建構人權指標的國家。

第四節 相關研究與文獻探討

第一項 聯合國十四項人權指標文獻與相關研究

聯合國於 2012 年正式推出《人權指標：測量與執行指引》，係一包含十四項權利之範例指標，由聯合國人權高專辦所出版。為了衡量各國的人權執行狀況，聯合國條約監督機構認為可以透過人權指標與基準來協助各國監測人權的落實程度，於是聯合國人權高專辦安排專家進行研究、討論及諮商，並於 2008 年出版關於人權指標的報告，說明如何運用指標，其中提出十二項人權指標列表，包括生命權、人身自由、工作權、教育權等，鼓勵各國參考運用，發展適合於自己國內情況的指標。之後，經過四年的發展及檢討，聯合國人權高專辦於 2012 年出版最新的《人權指標：測量與執行指引》一書，更詳細地說明指標概念化的方法，且增列對於婦女的暴力等權利事項的指標列表，將權利指標從原本的十二項擴增為十四項。

根據聯合國人權高專辦的定義，人權指標意指「與人權規範以及標準有關之某一事件、活動或結果之特定資訊；可用以說明與反映人權關照與原則；並可用來評估與監測人權的促進與保護情況」(specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights) (HRI/MC/2006/7 第 7 段)¹。聯合國人權高專辦在 2012 年出版了《人權指標：測量與執行指引》一書中，除說明設置人權指標的理由、人權指標的概念之外，更建立一整套發展人權指標的方法論、並說明人權指標架構例示、指標架構之運用等。聯合國十四項人權指標提供了一整套概念與方法論架構，期望各國能因應國內制度，建立各自的人權指標，設定基準，以便評估人權的落實程度，掌握國內各項人權的進展。

我國瞭解聯合國十四項人權指標的重要性，並透過前行政院研究發展考核委員會（民國 103 年與行政院經濟建設委員會整合為國家發展委員會），針對我國

¹ International Human Rights Instruments, 'Report on Indicators for Monitoring Compliance with International Human Rights Instruments' (11 May 2006) UN Doc HRI/MC/2006/7.

人權指標的建構進行委託研究計畫，分別有廖福特教授於民國 98 年間所提出之《我國人權政策及執行機制之研究》，以及黃嵩立教授於民國 103 年間所提出之《建構我國人權指標及調查之研究》。

第二項 德國人權指標相關文獻

德國的人權指標目前仍處於發展當中，並未建立出一整套完整的人權指標架構²。事實上，即使德國人權協會（German Institute for Human Rights）曾表示關心人權指標的建構，也很可能參與發展人權指標，但是德國人權協會仍然較為關注人權對話、合作發展等議題，其於人權指標的建構上並無英國人權測量框架那般的具體成果。

即使如此，德國人權協會曾於 2005 年委託由兩位學者 Anna Würth 和 Frauke Lisa Seidensticker 提出《指數、基準和指標：計畫與評量人權對話（Indices, Benchmarks, and Indicators: Planning and Evaluating Human Rights Dialogues）》³，這是極少數從德國觀點討論人權指標的文獻。當然，該文獻的重點放在評估國與國之間人權對話（Human Rights Dialogue）的成效，尤其是人權對話的影響評估（impact assessment），有關影響評估的方法和措施，涉及人權表現之量化敘述，其中即包括人權指標的概念。本計畫將依此文獻探討德國對於人權指標的概念。

第三項 丹麥人權指標相關文獻

丹麥曾於 2000 年針對國家人權機構在進行專案計畫方面如何建立人權指標作說明。2000 年，學者 Hans-Otto Sano 和 Lone Lindholt 提出的《人權指標：國家資料與方法（Human Rights Indicators: Country Data and Methodology 2000）》⁴，目的就是為了作為丹麥人權中心（Danish Centre for Human Rights, DCHR）進行專案計畫的策略發展與國家評估時主要的資料基礎。此文件主要提供各國與不同地區遵守或違反人權的情況資料，以及為了人權評估而需建立指標時的指引，不過該文件中所討論的指標，帶有比較各國對人權承諾的表現之意味。

該文件提到測量人權承諾的指標包含了行為指標（indicators of conduct），所謂行為指標是指政府對人權的形式與實質上的行為，其中形式上的行為是指形式的承諾，例如：批准公約；而實質上的行為是指就公約實質內容進行的行為，其又區分為對公民與政治權利承諾、對經濟社會文化權利承諾、對消除性別歧視承

² 為瞭解德國建立人權指標的情況，本研究團隊曾去電詢問德國人權協會，得知德國目前尚未建立人權指標。

³ Anna Würth and Frauke Lisa Seidensticker, *Indices, Benchmarks and Indicators: Planning and Evaluating Human Rights Dialogues* (German Institute for Human Rights 2005).

⁴ Hans-Otto Sano and Lone Lindholt, *Human Rights Indicators: Country Data and Methodology 2000* (Danish Centre for Human Rights 2000).

諾，三個面向。指標設定的目的在用以評估政府針對上述四方面承諾達成的成果，成果會依據指標達成的情況予以計分，以得分高低的方式呈現。得分越低表示對人權保障程度越高；而得分越高，表示對人權保障程度有待改進。

關於形式承諾行為的指標，文件提到有四種：批准基本的國際與區域性文件、批准其他聯合國人權條約、對所批准的國際與區域性人權條約的實質保留、國內的人權法典。至於實質行為的指標方面，由於公民政治權利以及經濟社會文化權利性質的不同，必須採取相異的測量方法，故指標建立的標準也不同。公民政治權利承諾的測量主要集中於承諾違反（violations）的計算，計算的標準依據重要的國際與區域公約歸納出八項：未經司法程序的殺害或使人消失、酷刑與惡劣的待遇、未經審判的拘留、不公平審判、政治參與、集會自由、言論表達自由、性別歧視以外的歧視。經濟社會文化權利測量的是政府實現義務的情況，但因經濟社會文化權利並無國際普遍的行為指標，因此僅提供兩項指標要件：第一，依國內生產總值（Gross Domestic Product, GDP）百分比，政府在健康與教育花費的比例；第二，在發展健康與教育人權指標時考量到國民所得毛額（Gross National Income, GNI）。至於消除性別歧視方面，由於性別歧視常見於許多國家，在測量上關注的是歧視的程度，而非是否有歧視，因此指標的建立應著重在認清爭點問題，而非歧視的定義。

前述丹麥的《人權指標：國家資料與方法（Human Rights Indicators: Country Data and Methodology 2000）》所提供的是建立人權指標的方向，並非是一個建構完成的指標呈現，對於指標的描述，僅論述建立指標的要件或注意事項，尚無明確的指標內容，加以該文件最初是為了丹麥人權中心專案計畫的策略發展與國家評估所進行的研究，然而隨著 2012 年丹麥國際研究與人權中心（Danish Centre for International Studies and Human Rights, DCISM）⁵的結束，文件內容的落實情況不明，因此無法作為本計畫案研究與比較的客體。

就丹麥部分的人權指標，本計畫是以丹麥人權協會（Danish Institute for Human Rights, DIHR）所建構的黃金指標（Gold Indicators）作為研究對象。為測量丹麥對聯合國身心障礙者權利公約的執行情形，丹麥人權協會自 2011 年起就被指定作為監督、提升和保障身心障礙者權利公約執行的獨立機構，黃金指標即在此目的下建立完成。研究黃金指標所參考的主要文獻是丹麥人權協會在 2015 年出版的《黃金指標：測量聯合國身心障礙者權利公約之執行（Gold Indicators: Measuring the Implementation of the UN Convention on the Rights of Persons with

⁵ 丹麥人權中心（DCHR）原就是丹麥國際研究與人權中心（DCISM）下針對人權研究的分支，2012 年隨丹麥國際研究與人權中心（DCISM）而結束。2013 年，又分別成立丹麥國際研究協會（Danish Institute for International Studies, DIIS）與丹麥人權協會（Danish Institute for Human Rights, DIHR）。丹麥人權協會（DIHR）是目前丹麥依據聯合國巴黎原則下的國家人權機構。

Disabilities)》⁶，其中對於黃金指標的架構、內容與方法提供完整的說明。

第四項 英國人權指標相關文獻

關於英國落實聯合國人權指標的部分，主要使用的參考文獻是英國平等與人權委員會 (Equality and Human Rights Commission, EHRC) 於 2011 年所出版的第 81 號研究報告 (Research Report 81) — 《人權測量框架：雛形面板、指標組合與證據基礎 (Human Rights Measurement Framework: Prototype panels, indicator set and evidence base)》⁷。此為英國發展用以評估人權落實情況的人權指標架構之成果報告。英國發展其國內人權測量框架是採取委託學術單位研究的方式。由平等與人權委員會與蘇格蘭人權委員會 (Scottish Human Rights Commission, SHRC) 共同決定後，授權委託倫敦政治經濟學院社會排除分析中心 (LSE Centre for Analysis of Social Exclusion) 與其人權研究中心 (LSE Centre for the Study of Human Rights) 以及英國人權協會 (British Institute of Human Rights, BIHR) 組成研究團隊，合作進行建立人權測量框架的計畫。該研究計畫主要成果皆呈現於平等與人權委員會第 81 號研究報告中。因此，此研究報告在描述英國如何落實聯合國人權指標方面，具有舉足輕重的地位。

第五節 預期結果與施政助益

人權指標是一種融合法律與社會科學的工具，具有將抽象法律文字透過質化與量化方式概念化的功能。建立和使用人權指標所帶來的好處，主要有列幾種。

一、指標的建立與使用能夠成為國家履行人權條約義務的證明。

國家負有尊重、保護和實現人權的義務，其中保護和實現等具有積極面向的義務，不似消極義務，可從人權侵害事件清楚瞭解義務的違反。藉由指標和其證據資料的呈現，有助於證明積極義務的實現。

再者，國家對經濟社會文化權利所負的義務，受限於資源多寡，因此具有漸進義務的性質，更不易證明義務履行。這也是聯合國經濟社會文化權利委員會，特別強調建立人權指標必要性的原因。甚至，聯合國經濟社會文化權利委員會在

⁶ Freja Marie Gaare Larsen, 'Gold Indicators: Measuring the Implementation of the UN Convention on the Rights of Persons with Disabilities' (The Danish Institute for Human Rights 2015) <www.humanrights.dk/files/media/dokumenter/udgivelser/equal_treatment_2015/the_gold_indicators_2015.pdf> accessed 23 February 2016.

⁷ Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (Equality and Human Rights Commission Research Report 81, EHRC 2011).

第 14 號一般性意見⁸中，認為國家未以指標和基準監督健康權實現的情況，得構成國家實現義務的違反⁹。

我國在批准人權兩公約後，致力於兩公約之落實。倘若能建立一套與兩公約之下權利相關的人權指標，不啻為努力實現人權保障義務的有力證明。

二、指標可作為人權評鑑的工具。

藉由指標與證據資料的呈現，可以清楚看到國家人權的狀態，正好符合人權評鑑需要客觀依據的需求。人權評鑑時，可藉由指標檢視國家在人權保障方面的努力，瞭解立法、政策、計畫方針與人權保障的關連性。我國總統府人權諮詢委員會於第十一次委員會決議成立人權評鑑小組，負責監督兩公約落實的情況，並提出改善建議。而人權指標正是評鑑人權機制不可或缺之工具。

三、使用指標有助於調整施政方向。

透過人權指標，可以察覺人權保障在法律上與現實上的落差，進而檢討造成落差的原因，作為政府未來修正施政的方針。以往我國公務部門在估量施政成效所面臨的困難，得藉由人權指標，獲得改善。例如，比較逐年結果指標的數據，獲知人權享有者實際享有權利的狀況，究竟是漸入佳境，抑或是每下愈況，並藉此判斷政府施政努力的方向是否正確，以及檢視過去施政是否有所偏漏，進而思考如何調整與彌補。

本計畫假設我國如能建構適用於我國的人權指標，一方面將有助於評估人權落實的過程，增強政策與行政的透明度，另一方面更有效監督我國人權義務之落實，強化責任負擔者（duty-bearer）的可課責性，與形成必要公共政策，以促進人權之實現。人權指標的建構，係建立一套具有共同特殊價值的規範與標準，可以為人權影響評估之進行提供堅實的規範基礎。又人權影響評估於功能上可做為檢視政策、立法、規劃與計畫之工具，用以確認與衡量其對於人權所產生之影響，使得人權考量在廣大之法律與政策面向得以有效產生作用；在發展議題上（例如：國際貿易協議，跨國公司之投資計畫，與政府政策與發展補助等議題），執行人權影響評估得以確認其對於人權之影響。是故，確有必要透過本計畫瞭解他國建立人權指標的方法論，裨益我國人權指標之建構，以供未來施政、立法、計畫所需的人權影響評估之落實。

⁸ CESCR, 'General Comment No 14: The Rights to the Highest Attainable Standard of Health (Art 12)' (11 August 2000) UN Doc E/ C.12/2004/4.

⁹ *ibid*, para 52.

第二章 各國落實人權指標之情況

第一節 人權指標的概念與用途

從 1980 年代末期至 1990 年代初期起，受到人類發展領域活動者使用統計數據作為發展指標的影響，人權相關的國際組織與專家開始關注在人權領域使用指標的可能性，因此，開啟了適用人權指標的討論¹⁰。起初，人權相關國際組織與專家對於人權指標概念的理解並不一致，直到聯合國人權高專辦（OHCHR）在 2006 年提出報告，闡述建立人權指標的概念與方法架構後¹¹，國際社會對人權指標概念的理解才逐漸較為完整。

造成人權指標概念理解分歧的原因在於，國際組織與各國對指標用途的不同限定了指標的意涵¹²。惟縱然國際組織與專家對於人權指標概念的理解不同，但都有一項共同點，亦即指標是窺見現實狀況的窗口，而不代表全部的現實狀況。因此，指標會被用來記錄特定社會事實背後所隱喻之人權狀況，進而獲得更多人權相關的訊息。如此一來，指標並非評價國家人權義務履行好壞的工具，而是反映出國家人權義務的落實情況與問題。

就聯合國人權高專辦在闡述建立人權指標概念與方法架構的報告中對指標的定義，可以得知，其人權指標是說明人權狀況並評估落實情形。聯合國人權高專辦對指標的定義為：「與人權規範以及標準有關之某一事件、活動或結果之特定資訊；可用以說明與反映人權關照與原則；並可用來評估與監測人權的促進與保護情況（specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights）」¹³。定義中明白指出此人權指標適用在評估與監測人權的促進與保護之情況。此人權指標的定義也被聯合國人權高專辦沿用到聯合國在 2012 年出版的《人權指標：測量與執行指引（Human Rights Indicators: A Guide to Measurement and Implementation）》¹⁴一書中。

¹⁰ 人權指標概念的發展請見 Francisco López-Bermúdez, 'Creating and Applying Human Rights Indicators' in Dinah Shelton (ed), *The Oxford Handbook of International Human Rights Law* (OUP 2013).。

¹¹ International Human Rights Instruments, 2006 'Report on Indicators' (n 1).

¹² 依據丹麥的研究，人權指標的用途可以歸納為三大類：制裁論辯之用、人權援助之用、評估人權狀況之用。Erik André Andersen and Hans-Otto Sano, *Human Rights Indicators at Programme and Project Level: Guidelines for Defining Indicators, Monitoring and Evaluation* (The Danish Institute for Human Rights 2006) 7.

¹³ International Human Rights Instruments, 2006 'Report on Indicators' (n 1) para 7.

¹⁴ OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (United Nations

上述人權指標的定義，不僅反映了聯合國人權高專辦建立人權指標的目的，也顯露出其對人權指標特徵的界定—與各國環境背景相關的指標（contextually relevant indicators）。因此，聯合國人權高專辦只提供各國建立人權指標的共同方法與範例，並未建立一個全球共用的指標清單，也不為跨國人權情況比較之用。此種人權指標的建立必須由各國完成，並仰賴各國的資源與數據資料系統。

為瞭解各國落實聯合國人權高專辦人權指標的情況，必須先處理「是否有國家已建立人權指標」這個問題。參考我國行政院國家發展委員會之《建構我國人權指標及調查之研究》的報告內容，本計畫選擇德國、丹麥與英國為研究國家落實人權指標情況之客體，檢視這些國家是否已建立人權指標，若已建立，則建立的方法為何。

檢視結果發現，截至目前為止，德國尚無已完成的人權指標。德國人權協會（German Institute for Human Rights）雖於 2005 年做過指標之研究¹⁵，惟該研究將指標設定為「計畫與評估國家間雙邊的人權對話（Human Rights Dialogues）」之用，例如與中國、伊朗等開發中國家的對話。利用指標評估國家之間的人權對話是否達到目標、人權對話是否對夥伴國家產生影響。此外，德國 2005 年的研究也僅提供方法與說明，並無已建構出的指標。

丹麥於 2015 年完成人權指標—黃金指標（Gold Indicators）的建立，其指標也用於人權狀況之說明與評估落實情形，但適用的範圍限縮在監督與促進聯合國身心障礙者權利公約的執行情況。在此之前，丹麥雖於 2000 年亦曾做過人權指標的研究¹⁶，但該研究似將指標設定為評比國家對人權承諾的表現狀況之用，且亦為方法的說明，並未真正建立出指標，故本計畫在第一章文獻探討中已先敘明無法成為比較客體。

英國則在 2011 年完成人權指標的建構，該人權指標的用途屬於國家整體人權狀況的說明，作為評估人權落實之工具。

以下將分別介紹德國人權指標的發展、丹麥人權指標的建構與英國人權指標的建構，並說明德國、丹麥與英國建立指標的方法。

第二節 德國人權指標

2012).

¹⁵ Anna Würth and Frauke Lisa Seidensticker, *Indices, Benchmarks and Indicators: Planning and Evaluating Human Rights Dialogues* (German Institute for Human Rights 2005).

¹⁶ Hans-Otto Sano and Lone Lindholt, *Human Rights Indicators: Country Data and Methodology 2000* (Danish Centre for Human Rights 2000).

在過去的幾年裡，各種國際組織，包括聯合國婦女發展基金（UNIFEM）、聯合國兒童基金（UNICEF），以及高級專員辦事處和多個聯合國特別報告員，開展了人權指標的項目。在區域上，美洲人權委員會制定了監測經濟和社會權利的使用指標的準則。國際非政府組織，包括居住權與迫遷中心（Centre on Housing Rights and Evictions, COHRE）和美國科學促進會（American Association for the Advancement of Science, AAAS）已著手創立自己的人權指標。最後，國家和地區的人權機構，如丹麥人權協會、德國人權協會和美洲人權委員會（the Inter-American Commission on Human Rights）也已開始注意人權指標的發展趨勢。

然而，德國的人權指標目前仍僅於發展當中，並未建立出一整套完整的人權指標架構。雖然德國聯邦統計局（英文：Federal Statistical Office 德文：Statistisches Bundesamt, DESTATIS）於 2014 年曾出版了《德國永續發展 2014 年指標報告（Sustainable Development in Germany- Indicators Reports 2014）》¹⁷，其中有部分涉及人權面向，但是因為該指標報告的核心並非人權，故其並不涉及人權指標的發展。事實上，即使德國人權協會曾表示關心人權指標的建構，也很可能參與發展人權指標，但是德國人權指標一直處於尚待發展的狀態，並無具體成果。

即便有極少數關於德國人權指標的討論，重點也放在評估國與國之間人權對話（Human Rights Dialogues）的成效¹⁸，尤其是人權對話的影響評估（impact assessment）¹⁹，其為管理和衡量人權對話的工具，著重在觀察人權對話後人權情況的變化，以及人權干預的有效性。影響評估的方法和措施，涉及人權表現之量化敘述，其中即包括人權指標的概念。以下簡要說明德國對於人權對話影響評估所採取的方法與措施，並從中分析出德國對於人權指標的概念認知。

第一項 人權對話影響評估

德國採取影響評估作為評估人權對話的成效，影響評估包含影響監督（impact monitoring）、影響評量（impact evaluation）兩個程序，前者是控制人權計畫的工具之一，通常倚賴質化和量化指標，開啟人權工作相關計畫的程序並持續監督和管理；後者則以人權指標與基準之定期監查結果為準，衡量所選擇工具的有效性，以及政策干預之後的效果。影響評量包括分析系爭計畫的目標達成程度，以及其成效性質，實行上非常複雜。

¹⁷ Federal Statistical Office of Germany, 'Sustainable Development in Germany: Indicators Reports 2014' (October 2014)

<www.destatis.de/EN/Publications/Specialized/EnvironmentalEconomicAccounting/Indicators2014.pdf?__blob=publicationFile> accessed 20 February 2016.

¹⁸ Anna Würth and Frauke Lisa Seidensticker (n 15).

¹⁹ 德國關於人權對話影響評估指標的研究，請參閱本報告附錄 1：德國《指數、基準和指標：計劃與評估人權對話》。

此外，上開影響評估的兩個程序要和嗣後觀察（Ex Post Observations）為區分，人權狀況的嗣後觀察和上述兩種程序的形式不同，其目的在於測量原始情況所發生的變化，然而嗣後觀察發生於人權對話之後，並不能證明人權對話與人權情況變化之間的因果關係。總結來說，影響監督是管理和衡量人權干預的工具之一，和影響評量一樣，其主要著重在人權情況的變化和人權干預的有效性。至於嗣後觀察，則是觀察人權情況的變化，但是不將此變化連結到人權工具的有效性上。

第二項 人權表現的量化描述

由於人權對話的影響監督和影響評量需要人權表現的量化敘述，學者提出以下幾個工具作為量化敘述人權狀況的工具，其中就包含了指標，雖然和聯合國的人權指標在概念上有所出入，但是透過指標、指數、基準幾個名詞定義和比較，能協助讀者了解德國對於人權指標的概念。

壹、指數（Indices）

指數是各種統計數據的聚集。其係以尺度、數值、或質性上的表達為主，例如人類發展指數。在發展合作上，研究指數是用以衡量政府的表現，並相應地分配資金。人權專家認為這些指數相當重要，但是尚未用於測量人權對話的有效性。

貳、國際指數（International Indices）

國際指數是比較不同國家間有關於保護人權的法律規定，以及違反這些規範的實際狀況。這些指數大都是由政治學者所發展和使用的，學者將此數據和經濟發展、政府制度、政治文化等變量結合，以論述人權公約的批准和執行原因，以及人權侵害發生的原因。

參、質化基準（Qualitative Benchmarks）

質化基準是具體的規範標準或準則，可供進行現狀比較。「少數民族近用法律」或者「女性在就業市場上的平等機會」均是質化基準的例子。他們往往是以「是或否」的清單形式呈現，例如，當人權公約的批准或其於憲法和法律上的實踐須予以記錄時，均係以是或否的清單為紀錄。目前，質化基準係用以記錄人權侵犯行為。

肆、表現基準（Performance Benchmarks）

質化基準必須和量化基準有所區別，但是在某些文獻中量化基準會稱為表現基準，表現基準會設定一個期限，例如「15 歲到 24 歲之間的農村婦女的文盲率應於 2008 年下降幾個百分點」或是「2005 年底為止要釋放五十個政治犯」，表現基準是一個具體的目標，由制度上、地區上、國家或國際層次上予以規定。表現基準主要適用於行政機構和制度上的改革，千禧年發展目標（Millennium Development Goals, MDGs）就是個例子。這種類型的基準取決於當前政策及其結果的質化數據，因此需要最新且最可靠的統計數據才能顯示出不同族群、團體、年齡、地區的文盲婦女比例，或政治犯的數量。表現基準若與人權指標相連結，可以用來監測整體人權狀況。表現基準可以衡量是否有一定數量的囚犯經釋放，而顯示政治犯數量的指標則可以顯示出同樣的期間內，是否有新的政治犯遭到逮捕拘留。

伍、人權指標（Human Rights Indicators）

人權指標係測量單元，其可被用以確定人權情況變化的程度，尤其有關於其發生、程度和範圍。在社會科學文獻中，指標被要求要特定具體且足夠敏銳地表現出短期的變化。指標有三種不同類型：量化、質化和參與性指標。量化指標是以統計方法蒐集的數據；質化指標是根據調查結果（如問卷調查）所產生的；參與性指標是由目標團體、合作夥伴或利害關係人共同合作發展出來的指標，可能是以量化或質化方式表現。

原則上，指標可以用來描述和衡量人權情況的變化，以及相關的人權政策。指標也可以作為監測人權的基礎或與其他測量單位相結合，故可用於監測和管理複雜的人權對話，並評估其影響。

人權指標的概念化上，有些學者首先論述國家有義務尊重、保護和實現人權，並認為人權指標應以尊重人權規範、保護人權（如對家庭暴力的受害者為有效保護）、實現人權（如提升學校入學率）為目標設置之。其他指標則是有關人權的結果（違反人權義務行為的發生、人權保障程度）以及人權相關的流程，其為衡量政府如何遵守其義務、符合人權規範和履行各項權利，例如，政府如何實現不歧視原則。這些指標可用以測量弱勢團體是否在不同政策範疇中得到支持，以及是否建立人權相關申訴機構或機制。

事實上，表現基準和指標有許多共通特徵，它們均可用於測量政策工作的目標、結果和活動，因此，有必要在計畫人權對話的階段開始發展這些基準和指標，並且在對話階段過程中持續調整之。其次，其制定均需要數據以反映人權的實際狀態，是故數據的持續蒐集應該是人權對話或人權工作的目標之一，為達成此目的，必須安排合適的時間和充足的資金。最後一個共通特徵是所有影響評估測量

單位所共享的，亦即政府機構和政策項目不應試圖滿足太多基準或指標，或選擇不切實際的遠大目標，而應該只測量相關的、可以達成的項目，並且應考量是否在合理的時間、金錢、及人事成本上是可以衡量的。

由上可知，德國對於人權指標的概念，目的上限縮於用以確定人權情況變化的程度，並以之衡量人權相關的政策工作的結果與成效。這樣的概念，和聯合國對於人權指標的概念有所出入，有關於此，將在後面的章節分析比較，並說明之。以下，本計畫進一步探討德國在發展人權指標以及相關指數、基準上，資料蒐集的機制為何。

第三項 蒐集資料的機制

資料來源和蒐集方法是所有人權相關表現之量化描述的爭議核心，資料蒐集也是監測以及衡量人權影響的關鍵，其對人權促進也非常重要，因為任何人權進展的衡量都需要基線數據。蒐集資料是國家的責任，常見機制包括：

- 各種類型的調查結果：主要目的在於量化評估人權狀況（例如意見調查、住戶調查）；
- 侵犯人權的資料：來自國內事件的觀察，（例如，類似國際特赦組織或人權觀察（Human Rights Watch）等的人權機構所做的國家報告）；
- 以一定的標準或準則（例如條約、協定、特定準則或聯合國決議所設定的標準）來衡量人權狀況和人權侵害所做出的數據資料；
- 國家或國際社會經濟統計數據，最好有特定的分類標準，（例如以性別為標準分類之）。

許多機構堅持使用量化數據作為人權影響評估的基礎，但這有相當的困難，因為資料來源受到限制，且有些人權狀況是難以量化的。同時，它也似乎低估了質化數據和人權的相關性。

最新的和可靠的社會經濟統計數據，例如人類發展指數的基礎資料，在許多國家中是沒有的，即使有也往往有所不足，例如並未能依照性別、年齡、宗教等要素為分類，因此難以將這些數據作為人權工作的基礎，此外，也不可能等待可用的統計數據產生。改善這種情況的可能方式是透過條約簽訂。透過條約的簽定，國家可以與聯合國統計機構相互合作，協助修改社會經濟數據的蒐集，並以有利於人權衡量的方式蒐集數據。

從觀察國內事件（例如選舉、內戰等）來蒐集資料時會遇到不同的挑戰，這時監察的重點應放在系統性的和最嚴重的侵犯人權行為。例如，若在一國內戰中，系統性地使用酷刑，同時又有國家和非國家行為者侵害經濟權利的狀況發生，這些情況不能用同一種方式記錄之。此外，調查大多會產生質性數據，如果能夠直接和目標團體面談，問卷調查是可行的方式，只是可能需要非常高昂的成本。

總結來說，所有蒐集人權情況與發展資料的機制都具有意義，也具有一些成本和實用性上的弱點。在發展指標和基準時，以下的重點均應予以考量：數據的基礎依據是什麼？如何使國家蒐集的資訊為當前的最新數據，並確保資料的可靠性？以及如何使國家持續蒐集資訊？這些問題在一國發展人權指標時，均係重要的議題。

第三節 丹麥人權指標

第一項 丹麥人權指標概述

丹麥的人權指標—黃金指標（Gold Indicators）是由丹麥人權協會為了聯合國身心障礙者權利公約（UN Convention on the Rights of Persons with Disabilities, CRPD）所建立的人權指標。丹麥國會為了監督和促進身心障礙者權利公約的執行，分派給丹麥人權協會黃金指標建構計畫的任務，該計畫的執行者除了丹麥人權協會以外，還有丹麥國家社會研究中心（Danish National Centre for Social Research, SFI）的參與合作。

建立黃金指標的主要目的在於，希望將指標作為監督和促進身心障礙者權利公約執行的工具，驅使政府、其他人權機構、身心障礙相關組織在做相關決策時，能注意到指標，進而改善對身心障礙者權利的保障。需特別留意的是，黃金指標的建立，並不在於要將指標作為確認丹麥遵循身心障礙者權利公約的清單，而是作為一種發展與改進的基準，期望藉著指標開啟更多身心障礙權利相關的論壇，甚至因此將人權的觀點納入政治議程中，促進實際作為。

黃金指標的整體架構主要由十項指標組合而成，這十組指標分別與聯合國身心障礙者權利公約中的十個重要權利相對應。十項指標對應的權利如下：

- 指標一：平等與不歧視（equality and non-discrimination）
- 指標二：提升權利意識（awareness raising）
- 指標三：無障礙設施（accessibility）

- 指標四：人格完整（personal integrity）
- 指標五：獨立生活（independent living）
- 指標六：教育（education）
- 指標七：健康（health）
- 指標八：工作（employment）
- 指標九：社會保障（social protection）
- 指標十：政治參與（political participation）

每項指標都是以「統計性的結果指標（statistical outcome indicator）」方式呈現，因為丹麥希望指標呈現的是身心障礙者如何享有人權公約下的權利，強調的是權利享有者的經驗與狀態，而不是公約下的權利是否被丹麥國內法律所保障的問題。此外，這些指標都需要比較身心障礙者與非身心障礙者在統計上的差異。例如：與平等和不歧視有關的指標一的內容是，「前一年，身心障礙者與非身心障礙者，因為性別、年齡、種族、身心障礙、宗教、性導向、身高或體重而受到歧視的百分比」。又如與教育相關的指標六顯示的是，「25 歲以下身心障礙者與非身心障礙者，提早脫離學校教育的百分比」。

為補充各項指標的不足，每項指標下還列有五個分項指標（sub-indicators），以確保能充分地描述各項權利。五個分項指標中，後兩個分項指標都是將主要指標按性別、種族分類的統計數據。以測量平等與不歧視的指標一為例，共有五個分項指標，分別是：

- 嚴重身心障礙者因身心障礙受到歧視的百分比；
- 身心障礙者遭受暴力的百分比；
- 與身心障礙者共事，但對身心障礙者工作能力有所質疑者的百分比；
- 將指標一依性別分類的結果；
- 將指標一依種族分類的結果。

從分項指標的內容可知，分項指標呈現的統計數據不一定需要將身心障礙者與非身心障礙者做比較。相較於主要指標，分項指標所描述的可能是存在於特定群體或領域的個別問題。關於十組黃金指標與其分項指標的內容，以及各指標的數據資料來源，請參閱本報告附錄 2：丹麥黃金指標列表。

第二項 丹麥建立人權指標之方法

壹、 意見蒐集與統籌組織

丹麥在指標產生的過程中，特別著重「利害關係者（stakeholders）」的意見。集結利害關係者意見的目的在於確保所選擇的指標能最適合用以估量丹麥身心障礙者權利公約的執行情況，且利害關係者的參與將使得指標更能夠實際被運用。

利害關係者會議（stakeholder meetings）由丹麥人權協會負責規劃召集。丹麥人權協會個別針對十項指標，邀請相關人士和單位參與會議，所邀請的與會者盡可能廣泛地涵蓋國內利害相關者，包含：政府與公務部門、各個國內身心障礙者的組織、學術單位和其他相關單位，如：丹麥中央政府的統計單位（Statistics Denmark）以及丹麥國家社會研究中心（Danish National Centre for Social Research, SFI）。利害關係者會議著重在指標的討論，而不需在會議結束前完成一個最終定案的指標架構。

然而，為確認利害關係者對於指標是否達成共識，丹麥另外成立了指導小組（Danish Steering Group）。指導小組的成員來自於相關的政府單位以及與身心障礙相關的民間組織。該小組所參與的事項包括：決定黃金指標建構計畫的目的、選擇指標的方法、個別指標的評估、選擇指標所涵蓋的範疇，以及確認使用指標後可能產生的利與弊。指導小組的意見會記錄在每次開會的會議紀錄中，並且成為指標選擇的主要依據。

貳、 選擇指標的標準

丹麥人權協會為使指導小組的工作能更有系統，建立了指標選擇的標準。指標選擇標準分為二個層面，第一層面的標準直接涉及指標本身，而第二層面的標準則與資料的可得性和品質有關。

第一層面的標準包含三個項目：

- 能夠符合身心障礙的定義：由於黃金指標所要監督的客體是身心障礙者權利

公約，因此指標必須能夠符合身心障礙者權利公約對身心障礙的定義。

- 與國際社會相容的可能性：設定此標準的原因在於丹麥認為黃金指標建構計畫的長期目標並非侷限在國內，而是在達到國際上的共識。因此，在指標選擇方面會以也能夠適用在其他國家的指標為優先考慮的對象。
- 關連性：指標必須盡可能地反映身心障礙者權利公約中的權利，且必須確實連結到相關的群體和利害關係者。除此之外，指標亦必須反映出可能在特定領域發生的問題。

第二層面的標準也有三個項目：

- 資料蒐集的頻率：由於指標是用來隨著一段時間監督公約的執行，因此選擇的指標必須是以固定調查對象的追蹤資料為基礎，或者可以從其他可得的數據集裡取得。
- 強健度：因為指標必須盡可能可信賴、明確且有效，方能符合測量的目的。
- 可拆解分類的可能性：為了比較身心障礙者與非身心障礙者的差異，以及比較不同社會經濟條件者的狀況，指標需考量數據能依據特定的個別群組做分類。

丹麥指導小組的會議以及後續丹麥人權協會和國家社會研究中心（SFI）在決定指標時，皆依據上述選擇指標的標準逐項進行討論。

參、 指標產生的過程

第一項黃金指標的產生是在 2014 年 5 月 14 日，指導小組初步支持身心障礙者權利公約中第 27 條有關工作權條文的指標。當時所選定的指標是：「和非身心障礙者比較下，有多少身心障礙者曾在一週內最低工時的條件下工作」。選擇這個指標作為測量身心障礙者工作權情況的理由在於，第一，歐盟統計局勞動力調查（Eurostat Labour Force Surveys）有關身心障礙者主題的相關評估（Ad-hoc modules on disability）就是使用這個指標，顯示指標具有國際相容性與資料可得性；第二，歐盟統計局勞動力調查，對身心障礙者所使用的定義，和聯合國身心障礙者公約的定義相同。自此之後，指導小組認為身心障礙者公約中幾個重要權利也應該分別有一項主要指標和幾個分項指標。

就選擇哪些權利需要指標方面，黃金指標建構計畫執行者已經先從身心障礙

者公約的脈絡中確認六項明顯重要的權利，包括關於歧視、無障礙設施、工作、教育、政治參與、獨立生活的權利，這六項權利毋庸指導小組討論即確定需要建立指標。其他需要建立指標的項目，則是透過丹麥人權協會提案給指導小組合作討論而決定。

確定十個需要建立指標的權利後，黃金指標建構計畫執行者就針對各項權利分別進行利害關係者的意見蒐集與指導小組討論的過程，並依據前述所設定的選擇指標標準決定指標。

第四節 英國人權指標

第一項 英國人權指標概述

壹、目的、背景與特色

一、目的

英國的人權指標系統稱為「人權測量框架（Human Rights Measurement Framework, HRMF）」，是一項結合人權評估與證據基礎的分析工具。人權測量框架的建立，乃是英國平等與人權委員會（Equality and Human Rights Commission, EHRC）與蘇格蘭人權委員會（Scottish Human Rights Commission, SHRC）為瞭解英格蘭、蘇格蘭和威爾斯地區個人與群體人權地位狀態，共同合作發展人權指標後所為之決定。因此，英國建立人權測量框架的主要目的即在於：為了滿足評估英格蘭、蘇格蘭和威爾斯地區關於人權遵守、改進、實踐所需的全面證據基礎之需要，亦即「建立人權測量框架的關鍵目標並不在做為人權違反案件的計數系統，而是在記錄與傳遞關於人權進展的證據」。

觀察英國人權測量框架，其中有許多指標已超出「執法」、「違法」和「最低限度遵守」的概念，因為英國人權測量框架的目標並非作為計算人權違反的系統，而是在提供將人權標準納入廣泛公共政策的證據，以及提供所謂尊重人權文化的證據。積極主動的公共政策措施和更廣泛的社會發展，有助於減少在法律上違反人權的風險，且最終降低對執法活動與司法體系的需求。因此，人權測量框架的關鍵目標是記錄和傳遞此類相關進展的證據。透過人權測量框架，平等與人權委員會、蘇格蘭人權委員會、區域與國際人權監督機制、政府、公家機關和非政府組織（NGOs）等相關組織，皆能獲得所需的人權資訊。

二、背景

為提供有系統且嚴謹的基礎以發展用以評估英格蘭、蘇格蘭與威爾斯地區人權狀態的人權指標，平等與人權委員會與蘇格蘭人權委員會在建立人權測量框架之初，特別考量到以下三個面向，期望：

- 產生可靠且客觀的方法，藉以衡量國內與國際人權義務的遵守、改進與實踐；
- 提供平等與人權委員會、政府、公家機關、非政府組織等人權考量，並使應優先採取行動的人權能有數據資料的支持；
- 符合平等與人權委員會監督、報告關於平等與人權進展的法律義務。

基於上述三項考量，人權測量框架的發展依據可從國內與國際兩個層面上理解。就國內層面而言，主要來自於平等與人權委員會與蘇格蘭人權委員會的法律義務與責任。根據英國 2006 年平等法，平等與人權委員會的法律義務主要有：

- 鼓勵與支持社會基於平等和人權發展的一般義務(2006 年平等法第 12 條)；
- 透過每三年向國會報告人權進展（包含發展人權指標與評估改變）之特別義務，以監督人權在法律上與社會上之發展（2006 年平等法第 12 條）；
- 必須與利害關係者諮詢之義務（2006 年平等法第 12 條 2(a)）；
- 鼓勵公部門遵守 1998 年人權法第 6 條下之特別責任(2006 年平等法第 9 條)。

蘇格蘭人權委員會則有提升人權意識、理解和尊重的一般義務，以及保護人權的權力。此外，由於平等與人權委員會和蘇格蘭人權委員會被認定為 A 級的國家人權機構（National Human Rights Institutions, NHRIs），因此，除了國內法律執行功能，此二委員會尚有推廣國際人權規範（包括英國所簽訂的國際人權文件）之責任。

在國內層面上，人權測量框架的發展依據除了上述兩個委員會的法律義務與責任之外，尚與平等與人權委員會的工作內容有關。例如：平等與人權委員會早先以指標為基礎（indicator-based）的監督工作，包含平等測量框架（Equality Measurement Framework, EMF）²⁰的發展，該委員會參考平等測量框架所使用的

²⁰ 平等測量框架（Equality Measurement Framework, EMF）使用行政與社會觀察資料用以監督個人和群體地位，橫跨十個重要生命領域，依據關鍵的特徵作有系統的分類，例如：針對年齡、性別、身心障礙、宗教與信仰、種族、性取向、社會階級以及跨性別地位的分類分別監督。

分類方式，將之運用到人權測量框架的統計資料分類中；以及平等與人權委員會的人權調查認定與建議之工作，因人權調查的研究背景顯示，公務機關通常缺乏有系統地蒐集人權活動利益的細節資料，故督察機關建議委員會，應與主管機關及督察機關合作發展人權指標，以評估衡量正採行相關人權措施的公務機關，是否滿足指標所示之方向。

就國際層面而言，首先，聯合國兒童權利委員會（UN Committee on the Rights of the Child, UNCRC）、聯合國人權事務委員會（UN Human Rights Committee）和經濟社會文化權利委員會（UN Committee on Economic, Social and Cultural Rights, UNCESCR）等條約監督機構，逐漸強調人權監督下分類統計資訊和指標的重要性，例如聯合國兒童權利委員會（UNCRC）發布的報告指導原則，指引國家有義務將年度分類統計數據資料，連同主要立法文件和司法判決，蒐集並送交給委員會以作評估。英國也曾在「監督個人與群體人權地位之統計系統不足」以及「未使公民社會和國際條約監督機制可獲取此類資料」兩方面受到批評，此皆促使英國發展人權測量框架。

其次，為因應國際社會強調使用指標監督和促進人權發展，聯合國人權高專辦（OHCHR）建立了人權指標架構，此聯合國人權指標架構強化了英國發展人權測量框架之信念。聯合國的人權指標架構為人權指標提供一個普通的概念和方法基礎，且此架構的產生歷經與聯合國條約機構、特別報告員（Special rapporteurs）及公民社會廣泛諮詢與確認的過程，亦獲得委員會間條約監督機構之認可，人權條約監督機構也鼓勵使用此系統。例如：聯合國人權委員會已適用修正的指導方針指引國家有關國家報告事項，且要求國家在公民與政治權利國際公約特別規定下提交報告時，基於人權事務高級專員辦事處指標架構提供分類的數據；而經濟社會文化權利國際公約則要求國家確認指標（indicators）和針對各公約權利有關的國家基準（benchmarks）時，考量到人權高專辦指標架構和提交報告時所列的指標清單。

此外，歐洲理事會（Council of Europe）人權委員（Human Rights Commissioner）也強調指標在「處理執行落差」和「衡量實踐進展是否達成人權目標」方面的重要性，建議對聯合國人權高專辦的指標架構，基於結構、過程和結果指標的區分基礎，更進一步提供有用的模型。英國人權衡量框架的發展重點正是在於處理如何用人權指標評估英格蘭、蘇格蘭與威爾斯地區人權遵守、改進和實踐之問題。

三、特色

英國的人權測量框架主要有以下特色：

- (一) 概念上承襲聯合國人權高專辦所建立的指標架構。回應國際社會逐漸使用指標提升和監督人權實踐的需求，並提供關於國家履行人權監督機構與公民社會要求下的人權義務進展之資訊。
- (二) 建立在與人權利害關係者、專家、非政府組織的諮詢過程上。人權測量框架專家諮詢(Specialist Consultation)從 2010 年 6 月中旬到 9 月中旬進行，主要目標在對可以做為評估英格蘭、蘇格蘭與威爾斯地區人權遵守、改進和實踐的指標組合達成最大可能的共識。參與者對使用於人權測量框架中的指標之性質與範圍進行評論，並對人權測量框架的正當性、有效性和重要性做出回應。
- (三) 涵蓋的權利來自國內法與國際條約。人權測量框架涵蓋的權利項目包含：透過英國人權法(Human Rights Act, HRA)具有明確國內法執行基礎的權利(人權法將許多英國在歐洲人權公約下的義務國內法化)，以及來自英國所簽訂的國際文件的其他權利，諸如經濟社會文化權利國際公約、兒童權利公約和身心障礙者權利公約。
- (四) 結合國內人權法的資訊和有廣泛其他證據的批准條約資訊，包括：保護人權的法規與公共政策架構；案例法(case law)的結果(如：違反的資訊)；國內與國際人權監督機構所特別關注的資訊(如：英國人權聯合委員會(Joint Committee on Human Rights, JCHR)和聯合國條約監督委員會)；人權調查、詢問和審查的認定；主管機關、督察機關、監察使(regulators, inspectorates and ombudsmen)所提出的問題；非政府組織和其他公民社會機制如媒體所關注的問題。人權測量框架也使用大範圍的統計資源，包含行政數據資料和社會觀察。

貳、建立人權測量框架的基石(bulding blocks)

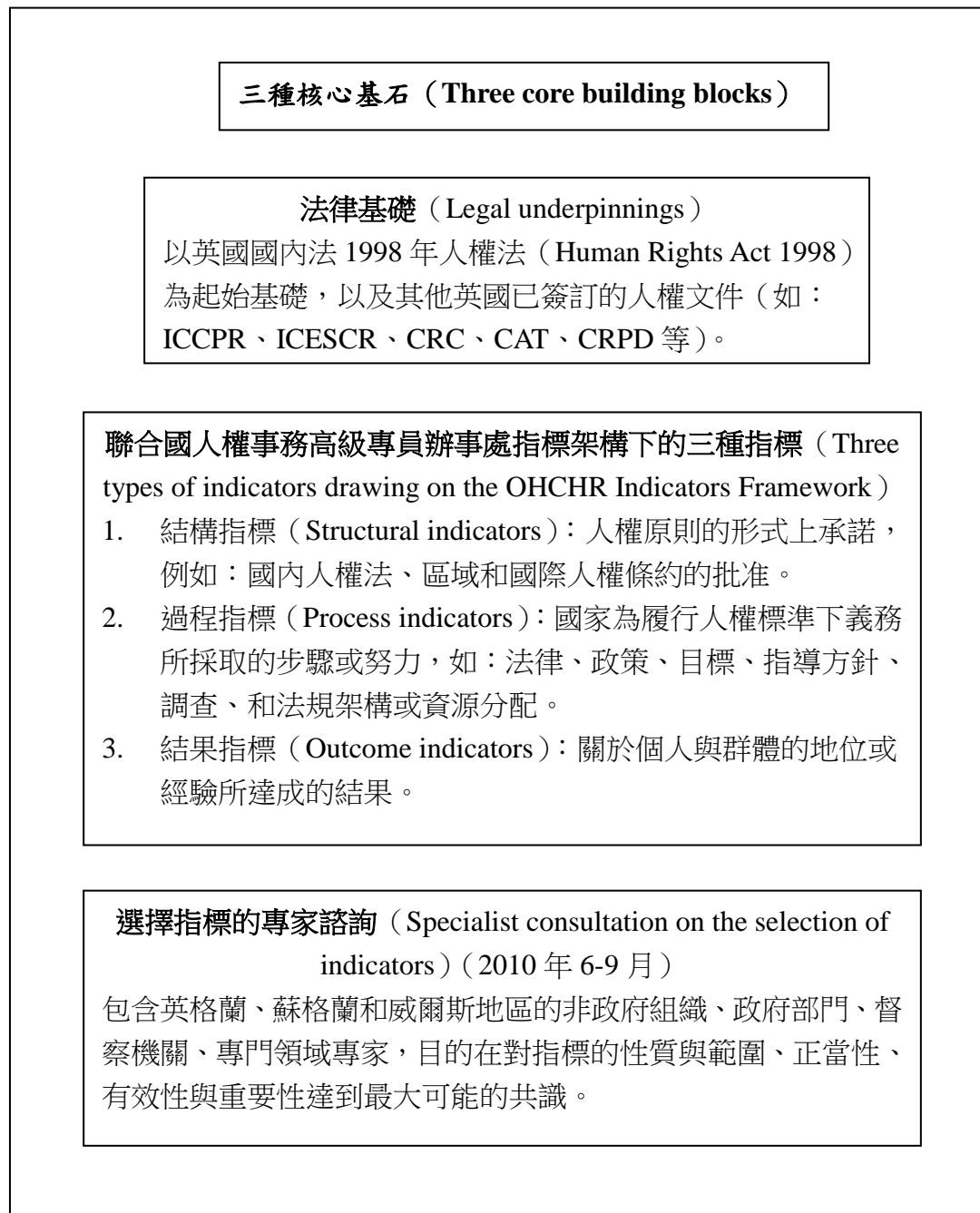
人權測量框架的建立基礎來自於三種關鍵的基石。第一基石是英格蘭、蘇格蘭和威爾斯地區保護和提升人權的架構，包括：1998 年人權法以及其他英國所簽定的區域性和國際性人權文件(諸如：人權保障與基本自由歐洲公約、公民與政治權利國際公約、經濟社會文化權利國際公約、兒童權利公約)，反酷刑公約和身心障礙者權利公約。

第二基石涵蓋聯合國人權高專辦指標架構下的三種類型指標—「結構指標(Structural indicators)」、「過程指標(Process indicators)」、「結果指標(Outcome indicators)」。

結構指標彰顯英國對於人權標準的原則上承諾；過程指標提供證據證明人權義務承擔者的努力；而結果指標則在實踐上對個人與群體之地位、經驗

提供證據。其他人權高專辦指標架構的細節和方法則配合英國三地區的情況作修正和調整。

圖 1：人權測量框架核心基石



第三基石則是在發展和同意人權測量框架下的指標時，與利害關係者 (stakeholder) 的諮詢。發展人權測量框架時，英國所依據的不只是人權事務高級專員辦事處指標架構，還有與人權相關非政府組織、專家、政府部門、主管機關、督察機關等等的廣泛諮詢過程。為使人權測量框架被眾所週知，從 2010 年

6 月中至 9 月中舉辦專家諮詢 (Specialist Consultation)。目的在使人權測量框架下所包含的指標之性質與範圍、正當性、有效性以及重要性獲得最大可能的共識。

除了上述三個核心的基石，人權測量框架的建立亦特別注意到「對弱勢群體的系統分類與個別監督 (Systematic disaggregation and separate monitoring of at risk/vulnerable groups)」。人權測量框架有一個重要目的，在於確認並將用於監督和提升人權的行政和社會觀察數據資源相結合。為達此目的，必須建立一個有系統的分類原則，依據重要特徵如：年齡、性別、身心障礙、宗教與信仰、種族、性取向、跨性別地位與社會階級，將數據資料分門別類。此外，人權測量框架特別強調應確認並結合特定弱勢群體地位的行政與社會觀察數據資源，例如：吉普賽人、觀光客、難民、尋求庇護者、居住或居留於公家機關和私人機構的人民(如：居住於照護之家的年長者或於監獄監禁者)、需要照顧的孩童(look after children)與需要救助的孩童(children in need)。人權測量框架專家諮詢的參與者應邀對應個別監督的弱勢群體做評論，並對行政與社會觀察數據資源提出建議。

參、人權測量框架之建構

英國人權測量框架是由一系列的面板 (panels) 所構成，每個面板將焦點集中在一個權利項目上，例如：面板一 (Panel 1) 集中在生命權上。每個面板包含一個儀表板 (dashboard) 其內含十個指標，此十個指標已透過專家諮詢過程達成共識且適用指標挑選標準。人權測量框架以 3-D 模型呈現如下圖 2 所示，其上層為面板 (每個面板針對一項人權)，模型的下排是不同類型的指標 (例如：結構、過程、結果指標)，系統性分類的重要性以及弱勢群體地位的確認則是面板的底層。

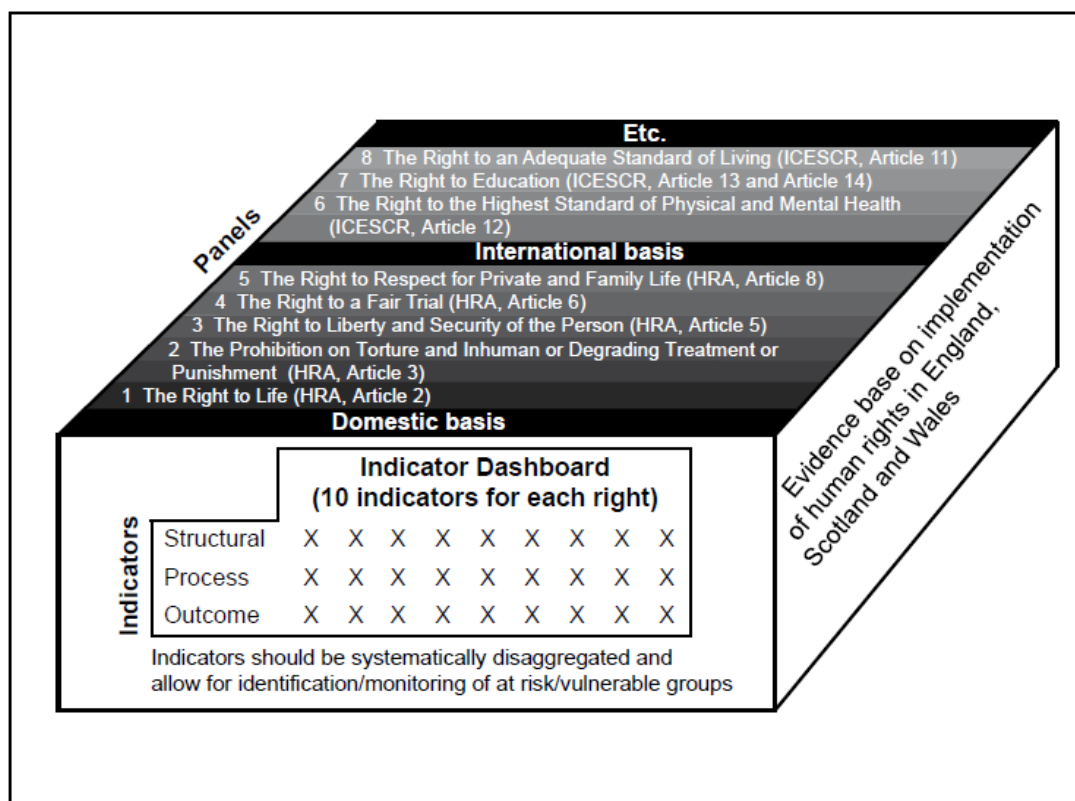


圖 2：人權測量框架 3-D 模型

資料來源：Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (n 7) 8.

說明：人權測量框架 3-D 模型的內容將分列為三個部分，包括人權測量框架面板、人權測量框架指標儀表板、人權測量框架證據基礎，並於下文分段說明。

一、人權測量框架面板（HRMF panels）

一個人權測量框架面板代表的是一項人權。由於時間與資源的限制，英國目前不可能對其國內人權法和區域與國際人權文件下的所有人權項目達成共識。因此目前所見的框架是以八個原型面板的發展為主，包含五個有明確國內人權法基礎的權利，和三個直接來自於英國對經濟社會文化權利國際公約所負義務的權利。以國內法為基礎的權利項目有：

- 生命權（人權法第 2 條）
- 禁止酷刑和其他殘忍、不人道、有辱人格的待遇或處罰（人權法第 3 條）
- 人的自由與安全權（人權法第 5 條）

- 公平審判權（人權法第 6 條）
- 尊重私人與家庭生活權（人權法第 8 條）

以國際公約為基礎的權利項目有：

- 身心健康最高可得標準權（世界人權宣言第 25 條；經社文權利國際公約第 12 條）
- 受教權（世界人權宣言第 26 條；經社文權利國際公約第 13 條、第 14 條；兒童權利公約第 28 條、第 29 條；人權法第一議定書第 2 條）
- 適當生活水平權（兒童權利公約第 27 條；經社文權利國際公約第 11 條）

然而，英國仍期待人權測量框架未來能擴展至所有國內、區域和國際文件所保護和提升的人權範圍，這亦牽涉到其他面板與相應指標儀表板的擴張發展。

二、人權測量框架指標儀表板（HRMF indicator dashboards）

面板下表彰人權指標的是指標儀表板（indicator dashboards）。每個面板都由一個相應的儀表板填充。儀表板是由十個一組的指標組成，因此目前的人權測量框架指標組合中一共有八十個指標。預計未來增加其他人權測量框架面板後，指標的總數還會因此增加。可見英國並未將人權測量框架指標組合視為固定或最終的清單，亦考量到對指標組合作定期審查和更新（例如每三年為一期）。此外，指標的設定意在將焦點集中在關鍵爭點和問題上，而非對各項人權提供完全無缺的證據基礎。

一組人權指標會同時涵蓋「結構指標」、「過程指標」與「結果指標」，用以確保每個面板都包括了「對人權原則之形式承諾」、「對人權義務採取行動之努力」、「實踐上達成結果」三方面的證據基礎。

首先，就結構指標而言，每個儀表板都有兩個結構指標，記錄和傳遞關於英國人權形式承諾的資訊，包括：國內法人權保障的資訊、區域和國際人權文件批准情況的資訊、以及先前法律判決和國際標準設立程序所建立的原則等相關資訊。

其次，各儀表板亦包含兩個過程指標，記錄和傳遞義務承擔者實現人權義務所採取的行動之有關訊息，包括：人權保障的公共政策架構（含立法、政策、計

畫、目標、法規、指導和資源分配）和關鍵主管機關、督察機關、監察使和相關機制的訊息。

最後，每個指標儀表板也包括六個結果指標，記錄和傳遞人權的實現狀況，以及人權實踐中，有關個人和群體人權地位與經驗的量化與質化資訊。其中第一個結果指標是質化指標，而其餘五個的結果指標是量化指標。

每個權利面板的儀表板上的十個指標，皆有與其相關的證據基礎用以呈現目前英國人權保障的狀態。

三、人權測量框架證據基礎（HRMF evidence base）

人權測量框架的證據基礎係指各項指標的「質化或量化」資訊。目前這些證據基礎尚未全然完成，而是將隨著未來人權測量框架中人權項目的擴張，連帶增加相關的證據基礎。為分析和評估人權，人權測量框架證據基礎有不同的資訊類型，在使用和解讀人權測量框架指標與證據基礎時，必須特別注意到這些不同類型資訊的區別。

人權測量框架證據基礎所包含的「質化資訊」有：英國國內人權法和批准條約的資訊；違反或侵犯人權案例法的結果資訊；法規與公共政策架構之資訊；經由國家和國際人權監督機構所提出的人權問題之資訊；相關的研究、調查和審查認定報告；經由主管機關、督察機關和監察使（**regulators, inspectorates, ombudsmen**）提出的認定報告；非政府組織、媒體報導和指控等等。質化資訊通常會作為儀表板下結構指標和過程指標的證據基礎，而六個結果指標下則往往會有一個指標有質化資訊做為證據基礎。

人權測量框架證據基礎中，也涵括了從廣泛社會觀察和行政資源所獲取的統計資料，此類型的統計資料即為指標「量化的證據基礎」，對於人權的分析和評估具有以下作用：

- 提供侵犯人權行為之直接資訊以及違反人權或保障不足的初步證據；
- 提供有關整體形態、差異性、不同群體或個人具弱勢或高危害風險，以及保障上的可能落差或不足之證據資料；
- 提供相關監管、稽查程序（例如：對拘禁者或與警方接觸後死亡人數的定期數據監控）以及其他有關監控實施後的結果報告資料；

- 提供相關的背景資訊（例如：對監獄人口以及依照種族進行攔檢與搜索的普遍人口數據，公眾對人權態度或理解的數據）；
- 滿足監督英國所簽署的國際人權條約執行情況之國際人權機構（如聯合國人權事務委員會，聯合國經濟社會文化權利委員會和聯合國兒童權利公約委員會）的數據資料要求。

解釋量化資訊時，需注意以下幾點。首先，所有統計數據證據應謹慎解讀，並依照原始數據來源所為之定義、用語、解釋和方針使用，其包含數據的品質與限制等指導方針，且需與公開的政策和規則相符。其次，統計數據證據的狀態也需要小心檢視，並依據標準統計方法和證據門檻做解讀（例如：使用標準的統計顯著性測試方法，證明一段期間內有改進、退步和不同人口群組的變異）。第三，統計數據亦有潛在品質參差不齊之問題。只有部分官方數據達到國家統計分類標準。某些行政數據可能受到記錄和編碼變異的影響。因此，必要時需與原始數據來源或其它相關來源進行比對，解決可能出現的品質和解釋的問題。

人權測量框架指標的量化證據主要包含：官方的行政和社會調查數據來源、執行具體監測活動產生的行政統計、主管機關和督察機關所進行之專家社會調查、一般的人口調查。另外，對於各項統計數據特別注意到群組分類與對弱勢群體地位的確證問題。

以下將就人權測量框架證據基礎的範圍逐一說明。人權測量框架指標的證據基礎是由各種關於人權不同類型的分析和評價資料統整而成，如前述對質化與量化證據資料的說明，人權測量框架證據基礎的範圍主要來自於下列幾項：

（一） 關於國內人權法和國際條約批准的資訊

人權測量框架中每項權利面板的第一個指標，都會提供有關英國國內人權法以及批准條約的資訊。在使用和解釋人權測量框架時，應特別注意的是，需區分當中所包括的權利，哪些是藉由英國人權法可在國內執行的權利，哪些是英國所簽署的各區域性與國際性人權文件中所定的權利。

（二） 關於人權案例法判決結果之資訊（例如：違反或侵犯人權）

人權測量框架中，各項權利面板中只有兩個指標會記錄和傳遞有關案例法的資料，分別是：

- 相關案例法所建立之「原則」，反映在人權測量框架下各權利面板的第二個

指標中（屬於結構指標）。

- 關於法律上的判決「結果」，亦即具體違規或違法行為的相關資訊，反映在人權測量框架下各權利面板的第五個指標中（屬於結果指標）。

以人權測量框架下第二個面板—關於禁止酷刑和不人道或有辱人格的待遇或處罰的權利（人權法第 3 條）為例，其中第二個指標即是記錄了此面板有關的案例法原則。例如，第二個指標的證據基礎中，納入了查哈爾案（*Chahal v UK*）²¹所建立的原則，歐洲人權法院（European Court of Human Rights, ECtHR）認定當有充分理由相信個人可能會遭受另一國酷刑或有可能不足以防止迫害時，依據人權法第 3 條，應防止該個人被驅逐到另一個國家。第五個指標記錄相關重要案件的結果，例如：第五個指標的證據基礎中，包括了依據查哈爾案之解釋違反人權法第 3 條之判決認定。

（三） 關於人權保障的監督管理與公共政策架構資訊

人權測量框架亦提供有關監督管理和公共政策架構，此類型證據基礎多在權利面板中第三和第四個指標（即過程指標）中呈現，包括初級法律、政策、法規和準則，以及相關主管機關、督察機關、監察使及其重要權責範圍等資訊。例如：英格蘭與威爾斯地區皇家監獄督察機關（HM Inspectorate of Prisons, HMIP）獨立監督監獄受刑人與其他受拘留者的待遇情況，包括少年犯罪機構、移民留置所等。皇家監獄督察機關的工作，構成英國基於聯合國禁止酷刑和不人道或有辱人格待遇公約任擇議定書（包括在羈押場所的定期獨立檢查）下義務的一個重要部分，而這個責任同時也被記錄在人權測量框架下保障生存權（人權法第 2 條）以及禁止酷刑和不人道或有辱人格的待遇或處罰（人權法第 3 條）兩個面板中。

（四） 國內與國際人權監督機構特別關注的議題（如：英國聯合人權委員會及聯合國條約監督委員會）

人權測量框架揭露的其他證據，有些雖非著墨在案例法上，但卻記錄和傳遞了經由權威國家和國際人權機構所關注的人權問題。例如：人權測量框架下關於禁止酷刑和不人道或有辱人格的待遇或處罰的權利面板中，包括英國聯合人權委員會對有關英國參與酷刑指控之認定；平等與人權委員會對酷刑相關準則之關注；聯合國人權理事會（United Nation Human Rights Council, UNCRC）中有關於秘密拘留和引渡的調查。涉及到個人自由和安全權（人權法案第五條）與公平審判權（人權法第 6 條）的權利面板，則包括英國聯合人權委員會對於預防性羈押和秘密證據與控制命令的調查認定；聯合國特別報告員對於秘密拘留的調查；英國

²¹ *Chahal v UK* App no 22414/93 (ECtHR, 15 November 1996).

聯合國人權委員會和聯合國兒童權利委員會，對於兒童拘留和使用反社會行為令（**Anti-Social Behavior Orders, ASBOs**）的調查認定。個人自由和安全權利面板也包括了平等與人權委員會關於警察攔檢與搜索（**stop and search**）的研究調查認定。

（五） 相關人權研究調查、詢問和審查的認定

相關的研究、調查和審查報告亦是關鍵的人權測量框架證據來源。例如，禁止酷刑和不人道或有辱人格的待遇或處罰的權利面板中，涵蓋了對英國與海外反恐軍事行動被拘留者有關的獨立調查；關於英格蘭與威爾斯公共當局如何處理強姦控訴的史登調查報告（**Stern Review**）。個人自由和安全權利面板下包含政府對於反恐的獨立調查報告。尊重私人與家庭生活權面板下包含英國內政事務特別委員會（**Home Affairs Select Committee**）關於警方監控（**surveillance**）的調查報告。

（六） 主管機關、督察機關和監察使（**regulators, inspectorates, ombudsmen**）所提出的報告

人權測量框架證據基礎尚包括經由主管機關、督察機關和監察使提出的認定報告。例如：禁止酷刑和不人道或有辱人格的待遇或處罰權利面板中包括國家委員會獨立監督理事會（**National Council for Independent Monitoring Boards**）對命令囚犯倒便桶的調查結果；關於被拘留者精神健康問題（包含使用拘束自由措施）的國家預防機制（**National Preventative Mechanism**）調查報告；社會照護督察委員會（**Commission for Social Care Inspection**）對長者照顧服務使用拘束自由措施的調查報告。其它面板則包含皇家監獄督察機關青少年司法理事會（**HMIP Youth Justice Board**）關於黑人與少數族裔（**black and minority ethnic, BME**）的青少年被拘留比例惡化的調查報告（個人自由和安全權利面板；人權法第 5 條）；資訊委員會辦公室（**Information Commissioner's Office**）關於使用個人資訊的調查（尊重私人與家庭生活權面板；人權法第 8 條）；照護品質委員會（**Care Quality Commission**）檢視老年人是否得到基本照顧標準的調查報告，包括他們是否受到有尊嚴和尊重的對待，以及有飲食需求者是否得到救助（生理與心理健康最高可得標準權利面板；世界人權宣言第 25 條；經濟社會文化權利國際公約第 12 條）。

有時主管機關和督察機關所制定的標準與框架，與具國內法律上執行效力的人權以及具體的國際人權標準相一致。例如，對於囚犯倒便桶的實施標準已形成案例法；國家預防機制（**National Preventative Mechanism**）已反映出英國批准的反酷刑公約（**Convention Against Torture, CAT**）提供的標準；英格蘭與威爾斯區皇家監獄督察機關和蘇格蘭區皇家監獄督察機關，皆明示其調查標準與國內人權法、國際人權標準相連結。其他督察機關與主管機關也逐漸採行此方法。例如：

英國警察申訴獨立委員會（Independent Police Complaints Commission, IPCC）基於人權法第 2 條提供一個積極調查死亡責任的機制，展開對於殺人案件、家庭暴力、反社會行為的一系列調查；照護品質委員會設有與平等與人權委員會一致的諒解備忘錄（Formal Memorandum of Understanding），目的是確保在健康和社會照護背景下對平等和人權有足夠的監管和檢查。

同時，人權測量框架證據基礎也運用了使用自有標準與架構的主管機關與督察機關的工作報告。因此，在使用與解讀人權測量框架時，要適當地區別「主管機關與督察機關所採行的標準和架構」，以及「具國內法律實行效力的人權之違反」。

（七） 非政府組織和其他公民社會機制，如：媒體，所提出的指控和關注的議題

人權測量框架中亦包括非政府組織的數據資料和媒體報導。於人權測量框架專家諮詢會議上，與會者主張，人權測量框架中納入非政府組織的數據資料是極為重要的一環，因為，在人權監督與報告之獨立性下，原則上信賴官方資料以及國家對事件觀點的作法，並不正確。為建立非官方資料的使用架構，人權測量框架面板 3（Panel 3）一個人自由與安全權利，包括了英國非政府組織—「自由（Liberty）」對恐怖主義與預防性羈押的證據與分析資料，以及國際特赦組織關於引渡囚犯和秘密拘留的證據。此外，媒體關於侵犯人權的案件報導亦在人權測量框架的涵蓋範圍內，如禁止酷刑和不人道或有辱人格的待遇或處罰的權利面板中，亦包含媒體對酷刑之指控（人權法第 3 條）。

（八） 廣泛行政與社會觀察資源的統計資訊

此類型的證據基礎多為量化資訊，往往會在每個權利面板的結果指標中呈現，主要包含下列幾種：

1. 官方的行政和社會調查數據

人權測量框架部分指標會利用官方的行政和社會調查的數據做為來源。此類統計證據可增加對於人權的分析，因為有助於確認總體趨勢和模式，亦較容易凸顯和標示出備受壓迫的特定個人和群體，確認具體違反人權的風險，最終交由法院作認定，以及指出保護的漏洞。另外，行政統計數據亦可用作監測目的，而在某些情況下，一般的人口統計數據可用作解釋比例不均的問題。

2. 執行具體監測活動產生的行政統計

以人權測量框架第一個面板—生命權（人權法第 2 條）為例，其證據基礎包含了在警察和刑事司法羈押期間死亡的統計數據。相關的督察機關會在此領域進行常規性的監測統計，包括每年由警察申訴獨立委員會公布的警方羈押下之死亡人數統計的定期監測。此類數據資料有助於人權監控，因此納入人權測量框架證據基礎中。同樣地，禁止酷刑和不人道或有辱人格待遇或處罰之權利面板（人權法第 3 條）所包含的數據資料，亦包含了各類型對警方投訴案的定期數據監控，因其對監控目的有所助益。

3. 主管機關和督察機關所進行之專家社會調查（specialist social surveys）

人權測量框架中部分指標的量化資訊，是來自主管機關和督察機關進行的專家社會調查。例如：禁止酷刑和不人道或有辱人格待遇或處罰之權利面板（人權法第 3 條），以及尊重私人與家庭生活權面板（人權法第 8 條）下的指標，都包含監獄、拘留單位、庇護和移民中心環境條件和待遇的資訊，這些資訊是基於皇家監獄督察機關的專家調查。同樣，生理與心理健康最高可得標準權利面板中（世界人權宣言第 25 條；經社文權利國際公約第 12 條），依循照護品質委員會「必要標準（essential standards）」框架所形成的量化指標，亦包括透過專家對於病人的調查所得到的統計數據，如在住院期間有無受到有尊嚴和尊重的治療，以及符合營養需求的照顧。這些統計數據皆是以個別督察機關所採行的監察標準為基礎。

4. 一般人口調查

人權測量框架亦會借鏡其他社會調查，如：一般人口調查和用戶調查做為其證據基礎。例如，禁止酷刑和不人道或有辱人格的待遇或處罰之權利面板（人權法案第 3 條）包括有關家庭暴力的發生率調查資訊。此資訊來自於英國犯罪調查自成模組，並輔以向警方報案實例數量、警方進行偵查、案件繫屬法院與案件判決結果等行政統計。由於能夠確認國內人權侵犯的整體趨勢與模式，凸顯特定弱勢的個人或群體，指出保護的落差和不足，這些資訊有利於人權法第三條的執行（第三條包含執法機關保護個人免受第三方侵犯之積極義務）亦有助於補充案例分析（例如：Opuz v Turkey 案²²的判決）與調查認定（例如：警察申訴獨立委員會調查發現對生命保護的不足）。

此外，英國在處理量化資訊方面，特別注意到統計資料的分類，以個別確認弱勢群體的地位。人權測量框架中的行政和社會調查統計資料，盡可能有系統地依據年齡、性別、身體缺陷、宗教信仰、種族、性取向、跨性別和社會階級等特徵，對於弱勢群體作分類。在確認與結合有助於個別監控弱勢群體的行政與社會

²² Opuz v Turkey App no 33401/02 (ECtHR, 9 June 2009).

調查數據時，須特別強調此分類系統。例如：禁止酷刑和不人道或有辱人格的待遇或處罰面板（人權法第 3 條），以及尊重私人和家庭生活的權利面板（人權法第 8 條）下的受刑人拘留環境條件；個人自由與安全權利面板下（人權法第 5 條）關於尋求庇護者與進入和離開留置所之難民的人數；需受特別照顧兒童（children looked after）與一般兒童的教育落差（世界人權宣言第 26 條；經社文權利國際公約第 13 條、第 14 條；兒童權利公約第 28 條、第 29 條；人權法第一議定書第 2 條）；對於有初級照護需求被列為低收入戶而成為需要特別救助兒童（children in need）的人數等等（包括在適當生活水平權利面板中）（兒童權利公約第 27 條；經社文公約第 11 條）。

第二項 英國建立人權指標之方法

本項說明英國發展人權測量框架的方法論。首先綜覽整體研究架構；其次從細節上討論概念的起始點—聯合國人權高專辦的指標框架；第三，詳細說明英國人權測量框架的專家諮詢（Specialist Consultation）；最後，說明設立人權測量框架中所適用的指標選擇標準（indicator selection criteria）。

壹、如何發展人權測量框架

英國發展人權測量框架，需要經過多階段程序，包括：

一、初步的文獻和資料審查。

二、透過修正和順應聯合國人權高專辦的面板，導出國際上的良好實踐，並根據該等實踐結果，發展出一個暫時性的人權測量框架下之面板套組（HRMF set of panels）。

三、實地操作測試，並且依據計畫諮詢小組（Advisory Group）的意見修訂暫時性人權測量框架中之概念。

四、依據文獻和資料審查，發展出人權指標的「長清單」。文獻和資料審查包括：聯合國人權高專辦的良好實踐指標（OHCHR good practice indicators）；聯合國的一般性意見（UN General Comments）；平等測量框架（EMF）；兒童的測量框架（Children's Measurement Framework, CMF）。

五、根據長清單，實施下列的「選擇標準」，針對其中的重點指標（spotlight indicators）發展出短清單。

- 六、進行專家諮詢，亦即與人權有關之利害關係人進行諮詢，針對人權測量框架中的概念解釋和指標設置，達到最大共識(諮詢方式包括：為期一天的活動、利用網路進行諮詢、和專家團體進行一對一會議等)。
- 七、根據專家諮詢、諮詢小組和計畫項目管理小組（Project Management Group）之討論和回應，建立一套指標選擇標準。
- 八、根據專家諮詢的討論、回應與建議以及項目選擇標準，修改面板和重點指標短清單。
- 九、以指標和措施（利用行政、社會調查和其他資料）填充人權測量框架，在每個權利之下，發展出證據基礎（evidence base）。
- 十、確保資訊提供者和委員達成必要的協議。

人權測量框架之面板以及相關指標的發展和協議是一個反覆的過程，反映了上述這些不同的研究階段。經過最初的書面研究，臨時的人權測量框架面板將依據計畫項目管理小組的意見進行修訂，並由諮詢小組進行實地操作測試（road-testing exercise）。指標的臨時短清單發展出來之後，由專家諮詢審查並確立指標的臨時面板或短清單：第一，是否正確地修改了面板；第二，正確的指標短清單是否經過確認；第三，是否有必要加入補充與替代的指標。

專家諮詢的過程包括三個主要的單日活動（分別在英格蘭，蘇格蘭和威爾斯）、為期十二週的網路諮詢和一系列深入的一對一會議和討論。此外，英國法務部（Ministry of Justice, MoJ）、人權資深擁護者（Human Rights Senior Champions, SCs）以及主管機關、督察機關和監察使（regulators, inspectorates and ombudsmen）人權論壇共同召開了兩次活動，其中均介紹該面板的內容，以供討論和回應。針對這些諮詢的回應進行分析後，面板和指標均進行最後修訂，每個面板的指標設立所用的證據資料也依此產生出來。

貳、聯合國人權高專辦的指標框架（OHCHR Indicator Framework）

以下表格 2 呈現的是聯合國人權高專辦面板（OHCHR panels）之一（生命權）之描述。生命權的性質（任意剝奪生命，使人失蹤，健康和營養以及死刑）特別列於面板的欄位內。聯合國人權高專辦體系中包括了不同類型的指標（即結構，過程和結果指標），列於直行項目中。「系統性的分類」（systematic disaggregation）的原則，特列於面板的最後一行，這可以看出聯合國人權高專辦對「系統性的分類」和對「個別確認弱勢或高危險群體的地位」（separate

identification of the position of vulnerable/at risk groups) 的重視。指標說明均包含在面板各個欄位內。

表格 1：聯合國人權事務高級專員辦事處人權面板—以生命權為例²³

	任意剝奪生命	使人消失	健康與營養	死刑
結構指標	<ul style="list-style-type: none"> 國家批准的國際人權條約，有關生命權者。 在憲法或其他超法律形式的規範中，生命權的生效日和範圍。 實現生命權的國內法生效日和範圍。 			
	由獨立監察機關管理警察局拘留室、看守所和監獄的法定程序，其生效日期和範圍。	憲法中規定的人身保護令，其生效日和範圍。	國家健康與營養政策的時程進度與範圍。	已廢除死刑的次國家行政實體（sub-national administrative entities）數目。
過程指標	由國家人權機構、人權監察員或其他機制做成的關於生命權之調查和裁決比例，以及政府有效回應的比例。			
	關於法外處決或任意處決問題，在政府報告期間內，聯合國特別報告員發出的信函比例。	關於強迫使人失蹤的問題，在政府報告期間內，聯合國工作小組發出的信函比例。	1.使用改善過的飲水水源的人口比例。 2.由受訓過的保健人員接生的比例。	在報告期間內被判死刑的人數。
結果指標	1.每十萬人中，殺人和危及人生命的犯罪數。 2.每一千個拘留或監禁的人中，在監死亡的數量（死因包括疾病、自殺、他殺）。	失蹤報告的情況（例如對聯合國工作小組所作的強迫或非自願失蹤問題報告）。	1.嬰兒死亡率。 2.出生時預期壽命。 3.傳染性和非傳染性疾病之患病率和死亡率的關聯（如愛滋病毒/愛滋病，瘧疾和結核病）。	1.死刑判決的比例。 2.死刑之執行次數。
基於禁止歧視的理由，所有指標應被分類列出，適用並反映在資料表格上。				

²³ 資料來源：Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (n 7) 15.

儘管人權測量框架在概念上是以聯合國人權高專辦面板為基礎，然而有必要做一些修正以確保聯合國人權高專辦面板被適當地「情境化」，符合英格蘭、蘇格蘭與威爾斯的情境。這些面板和權利的「屬性特徵 (attributes)」²⁴，以及指標，都會被修正以達到上述目標。

例如，聯合國人權高專辦面板中強調的一些屬性特徵（例如生命權中的失蹤和死刑）並非英格蘭、蘇格蘭和威爾斯的關鍵人權議題，故必須更加強調英國 1998 年人權法（Human Rights Act 1998）所設立的標準。人權法提供了人權執行的法律基礎，其第 6 條明確規定了公家機構應遵守人權規範。人權法也提供個人在英國實施人權的基礎，是人權測量框架發展的起始點，其確立了面板和「特徵」的概念框架。另一個重點是主管機關、督察機關和監察使在實施和促進人權方面扮演的重要角色，他們將人權標準融入公共政策中。

在進行修正時，英國傾向於將人權測量框架的潛在功能最大化，作為一個促進、監督人權執行的實用工具（操作模式請見下圖 3）。例如，蘇格蘭人權委員會做為一個人權機構，具有資訊整合的作用，其他主管機關、督察機關和監察使的資訊會提供給委員會，由委員會辨識出人權議題並加以報告。因此，在英格蘭，有關個人和團體地位的資訊被認為和生命權有潛在關聯性，因此和生命權有潛在相關性的機構，如警察申訴獨立委員會（IPCC），皇家監獄督察機關（HMIP），監獄及緩刑監察使（Prisons and Probation Ombudsman）和照護品質委員會。人權委員會的功能即在於綜覽這些監察和投訴處理的程序和調查結果，指出人權問題後並做成報告（包括兩個以上單位的工作和流程所反映出來的人權問題之橫切面）。對於這個功能有所認知後，在發展人權測量框架時，就應重視主管機關、督察機關和監察使所使用的監督系統，並將這些監督系統和人權測量框架作連結。例如，警察申訴獨立委員會建立了一個「拘留中死亡」的監察程序，從這個系統中所蒐集產生的資訊，會被納入人權測量框架中，做為生命權的證據基礎。

²⁴ 聯合國人權事務高級專員辦事處在《人權指標：測量與執行指引（Human Rights Indicators: A Guide to Measurement and Implementation）》中提到，人權指標的概念框架必須首先針對人權項目確認權利的屬性特徵（attributes）。關於權利屬性特徵的確認，必須考量以下三點：

- 一、應先徹底閱讀核心人權條約規定下的標準；
- 二、屬性特徵應整體地反映規範內容之要素；
- 三、屬性特徵的範圍不應重疊。

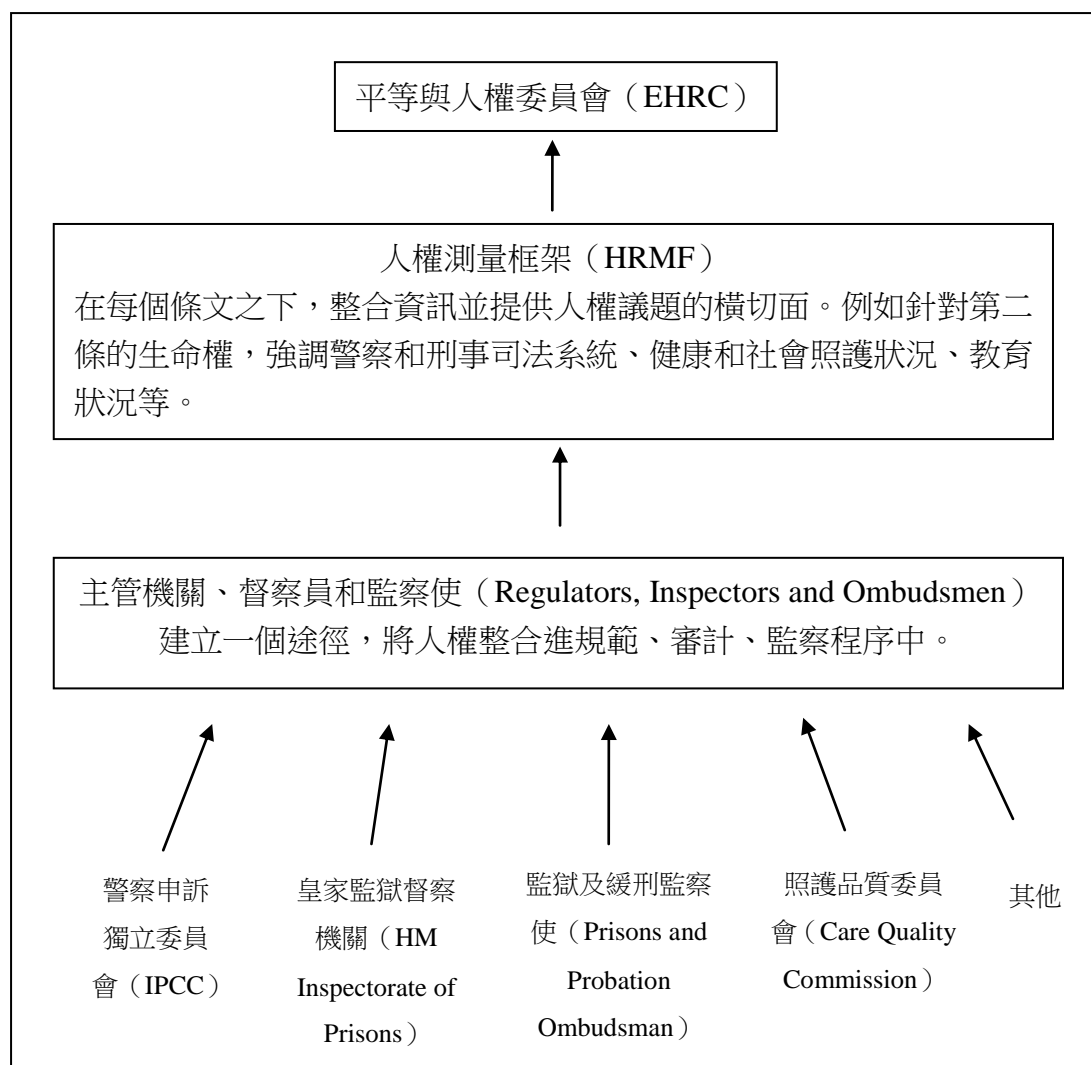


圖 3：人權管制與監察模型

另一個首要工作是確保人權測量框架包括質化和量化指標，以及非官方和官方的資訊來源。質化指標是順應人權測量框架專家諮詢與會者的建議（例如：案例法的指標、連結到人權監督機構所關注的人權議題之指標，呼應研究、調查和審查以及主管機關、督察機關和監察使所蒐集到的資訊之指標）。此外，獨立的人權機關監察活動，不僅著重在官方資訊，也重視公民社會所提供的非官方資訊，例如非政府組織的資訊與媒體的報導。

人權測量框架和指標設置的發展，取決於研究過程、與利害關係人和專家諮詢、顧問小組和專案管理計畫的延伸討論，以充分地反映出人權議題與人權關注。聯合國人權高專辦也對英國人權測量框架表示支持，認為含有八項普世人權的人權測量框架所確認的指標以及依據英格蘭、蘇格蘭與威爾斯地區情境化的方法，凸顯了一般統計方法以及其他指標（與聯合國人權高專辦指示的概念和方法架構相一致）的關聯性和可適用性。

參、人權測量框架的專家諮詢

為了充實人權測量框架，英國從 2010 年 6 月中旬到 9 月中旬進行了專家諮詢。專家諮詢的主要目的是要對英格蘭、蘇格蘭和威爾斯的重要指標短清單達成最大的共識。此外，對於面板和權利屬性特徵的意見和回應，弱勢群體清單的發展、受理的資訊類別（官方資訊、控訴等）和其他與會者提出的議題都有被記錄下來。

一、專家諮詢的範圍、過程和參與

為了符合專家諮詢的目的，並確保專家諮詢能順利進行，在專家諮詢前必須先確認下列事項，以方便進行討論與諮詢：

- 主要目的是開發和商定一套指標，凸顯關鍵的人權關注議題。此外也歡迎更廣泛的意見（如對計畫的意見宗旨、對權利面板、對使用的語言和用字的意見）。
- 依據聯合國人權高專辦的模型，專家諮詢的範圍及於結構指標、過程指標和結果指標三種類型。
- 諮詢議題也涉及量化指標（例如：社會調查和行政數據來源）和質化指標（包括：案例法、條約的批准、調查結果、非政府組織收集的數據、對於人權侵犯的指控等）。
- 專家諮詢議題也涉及官方消息和非官方消息來源。雖然有些數據資料被國家統計標準的品質控制系統（National Statistical Standard system of quality control）所涵蓋，但也不排斥納入其他類型和品質的數據。
- 專家諮詢的地域範圍涵蓋大不列顛、英格蘭、蘇格蘭和威爾斯。
- 專家諮詢議題涵蓋了兒童和成人二者。
- 參與者涵蓋了利害相關者和學科專家（亦即專家諮詢並非全面公眾諮詢）。
- 重點是識別和利用現有的數據來源，雖然確定數據落差（data gaps）也是一個重要的問題。

三個全天的諮詢活動，分別在英格蘭，蘇格蘭和威爾斯舉行。上午的會議包

括兩場公開發表，第一場介紹諮詢和諮詢的內容，第二場針對人權測量框架和生命權面板提供概述。下午的時段則採分組的方式進行，各組分別討論面板之後，向全體與會人員提出意見與回應。參與專家諮詢的全部細節，包括諮詢活動中的意見、回應和建議的具體細節，都被記錄下來。至於網路諮詢和更深入的一對一會議的意見，亦被做成紀錄。

二、與會者所要回答的問題

與會者受邀審查面板並給予意見和回應、回答諮詢問題、和提供相關的工作資訊。會議中，與會者所需回答的問題如下表所示（欲知完整專家諮詢回饋表內容，請參閱本報告附錄 4）。

表格 2：人權測量框架專家諮詢之問題²⁵

- | |
|---|
| <ol style="list-style-type: none">1. 人權指標的定義
人權指標是指某事件、活動或結果中可能與人權規範和標準有關的具體資訊，反映了人權問題和原則，其亦用來評估和監測人權保護和促進之程度。您對這個定義有任何意見或評論嗎？2. 良好實踐的實例<ol style="list-style-type: none">(1) 您是否知道在英格蘭，蘇格蘭和威爾斯內，用於監測目的的人權指標同意清單（agreed lists of human rights indicators）？(2) 您是否知道官方統計監測系統中，使用人權指標的良好實踐？(3) 在您的日常工作或所屬組織中，是否有人權指標的例子，足供我們借鏡？(4) 針對那些從人權的角度來看特別重要，而我們可能放在指標短清單中的統計指標（statistical indicators），您是否有任何進一步的建議或意見？(5) 在您的日常工作或所屬組織中，是否對於人權指標有一致的定義？3. 總體諮詢的問題<ol style="list-style-type: none">(1) 總體而言，您是否認為人權面板將對英格蘭，蘇格蘭和威爾斯的人權監測作出有益的貢獻？(2) 您是否認為以結構、過程和結果指標區分人權面板的方式是有用的？(3) 總體而言，對於面板的設計、語言和關注點，您有沒有任何評論（例如：國內人權法的範疇、國際人權框架、面板發展的第一輪討論中所包含的權利）？(4) 您認為我們已經使用了正確的語言描述人權測量框架嗎？4. 每個面板的指標和措施 |
|---|

²⁵ 資料來源：Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (n 7) 19-20.

- (1) 在這些面板上，您對於指標和措施有沒有其他意見？
- (2) 對於我們可能用在面板上的數據資訊來源，您有什麼建議？
- (3) 您的組織工作上是否有使用任何與本面板有關的指標和措施？
- (4) 本面板上的指標或措施，有沒有哪些是您會刪除的？
- (5) 面板的設計上有沒有哪些您認為可能需要改進的？
- (6) 您是否知道有任何相關的蘇格蘭和威爾斯的資料來源，是我們可以借鏡的？

5. 弱勢群體

我們想要在人權測量框架中對於「弱勢群體」加以定義並做成清單，您對於成人或兒童的弱勢群體清單是否有什麼建議？

6. 其他建議與意見

- (1) 對於本計畫、面板和人權監測，您是否有其他總體意見希望我們記錄下來？
- (2) 關於我們利用人權原則和標準以發展人權測量框架的方式，您是否有任何意見或提供可以使用的其他方式之建議？

專家諮詢後所獲得的回饋，將被研究團隊用在進一步發展人權測量框架面板，以及發展修正的指標清單中。

肆、人權測量框架的指標選擇標準

指標選擇標準是基於平等測量框架發展而來的，將平等測量框架原有的選擇標準原則根據人權測量框架的要求予以修正，並結合為一個實用且易操縱的核對清單，包括：可採納性的標準、選擇個別指標的標準、每個面板中用於平衡指標之間的標準、以及將人權測量框架視為整體系統時適用的標準。

一、一般可採納性標準（General admissibility criteria）

- 指標類型：包括質化和量化指標。
- 資料來源：包括官方和非官方資料來源。
- 結構、過程與結果：包括結構、過程和結果指標。
- 個人或機構層級：可採納的指標可以是關於個人、資源或其他單位，例如監獄、醫院和其他機構。

二、用於人權測量框架層次的選擇標準（Selection criteria that apply at the HRMF

level)

基本要點有：

- 發展人權測量框架面板的起始點應該是國內人權法（英國人權法），但是有些指標在整體上也要反映出國際人權架構。
- 不同面板的指標相互間應達到均衡。
- 指標整體必須要涵蓋到不同的個人和族群（而非過度著重在特定小群體）。

三、用於每個面板的選擇標準（面板平衡標準）（Selection criteria that apply to each panel (panel ‘balancing criteria’））

基本要點有：

- 每個面板中，結構、過程和結果指標相互間應達到平衡。
- 每個面板內，應該在使用案例法（著重於最低限度遵守和侵害）為方法，以及涵蓋意義更廣泛的人權原則和人權文化之方法兩者間，達到均衡。
- 在每個面板中，對反映消極義務和反映積極義務的指標之間應該取得平衡。

期望事項：在每個面板中，應該強調客觀的評量。然而，每項權利儀表板上的指標，也希望包含主觀的評量（例如：對歧視的感知、自我陳述式的尊嚴、受尊重待遇和態度的指標）。

四、用於單一指標的選擇標準（Selection criteria that apply to single indicators）

基本要點有：

- 有效性：若一指標得以提供資訊，協助評估個人和群體在英格蘭，蘇格蘭或威爾斯的人權地位，則該指標為一有效的指標。
- 重要性：如果一個指標記錄和反映出經由法律程序、人權監督機構（例如：英國聯合人權委員會、聯合國監督委員會、或者聯合國一般性意見）、獨立偵查和調查、相關監察或審計機構、或公民社會、媒體報導等提出的人權問題和關注議題，則該指標是重要且應優先納入人權測量框架中。

- 正當性：若一指標經過人權測量框架專家諮詢過程後，相關利害關係者和專家對於其在整體中的有效性和重要性達成最大可能共識時，則該指標是正當的。
- 可靠性：指標應出自於可信、可靠的資料來源。

第三項 英國人權指標面板—生命權

本章第三項所要呈現的是，英國人權測量框架中生命權面板下的指標和證據基礎。人權測量框架中，關於生命權的面板共涵蓋了十個指標，其中有兩個結構指標，兩個過程指標，和六個結果指標。所有指標內容的列表如下（欲知英國人權測量框架生命權面板、指標與證據資料，請參閱本報告附錄 5）。

表格 3：生命權指標列表²⁶

國家及其行政機關或其他執行公務機關對生命權之保障					
	國家及其行政機關或其他執行公務之機關使用非法或恣意的強制力		國家及其行政機關或其他執行公務之機關的其他作為或不作為		
指標	體制外的情況	體制內的情況（包含：監獄、警察局、拘留單位、看守所、學校、健康與社會照護安置機構等等）	體制外的情況	體制內的情況（包含：監獄、警察局、拘留單位、看守所、學校、健康與社會照護安置機構等等）	有效調查第二條所涵蓋的所有死亡情況
結構	<p>指標 1：法律與憲政架構。 證據基礎：</p> <ul style="list-style-type: none"> • 國內法對生命權的保障（包含憲法/較高法）； • 相關區域性和國際性條約的批准狀況。 <p>指標 2：判決先例、落差和設定標準。 證據基礎：</p> <ul style="list-style-type: none"> • （國內體系和歐洲人權體系下）重要案例所建立的原則，以及國際標準訂定過程中所建立的原則； • 法律保障的落差、法律判決與建議的不執行。 				

²⁶ Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (n 7) 62-63.

過程	<p>指標 3：監督管理架構。 證據基礎：</p> <ul style="list-style-type: none"> • 重要主管機關、督察機關、監察使，以及其他處理申訴機制的確認； • 相關權責、國家最低限度標準架構和督察/處理申訴之標準。 <p>指標 4：公共政策架構。 證據基礎：</p> <ul style="list-style-type: none"> • 初級立法、政策、計畫、目標、目的； • 訓練指導方針、法規（包括軍事人員/警察、監獄和其他居留看守單位人員使用致命/潛在致命武力的指導方針，在健康社會照護下使用強制力與限制的指導方針）； • 重要的資源分配（包括對孩童與成人保障方面的公共支出）。
結果	<p>指標 5：關鍵的司法、監管與調查程序之結果。 證據基礎：</p> <ul style="list-style-type: none"> • 生命權保障之違反：案例法的判決結果； • 關鍵人權監督機構提出的問題； • 關於第 2 條的司法程序/督察、行政監督和申訴程序/獨立詢問、調查和審查結果，例如：對非法使用武力的獨立調查結果、主管機關做出未盡到積極保障生命權義務的認定、對死亡原因的調查結果等。 • 私人及公民社會組織的關鍵控訴和媒體報導。 <p>指標 6：重要統計數據：在警察或刑事司法系統背景下的死亡。 證據基礎：</p> <ul style="list-style-type: none"> • 在監獄、拘留單位、法院牢房和移民與庇護中心（包含自然死亡、非自然死亡和自殺身亡）及轉送過程中的死亡； • 與警方接觸期間或接觸後的死亡（依死亡分類）。 <p>指標 7：重要統計數據：在健康與社會照護機構下的死亡。 證據基礎：</p> <ul style="list-style-type: none"> • 因過失、營養失調、脫水、褥瘡等原因以及其他可避免或可預防的、過早的死亡，和因健康社會照護機構疏失造成的死亡統計； • 對需要生命急救治療者使用不施行救濟醫囑而未經同意或申請的統計。 <p>指標 8：重要統計數據：免於第三方侵犯的保障—在社會、社群與家庭中的殺人事件。 證據基礎：</p> <ul style="list-style-type: none"> • 殺人率：依照特性（如：年齡、性別、種族、身心障礙等）和種類（如：仇殺、因宗教種族因素殺人、殺害親屬等分別）作

	<p>區分。</p> <p>指標 9：重要統計數據：家庭、社群和社會中的提前死亡率。</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 平均壽命和嬰兒死亡率（依種族、社會階級、地區剝奪區分）； • 產婦死亡率；孩童意外死亡率（依社會階級區分） <p>指標 10：重要統計數據：公眾態度與經驗。</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 公眾態度傾向認為生命權是一項應該擁有且確實享有的權利； • 對生命權保障的自我陳述式經驗。
指標應有系統地分類	

以下將針對各指標內容逐一說明。

壹、結構指標

生命權指標儀表板始於兩個結構性指標，為形式上承諾保護和促進英格蘭、蘇格蘭與威爾斯地區生命權提供證據基礎。

一、指標 1：保障生命權的法律與憲政架構

英國保障生命權的法律與憲政架構，主要來自於兩種證據基礎：其一為英國國內保障生命權的法律，包含憲法或更高位階的法律；其二為英國批准相關國際條約的狀況。此二種證據基礎，顯示出英國在原則上對生命權所為的形式承諾。

在國內法方面，英國人權法納入歐洲人權條約第 2 條，且為第 2 條在國內法建立一個明確的基礎。因此，違反第 2 條在法律上有可司法性，且源自於第 2 條的積極與消極義務，亦可透過國內法院合法執行。至於在國際條約批准的狀況，指標 1 亦提供由英國所簽署的其他區域性和國際性保障生命權的人權文件之相關資訊。英國已經批准的相關條約諸如：公民與政治權利國際公約及其第二任擇議定書（關於廢除死刑的承諾）、兒童權利公約、歐洲人權公約及其部分議定書、1949 年日內瓦四公約。尚未批准的相關條約有：公民與政治權利國際公約第一任擇議定書（關於個人申訴機制）、保護所有人免遭強迫失蹤公約。

二、指標 2：判決先例、落差和設定標準

指標 2 的證據基礎有下列四項：重要案例所建立的原則、國際標準制定程序所建立的原則、法律保障的落差與不足、法律判決與建議的不執行。

（一）重要案例所建立的原則（包含國內法院和歐洲人權法院的案例）

重要案例所建立的原則，是指被適用在司法程序中，以決定是否一個特定爭議或議題符合人權法案第 2 條違反認定之門檻的法律原則。首先，例如人權法第 2 條規定義務承擔者有避免恣意剝奪他人生命的「消極義務」。指標 2 下之證據基礎，即包含了適用於決定此義務違反的性質與範圍之原則。舉例來說，在麥肯案（*McCann and Others v UK*）²⁷中，歐洲人權法院所建立的原則是，武力使用必須以防禦他人非法暴力之絕對必要性為前提，此原則被涵括在指標 2 的證據基礎下。

其次，指標 2 亦提供了關於第 2 條保護生命之「積極義務」的重要原則資訊。法院確認第 2 條創造了保護生命的積極義務，以及禁止任意剝奪個人生命的消極義務，若未能採取積極措施以保護生命，可能違反第 2 條之規定，且因此可以第 2 條做為訴訟的基礎。麥肯案（*McCann and Others v UK*）在此更顯重要，此案認為確保每個人生命受到法律保護的義務具有其程序面向，當生命被剝奪時可藉此獲得公共與獨立的監督。還有許多其他關於第 2 條程序義務之性質與範圍的原則，已經被英國國內法院所確立²⁸。例如，法院確立的原則有：當死亡發生是因為可能違反第 2 條的實質義務，且國家行政機關可能牽涉其中時²⁹，必須有一個獨立的官方機構對此進行有效的公共檢視；受刑人的自殺行為可以啟動第 2 條下的義務進行獨立、立即且使其最近親屬參與的調查³⁰。

此外，第 2 條下的積極義務也需要立法與行政措施對個人生命進行保護，且法院已確立，若沒有採取這些措施，可能違反生命權而符合可司法性的門檻。在奧斯曼案（*Osman v UK*）³¹，歐洲人權法院認為，當警方知道或應該知道有真實且立即的生命危險時，他們有採取合理措施保護生命之積極義務。英國國內法院中，薩維奇案（*Savage v South Essex Partnership NHS Foundation Trust*）³²確認了在知悉被留置的精神病患者有生命危險時，義務承擔者（在此案中，是國民健康服務信託機構 NHS Trust）執行保護和保全措施的責任。此案認為，對被留置的患者來說，當義務承擔者對病患因自我傷害而有真實且立即生命危險有必要的認知，無論是實際或推定而來，且無法盡其所能使他們合理地避免或防止風險時，可能違反了第 2 條。在其他關鍵的案例中，歐洲人權法院認為，當義務承擔者未提供有效保障以避免第三人的侵害時，可能違反第 2 條。例如：對積聚的危險廢棄物

²⁷ *McCann and Others v UK* App no 18984/91 (ECtHR, 27 September 1995).

²⁸ 更多關於英國法院和歐洲人權法院所確立的原則，請參見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 3（Table 3）。

Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base*, (n 7) Table 3.

²⁹ *R (Middleton) v West Somerset Coroner and Another* [2004] UKHL 10, [2004] 2 AC 182.

³⁰ *R (JL) v Secretary of State for Justice* [2008] UKHL 68, [2009] 1 AC 588.

³¹ *Osman v UK* App no 23452/94 (ECtHR, 28 October 1998).

³² *Savage v South Essex Partnership NHS Foundation Trust* [2008] UKHL 74, [2009] 1 AC 681.

欠缺有效的管制和稽查所引起的爆炸³³，以及未能保護婦女免於危及生命的家庭暴力的情況³⁴。

（二）國際標準制定程序所建立的原則

指標 2 亦提供了關於權威性國際標準制定程序建立的原則資訊。這些原則並不一定和國內人權法下關於生命權可司法性門檻的爭點與議題有關。然而，英國已經簽署了一些國際人權文件，且監督這些文件執行情況的機構，都為了監督與報告國家執行情況制定出一些相關原則。例如，英國已簽署了聯合國公民與政治權利國際公約，且英國對公約執行情況受到聯合國公民與政治權利委員會監督。該委員會第 6 號一般性意見建議，生命權不應被狹義解釋，而其涵蓋的問題包括平均壽命和嬰兒死亡率。

（三）法律保障的落差與不足

指標2提供一些英國有關生命權保護漏洞的訊息。生命權被英國人權法和一系列英國所簽署的國際文件所保護。然而，在批准國際條約與國內立法方面，仍有一些不足。就批准國際條約而言，英國尚未簽署與批准公民與政治權利國際公約第一任擇議定書關於個人申訴的部分。就國內立法而言，英國聯合人權委員會（JCHR）在2007年注意到，因私人機構或公務機關管理失敗後出現了嚴重侵犯生命權的結果，但無法證明單位中有人應該負責時，在英國法律下幾乎無法獲得任何保障³⁵。

（四）法律判決與建議的不執行

指標2也提供關於不執行法律判決與建議之資訊。例如，英國聯合人權委員會強調，針對北愛爾蘭安全局使用武力的相關案例，在適當執行措施達成協議方面確實有拖延，特別是建立新的獨立調查方面³⁶。

貳、過程指標

³³ *Öneryıldız v Turkey* App no 48939/99 (ECtHR, 30 November 2004).

³⁴ *Opuz v Turkey* App no 33401/02 (ECtHR, 9 June 2009).

³⁵ Joint Committee on Human Rights, *Drawing Special Attention to: Corporate Manslaughter and Corporate Homicide Bill; Welfare Reform Bill; Consumers, Estate Agents and Redress Bill; Fraud (Trials without a Jury) Bill; Tribunals, Courts and Enforcement Bill* (2006-07, HL 34, HC 263) para 2.6 <www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/34/3406.htm> accessed 15 October 2015.

³⁶ Joint Committee on Human Rights, *Implementation of Strasbourg Judgments: First Progress Report* (2005-06, HL 133, HC 954) para 10 <www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/133/13305.htm#a2> accessed 15 October 2015.

生命權面板的過程指標提供了關於義務承擔者履行源自於生命權義務的證據。生命權的過程指標有二，分別是保障生命權的監督管理架構，以及公共政策架構。

一、指標 3：保障生命權的監督管理架構

指標 3 主要有兩個證據基礎，其一為重要的主管機關、督察機關與監察使（regulators, inspectorates, ombudsmen）的確認；其二為重要主管機關、督察機關的相關關鍵責任、權力以及調查和處理申訴的標準。

指標 3 提供了關於監督管理的資訊，包括確認對生命權和死亡調查與監管有權力和責任的主管機關、督察機關、監察使。這些資訊揭示了對英格蘭、蘇格蘭和威爾斯地區警方與刑事司法系統之調查及死亡之監測、對其他地區相關責任機構如健康和社會照護方面的調查結果，以及當地的監測和稽查的過程。

與生命權保障有關的重要監督、調查或主管機關，諸如：在英格蘭和威爾斯，警察申訴獨立委員會負責調查，在警方拘留期間，或與警方接觸和申訴後發生的死亡；而監獄及緩刑監察使則調查在監獄拘留期間的死亡。在健康和社會照護方面，對死亡的調查是由一系列的機構執行，包括衛生部門，法醫及其他機構。照護品質委員會負責調查照護的必要標準（essential standards of care），涵蓋了患者的安全和品質，並對死亡進行檢查和調查；而健康與社會照護監察使（Health and Social Care Ombudsman）負責處理相關死亡的申訴。可見指標 3 提供了一種機制，以凸顯並匯集關於死亡的主要主管機關、督察機關與監察使的權力和責任之資訊。

除了重要監督機關的確認，指標 3 的證據基礎還包含一些主管機關、督察機關、監察使將其工作與國內和國際人權標準作連結的特定資訊。顯著的範例有：2006 年，警察申訴獨立委員會提交給英國聯合國人權委員會的資料指出，歐洲人權法第 2 條的規定包含了積極保護個人生命的義務，此積極義務具有程序面向，必須確保國家對於死亡事件提供足夠和有效的調查程序。警察申訴獨立委員會的監督，能夠使國家符合上述第 2 條積極程序義務的要求，亦即對警方任何涉嫌違反人權的作為展開有效獨立的調查³⁷。尚有其他範例關於蘇格蘭皇家監獄督察機關的解釋，將其監督權力連結到具有法律約束力的人權標準以及國際標準（例如：國內人權法和反酷刑公約下的標準），認為國家必須採取合理的措施防止受刑人自殺以滿足第 2 條下的積極義務³⁸。

³⁷ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 8（Table 8）。

³⁸ 同前註。

二、指標 4：保障生命權的公共政策架構

指標 4 顯示的資訊是關於為執行生命權所生義務而採行的措施，包括法律，政策和其他措施。此證據基礎匯集了英國初級立法、政策、計畫、目標、目的、培訓、指導方針、法規以及資源分配等資訊。

首先，與生命權相關的初級立法包括：英國 1967 年刑法中的第一部分第三節（**Criminal Law Act 1967 Part I, Section 3**），涉及到使用武力逮捕以及保護個人和群體免於殺害的立法。其次，許多機關已發布了使用致命武力、潛在致命武力的使用拘束措施的政策指導和訓練方針，這些均包含在指標四的證據基礎中。此外，監獄和安全訓練中心（**Prison and Secure Training Centre**）的例子尚包括：獄政管理政策（**Prison Services Policy**）（如：獄政命令（**Prison Service Order, PSO 1600** 武力使用））及其使用武力的訓練的手冊；第 2700 號獄政命令（**PSO 2700**）預防自殺和自傷的管理；第 2710 號獄政命令（**PSO 2710**）羈押中死亡的後續處理；安全訓練中心（修訂）規則（**Secure Training Centre (Amendment) Rules**）和法務部的照護訓練物理防治手冊（**Ministry of Justice Physical Control in Care Training Manual**）³⁹。

指標 4 的證據基礎也將社會保障可辨認的支出納入考量。人權測量框架專家諮詢時，對於人權測量框架內資源指標的角色進行許多討論。儘管一些與會者強調資源指標可能的限制，仍有其他與會者強調，以資源指標做為義務承擔者在保障生命權下積極措施要素之一的重要性。當統計資料顯示殺人者照顧下的孩童較易受人權侵害，並且在保障上有潛在漏洞與不足時，就會特別凸顯出孩童社會照護支出的重要性。有些與會者建議，成年人社會照護的開支在生命權保障的積極義務下也很重要。基於上述原因，對社會保障可辨識支出的總體趨勢資訊被納入指標 4 的證據基礎。專家也建議，後續應將確認保障兒童與成年人安全、兒童與成年人保護的特定支出納入後續的工作計畫中。

參、結果指標

結果指標提供了執行結果以及個人和群體地位狀態的證據。生命權結果指標結合了一些從政府及非政府組織得到的相關質化與量化資訊。共有六個關於生命權保障的結果指標：關鍵的司法、監督與調查程序之結果；在警察或刑事司法系統背景下死亡的重要統計數據；在健康與社會照護機構下死亡的重要統計數據；免於第三方侵犯的保障—在社會、社群與家庭中殺人事件的重要統計數據；家庭、社群和社會中提前死亡比率的重要統計數據；公眾態度與經驗的重要統計數據。

³⁹ 其他相關的政策指導與訓練方針，請見英國平等與人權委員會第 81 號研究報告（**EHRC Research Report 81**）表格 10（**Table 10**）。

一、指標 5：關鍵的司法、監督與調查程序之結果

指標 5 是一個質化指標，對以下實踐結果提供了廣泛的證據，包含：

- 與生命權有關案例法的判決結果（即對生命權的違反或侵犯）；
- 權威的國家和國際人權機構對於生命權提出或關注的議題；
- 英國平等與人權委員會對相關案例法提交的意見；
- 其他有關生命權的研究、調查和審查的認定，以及主管機關、督察機關和監察使的調查認定；
- 非政府組織和其他公民社會機制（如媒體報導），所提出的指控和關注的議題。

（一）與生命權有關案例法的判決結果

指標 5 的第一項證據基礎始於經由司法程序確認違反或侵犯生命權的案例法判決結果，例如：歐洲人權法院的麥肯案（*McCann and Others v UK*）⁴⁰與英國國內法院的薩維奇案（*Savage v South Essex Partnership NHS Foundation Trust*）⁴¹的判決結果，法院已確認違反第 2 條⁴²。

（二）權威的國家和國際人權機構對於生命權提出或關注的議題

除了案例法判決結果，指標 5 的證據基礎中，包括國內和國際人權機構著重或關注的問題⁴³。國內方面，例如英國聯合人權委員會在羈押期間死亡（*Deaths in Custody*）的人權報告中，檢視了羈押期間死亡的原因，並考量到對防止死亡可能進行的作為，以及思考對被羈押者提供更佳權利保障之問題⁴⁴。國際方面則例如：聯合國兒童權利公約委員會關注羈押拘留中兒童死亡議題、最富裕與最貧窮群體間嬰兒死亡率的差距；消除對婦女一切形式歧視公約委員會對於少數民族間產婦死亡率、遊居群體婦女（如：吉普賽人）的高流產和死胎率的關注與調查等。

⁴⁰ *McCann and Others v UK* (n 27).

⁴¹ *Savage v South Essex Partnership NHS Foundation Trust* (n 32).

⁴² 更多判決結果，請見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 11（Table 11）。

⁴³ 請參見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 12（Table 12）。

⁴⁴ Joint Committee on Human Rights, *Deaths in Custody* (2004-05, HL 15-I, HC 137-I) <www.publications.parliament.uk/pa/jt200405/jtselect/jtrights/15/1502.htm> accessed 18 October 2015.

（三）英國平等與人權委員會對相關案例法提出的意見

有時英國平等與人權委員會對於國內法院有關生命權案例會提出相關意見，此意見也成為指標五的證據基礎。例如：關於需要積極義務以保障生命權方面，平等與人權委員會曾針對英國國內法院柯勒案（*Chief Constable of Hertfordshire Police v Van Colle*）⁴⁵等案件，就執法當局採取措施保護個人生命免受第三者威脅的義務範圍提出意見，並且肯定上訴審法院正確的適用法律原則，認為在履行積極義務時需要有彈性的方法，而非嚴格不變的門檻。另外，平等與人權委員會也曾對需要有效且獨立的調查問題，包括何謂有效且獨立的調查，提出意見⁴⁶。

（四）有關生命權的研究、調查和審查的認定，以及主管機關、督察機關和監察使的調查認定

指標 5 下由官方研究、調查和審查結果的證據基礎⁴⁷，如：流血星期日（*Bloody Sunday Inquiry*）的調查認定，認為流血星期日士兵無正當理由開槍造成十三人死亡，這十三人中並無人以造成死亡或重傷害作為威脅。其他案例尚有陪審團審訊（*Inquest*）的認定、死亡調查的認定，例如：當地保障兒童事務委員會（*Local Safeguarding Children Boards*）對可避免死亡的調查。蘇格蘭地區的例子則包括：2009 年死亡事故調查立法（*Fatal Accident Inquiry, FAI legislation*），建議對執業相關死亡、因公家機關強迫拘留所造成之死亡、收容機構中的孩童死亡強制進行死亡事故調查。

主管機關、督察機關和監察使的調查認定是指標 5 證據基礎的另一項重要來源。由於英國人權法第六節（*Section 6*）規定公家機關有遵守人權法的義務，且在麥肯案（*McCann case*），歐洲人權法院亦確認，確保個人生命受法律保護之義務具有程序面向，即當生命被剝奪時能獲得公共且獨立的監督。因此，就警方與刑事司法體系而言，警察申訴獨立委員會的多項調查認定，已被納入指標 5 的證據基礎中⁴⁸。最顯著的例子是，警察申訴獨立委員會關於保護生命的積極義務（包含第三人侵犯）之調查，例如：警察申訴獨立委員會對 *Rabina Bibi* 的死亡調查發現，警方在接獲第一通電話請求協助時未調派警察，違反了針對家庭暴力的武力政策。此外，人權測量框架專家諮詢特別注意到，在人權測量框架中，納入關於在家暴事件和仇視身心障礙者相關犯罪背景下生命權保護不足之資訊，是極為重要的。上述提到的證據基礎，亦即警察申訴獨立委員會對 *Rabina Bibi* 的死亡調查發現，即記錄和反映了此問題。

⁴⁵ *Chief Constable of Hertfordshire Police v Van Colle* [2008] UKHL 50, [2009] 1 AC 225.

⁴⁶ 見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 13（Table 13）。

⁴⁷ 見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 14（Table 14）。

⁴⁸ 見英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 14、15（Tables 14, 15）。

就警方與刑事司法體系以外的領域，其他有權責調查和監控英格蘭、蘇格蘭、威爾斯地區死亡事件的主管機關、督察機關與監察使之認定，也囊括在指標 5 證據基礎中⁴⁹。例如：國會與健康服務監察使（Parliamentary and Health Service Ombudsman）和地方政府監察使（Local Government Ombudsman）對學習障礙者健康與社會照護品質不足的調查認定；健康服務監察使（Health Service Ombudsman）對於年長者臨終關懷照護的調查；健康照護委員會（Healthcare Commission）（現為照護品質委員會）對中史塔福郡國家醫療服務信託基金會（Mid Staffordshire NHS Foundation Trust）病患過早死亡調查的認定。

（五）非政府組織和其他公民社會機制（如媒體報導），所提出的指控和關注的議題。

指標 5 還包括非政府組織和其他公民社會機制，如媒體報導，提出的關注議題與指控資訊⁵⁰。例如，針對陪審團審訊 Inquest's Briefing on the death of Ian Tomlinson 所引發的社會關注；非政府組織 Mencap 關心國家健康服務照護下學習障礙者的死亡發起的「因冷漠造成死亡（Death by Indifference）」活動；以及關於驅逐出境案件的新聞報刊與聲援報導等。

二、指標 6：在警察或刑事司法系統背景下死亡的重要統計數據

生命權下的結果指標也包括對重要議題提供統計資訊的量化指標。生命權面板的結果指標，從指標 6 以下都是與此權利相關的重要量化資料。

指標 6 顯示由對於警察和刑事司法系統下的死亡案例具有監測與調查責任和權力的機構所作成的統計資料，包含：在與警方接觸時或接觸後死亡統計⁵¹；在追緝和緊急應變中，發生道路交通事故，而由公務員所造成的致命傷害統計⁵²；非在追緝和緊急應變中，發生道路交通事故，而由公務員所造成的致命傷害統計⁵³；監獄及緩刑監察使所調查依死亡類型和地點區分的致命事件⁵⁴；在監獄羈押拘留中自己造成的死亡，依據羈押時間長短和性別區分⁵⁵；被判刑的受刑人與未被判刑的被拘禁者自己造成的死亡⁵⁶；刑事拘留的兒童死亡事件，包含私人經營

⁴⁹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 14、16、17（Tables 14, 16, 17）。

⁵⁰ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 18（Table 18）。

⁵¹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 19（Table 19）。

⁵² 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 20（Table 20）。

⁵³ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 21（Table 21）。

⁵⁴ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 22（Table 22）。

⁵⁵ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 23（Table 23）。

⁵⁶ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 24（Table 24）。

的安置輔導中心⁵⁷；監獄中 21 歲以下年輕人的死亡數⁵⁸等等。

三、指標 7：在健康與社會照護機構下死亡的重要統計數據

指標 7 的設定目的在針對警察和刑事司法背景以外的死亡之調查與監控系統，以提供一個更廣泛的視野。人權測量框架專家諮詢的參與者也強調，需要健全的系統以全面調查和監控死亡，包含在健康與社會照護背景下的死亡。指標 7 的證據基礎中包括了由國家健康服務信託提供的死亡率變異數據。納入這些數據資料的原因在於，這些數據代表了定期監測健康與社會照護背景下死亡的重要新發展。理解證據基礎所包含的數據應該依據健康照護委員會（現為照護品質委員會）所做的中史塔福郡國家健康服務信託基金病患過早死亡調查認定⁵⁹。

其他指標 7 的證據基礎，包括：醫院標準化的死亡比率⁶⁰；因營養不良造成的死亡數⁶¹；因營養不良與飢餓造成的死亡數⁶²；依據醫院和照護之家區分，因困難梭狀芽孢桿菌（*c. difficile*）、脫水、跌倒、抗甲氧苯青黴素金黃色葡萄球菌（MRSA）、褥瘡和敗血症造成的死亡數以及每一百萬人的年齡標準化死亡率（age-standardised death rate per 1 million population）的數據資料⁶³。這些統計資料也代表英國國家統計署數據收集的重要新發展，同時補充了人權測量框架中生命權（人權法第 2 條）、禁止酷刑和不人道或有辱人格的待遇或處罰（人權法第 3 條）；尊重私人和家庭生活的權利（人權法第 8 條）；生理與心理健康最高可得標準權（世界人權宣言第 25 條；經濟社會文化權利國際公約第 12 條）等面板所強調對年長者健康和社會照護待遇的質化證據。

四、指標 8：免於第三方侵犯的保障—在社會、社群與家庭中殺人事件的重要統計數據

指標 8 提供的是依據特徵（如年齡、性別、種族）和類別（如仇殺、因宗教或種族情感謀殺或親屬間殺人）區分的殺人案件發生率統計資訊。人權測量框架專家諮詢參與者特別強調，在第三人侵害背景下生命權保護需要積極義務的重要性，並且在討論過程中也著重到兒童殺人事件、家庭親屬間殺人事件、因種族而殺人和仇殺事件的重要性。指標 8 中的統計資料，目的在提供一般的資訊，能顯

⁵⁷ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 25（Table 25）。

⁵⁸ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 26（Table 26）。

⁵⁹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 16（Table 16）。

⁶⁰ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 27（Table 27）。

⁶¹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 28、32（Tables 28, 32）。

⁶² 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 29（Table 29）。

⁶³ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 30、31（Tables 30, 31）。

示出殺人發生率、不同個人和群體的危險性與風險、保障上可能的漏洞和不足等項目之分析。例如：英國平等與人權委員會第 81 號研究報告原文表格 33 (Table 33) 提供的是 1999 - 2000 年至 2009-2010 年英格蘭和威爾斯地區，按受害者年齡和性別區分，每百萬人口中的被殺害率。該數據顯示，就分析所確定的人口分類而言，被殺害風險最高的是一歲以下的年齡層，且凸顯了這個群體特別脆弱⁶⁴。

五、指標 9：家庭、社群和社會中提前死亡率的重要統計數據⁶⁵

指標 9 提供各種類型的家庭、社群和社會中提前死亡率，包括平均壽命和由種族、社會階層和地區剝奪區分的嬰兒死亡率；產婦死亡率；自殺率；和兒童意外死亡率等。此統計資料也是在顯示家庭、社群和社會中提前死亡發生率，不同個人和群體的危險性和風險，以及保護的漏洞與不足等一般普遍的分析資訊。負責監督國際人權條約執行的機構，經常要求英國提出此類數據資料，如聯合國人權事務委員會和聯合國兒童權利公約委員會。人權測量框架專家諮詢參與者特別注重並強調依據各種特徵對這些數據作分類。其中孩童意外事故死亡的數據，反映出參與者所提出的道路與交通事故、火災依社會階級有不同危險性的意見。

六、指標 10：公眾態度與經驗的重要統計數據

指標 10 提供大眾對於生命權的支持和了解的資料，此部分的證據基礎涉及大眾的價值觀以及把人權理念加入到廣泛文化中的方式⁶⁶。

第四項 英國人權指標面板—適當生活水平權

本項所要呈現的是英國人權測量框架中，適當生活水平權利面板的指標與證據基礎。英國人權測量框架中，關於適當生活水平權利的面板同樣涵蓋了十個指標，其中有兩個結構指標，兩個過程指標，和六個結果指標。所有指標內容的列表如下⁶⁷（欲知英國人權測量框架適當生活水平權面板、指標與證據基礎，請參閱本報告附錄 6）。

⁶⁴ 其他資料請見英國平等與人權委員會第 81 號研究報告 (EHRC Research Report 81) 表格 33-37 (Tables 33-37)。

⁶⁵ 英國平等與人權委員會第 81 號研究報告 (EHRC Research Report 81) 表格 38-62 (Tables 38-62)。

⁶⁶ 英國平等與人權委員會第 81 號研究報告 (EHRC Research Report 81) 表格 63 (Table 63)。

⁶⁷ 英國人權測量框架共有八個權利面板，所有指標的編號都接續上一個指標，不會隨著面板不同而重新編號。適當生活水平權利是第八個權利面板，其下指標的編號從 71 開始。

表格 4：適當生活水平權指標列表⁶⁸

國家及其行政機關或其他執行公務機關對適當生活水平權利之保障				
指標	適當的營養	適當的住宅	適當的收入 / 社會保障	其他基本需要
結構	<p>指標 71：法律與憲政架構。 證據基礎：</p> <ul style="list-style-type: none"> 保障適當生活水平權的國內法（包含憲法或更上位的法律）； 相關區域性和國際性條約的批准狀況。 <p>指標 72：判決先例、落差和設定標準。 證據基礎：</p> <ul style="list-style-type: none"> 重要案例所建立的原則（國內體系和歐洲人權體系下）以及國際標準設立程序； 法律保障的落差、法律判決與建議的不執行。 			
過程	<p>指標 73：監督管理架構。 證據基礎：</p> <ul style="list-style-type: none"> 重要主管機關、督察機關和監察使的確認與其重要的權責； 國家最低限度的標準和調查與處理申訴之標準。 <p>指標 74：公共政策架構。 證據基礎：</p> <ul style="list-style-type: none"> 初級立法、政策、計畫、目標、目的； 法規和訓練指導方針； 重要的資源分配。 			
結果	<p>指標 75：關鍵的司法、監管與調查程序之結果。 證據基礎：</p> <ul style="list-style-type: none"> 適當生活水平權的違反：案例法的判決結果； 人權監督機構提出的重要問題； 行政調查、監督和申訴程序的結果（包含基本需要匱乏相關的過失案例、食品衛生調查結果、審計委員會調查地方政府提供社會住宅的結果）； 其他偵查、調查和審查結果； 個人和公民社會組織的重要控訴和媒體報導。 <p>指標 76：重要統計數據：收入貧窮和物質匱乏 證據基礎：</p> <ul style="list-style-type: none"> 總人口中絕對與相對貧窮的計量，依種族、年長者、身心障礙者區分； 其他掌握最弱勢群體地位的計量。 			

⁶⁸ Jean Candler and others, *Human Rights Measurement Framework: Prototype panels, indicator set and evidence base* (n 7) 566-68.

	<p>指標 77：重要統計數據：兒童收入貧窮和物質匱乏—針對兒童貧窮法目標之調查報告（實現兒童貧窮法下的義務）</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 針對國家消除兒童貧窮目標（涵蓋絕對貧窮、相對貧窮與物質匱乏）之調查報告。 <p>指標 78：重要統計數據：其他基本需要的匱乏</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 燃料匱乏； • 無家可歸； • 收入等分中家庭對食物之平均支出； • 個人住在不合標準、不合適或過度擁擠住所的百分比； • 吉普賽人與游牧民族：居住條件和驅逐； • 離開照顧機構的青年滿 19 歲後無法到合適住所的百分比； • 兒童住在地方政府分配的青年住所的百分比； • 公用事業（差別待遇和價格問題）； • 水與公共衛生； • 住在貧瘠環境條件的百分比。 <p>指標 79：重要統計數據：適當生活水平—針對弱勢群體</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 需要救助兒童的數目，以及初級照護分類下屬於低收入層級中需要照顧兒童的數目（依據年齡和尋求庇護的情況做分類）； • 非法移民中使用憑證或保證人獲得幫助的尋求庇護者 / 窮困者。 <p>指標 80：重要統計數據：公眾態度、理解與經驗</p> <p>證據基礎：</p> <ul style="list-style-type: none"> • 公眾態度傾向認為適當生活水平權利是一項人應該有的權利； • 自陳式的經驗表達適當生活水平權利是一項人確實擁有的權利。
指標應有系統地分類	

以下將針對各指標內容逐一說明。

壹、結構指標

一、指標 71：法律與憲政架構

保障適當生活水平權利的法律與憲政架構有兩個重要的證據基礎，包含：保障適當生活水平權利的國內法，以及相關區域性和國際性條約的批准狀況。其中

就國內法律方面，英國還未將適當生活水平權利國內法化，因此，適當生活水平權利法律與憲政架構指標的證據基礎目前仍仰賴相關區域性和國際性條約的批准。

英國所批准的適當生活水平權相關條約及條文有：經濟社會文化權利國際公約（第 6、7、9、11 條）、公民與政治權利國際公約（第 47 條）、消除對婦女一切形式歧視公約（第 14 條）、消除一切形式種族歧視公約（第 5 條）、兒童權利公約（第 3、18、23、26、27 條）、身心障礙者權利公約（第 28 條）、難民地位公約（第 21、23 條）、歐洲人權公約（第一議定書第 1 條）。其他相關但尚未批准的條約有：經濟社會文化權利國際公約任擇議定書、歐洲社會憲章（修訂版）、提供集體申訴系統的歐洲社會憲章附加議定書⁶⁹。

二、指標 72：判決先例、落差和設定標準

指標 72 的證據基礎有重要案例所建立的原則、國際標準制定程序所建立的原則、法律保障的落差與不足等。

（一）重要案例所建立的原則

重要案例所建立的原則，除了來自於英國國內法院的判決之外，還包括歐洲人權法院與其他區域性與國際性法院或申訴委員會，在判決或申訴案中所建立的原則⁷⁰。

區域性與國際性人權法院或申訴委員會所建立的原則，例如：關於羅姆人（Roma）的居住問題，歐洲社會權利委員會（European Committee of Social Rights, ECSR）在歐洲羅姆人權中心案（*Europe Roma Rights Centre v Greece*）⁷¹認為，未提供足夠數量且符合羅姆人需要的永久住所，缺乏供羅姆人暫時停留的設施，以及強制驅逐羅姆人，都違反了歐洲社會憲章第 16 條之規定。又例如：關於社會保障方面，歐洲人權法院在 *Stec* 案（*Stec and others v UK*）⁷²中強調，雖然歐洲人權公約第一議定書第 1 條並未限制締約國制定社會保障計畫的形式，然而，如果國家確實決定建立一個關於福利或退休津貼的計畫，其方式必須符合歐洲人權公約第 14 條禁止歧視的規定。法院認為在英國獲得國家退休津貼的規定有性別上的差別待遇，但其出發點在矯正婦女弱勢的經濟地位，依據此理由所為的差別待遇是持續合理且有效的。

⁶⁹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 346（Table 346）。

⁷⁰ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 347（Table 347）。

⁷¹ *Europe Roma Rights Centre v Greece* App no 15/2003 (ECtHR, 8 December 2004).

⁷² *Stec and others v UK* App no 65731/01, 65900/01 (ECtHR, 12 April 2006).

至於國內法院所建立的原則，例如：在 *R v Secretary of State for Home Department ex parte Limbuela* 案⁷³中，法院認為倘若拒絕給予尋求庇護者經濟上的支持，包含拒絕提供住所或食物，會使尋求庇護者落入赤貧的狀態，則將違反歐洲人權公約第 3 條禁止酷刑不人道與有辱人格待遇之規定。由於英國並未將適當生活水平權利國內法化，因此，國內法院經常透過其他已國內法化條文的解釋，處理與適當生活水平相關的法律問題。

（二）國際標準制定程序所建立的原則

與適當生活水平相關的國際標準原則包括：聯合國經濟社會文化權利委員會所建立的一般評估標準（*general evaluative criteria*），以及經濟社會文化權利委員會針對經濟社會文化權利國際公約下適當居住權、適當糧食權、水權、工作權、社會保障權、參與文化生活權等權利所做成之一般性意見（*General Comments*）⁷⁴。

（三）法律保障的落差與不足

英國對適當生活水平權利在法律保障上的不足，主要顯現在未將經濟社會文化權利國際公約國內法化一事上。對此，聯合國經濟社會文化權利委員會在 2002 年亦曾表達過遺憾⁷⁵。此外，針對修正後的歐洲社會憲章，英國仍停留在簽署的狀態，尚未批准。

貳、過程指標

一、指標 73：監督架構

適當生活水平權利的監督架構主要由英國幾個委員會、主管機關、督察機關或單位及其成員構成，例如：國家貧窮委員會（*National Poverty Commission*）、兒童貧窮委員會（*Child Poverty Commission*）、環境局（*Environment Agency*）、飲用水督察機關（*Drinking Water Inspectorate*）、水廠與下水道的主管機關（*Ofwat*）、兒童事務專員（*Children's Commissioner*）與其他公用事業主管機關。

二、指標 74：公共政策架構

英國保障適當生活水平權利的公共政策架構例如：處理兒童貧窮問題所實行

⁷³ *R v Secretary of State for Home Department ex parte Limbuela* [2005] UKHL 66.

⁷⁴ 英國平等與人權委員會第 81 號研究報告（*EHRC Research Report 81*）表格 348（*Table 348*）。

⁷⁵ 英國平等與人權委員會第 81 號研究報告（*EHRC Research Report 81*）表格 349（*Table 349*）。

的兒童貧窮目標（child poverty targets）⁷⁶與處理燃料匱乏問題的燃料匱乏義務（fuel poverty duty）⁷⁷，以及其他對社會保障可辨認的支出（identifiable expenditure on social protection）⁷⁸。

兒童貧窮目標（child poverty targets）是英國為了滿足兒童貧窮法（Child Poverty Act）為消除兒童貧窮而定之規範義務所衍生的公共政策。此公共政策針對相對低收入、低收入結合物質匱乏、絕對低收入與持續貧窮四個群體設定四個目標，而消除兒童貧窮義務的承擔者（包含國務卿、地方政府和合作的組織）需在 2020 年達成此四個目標。

就燃料匱乏問題方面，則有鑑於英國溫暖住家與能源保護法（Warm Homes and Energy Conservation Act）的規定，特別需要合適的公務機關負責規劃並執行政策，估量國內有多少人口處於法律所定義的燃料匱乏之情況，並加以改善，以確保人民不再生活於燃料匱乏的條件下。

英國花費在社會保障上的可辨認支出，也屬於公共政策架構指標的證據基礎。英格蘭、蘇格蘭與威爾斯地區有許多社會保障事項的支出，包括各項社會福利與津貼，諸如：傷病與身心障礙者個人社會福利、傷病與身心障礙的津貼、年長者的個人社會福利與津貼、家庭與兒童的個人社會福利、家庭津貼與收入補助和稅收抵免、失業者的個人社會福利與其他失業津貼、對住屋的保障、對研究與發展的社會保障、社會排斥（social exclusion）的個人社會福利、社會排斥的家庭津貼與收入補助和稅收抵免等等。英格蘭、蘇格蘭與威爾斯地區也有許多與住屋有關的支出，例如：地方政府住宅開發、社會住宅開發、社區開發、供水設備、路燈、研發相關的住宅和社區開發等等。

參、結果指標

適當生活水平權利面板下有六個結果指標，其中指標 75 為質化指標，剩餘五個指標都是量化指標。

一、指標 75：關鍵的司法、監管與調查程序之結果

指標 75 的證據基礎主要有下列幾種：違反適當生活水平權利的案例法（包含國內法院的判決與歐洲人權法院的判決）、人權監督機構所提出的重要問題（包括國內與國際機構）、個人和公民社會組織所提出和關注的問題，以及媒體的報

⁷⁶ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 350（Table 350）。

⁷⁷ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 351（Table 351）。

⁷⁸ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 352-55（Tables 352-55）。

導。

英國國內法院曾審理過關於住所、國籍、基本需要匱乏、社會保障、不歧視等問題⁷⁹，例如：在 *R (Weaver) v London and Quadrant Housing* 案⁸⁰，法院認為已註冊登記為社會住宅的房東（registered social landlord）某種程度上帶有公權力的意味，因此房東向受有保障租約的承租人所為的終止租約之行為，並不是單純的私法行為，而會受到司法審查的影響。

至於人權監督機構所提出的重要問題方面，英國國內有聯合國人權委員會（JCHR）對國內人權保障提出意見；國際面向則有聯合國經濟社會文化權利委員會的建議⁸¹。例如：英國聯合國人權委員會於 2008 年的報告中建議將經濟、社會、文化權利納入未來任何一個權利法案中，也認為健康、教育、居住權與適當生活水平等權利應包含在權利法案中。國際方面例如：聯合國經濟社會文化權利委員會在 2009 年曾關注到少數民族、尋求庇護者和移民、年長者、單親母親與身心障礙者有較高的貧窮比率；也關心弱勢群體的居住問題。

公民社會組織關心的議題與媒體報導方面，則如英國人權協會（BIHR）在人權與貧窮計畫（Human Rights and Poverty Project）中提出關於人權與貧窮的相關問題，並認為需要有和貧窮或社會正義問題相關的組織，運用人權來加強他們的影響力⁸²。

二、指標 76：收入貧窮和物質匱乏的重要統計數據

為瞭解國內低收入和物質匱乏的狀況，英國做的相關統計資料有：2009 年到 2010 年間，落入低收入群體者的百分比（依據身心障礙、種族、區域做分類）；住在少於家庭收入平均數 60% 的家庭中的人的百分比（依據性別與成年與否做分類）；2009 年到 2010 年間，退休者落入低收入群體的百分比（依據年齡、性別、身心障礙、種族做分類）；65 歲以上退休者屬於物質匱乏者的百分比（依據經濟地位、年齡、家庭型態、性別、婚姻狀態、身心障礙、土地持有狀態、種族做分類）⁸³。

三、指標 77：兒童收入貧窮和物質匱乏的重要統計數據

⁷⁹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 356（Table 356）。

⁸⁰ *R (Weaver) v London and Quadrant Housing* [2009] EWCA Civ 587; [2009] WLR(D) 202.

⁸¹ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 357（Table 357）。

⁸² 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 358（Table 358）。

⁸³ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 359-63（Tables 359-63）。

相關統計資料有：1998 年到 2010 年，屬於低於現今收入平均數各種門檻的兒童百分比；1998 年到 2010 年，屬於低於現今收入平均數各種門檻的兒童之數目；1998 年到 2010 年，實質上持續低於 1998 至 1999 年收入平均數各種門檻的兒童之數目；1998 年到 2010 年，實質上持續低於 1998 至 1999 年收入平均數各種門檻的兒童百分比；2009 年至 2010 年，低收入戶兒童的百分比（依據身心障礙、種族做分類）；2004 年至 2010 年，低於低收入和物質匱乏門檻的兒童數目與百分比；1991 年至 2008 年，大不列顛地區經歷過持續低收入的兒童的百分比⁸⁴。

四、指標 78：其他基本需要匱乏的重要統計數據

目前英國所掌握的常見基本需要匱乏之統計數據和住所與燃料相關⁸⁵。例如：針對法定無家可歸情況，即家庭被地方政府認定對其無家可歸狀態有義務的數目與百分比統計（依據種族做區分）。無家可歸（homelessness）一詞的意義嚴格而言只適用到露宿街頭者（people sleeping rough），但英國的統計資料大多與法定無家可歸有關，亦即指符合法律上因優先需要所訂特定標準的家庭，以及被地方政府認定為政府對其無家可歸狀態有義務的家庭。此類型的家庭鮮少是實際上居住在沒有屋頂的地方，而是極可能無法持續住在現在的住所。其他與住所有關的統計資料，尚有露宿街頭者總數與估計數。

有關燃料匱乏的統計資料則包含：2003 年至 2009 年，燃料匱乏家庭的總數；2003 年至 2008 年，燃料匱乏家庭的百分比（依據種族、身心障礙、弱勢地位、政府辦公室所在地作分類）。

五、指標 79：針對弱勢群體適當生活水平的重要統計數據

英國對弱勢群體適當生活水平的統計調查對象諸如：需要救助的兒童（children in need）、需要照顧的兒童（children looked after）、尋求庇護者等等。相關的統計資料例如：2010 年需要救助的兒童屬於低收入的數目與百分比；需要照顧的兒童屬於低收入的數目（有依據年齡、需要照顧類型、尋求庇護與否分類）；2007 年至 2009 年，獲得幫助的尋求庇護者的總數等等⁸⁶。

六、指標 80：關於公眾態度、理解與經驗的重要統計數據

⁸⁴ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 364-70（Tables 364-70）。

⁸⁵ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 371-75（Tables 371-75）。

⁸⁶ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 376-81（Tables 376-81）。

英國曾在 2005 年做過統計，調查如果自己無法照顧自己時，贊成有權利被國家照顧的百分比⁸⁷。該項統計也依據性別、身心障礙、年齡、宗教信仰、出生國家做分類。

⁸⁷ 英國平等與人權委員會第 81 號研究報告（EHRC Research Report 81）表格 382（Table 382）。

第三章 比較與分析

第一節 丹麥人權指標與聯合國人權指標之比較

丹麥目前尚未有以聯合國人權高專辦十四項人權指標範例為藍本的國家人權指標系統。丹麥黃金指標（Gold Indicators）是一個針對聯合國身心障礙者權利公約（CRPD）所建立的人權指標，用以監督和促進身心障礙者權利公約的執行。在概念與方法上，丹麥雖然也參考了聯合國人權高專辦的建議，但整體架構與聯合國十四項人權指標範例仍相距甚遠。

就指標結構而言，丹麥黃金指標僅對所選擇的權利建立結果指標，缺乏結構指標與過程指標。原因在於丹麥希望透過黃金指標窺探出權利享有者的經驗與狀態，以及國家執行公約內容的完成度，而不是丹麥國內法律如何保障身心障礙者權利。換言之，丹麥黃金指標是一種顯示結果的指標（indicators of results），而非顯示行為的指標（indicators of conducts）。藉由結果指標裡身心障礙者與非身心障礙者狀態的比較，知悉身心障礙者與非身心障礙者權利享有的差距，進而判斷國家對身心障礙者權利保障是否有不足。不過，對於普遍適用於所有人的公民與政治權利國際公約及經濟社會文化權利國際公約而言，由於權利享有者沒有明顯的比較組與對照組之分，權利享有狀態與公約規範標準的落差，仍然可能需要藉由結構指標與過程指標才能確知。因此，倘若希望建立完整的國家人權指標系統，純粹結果指標的呈現，或許是有所不足的。此外，丹麥黃金指標皆是量化指標的呈現，沒有質化指標，究其原因或許和丹麥將黃金指標設定為顯示結果的指標有關，量化的統計數據更容易覺察出權利享有的落差。

丹麥黃金指標與聯合國人權高專辦人權指標範例之另一項明顯相異之處在於，丹麥黃金指標沒有確認權利屬性特徵（attributes）的過程。丹麥從身心障礙者權利公約中所選出的權利，都是直接經由會議討論出一項最具代表性的主要指標，再檢視該主要指標是否能充分反映該項權利，並討論是否有輔以分項指標（sub-indicators）的需要。方法上並未先確認權利的屬性特徵，再根據這些屬性特徵去建立指標。

然而，儘管丹麥黃金指標整體架構與聯合國人權高專辦人權指標範例差距甚大，但建立指標的概念和方法仍有一些相同之處。首先，都是將指標定義為與人權規範和標準有關的事件、活動或結果狀況之特定資訊，用以督促人權的落實，而不是計算違反人權公約或規範的工具。其次，黃金指標也注意到橫切面的人權規範（cross-cutting human rights norms）的重要性，故針對不同性別或種族等群體將統計資料做分類拆解，以呈現出特定群體的状态。第三，指標選擇的標準方

面，二者都強調相關性、有效性與可靠性。最後，統計資料的蒐集皆以官方調查為主，但不排除非官方的資料來源。

第二節 英國人權指標與聯合國人權指標之比較

英國的人權測量框架（HRMF）是一個具有完整架構的國家人權指標系統，其整體架構承襲了聯合國人權高專辦建立人權指標的概念與方法。首先，就指標定義而言，人權測量框架建立指標的目的，在於記錄與傳遞關於人權進展的證據，而非人權違反的計算系統。此目標的設定，使得英國人權測量框架下的指標，符合聯合國人權高專辦對人權指標的定義，亦即「與人權規範以及標準有關之某一事件、活動或結果狀況之特定資訊；可用以說明與反映人權關照與原則；並可用來評估與監測人權的促進與落實情況」。

其次，針對指標結構而言，人權測量框架同時涵蓋了公民與政治以及經濟社會文化兩種類型的權利，且每個權利都包含了結構、過程和結果三種指標，並且注意到質化和量化兩種指標的均衡呈現，符合聯合國人權高專辦的建議。至於聯合國人權高專辦所提，對橫切面的人權規範（cross-cutting human rights norms）（如：平等、不歧視原則）的關注，英國則將此事項表現在指標統計資料的分類拆解，以及對弱勢群體的個別調查上。

第三，在建立指標的方法方面，英國接受了聯合國人權高專辦的建議，先確認權利的「屬性特徵（attributes）」，再依據各項權利的屬性特徵選擇適當的指標。指標選擇的標準，也留意到幾項重要的原則—相關性、有效性、可靠性、正當性等。關於指標統計資料的蒐集，英國亦是以官方統計系統下的行政調查為主要來源，另外輔以非官方統計資料，例如：非政府組織的社會調查或媒體報導等。

英國人權測量框架與聯合國人權高專辦所提供的人權指標最大的差異，在於「權利屬性特徵確認後的內容」上。如同前述對英國人權指標的研究所述，關於生命權的屬性特徵，英國雖然參考了聯合國人權高專辦提供的範例，但最後斟酌英國國內生命權相關議題的重要性，捨棄了死刑和使人消失兩個屬性特徵，而將建立指標的重點聚焦在任意剝奪生命與健康營養兩個屬性特徵上。同樣地，針對適當生活水平權利的屬性特徵，聯合國人權高專辦提供的範例，是分別針對適當居住權、社會保障權、適當糧食權有不同的權利屬性⁸⁸。然而，英國並未將適當生活水平權利拆解為上述權利，因此權利屬性必然不同。英國依據國情確認後的權利屬性特徵，是以營養、居住、收入和社會保障為主。

因國情、文化背景調整權利屬性特徵的做法，雖然使得英國建立出來的人權

⁸⁸ 聯合國人權事務高級專員辦事處適當生活水平面板，請參閱本報告附錄 4。

指標，有別於聯合國人權高專辦十四項人權指標的範例，但並未悖離聯合國人權高專辦建立指標的方法。蓋因確認權利屬性特徵本就屬於指標建立過程的一環，而聯合國人權高專辦也承認，其所提供的僅是人權指標的概念與方法，十四項人權指標範例並非跨國之間共同適用的一個指標系統。倘若我國也依據國情背景，調整聯合國人權高專辦處指標範例中權利的屬性特徵，則所建構出的指標框架又將會有別於英國。以生命權為例，因為我國尚未廢除死刑，因此死刑會是生命權指標框架中重要的屬性特徵。

第三節 公民政治權利指標與經濟社會文化權利指標之比較

本計畫於第二章第四節英國人權指標中，特別呈現英國對生命權以及適當生活水平權所建構的指標面板，目的除了透過指標建立完整的樣貌，以驗證前述英國人權測量框架的概念說明外，更欲從中研究「公民與政治權利」以及「經濟社會文化權利」兩種類型權利，建立指標的方法是否因權利性質而有所不同。生命權是核心的公民與政治權利，而適當生活水平權則是經濟社會文化權利的代表之一。

上述兩種類型權利的性質，傳統上認為公民與政治權利屬於消極防衛的權利，亦即權利享有者主張權利以對抗國家的干預；而經濟社會文化權利屬於積極保障的權利，即國家必須採取積極措施以實現權利。基於此種觀點，人權指標建構時，所採取的方法將有差異⁸⁹。針對消極防衛屬性的公民與政治權利，建立指標的方法會著重在權利的違反或侵害（violations/breaches），因此加強了結果指標的重要性；而對於積極保障屬性的經濟社會文化權利而言，關注的重點則是國家採取哪些措施以保障人權，故過程指標顯得較為重要。然而，觀察英國人權測量框架，兩種類型權利在建立指標的方法上並無此種顯著的差異。

比較英國人權測量框架中，生命權面板和適當生活水平權面板的內容，發現兩個權利面板最大的差異有二：

- 權利的屬性特徵（attributes）不同：生命權面板的屬性特徵是，國家及執行公務機關使用非法強制力任意剝奪生命、因國家及執行公務機關其他作為或不作為造成的死亡。適當生活水平權面板的屬性特徵則是，適當營養、適當住宅、適當收入與社會保障、其他基本需要。
- 結果指標中的量化指標不同：英國人權測量框架中的每個權利面板都有二個

⁸⁹ 在丹麥人權中心 2000 年發表的《人權指標：國家資料與方法（Human Rights Indicators: Country Data and Methodology 2000）》文件中，曾表達因兩種權利性質不同，使用不同方法的觀點。該文件認為針對國家對公民與政治權利的承諾，指標測量的是國家是否違反人權的規範標準；而對經濟社會文化權利的承諾，指標測量的是政府實現義務的程度。

結構指標、二個過程指標、六個結果指標。六個結果指標中除了第一個是質化指標，其餘五個都是量化指標，亦即重要的統計數據。每個權利面板的結構指標、過程指標和第一個結果指標都相同。唯有結果指標中顯示統計數據的指標，會因權利的屬性特徵不同，而有所改變。

權利面板在屬性特徵與結果指標中量化指標產生差異的原因，來自於各項權利的內容本就相異，並非因權利性質是消極或積極而造成。儘管公民與政治權利傳統上被認為是消極防衛的權利，但英國在建立指標的過程中，就注意到國家對於此類型權利仍然負有積極義務⁹⁰。而歐洲人權公約對於特定權利有時亦會對締約國課以積極保障權利的義務，例如：歐洲人權公約第 2 條的生命權、第 3 條禁止酷刑權以及第 8 條尊重私人與家庭生活權。由於英國 1998 年人權法是歐洲人權公約國內法化後所產生，國家保障這些權利的義務必然也包含積極面向。因此，建立人權指標的方法並未偏重對國家對權利的侵害。此論點可以從英國建立人權測量框架的目的並非人權違反的計數系統，以及每項權利都包含結構指標、過程指標與結果指標的均衡設計上，獲得印證。

再者，聯合國人權高專辦所提供的人權指標指引，在概念上希望能提供一個建立指標的共通方法，使國家在建立指標後能用以監測公民與政治權利以及經濟社會文化權利兩種權利。為能完整地測量人權的進展，參考聯合國人權高專辦的指引，英國在選擇指標的標準中，特別強調每個面板中結構、過程與結果指標的均衡，以及指標反映消極義務和積極義務的均衡。

基於上述觀察，英國人權測量框架在建構公民與政治權利與經濟社會文化權利兩種權利指標的方法，未有明顯不同。

第四節 德國、丹麥與英國人權指標之比較

由於德國並未建立出完整、獨立的人權指標框架，僅停留在指標概念的描述中，因此並不足以成為水平比較的標的。以下將對於已經建立出來的英國人權測量框架與丹麥黃金指標做水平比較。

英國人權測量框架和丹麥黃金指標的共通之處在於：選擇指標的標準上，都強調與人權公約的關聯性，且要求指標必須出自於可信且可靠的資訊來源。例如用於人權測量框架層次的選擇標準上，強調指標發展的起始點雖是國內人權法（英國人權法），但是在整體上也要反映出國際人權架構，且對於單一指標的選擇必須符合可靠性、有效性、重要性、正當性四個選擇標準，以確保指標係出自

⁹⁰ Jean Candler and others, 'Specialist Consultation on the Human Rights Measurement Framework (HRMF) Background Briefing Paper' (LSE, June 2010)
<http://personal.lse.ac.uk/prechr/hrmf/HRMF_background.pdf> accessed 28 October 2015.

於可信、可靠的資料來源，得以有效提供評估人權地位之資訊，能記錄和反映出人權關注議題，且專家諮詢對於其有效性和重要性達成最大可能共識。相應來說，丹麥黃金指標關心指標本身是否能夠符合身心障礙的定義、是否能與國際社會相容、是否和身心障礙者的權利具有關連性，而對於資料的可得性和品質，則關心資料蒐集的頻率、資料是否可信賴、明確、有效，以反映國內人權狀況。

至於英國人權測量框架與丹麥黃金指標的相異之處，源自於英國人權測量框架係用於所有人權指標的統一框架，故囊括結構、過程與結果指標，強調不同面板的指標相互間應達到均衡，且指標整體必須要關注到不同的個人和族群（而非過度著重在特定小群體）。相對而言，丹麥黃金指標係針對身心障礙者權利所建構者，關心指標的來源資料是否可依據特定的個別群組拆解分類，以比較身心障礙者與非身心障礙者的差異，以及比較不同社會經濟條件者的狀況。

建立指標的過程中，英國人權測量框架與丹麥黃金指標均經過意見蒐集與統籌過程，在英國是所謂的專家諮詢（specialist consultation）程序，在丹麥則稱為利害關係者會議（stakeholder meetings）。兩者雖然都是意見蒐集過程，但是因為建構的人權指標範圍與目的之差異，使得討論重點有所差異。英國人權測量框架可說是建立在專家諮詢的過程上，因應人權指標的建立目的，專家諮詢係與人權有關之利害關係人進行諮詢，針對人權測量框架中的概念解釋和指標設置，達到最大共識。諮詢內容包括討論指標之性質與範圍、人權測量框架的正當性、有效性和重要性，且關於指標的選擇和修改，也是以專家諮詢的討論為基礎。

至於丹麥黃金指標的建立過程中，也非常重視利害關係者會議，但是利害關係者會議不負責指標的選擇，而是在選擇與確認十個指標之後，由丹麥人權協會召集利害關係者會議（stakeholder meetings），以衡量所選擇的指標是否適合用以衡量丹麥身心障礙者權利公約的執行情況。至於指標選擇的討論，則屬於丹麥指導小組（Danish Steering Group）的工作，指導小組負責決定黃金指標建構計畫的目的、選擇指標的方法、個別指標的評估、選擇指標所涵蓋的範疇以及確認使用指標後可能產生的利與弊等，這些綜合討論最後成為指標選擇的主要依據。

要特別說明的是丹麥的黃金指標和英國的人權測量框架在發展人權指標時，採用兩種完全不同的方法論。

丹麥與英國分別呈現出兩種建構人權指標框架的方式。第一種方式就如聯合國人權指標所呈現的，將人權指標區分為結構、過程和結果指標，確立了一個可以監督所有人權條約義務的標準框架，這樣做的優點是提供了一個測量人權的統一方法，使用人權指標時可更加便捷化。第二個方式是為想要測量的系爭人權量身打造一個框架。英國人權測量框架所使用的方法就是前者，依循了聯合國人權

指標的統一方法，以結構、過程與結果指標為分類項目，並在此標準框架下發展指標；丹麥的黃金指標則係屬於後者，針對身心障礙者的權利所發展出來的指標框架，將指標作為監督和促進身心障礙者權利公約執行的工具，以及身心障礙者權利發展與改進的基準。

因為丹麥的黃金指標和英國的人權測量框建構的方式不同，發展指標時強調的建構重點也有差異，英國人權測量框架依循聯合國人權指標的方法論，強調人權的「屬性特徵」分類，並針對每個屬性特徵建立適當指標。丹麥黃金指標則無「屬性特徵」分類的過程，而是特別著重「利害關係者（stakeholders）」的意見，以確保所選擇的指標能最適合用以估量丹麥身心障礙者權利公約的執行情況。

此外，有別於英國人權測量框架具備結構、過程與結果三種指標，丹麥黃金指標只有結果指標的建立。主要原因在於丹麥建構黃金指標之初，就確認指標欲測量的是權利享有者的經驗與狀態，亦即關注的重點是社會結果（social outcome），不包含法律如何保障權利的部分。然而，英國在建立人權測量框架時所確立建立人權指標的目的，則同時包含監測法律與社會結果兩部分，此點可以從英國人權測量框架專家諮詢的背景報告中獲得印證⁹¹。

⁹¹ Jean Candler and others, 'Specialist Consultation on the Human Rights Measurement Framework(HRMF) Background Briefing Paper' (LSE, June 2010) 7.

第四章 結論與建議

第一節 結論

根據本計畫的研究目的，得到的研究結果如下：

壹、各國發展人權指標的情況

研究結果發現本計畫最初選定三個國家—德國、丹麥、英國作為研究客體，其中建立人權指標的狀況為：

- 德國：尚未建立出人權指標，仍待發展。
- 丹麥：已有人權指標的建立—黃金指標，但侷限在單一條約，即聯合國身心障礙者權利公約的適用。未發展出全面的國家人權指標系統。黃金指標的架構較為簡略，只有結果指標的呈現，缺乏結構指標與過程指標。
- 英國：已建立出適用於評估測量國家人權發展狀況的人權指標系統，即人權測量框架，且架構上較為貼近聯合國人權高專辦的指引。然而，目前呈現的人權測量框架指標組合，並非絕對固定的最終清單，隨著資料內容的改變以及新人權議題的陸續出現，需要定期審查修正（目前英國獲得的建議是每三年審查和修正一次）。

貳、各國人權指標的執行效益

關於各國人權指標執行效益的研究，由於部分國家尚未建立出人權指標（即指德國），而已建立出人權指標的國家（丹麥與英國）又因為發展時間短暫，尚無法見到顯著的效益。丹麥黃金指標剛於 2015 年建立；英國人權測量框架則於 2011 年建立，目前還無法獲得足夠的相關資料以進行執行效益方面之研究。

參、各國建立人權指標的方法論

從德國對人權指標的研究，以及丹麥與英國建立人權指標的經驗，觀察到建立指標的目的會直接影響到人權指標建構的範圍與方法論。國家在建立指標之前通常考量的問題為：

- 指標的用途：指標是用來評估國家間人權對話的影響與成效？抑或是呈現國家人權的進展情況作為督促改善的依據？
- 利用指標監測的對象：希望利用指標監測的是法律如何保障權利？抑或是社會結果？

如果將指標設定為呈現國家人權的進展情況作為督促改善之用，則必須接著考量指標監測的是「法律如何保障權利」或是監測「社會結果」。若為前者，則建立指標的角度會從義務承擔者的角度出發，因此所建的指標會偏重結構指標與過程指標；若為後者則從權利享有者的角度出發，而偏重結果指標的建立。

第二節 建立人權指標之規範上建議

第一項 建立人權指標之注意要點

參考丹麥、英國建立人權指標的經驗，以及聯合國人權高專辦的指引，發現建立作為評估國家人權情況與進展之用的人權指標，需注意幾項要點。

壹、深入了解國際人權規範的內涵

人權指標是人權標準的測量單位，用以判斷國家遵守國際人權法的程度，因此人權指標必須要和國際人權條約連結，且因為國際人權條約的用語較為模糊，有必要倚賴相關的國際人權司法機構所作出的判決，以分析人權義務的內涵。此外，人權指標也要和區域人權條約作連結，區域人權條約除了重複國際人權條約的內容之外，也可能制定新的標準，進而較國際人權條約的保障程度更強。

貳、量化指標與質化指標的作用

在實務上，人權指標是用可量化資訊來具體化人權概念，這些資訊包括量化與質化資訊。但是在量化指標中，這些資訊一定是以可量化的方式呈現，可以是百分比、比例、是非問題等，但不能是主觀意見的陳述，這樣的陳述不能量化，無法構成量化指標。

至於有關人權的評論、故事、或事件的描述則能夠發展成質化指標。質化指標主要在於測量行為、態度、價值、感覺，通常用一定數量的案件，來衡量司法體系的正當性和人民的信任度，並連結到人權工作上。要測量人民的感覺、行為價值和態度，通常是由研究機構進行調查，且需要花費很高的成本。但事實上比起量化資訊，個人對於事件的描述更具有解釋的功能，因此，量化和質化資訊可

以互為補充。

參、依據各國社會文化背景建立人權指標

人權指標在適用上也要適應各國社會背景，且需考量許多變化因素，包括各國逐步實踐人權的能力。雖然人權標準是國際共通的，各國也有必要發展適用於自己國內的人權指標，以衡量依據國家可用資源所能實現人權的程度或履行條約義務的情況。依此邏輯，人權指標實際上衡量出來的可能僅是國家人權發展的程度，較難真正衡量出國家遵循條約義務的程度，換言之，人權指標指示出的情況無法用以判斷國家是否遵循人權條約義務以及遵循程度，而僅能表現出國家實現人權或是履行人權條約的實際情況。

此外，關於證據基礎部分，各國政府結構、機關設置、以及官方、非官方統計資料均有差異，且有些特定的人權議題只和特定國家有關，例如特定國家中會有的少數族群，因此在人權指標的設置上也會有所不同。以英國為例，英國在證據基礎上，原則上以取得既有的資料為主，但在指標發展過程中，若指出以往資料蒐集的盲點，可促使政府修正資料蒐集的內容。

又對應到我國目前狀況，若欲建立生命權的指標，而依照聯合國的指標模型，以「任意剝奪生命」、「使人失蹤」、「健康與營養」、「死刑」四個項目作為討論議題，則內政部多數因無相關統計資料，無法提供結果指標的統計數據，相關人權指標的設置自然也會受限於此。因此，各國為因應其文化社會背景，發展出自己的人權指標確有其必要。

肆、人權指標的建構方式

人權指標框架的建構方式有兩種，其一就如聯合國人權指標所呈現的，將人權指標區分為結構、過程和結果指標，確立了一個可以監測所有人權條約義務的標準框架，這樣做的優點是提供了一個測量人權的統一方法，使用人權指標時可更加便捷化。第二個方式是為想要測量的系爭人權量身打造一個框架，或者也可以將標準框架和特定人權的框架作結合。舉例而言，英國人權測量框架即採取第一種方式，利用聯合國人權指標的標準框架建構人權指標，而丹麥黃金指標則使用第二種方式為之。

在使用第一種標準框架時，人權指標必須盡可能包含所有的議題，並盡量避免重疊。為此，在發展人權指標時必須將人權的構成要素分離出來，並根據國際人權條約的內容作分類。因此，聯合國人權高專辦依據人權的「屬性特徵（attributes）」分類，並針對每個屬性特徵建立適當指標，而每個指標都可能和

許多屬性特徵相關。

伍、橫切面的人權規範（cross-cutting human rights norms）

此外，人權指標也應注意橫向議題（transversal issues），亦即所謂的橫切面的人權規範（cross-cutting human rights norms），其中最核心者為「參與」（participation）、「歸責」（accountability）與「不歧視」（non-discrimination）三個議題。

第一，「參與」公共事務是國際人權法保障的權利，規定於國際公民與政治權利公約第 25 條中，參與公共事務的權利受到聯合國與歐洲人權法院的重視，要衡量參與，人權指標必須檢視國家政策或法律是否賦予受影響人民參與公共事務的程序。第二，「歸責」也是國際人權法中的基礎之一，人權指標的最重要特徵之一在於責任判斷，人民藉由人權限制國家高權，特定的人權指標可以衡量國家是否採取適當的機制有效實踐人權承諾。第三，「不歧視」也是人權法的核心。對於公民及政治權利而言，不必去檢視歧視是否與特定權利有關，因為禁止歧視原則在公約中有自己的地位；而對於經濟、社會與文化權利而言，禁止歧視原則一旦違反，就自動構成人權侵害。根據人權指標的衡量，若有歧視行為，則國家即違反了條約義務。

衡量歧視是人權指標的重要功能，一旦有歧視出現，國家就因未能履行人權義務而負有責任。要衡量是否存在歧視，在發展人權指標時就要對弱勢團體作出特定分類，進而在蒐集資訊時，也要依據性別、種族、年齡、少數群體、地區等類型區分。但這種蒐集資訊的方式所耗費的成本很高，而且在決定特定人是否屬於弱勢團體也是一個問題，因為可能不會存在一個諸如性別、年齡之類的客觀標準。

使用人權指標時，首先需要選擇指標，並用到特定議題上。弱勢團體可能是最方便適用人權指標的方式，不但可以限縮資料蒐集的範圍，且指標也較能指出人權侵害的情形。弱勢團體包括女性、身心障礙者、移民、難民、受刑人、原住民、少數族群等，相關的議題則包括武裝衝突、天然災害、財產、失學孩童等，都適宜使用人權指標作為衡量工具。

第二項 建立人權指標之流程

英國人權測量框架比較接近聯合國人權高專辦十四項人權指標範例。人權測量框架除了架構上較為全面，同時包含結構、過程與結果指標以及質化與量化指標，建立指標的方法與證據資料的蒐集和分類，也符合聯合國人權高專辦指引之

原則與方法論。人權測量框架所涵蓋的權利範圍，同時包含公民與政治權利、經濟社會文化權利，這些權利項目，與聯合國人權高專辦十四項人權指標範例相符。

倘若希望建立出具有完整架構的國家人權指標系統，英國人權測量框架將會成為我國主要學習的典範。因此在建立人權指標的規範面向，本計畫以英國人權測量框架的研究結果作為主要建議的依據，必要時以丹麥建立黃金指標的經驗作為輔助參考。

參考英國與丹麥建立人權指標的經驗後，歸納出建立人權指標需經過下列流程：

- 一、組成統籌規畫與意見諮詢小組：蒐集資料，規劃進行流程，統整意見。
- 二、確認指標定義：界定指標用途，決定範圍與方法。
- 三、確認人權指標架構中的權利項目：反映國際標準與國內背景條件。
- 四、確認權利屬性特徵：權利內容概念化後成為指標建構的方向。
- 五、確認選擇指標的標準：提升效率，集中焦點，並確保指標與人權狀態的關聯。
- 六、發展指標清單：諮詢利害關係者以討論暫時性清單，再聽取專家意見，適當調整暫時性清單。
- 七、發展指標的證據基礎：蒐集指標相關的質化與量化資料，以利測量、追蹤人權狀況。
- 八、確保達成共識：奠定人權指標的正當性基礎。

以下將逐項說明並給予建議。

一、組成統籌規劃與意見諮詢小組

組成負責統籌規劃和意見諮詢的小組對建立指標而言極為重要。人權指標建立的流程中，許多階段包含：權利項目的確認、權利屬性特徵的確認、選擇指標標準的確認、發展指標清單等等，必須由統籌規劃的小組蒐集資料進行研究後，做成初步計畫，與意見諮詢小組討論交流後完成初步決定。後續指標清單建立後

的實地測試、利害關係者審查與討論會議，也需要有負責召集、規劃進行流程、統整意見、修正調整的組織。

英國與丹麥在發展人權指標的過程中，亦有負責統籌規劃和意見諮詢的相關組織。以英國為例，有計畫項目管理小組（Project Management Group）負責對暫時性的人權測量框架面板進行修訂，並由諮詢小組（Advisory Group）負責對暫時性的面板進行實地操作測試。丹麥則有指導小組（Danish Steering Group）參與黃金指標建構計畫目的之決定、選擇指標的方法、個別指標的評估、選擇指標所涵蓋的範疇以及確認使用指標後可能產生的利弊等事項。

二、確認指標定義

建立人權指標的「目的」往往決定了建立指標的「範圍與方法」。確認指標的定義即是在確認建立人權指標的目的。以英國為例，一開始就將人權測量框架設定為用以測量英國遵循人權規範的情況，以及瞭解英國執行人權規範的進展。因此，指標建立的方向朝向事件、活動等資訊的呈現，而不是一個判斷侵害人權與否的計分或評價系統。

目的決定範圍與方法的命題，從比較英國建構人權測量框架與丹麥建構黃金指標的經驗亦可獲得驗證。由於丹麥希望黃金指標是一個測量結果的指標，建構指標的方法會盡可能地從權利享有者的角度出發，也因此著重在結果指標的呈現。英國則期待人權測量框架不只用來監督社會結果，還能用來監督法律，故指標的架構除了結果指標，結構指標與過程指標也很重要，建構指標的角度是權利享有者與義務承擔者並重。

儘管我國希望以聯合國人權高專辦的建議作為基礎，發展人權指標，或許不需要重新設定指標目的或重新定義指標，然對於聯合國人權高專辦建議各國參考其概念與方法後，建立屬於各國人權指標系統的目的以及指標的定義，仍必須要加以瞭解，並在意見諮詢與利害關係者討論會議前說明清楚，以免建立指標的方法與結果產生偏差。

三、確認人權指標架構中的權利項目

從英國建立人權測量框架的經驗得知，完整國家人權指標系統的建構是一項浩大的工程，礙於時間與經費的限制，挑選核心的人權項目作為建立指標的開端，再逐漸擴張人權指標系統，是較有效率的方式。就此，接續處理的問題即為「確定屬於核心人權項目的權利有哪些」。

確定核心人權項目的依據可以參考國際或區域性人權規範的標準，幾個聯合國核心人權公約、區域人權公約（如：歐洲人權公約）所共同規範的權利，即凸顯了這些權利的重要性。例如：生命權、禁止酷刑不人道或有辱人格待遇權，在聯合國公民與政治權利國際公約、聯合國兒童權利公約、歐洲人權公約中皆有所規定，蓋因此二項權利與人權保障核心一尊嚴直接相關。

除了考量國際與區域性人權規範，選擇優先建立指標的權利項目時，仍必須注意到國家的背景條件。對於國際法與國內法關係採取二元論的國家而言（例如：英國批准國際條約後，必須經過特別立法轉換成為國內法，才能適用於國內），已經批准並國內法化的條約規範，往往成為需要藉由指標測量進展與結果的主要對象。因此，在選擇權利項目時，必須兼顧國內法化與未國內法化權利的均衡。以英國為例，英國 1998 年通過的人權法（Human Rights Act）就是將歐洲人權公約國內法化的結果，而英國人權測量框架八個權利面板中，前五個面板就是以國內人權法為基礎所選定的權利，後三個面板則是以國際規範為基礎的權利。至於對國際法與國內法關係採取無需特別立法轉換的一元論國家，由於條約批准後即在國內產生直接適用性，所要注意的問題可能不是條約中的權利國內法化與否的均衡取捨，而是權利來自於已批准條約與未批准條約的均衡取捨。

此外，權利的選擇應兼顧「公民與政治權利」以及「經濟社會文化權利」的均衡。英國人權測量框架權利面板，也同時包含兩種類型的權利。

四、確認權利屬性特徵

確認權利屬性特徵的目的，在將權利的內容概念化，成為建立指標和蒐集證據基礎的方向。權利屬性特徵可以依照國情背景做調整。關於權利屬性特徵的確認，建議可參考英國的經驗，以聯合國人權高專辦的十四項人權指標面板為基礎，再依據我國背景條件做修正。決定權利屬性特徵的標準，則仍依據聯合國人權高專辦在《人權指標：測量與執行指引（Human Rights Indicators: A Guide to Measurement and Implementation）》中的建議，以下列三個注意事項為原則：

- 徹底注意核心人權條約規定下的標準；
- 屬性特徵應整體地反映規範內容之要素；
- 屬性特徵的範圍不應重疊。

五、確認選擇指標的標準

發展指標清單前，必須對如何選定指標有一套明確的標準，目的在提升發展指標清單的效率，在選擇指標的過程中，有助於簡化問題集中爭點。英國與丹麥在建立人權指標時，也都曾先確認一套明確的指標選擇標準。

確認指標選擇標準時，應考量到建立指標的目的、指標的定義，從人權指標系統的整體架構、個別指標的呈現、資料蒐集等面向做全盤的思考。例如：關於指標系統的整體架構，英國在考量建立指標的目的後，預設人權測量框架的選擇標準包含：指標類型同時包含結構指標、過程指標、結果指標，也兼具質化指標和量化指標，並維持相互均衡；指標能反映不同個人與群體的狀態，而非偏重特定個人或群體；指標同時包含國內人權法與國際人權規範兩種基礎等等。再者，關於個別指標的選擇方面，英國與丹麥皆強調指標的關連性或有效性，即提供的資訊盡可能地反映或描述人權地位、狀態、問題。至於資料蒐集方面，英國與丹麥都注意到資料來源的可靠性、統計資料分類拆解分析的可能。

六、發展指標清單

（一）指標清單

依照前述所確認的權利屬性特徵以及指標選擇標準，針對所選定的權利項目逐一建立指標以形成指標清單。此階段的指標清單是一個暫時性的清單，必須再經過實驗測試與利害關係者的審查、討論後做修正調整。

針對經濟社會文化權利的指標建立，特別需要注意國家保障權利義務的性質究竟是行為義務，抑或是結果義務。理由在於經濟社會文化權利國際公約第 2 條容許締約國須採取措施，以最大可得的資源，漸進地使公約中的權利獲得完全的實現，此種漸進實現的義務，給予國家相對較大的裁量空間，可以漸進地評估保障人權的政策，並做調整。因此，倘若國家保障權利的義務是一種行為義務，則指標的建立將偏重在過程指標的呈現，從行為去測量特定權利是否獲得實現；倘若是一種結果義務，則指標的建立會著重在結果指標的呈現，測量特定目標是否達成以滿足實質的規範標準。

（二）諮詢利害關係者討論暫時性指標清單

召開利害關係者諮詢會議的目的，是要對於暫時性的指標清單進行討論，檢視有無調整修正的必要。利害關係者諮詢會議召開前，應注意下列事項：

1. 確認利害關係者

審查指標清單的利害關係者，並不是泛指權利易受侵害的弱勢群體或一般公共大眾，而是對於人權指標的建立或適用有所影響的專家、政府單位、非政府組織和學術單位等等，例如：丹麥黃金指標的利害關係者諮詢會議，受邀參與者包括丹麥中央政府的統計單位（Statistics Denmark）以及丹麥國家社會研究中心（Danish National Centre for Social Research, SFI）。

利害關係者的範圍可能隨著權利的不同而有所改變。以丹麥建立黃金指標的經驗為例，因各項權利的利害關係者諮詢會議是個別召集的，故利害關係者諮詢會議召開的場次不只有一場。

2. 確認會議討論的問題

確認會議討論的問題極為重要。首先，必須將建立指標的目的、指標的定義、如何確認權利項目與權利屬性特徵、選擇指標的標準先說明清楚，以便與會者提出意見或發現問題。其次，確認指標中必須特別關注的弱勢群體有哪些。第三，針對各項權利建立的指標做審查討論。除前述問題外，還可以詢問與會者是否有使用人權指標的經驗。為方便記錄討論的內容與獲知與會者回饋的意見，可以參考英國的經驗製作書面的問卷表。

七、發展指標的證據基礎

指標清單確定後，需蒐集相關資料做為指標的證據基礎。指標的證據基礎包含質化的資料，例如：政府監督機關的調查報告、法院就相關權利審判的結果；也包含量化資料，例如：各項統計調查數據資料。證據資料蒐集的過程，能幫助瞭解是否有欠缺的資料，必須補足調查。此外，透過將證據資料記錄成檔後，定期追蹤、更新並比較其中差異，能夠從中窺探人權改善或惡化的情況。

由於人權指標的建立與統計調查息息相關，為使證據資料能持續蒐集，建議在建立指標的過程中，邀請相關官方與非官方的統計單位一同參與，例如：將相關統計單位納入諮詢意見小組成員中以及利害關係者諮詢會議中。

此外，不同的權利所需要的佐證資料也不會完全相同。因此，建議可以針對個別權利，對需要的證據資料範圍，以及能夠提供或負責提供資料的單位，先為確認。

八、確保達成共識

為確保人權指標的正當性，負責統籌規劃的組織必須確保指標是在利害關係

者的共識中產出。因此，統籌規劃的組織應將諮詢小組的意見和利害關係者提供的資訊謹慎考量後，做出分析與回應。

第三節 建立人權指標之操作上建議

前述各國人權指標建立的經驗，顯示人權指標的建立是一連串動態的過程。以英國為例，人權測量框架是經過兩年間（2009 至 2011 年）蒐集資料、討論、實測與修正後的產物。人權指標與其證據基礎本身，也並非是單純靜態文字的組合。由於國家人權的情況隨時在改變，理想上，人權指標及其證據資料除了維持既有架構的穩定外，尚必須定期追蹤、更新與擴充，才不失人權指標測量人權進展以督促人權保障之功能。

有鑑於人權指標的動態性，本計畫針對我國人權指標建立的權責單位、發展的策略、人權指標量化資料的來源等事項，提出操作上的建議，期望在本計畫終結後，能有效促使我國持續為發展人權指標而努力。

壹、建立人權指標的權責單位

根據德國研究人權指標以及丹麥、英國建立人權指標的經驗，都是以聯合國巴黎原則下的國家人權機構（National Human Rights Institutions, NHRIs）作為建立人權指標主要的權責單位。德國雖尚未建立人權指標，但 2005 年關於計畫與評量人權對話的指標研究，即是由德國國家人權機構—德國人權協會，委託學者所做。丹麥黃金指標的發展與建立，正是丹麥國家人權機構—丹麥人權協會的重點計畫。至於英國人權測量框架，則是由英國幾個國家人權機構中的平等與人權委員會以及蘇格蘭人權委員會，共同決定後，委託學術單位與非政府組織組成團隊，進行研究所產生。

我國目前尚未成立國家人權機構，但基於評估國家人權發展狀況的迫切性，不應使「未成立國家人權機構」成為建立人權指標的障礙。我國自 2004 年起，即希望推動立法成立國家人權委員會，然而至今尚未設置。在成立國家人權委員會之前，就政府目前關於人權保障的組織而言，以「總統府人權諮詢委員會」做為發展和建立國家人權指標的主要權責單位，較為恰當。蓋因總統府人權諮詢委員會是我國政府設置國家人權委員會之前，最高的國家人權政策諮詢機構，負有提出國家人權報告並監督人權兩公約落實之責。為有效監督落實兩公約之進展，建立一套國家人權指標系統以為人權評鑑之用，似更顯其必要。

貳、發展人權指標的策略

觀察丹麥與英國建立人權指標的方法，可知人權指標發展之策略至少有兩種：其一，如同丹麥黃金指標，採取發展監督單一條約執行情況之用的「單點發展策略」；其二，如同英國人權測量框架，為評估國家整體人權狀態之用，採取「整體發展策略」，將國家重點的人權項目納入人權指標系統中。

儘管上述兩種策略發展出的指標模式並不相同，但無礙於兩種策略的同步進行。因為我國所批准的人權公約，除了具有一般性的兩公約之外，還包括聯合國兒童人權公約、聯合國消除婦女一切形式歧視公約等，規範個別群體人權保障的公約。建議我國可以同步採取單點與整體的發展策略。針對一般性人權項目（如兩公約），建議由總統府人權諮詢委員會，效法英國人權測量框架，建立具有完整架構的國家人權指標系統。至於個別群體的人權保障，可以責成相關主管機關，參考丹麥黃金指標的經驗與聯合國人權高專辦的指引，發展個別條約的人權指標，例如：由行政院衛生福利部建立用以監督、評估兒童人權公約落實情況的指標。

參、人權指標量化資料的來源

人權指標的建立需要廣泛的資料蒐集，而指標建立後，更需要相關質化與量化資料作為佐證，以利定期追蹤人權進展。參考聯合國人權高專辦的指引，建立人權指標所需的資料來源，特別是統計資料方面，相當倚賴政府的公務統計。因此，各國研究或建立人權指標時，往往需要國家統計單位的參與配合。德國人權指標雖尚待發展，但從德國聯邦統計局（Federal Statistical Office）2014年出版永續發展指標報告一事上觀察，得知德國聯邦統計局在指標建立方面有舉足輕重的地位。丹麥黃金指標由於都是結果指標，更需要充分的統計資料作為證據基礎，在利害關係者會議中，即邀請丹麥中央政府統計單位（Statistics Denmark）參與。英國統計資料來源極為廣泛，其中更不乏國家統計局（Office for National Statistics, ONS）、各地區政府、相關主管機關、督察機關貢獻之資料。

建議我國在建立發展人權指標的過程中，能將國家統計單位—行政院主計總處，以及與各項指標相關的主管機關，列為合作參與之對象，使人權指標的統計資料更容易取得。此外，統計單位也能藉由參與人權指標的建立，檢視過去統計資料的漏洞或方法上的缺失，並加以補充或適當修正，使我國人權相關量化資料系統更完善。

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附錄 1：德國《指數、基準和指標：計劃與評估人權對話》



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Preface

In September 2001, the Swiss Government accepted a postulate by the Commission for Foreign Policy of the Federal Parliament. The postulate asked the government to develop the instrument of human rights dialogues within the human rights foreign policy. In 2004, the Federal Department of Foreign Affairs (DFA) issued an internal briefing paper for this policy. To further develop the instrument, the Human Rights Policy Section of the DFA asked the German Institute for Human Rights in early 2005 to elaborate a study on this comparably recent instrument of foreign policy with special attention to measurement of impact.

A commitment to the universal validity of human rights does not lead to a predetermined, uniform pattern of bilateral human rights policy towards all countries. A different approach is possible and necessary: Depending on the context of the respective country, the implementation of human rights concerns requires a set of instruments that follows different goals and strategies and sets different thematic priorities. In my opinion, this applies for human rights dialogues as well.

The present study elaborates the instrument of the institutionalized or formalized human rights dialogue. It focuses on the measurement of impact of human rights dialogues, an area that has not yet received sufficient attention. For states conducting human rights dialogues the study contains valuable recommendations for the planning, design, implementation and evaluation of future dialogues.

I thank the authors, Anna Würth and Frauke Lisa Seidensticker, for the study. It is to be hoped that future dialogues may find ideas here for their planning.

Berne, November 2005

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Summary

Bilateral Human Rights Dialogues are a recent instrument in governmental human rights policy. Often criticized as lacking transparency and results, human rights dialogues are increasingly subject to guidelines and evaluations and held in multilateral fora to offset negative effects of the bilateralization of human rights concerns. This study examines these recent attempts to increase the transparency and result-based orientation in governmental human rights dialogues.

In the first chapter, the study analyses political science literature on the statistical impact of treaty ratification and on qualitative change in a country's human rights record to support the thesis that partners in a human rights dialogue need to specify their goals precisely. In particular, it is argued that ratification of treaties as a goal should be distinguished from the goal of improvements in the overall human rights record.

The second chapter proposes goal-setting on clearly distinct levels: from ratification of human rights instruments up to solid institutional guarantees for human rights. Analysing the limited documentation publicly available, it is contended that planning for human rights dialogues needs to make use of up-to-date human rights methodology, that is, analyse the human rights record in terms of state obligations to respect, protect and fulfil human rights. Furthermore, planning for a dialogue should take up existing international material, in particular the Concluding Observations by United Nations treaty bodies and the recommendations of Special Rapporteurs. When setting goals for a dialogue, partners need to be aware of the different levels of goals, and how they relate in terms of impact. It is demonstrated that the relation between treaty ratification and implementation is mainly discursive, whereas specific policies, for example policies to increase access to justice, may have a more concrete and measurable impact on the human rights situation. In terms of strategy, the study stresses the importance of coordination among different bilateral actors wishing to start a human rights dialogue.

Partners may have different motives for starting a human rights dialogue. It is contended that this does not necessarily constitute a major problem as long as motives and goals are of an equivalent order and transparent, and partners adjust topics and themes accordingly. In general, partners should concentrate on a few topics of common interest where they can share substantive respective experiences and views, rather than touching upon all human rights issues in the most general fashion. Partners should avoid privileging political over social rights and vice-versa – a human rights dialogue should always respect that human rights are indivisible, and that effective human rights protection poses major challenges for all countries. Lastly, it is suggested that human rights dialogues adapt methods of gender-sensitive project planning known from technical cooperation, by devising clear goals, activities and the results. Without differentiation between activities and results human rights dialogues and, more generally, support for human rights, can not be monitored for impact.

Chapters three and four discuss measurement of impact of human rights support and particularly human rights dialogues. Chapter three expounds the theoretical foundations, chapter four practical applications. A first section introduces terminology: Impact monitoring is understood as one of the instruments for project steering, based on a regular assessment of the results of specified activities. Evaluation is defined in a narrow technical sense, constituting the major instrument to assess the impact of an intervention and the effectiveness of the instruments used.

It is argued that so far human rights dialogues have been subject to neither impact monitoring nor evaluations in this sense. Rather, ex-post assessments were conducted which analyse the situation before and after a human rights dialogue without assessing the effectiveness of the dialogue. A second section deals with the different methods of quantitative and qualitative measurement – indices, indicators, and different forms of benchmarking – and their respective strengths and weaknesses.

Chapter four devises three possible models of human rights dialogues. Each model is defined by its goal: dialogues which aim to change the normative environment in the partner state, for example by support for ratification and enshrining treaty provisions in the national constitution or legislation; dialogues pursuing change in specific human rights related policies, for example conditions in prisons or pre-trial detention, and lastly, dialogues conducted with the intention to contribute to improvement of the overall governmental human rights record. These dialogues will include objectives on the level of legislation and policies but will also strive to reduce the number and severity of violations. Each model is then examined as to how to measure progress and impact of the dialogue, whether by using indices, indicators or different forms of benchmarks. It is argued that changes in legislation can best be monitored by qualitative benchmarks if those are pegged to a specific time frame. Human rights sensitive policy changes necessitate qualitative and quantitative measurement. This can best be achieved by combining performance benchmarks and indicators.

Using the example of the EU-Iran-dialogue, the study demonstrates that dialogues aiming at improving the

overall human rights record are usually assessed by analysing the number and severity of human rights violations. It is argued that this one-dimensional perspective is insufficient and does not do justice to the complexity of any human rights situation. Rather, changes in the human rights record should be conceived as a process of multiple dimensions – law, policies, and results thereof – and be measured accordingly, by using a combination of benchmarking and indicators. Overall, the study recommends that goals for human rights dialogues should be long-term, realistic and transparent; planning should stress coordination and be savvy, both in terms of human rights and planning methodologies. In respect to impact monitoring, the study conceives impact monitoring and evaluations for human rights dialogues as necessary, but cautions that monitoring – be it by quantitative or qualitative indicators or benchmarking – constitutes only a preliminary line of questioning into very complex political processes. The study also points to the necessity to collect data, with a particular view to gender, ethnicity/region and social status. It recommends that partners in a human rights dialogue should collect disaggregate data in a sustainable fashion and utilize available data to the maximum extent possible.

Introduction

Human rights dialogues are a relatively recent instrument of national human rights policy. First used in the late 1980s, they have been employed with increasing frequency since the mid and late 1990s. While such dialogues had originally been conceived as bilateral instruments, there are now more and more efforts to coordinate the dialogues as, for example, within the Berne process for human rights dialogues with China (since 2001) and the Brussels-Berne process for human rights dialogues with Iran (since 2003).

Institutionalized or formalized human rights dialogues are publicly announced proceedings used by countries to initiate political talks about human rights.¹ The beginning and the end of such talks are clearly defined, with both sides being represented by regional as well as technical experts. From time to time, the public in the participating countries is informed about the agenda and the progress of the dialogues. Other conceptual issues, such as which aspects of human rights are to receive most attention, depend on the situation in the respective countries. They are agreed on by the participating countries, which often expect different, occasionally even contradictory, things from the dialogues. Usually, dialogues consist of political talks, meetings of experts, and workshops. As a more recent develop-

ment, many dialogues now also include various components of Technical Cooperation. Which of these elements are used above all, and how they are combined, depends on the goals of the dialogue and on the degree of partnership that exists between the two countries. The European Union (EU) is engaged in such formalized dialogues only with China (intermittently since 1996) as well as with Iran (2002–2004).

Formalized human rights dialogues must be distinguished from other kinds of dialogues. For example, interfaith or intercultural dialogues are often conducted by non-governmental organizations. Talks about the human rights situation as part of bilateral political relations or as part of treaties such as EU agreements of association² are likewise different from human rights dialogues.³ Yet another way to address human rights issues consists of interventions on behalf of victims of human rights violations in the partner country, often by various diplomatic steps. The latter are unilateral and confidential responses to specific occurrences.

Even the finest rhetoric of partnership cannot reduce political or economic inequality between countries conducting a human rights dialogue to a minor detail.⁴ The possibility of having a true dialogue, however,

¹ The EU uses the term "structured human rights dialogues" when referring to countries with which the EU has not concluded any treaties that contain a human rights clause: Council of the EU (2001), para 2. Switzerland calls such talks "specific dialogues" and defines them as being topic-oriented and "aiming at the establishment of bilateral relations characterized by continuity": Bundesrat (2000), 2592; a detailed discussion of this instrument from the Swiss point of view can be found in: DFA (2004), Medium-term concept 2004–2007, 6ff. Germany has never adopted its own definition of human rights dialogues. Instead, it refers to pertinent EU guidelines and activities: Auswärtiges Amt (2005), 282–284, 388–390, 419, 434, 448–455. Australia declares human rights dialogues to be the "most effective way to address the human rights situation in other countries". The reasons for making this assertion are not provided, however, and the instrument is not defined either: Department of Foreign Affairs and Trade (2004).

² The EU calls these instruments "agreement-based dialogues": Among other activities, this term covers dialogues with candidates for EU membership, relations under the treaty of Cotonou and the Barcelona process with Mediterranean countries: Council of the EU (2001), para 2.

³ Good working definitions of the various possibilities of addressing human rights in negotiations with partner countries can be found in: DFA (2004), 12–15. Thus, it is possible to engage in intensified bilateral human rights talks that are less formalized than dialogues. Political dialogues with a human rights element: As part of regular political consultations, an additional day could be scheduled to discuss certain human rights topics. Local human rights dialogues: Human rights talks can be held locally not only with representatives of the central government but also with regional administrative bodies.

⁴ Baaz cites rather eloquent examples that illustrate how the more recent discourse of partnership in development cooperation may hide paternalistic attitudes: Baaz (2005).

depends on the question of whether and how government representatives from both sides are willing to listen to each other, on the goals that the partners in this dialogue pursue, as well as on the clarity and transparency of these goals.

As a matter of principle, human rights dialogues should be studied with a view to their goals, and thus with a view to the degree of partnership achieved by the participants. Is the dialogue aimed at getting the respective partner to stop current human rights violations? If so, dialogue sessions can become rather antagonistic, with both partners accusing each other of human rights violations and demanding their prevention. Or is the dialogue intended to promote a certain human rights policy, with other countries providing assistance, particularly of an advisory nature? Such an objective has the potential of being realized in a true dialogue, because the participating countries have to plan and carry out the appropriate measures together. It is exactly this mix of communicative and result-oriented processes that determines the possibilities and chances of human rights dialogues. If a dialogue aims at normative improvements in the partner country, that is to say, the ratification of human rights conventions and their implementation in the form of constitutional guarantees and implementing laws, the partners must listen to each other very carefully, because it is precisely this kind of situation where the frank exchange on the doubts, priorities and experience of both sides can, among other things, determine the quality of a dialogue.

If the objectives of human rights dialogues are not stated openly as well as clearly defined, it is almost impossible to achieve partnership, or even to assess the impact of the dialogues, which is methodically difficult under any circumstances.

As the instrument of human rights dialogues has been used only for a relatively short period of time, there are as yet no publicly available systematic studies of the instrument and the methods for assessing its effectiveness. The lack of access to documents concerning bilateral human rights dialogues is a fundamental problem. Often, the only publicly available documents are press releases of little substance.⁵

During the late 1990s, the effectiveness of the dialogues with China and Iran was questioned by non-governmental organizations. According to critics, the human rights dialogue with China had turned into a substitute for resolutions and draft resolutions in the UN Commission on Human Rights. Like the German dialogue with Iran, it was also said to have been characterized by a lack of transparent planning and agenda setting, as well as by a lack of results, i.e. improvements in the human rights situation.⁶ Regional experts voiced similar criticisms, too.⁷

Possibly in response to these critical comments, the EU and various other countries have, since the start of 2000, increased their efforts to improve both the planning and the actual conduct of dialogues by coordinating them, by controlling them with the help of guidelines, as well as by assessing their success and impact. The latter of these efforts, which are rather technical in nature, are the subject of this study. Admittedly, impact measurement builds on assumptions and methods that suggest scientific precision where this is hardly attainable due to the inherent complexity of socio-political relationships and processes. Thus, the results of impact assessments can only be approximations of a complex reality, expressed in the form of initial questions rather than definitive answers. And yet, human rights dialogues and the promotion of human rights, just like all other interventions in complex political systems, need to be scrutinized with regard to the nature, reach, and quality of their impact in order to ensure transparency as well as capability to learn from mistakes.

This study begins with an introduction to the debates on the impact of human rights norms. It then looks at the planning principles for human rights dialogues. In the main part, various theoretical models for measuring the dialogues' impact are presented, which are then applied to human rights dialogues in practice. Above all, the study tries to determine the methods most suited for impact assessment, taking into account the different goals dialogues may pursue. It concludes with a number of recommendations.

⁵ The EU makes available some documents on its dialogues. Even so, essential parts of the documents remain confidential.

⁶ On the dialogue with China: Human Rights in China (1998); Deile (2000); Rights and Democracy (2001); Tibet Campaign / Human Rights in China / The International Campaign for Tibet (2003).

⁷ Hasenkamp (2004); Reissner (2000).

1

Impact of Human Rights Norms

Many human rights debates focus on questions concerning the enforcement of human rights, with many commentators actually speaking of an implementation crisis in this context. While this crisis has various causes, one factor is the way in which the bodies of the United Nations function. Another one is the unwillingness of countries to implement ratified conventions. The following sections will take a closer look at the last aspect by examining the motives that countries are guided by when they sign human rights conventions. Thus, in section 1.1 it will be argued that the ratification of conventions is an important goal of human rights dialogues. However, ratification does not always indicate a government's willingness to improve the human rights situation. Section 1.2 deals with how human rights norms work politically. How does change in a country's human rights situation come about, and which political, national and international processes are most likely to guarantee human rights permanently? Finally, these insights are applied to the formulation of the objectives of human rights dialogues and their planning.

1.1 Reasons for Ratification of Human Rights Conventions

Generally, the promotion of human rights operates on the assumption that the ratification of international

conventions entails the obligation to implement them and to submit reports on the implementation process. Often, however, the very ratification is already overshadowed by reservations. The attachment of substantive reservations usually means that the country in question has no intention of implementing essential provisions of the convention as national law. Thus, it should come as no great surprise that most reservations have been filed concerning the conventions on women's and children's rights.

After ratification many countries comply with their obligation to submit reports not at all, very inadequately, or extremely late.⁸ With regard to legislative implementation, some countries maintain that they must first pass the necessary legislation, which then they do not do once the convention is ratified. Others prevent their judges from enforcing human rights conventions in court either by giving them insufficient training or by limiting their jurisdiction. As far as the implementation of human rights conventions is concerned, a quantitative study by Oona Hathaway, a law professor at Yale University, clearly shows that in many countries ratification does not lead to any statistically significant reduction in human rights violations even after lengthy periods of time.⁹ From this she infers that human rights policy should increase the capacity for monitoring and "reward" improvements in imple-

⁸ For a very detailed discussion see Bayefsky (2001), 193ff. In order to improve the effectiveness of the convention regime, as well as cooperation with it, detailed proposals for reforming the system of reports have been worked out over the last few years: United Nations, Secretary-General (2004).

⁹ A comparison of ratifying and non-ratifying countries produced the same results: Hathaway (2002), 1940, 1962ff. Hathaway explains her findings by saying that the ratification of human rights conventions has a double meaning, and that each ratifying country conveys both an instrumental-tactical and an expressive-discursive message. While the former means that conventions come with certain obligations, the discursive message conventions tells other members of the international community something about the image the ratifying country aspires to, for example its intention to belong to the international community. The instrumental-tactical and the discursive aspects of the ratification of human rights conventions have by now drifted further and further apart. According to Hathaway, the reason for this development is the fact that implementation is not monitored effectively. To the extent to which the international community rewards the discursive aspect of ratification (that is membership of the group of state parties) rather than the actual implementation of human rights conventions, the implementation crisis will persist.

Neumayer (2004) rejects the validity of Hathaway's results. But he too has to allow for certain limitations: "Treaties ... engage countries in a human rights process that is extremely difficult to demonstrate quantitatively." Neumayer (2004), 32. Keith (1999) reaches the same conclusions as Hathaway, although her analysis is not as thorough.

mentation systematically. In sum, the message *practice counts* should politically and practically be conveyed more forcefully.

What does this mean for the promotion of human rights and especially for human rights dialogues? Given the practice of countries described above, it is possible to infer that ratification does not necessarily indicate a country's willingness to comply with its obligations under the conventions and to improve the human rights situation. With regard to the objective of promoting human rights the appropriate conclusion seems to be that ratification must be seen as one goal and the implementation of the conventions as another goal. There can be improvements in the human rights situation without ratification of the conventions, while ratification does not necessarily affect the human rights situation. Nevertheless, ratification is an important reference tool for exerting political pressure in order to bring about the implementation of the treaty obligations.

This idea will be developed further in the following section. However, the perspective will shift to the political processes that allow for human rights norms to take effect.

1.2 Impact of Human Rights Norms

How do human rights norms work and what are the essential mechanisms responsible for their effectiveness? This question is mainly studied by those political scientists who focus on political and civil rights.¹⁰ Currently, there are two theoretical strands, the so-called realist school and the so-called constructivist school respectively. The main difference between these schools concerns the roles they assign to the factors power, self-interest, compulsion and discourse, as well as to various actors, above all, countries and (trans)national, civil-society actors.¹¹

The realist school argues that countries accept and implement norms only if they have to, that is, if they can be forced to do so. From the point of view of this school, the self-interest of countries also constitutes an essential and necessary motive for the implementation of norms. Thus, punitive measures, sanctions, and negative conditionality are seen as the most important tools in dealing with economically vulnerable countries. Above all, the central actors of human rights policy should therefore be countries that have enough economic and political power to exert the appropriate pressure. It follows that internationally or regionally less powerful countries cannot be important actors. Also, for countries that are not very vulnerable economically other instruments must be found. However, the realist school has, as yet, not come up with an answer to the question of how power might be tamed by power with regard to human rights.¹²

The constructivist school offers a different argument. They assign central roles to the factors discourse and persuasion, as well as to transnational actors and national processes. The study by Risse, Sikkink, and Ropp (1999) is particularly interesting. They set out what they call the "spiral model", which they use to explain changes in the human rights situation in a number of countries between 1985 and 1995. They attribute these changes, above all, to the work of the central actors in this model, namely the transnational human rights organizations. Empirical examples are based on analyses of the developments in the Philippines, Indonesia, Kenya, Uganda, Tunisia and Morocco, all of which are considered to be economically vulnerable countries and to be a player on regional rather than on global level.

The model of Risse, Sikkink, and Ropp has some analytical weaknesses.¹³ In the context of this study, however, it is of interest mainly because of its description of those social and political learning processes that

¹⁰ The way economic, social and cultural human rights norms work seems to enjoy rather less attention.

¹¹ The best overview of the various theories is provided by Hathaway (2002), 1942-1962.

¹² Another weakness of this approach is its one-sided fixation on state power. Norms are seen as implemented when states comply with them. The national level beyond state actors is not considered at all. A detailed critique of this view is provided by Cortell / Davis (2000). Moreover, self-interest, i.e. the central motive driving a state's activities, can only be determined ex post facto rather than substantively. Thus, it is also impossible to develop a strategy for human rights policy. In addition, the argument is circular: If a country stops violating human rights, doing so must have been in its self-interest. If, on the other hand, it does not change its behaviour, a change apparently cannot have been in its self-interest.

¹³ Above all else, it suffers from the same weakness as the realist model: If there are any changes in the human rights situation, they can be explained ex post facto by the strength of the transnational human rights network. If, on the other hand, there are no changes, this simply means that the transnational network was not strong enough. Since the exact nature of this strength or weakness remains unclear, it is impossible to know what might be done to develop or boost this kind of strength. As far as the development of strategies for human rights work is concerned, both the realist and constructivist school are marred by the fact that they use as their explanatory variable that which is to be explained substantively, see Schwarz (2002), 69. A comprehensive critique of the "spiral model" model can be found in Landolt (2004).

bring about and accompany changes in the respect for political and civil rights. The authors assume that authoritarian regimes become more liberal because the domestic opposition is strengthened by transnational relations. A change of policy, or even a change of government, occurs when domestic critics succeed in establishing human rights as the basis of social opposition. This process unfolds in five phases in a movement reminiscent of the shape of a spiral, hence the term "spiral model".

It must be emphasized once more that the model is based on an analysis of developments in economically vulnerable countries. In countries with different characteristics it is possible that governments do not move beyond certain phases, or even that the human rights situation worsens again.

Phase 1: Repression

During the first phase, the opposition is weak and very little information about human rights violations reaches the outside world. If transnational networks manage to put human rights violations on the international agenda (above all, by releasing reports of their own and by supporting resolutions in the Commission on Human Rights and the General Assembly of the United Nations), international public opinion will become more and more active and denounce human rights violations.

Phase 2: The Validity of Norms is Denied

Increasing moral pressure leads to phase two during which the government denies the universal validity of human rights norms. Without even addressing the charge of human rights violations, representatives of the respective governments denounce human rights norms as "Western". In addition, they accuse the human rights bodies of intergovernmental organizations of being agents of imperialism, colonialism, or westernization. As can be easily seen, this description fits the cultural relativism that is often used as an argument by the representatives of a few Asian and Islamic countries.¹⁴ In keeping with this rhetoric, the government uses this phase as an opportunity to increase domestic repression even more. This is confirmed by empirical evi-

dence which shows that the human rights situation can get worse, although public opinion has already been alerted. The important thing, however, is that the repressive government's rhetorical defence amounts to taking part in a process of communication that is hard to cut off again. In other words, even denying the validity of human rights norms is a form of dealing with them.

Phase 3: Tactical Concessions and Self-Entanglement

The phase of denying the validity of human rights norms is followed by a phase characterized by the government making tactical concessions and getting more and more entangled in its own arguments. Substantively, this phase is marked by the increasing cooperation of national and international human rights networks and their intensifying contacts with donors, international human rights institutions and the international community. These developments act as a constraint on the repressive regime's ability to choose its course of action. The intense external pressure in the form of threats and sanctions heightens the opposition's sense of being protected. It loses its fear of the repressive government and tries to influence the country's population more and more actively, which in turn increases the pressure within the political system.¹⁵ The government then makes some tactical concessions concerning the validity of human rights. Given the right circumstances, it may even set up its own human rights institutions. In the short term, this development serves to ease tensions. In the long term, however, it strengthens the opposition, which can now voice its criticism and its interests even more forcefully. Whereas in phase two the dynamics for change are set in motion by international public opinion, they now arise from within the centre of the countries violating human rights norms. In phase three, governments have two options: controlled liberalization or continued repression. The latter, however, merely leads to another round of strengthening the opposition and increasing the pressure exerted by even greater mobilization efforts on the part of transnational networks, which in the end also brings about controlled liberalization.

During this phase public discourse no longer focuses on the question of the validity of human rights norms as such but on the specific charge that human rights

¹⁴ Tomačevski (2000), 158ff. provides some eloquent examples of how representatives of the Iranian government used this line of argument in the Commission on Human Rights and the General Assembly of the United Nations in the 1980s; Amarsaikhan (2003), 10–48 cites examples taken from the discourse on Asian values. Cf. Würth (2003) on the question of whether and how culture-specific arguments can be employed in the context of the discourse on human rights.

¹⁵ Based on a quantitative and comparative analysis, Foweraker / Landman (1997) show that popular mobilization is the prerequisite for successful claims to citizenship rights.

norms are being violated. The conflict between the government and the opposition actually starts to turn into a kind of court trial, with both parties trying to win over international public opinion by using appropriate arguments. By conceding the validity of human rights norms for purely tactical reasons, the regime gets itself more and more entangled in a process from which it will not be able to disentangle itself in the long run. The government's own acknowledgement of the legitimacy of human rights can now be increasingly used by the population stipulating their implementation.

Phase 4: Status of recognition

The fourth phase of the "spiral model" describes the development to a continuous recognition of human rights norms ("prescriptive status") that can be used as a reference point. For this to happen, it is not enough for the government to sign on to human rights. Rather, it will also institutionalize and implement them as national law. The validity of human rights is confirmed by the government in as natural a way as possible and without taking into consideration the type and composition of the audience. In addition, the government will visibly make a long-term effort to actually comply with human rights conventions.

Phase 5: Norm consistent behaviour

Sustainable changes depend on continuous local and international mobilization even after the establishment of the norms' prescriptive status. Not least because of selective reporting by the media, international attention has often abated in the past, especially when a change of government had occurred. The prosecution of earlier human rights violations by the legal system in cooperation with the United Nations and the International Criminal Court helps to maintain the world's attention and to prevent the international community from losing interest in the country. Efforts to enhance the population's knowledge and awareness of human rights, especially by human rights education and the institutionalization of the rule of law, are of prime importance during this phase.

Discourse matters is thus the conclusion of the "spiral model". The discourse on human rights requires a certain degree of publicity while at the same time it helps generate such publicity. Human rights discourse entangles governments, with few options for long-term disentanglement. As far as the strategies and instruments of human rights policy are concerned, the following can be inferred from the "spiral model":

- The objectives that governments might consider trying to achieve in human rights dialogues also depend on the phase a potential dialogue partner is in at the time. In most cases, the potential partners for a human rights dialogue will be countries going through phases two, three or four. In order to identify the various phases correctly, it is necessary to observe the potential partner countries very closely and to develop a country- and phase-specific strategy.
- International pressure, for example from bodies of the United Nations, is a particularly important instrument in the first and second phases, even if it cannot always counteract human rights violations directly. But without international mobilization, it is impossible to strengthen a country's domestic opposition, which, according to the "spiral model", is the precondition for change.
- Instruments organized as dialogues, such as Technical Cooperation for the promotion of human rights or dialogues of governments, are in certain political situations the more appropriate and effective instrument than pressure by resolutions. But, as a matter of fact, the potential of the various instruments depends on the phase that the regime and the opposition are going through.

Discourse and practice matter – equally – this may be the short-hand summary of the preceding discussion about the impact of human rights norms. In the context of human rights dialogues – and criticism thereof – improvements in the normative environment should therefore not be played off against a reduction in human rights violations. Positive changes in both areas should be promoted and acknowledged.

2 Planning Human Rights Dialogues

In this chapter, the insights gained above are applied to the planning of human rights dialogues. Section 2.1 will introduce the basics of assessing the starting point for human rights dialogues, while section 2.2 deals with possible goals for human rights dialogues. Section 2.3 elaborates on strategies, and lastly, differentiated planning procedures will be discussed in section 2.4.

2.1 Situation Analysis

The starting point for a gender-sensitive human rights analysis consists of three aspects of a government's obligations: the obligation to respect, the obligation to protect, and the obligation to fulfil human rights.¹⁶ Based on this understanding, a government's obligations and the degree of their fulfilment can be outlined and the various duty-bearers and right-holders be identified. In addition, it should be examined whether governments meet their obligations in a non-discriminatory way – for example, when elementary education is legally required but actually not enforced for girls or refugees.

Besides using the three-pronged obligation as the basis of analysis, any appraisal of the human rights situation must also utilize international reference material, and if they exist, the Concluding Observations of the United Nations treaty bodies that monitor the

implementation of human rights conventions, as well as the recommendations of United Nations special rapporteurs on certain topics or countries.

For one thing, this follows from the necessity to assess a country's actual practice of implementation. For another, it is important to tie in with already existing discourses so as to exploit this as a strategic advantage. What is more, state reports to the treaty bodies and their Concluding Observations provide information for the general public that can be actively referred to by transnational and local non-governmental organizations.¹⁷ Not all Concluding Observations by treaty bodies are equally helpful. The credibility of human rights policy, however, suffers considerably if the substantive and country-specific work of United Nations bodies is ignored, while at the same time countries are exhorted to cooperate with these very bodies.¹⁸

In addition, there are numerous other sources that can be used for analyzing a country's human rights situation, such as country reports of human rights organizations or institutions, reports of international donors, and so on. A situation analysis should facilitate a deeper understanding of current problems that also takes into account an analysis of the causes of human rights abuses. The "spiral model" allows understanding such situations within their local context.

¹⁶ The three-pronged obligation supersedes the older notion that political and civil rights are characterized by omissions, whereas economic, social and cultural rights are characterized by positive provisions, goods or services; see Riedel (2004), 169–170.

¹⁷ A project of the University of Berne under the supervision of Walter Kälin is currently converting the Concluding Observations, as well as the recommendations of United Nations special rapporteurs and other UN sources, into a database. Once completed, this resource will greatly facilitate the work of all institutions involved in the promotion of human rights.

¹⁸ In the 1990s, human rights dialogues were largely characterized by giving little heed to the treaty bodies as well as to special rapporteurs. Even today this problem persists in Technical Cooperation programmes of many bilateral donors (see Woodman 2004), and even where one would least expect it, namely in the Technical Cooperation programmes of the Office of the United Nations High Commissioner for Human Rights. Here are the critical remarks of a 2003 evaluation report: "The relationship between OHCHR [Office of the High Commissioner for Human Rights] Technical Cooperation programmes and treaty bodies and special procedures seems to be a one-way street: emphasis on treaty body reporting and the role and relevance of the special procedures in Technical Cooperation activities, but no or hardly any attention to recommendations in the design and implementation of Technical Cooperation activities on relevant thematic issues or countries." Flinterman / Zwamborn (2003), 62.

2.2 Setting Goals

As a matter of principle, the goals of a dialogue must always be determined in negotiation with the partner country and agreed on by both sides. Goals can be set on different levels. These are not organized hierarchically. Instead, they run parallel to each other. Thus, goals on different levels can be combined with each other.

Figure 1 Levels for goals in human rights dialogues or human rights promotion

Level	Goals
Level 1	Ratifications, including consideration of reservations to treaties and acceptance of individual complaints mechanisms
Level 2	Legislation of human rights in national constitution and legislation
Level 3	Implementation of human rights treaties and national legislation by local institutions and policies
Level 4	Permanent guarantees for human rights: reduction of the number of violations; mandate and functioning of governmental and non-governmental human rights institutions/organisations; functioning of mechanisms for redress

This division of goals is based on several considerations:

- The attributability of effects: To establish a causal link between human rights dialogues and any visible change is notoriously hard. While potentially possible on level 1 and 2, it should be very difficult at level 4.
- Impact: Impact is much more likely at levels 1 and 2 than at levels 3 and 4. Given planning cycles of three to four years, it would seem rather unrealistic to expect an impact at all levels.
- Linking cause and effect: Many projects for the promotion of human rights start from the implicit or explicit assumption that impact at levels 1 and 2 will cause changes at levels 3 and 4 in the long run. As shown above (see section 1.1), this assumption cannot be confirmed empirically. What is more, human rights violations are always caused by the actions, or the failure to act, of persons, groups of persons or

institutions. For the time being, the ratification of treaties, or a corresponding legislative act, can at least improve the possibility to identify violations as such. Only in the long term there might be any preventive effects. Accordingly, the causes of human rights abuses cannot be removed by either the ratification of human rights conventions or the passage of legislative acts alone.

A linkage of cause and effect will probably exist between human rights policy and the permanent institutionalization and guarantee of human rights. Thus, it makes sense for human rights dialogues and concomitant Technical Cooperation activities to focus on changes in specific human rights policies, or in other words, to pursue goals at level 3.

Overall, this distinction between levels for goal setting is a plea for an approach to the planning of human rights dialogues (and Technical Cooperation activities) that is clear and transparent, and above all, modest and realistic.

2.3 Strategy Development and Coordination

The development of human rights strategies is based on the assessment of the human rights situation. It is indispensable both for human rights dialogues and for measures aimed at the promotion of human rights.¹⁹ It includes an appraisal of one's own position and the political context, as well as of the phase that the partner country is going through with regard to its approach to human rights norms. Moreover, it is necessary to evaluate the topics, actors and partners, as well as the successes and failures of previously used human rights instruments. Another necessary component of human rights strategies is the coordination with other bilateral and multilateral policies and actors. The following paragraphs will look at some of the numerous important strategic considerations.

The various actors involved in human rights dialogues must be assessed strategically. What are the motives and the expectations behind the partner country's decision to enter into a dialogue, and what are those of the various partner institutions participating in Technical Cooperation programmes? In this context, it is much less important for the partners' expectations to be identical. In certain political phases it is impossible

¹⁹ See Woodman (2004). She deplores the lack of such strategies in projects to promote the rule of law in China. Similar criticism has been voiced by the International Council for Human Rights Policy (2000).

to assume as much anyway. Rather, it is important for each partner to be able to have a clear sense of what the other partner's expectations are.

The second question concerns the degree of involvement of the various partners and actors in existing human rights abuses and human rights protection respectively. Workshops with academic experts contribute to the discourse if the results are diffused widely. By contrast, expert meetings with decision-makers from the justice sector are characterized by relative proximity to human rights violations and are therefore important, depending on the goals of the dialogue. At first, debates with this group may often amount to no more than deductivist assertions such that, for instance, cultural or religious prohibitions of torture are taken as proof that such a practice cannot exist in reality. But this is exactly why such groups must be approached continuously by offering them talks with working groups made up of functionally equivalent experts who are also well versed in the region's affairs.

The evaluation of the partners will also help choose the topics and instruments for the dialogue. Do relevant partners in a dialogue categorically deny the normative validity of human rights obligations, as described in phase two of the "spiral model"? If so, the offer of Technical Cooperation programmes for the promotion of human rights will not be of interest to a partner country. A dialogue on the current state of human rights would not seem to be a wise move either.

Instead, it appears to make more sense under such conditions of phase two to hold workshops on the theological and philosophical approaches to human rights norms in various traditions. In doing so, however, it is important not to let the proponents of cultural relativism establish a foothold in the debate by arguing that some traditions can be invoked as a legitimate argument to undermine the validity of human rights.

Or do the partner countries acknowledge the validity of human rights norms while denying certain violations of the norms?²⁰ In this case, it seems best to try for a very intensive dialogue about those areas the partner

is willing to talk about. The vocabulary used in such talks may be of a less provocative nature but still as precise as possible with regard to all relevant aspects of human rights. For example, it might be useful to bring up the concept of "human dignity" as a way to address the issue of women's rights.

The choice of topics for a dialogue must be by mutual agreement in any case. It must therefore be assumed that, from the point of view of both parties, the agenda will feature topics that are determined by priorities other than those of one's own side. They might include economic, social and cultural rights or the right to development.²¹ But they might also concern areas like racism, religious freedom, or the handling of asylum and migration, where, for example, many western countries have human rights problems. Here, it is essential to be as forthcoming in discussing one's own problems as one would expect the partners to be in discussing theirs, and especially so in such sensitive areas as women's rights. A constructive contribution in this sense is the description of the steps that have been and are being taken in order to remedy the shortcomings of one's own country. In doing so, one can also proactively refer to one's own experience with the treaty bodies or corresponding regional institutions for the protection of human rights.

Strategies must also take into consideration the usual instruments of human rights policy and use them in accordance with the assessment of the phases described above. If, for example, in phase two or three it is impossible to get civil society involved in the improvement of the human rights situation, promotion of national action plans and human rights institutions is not advisable because for both instruments to work it is necessary that representatives of civil society and government can get involved in a common process and, if possible, develop a common vision. In situations where the involvement of civil society is possible and relatively effective, but where the government's capabilities are limited, the promotion of national action plans or national human rights institutions does make sense, though.²² In the long run, these government-sponsored national human rights institutions can become important actors.

²⁰ Typical situations are those where the existence of political prisoners is denied or treated as taboo, while conditions in the regular prison system can be discussed. Similar situations may arise when countries are unwilling to reform substantive norms of their criminal law that indicate human rights violations (for example, the death penalty), even though they intend to reform their code of criminal procedure.

²¹ This seems to be a concern that many are rightly suspicious of in those cases where serious violations of civil and political rights can be observed in the partner country. But this suspicious mindset also reflects a Western understanding of human rights, which – despite all the lip service paid to the indivisibility of human rights – de facto focused solely on civil and political rights for a long time.

²² A good source on the work of National Human Rights Institutions: International Council for Human Rights Policy (2005).

Activities in connection with dialogues should be strategically coordinated with one's other programmes and activities, as well as with those of other countries.²³ To be sure, there are multilateral forums, such as the Commission on Human Rights or the General Assembly of the United Nations, where countries can exchange information about their dialogues. More interesting, though, are initiatives like the forums provided by the Berne and the Brussels-Berne process for at least communicating about their dialogues with China and Iran respectively. These forums should provide a basis for coordinating strategies and goals.²⁴ The coordination of objectives and activities is equally important in Technical Cooperation programmes for the promotion of human rights. A lack of coordination endangers the effectiveness of these projects and, what is more, it encourages the dialogue partner to play off one Technical Cooperation partner against the other.

To sum up, strategies are absolutely necessary for dialogues to be successful, and they are also the basis for a solid partnership between the two sides in a dialogue. Strategies comprise coordination, the assessment of one's own position, the partners, the possible topics and the windows of opportunity, as well as an analysis of the best way to pursue the goals of the dialogue.

2.4 Activities and Results

Human rights promotion and human rights dialogues intervene in political processes that are hard to grasp and often impossible to control. The high number of external factors makes it difficult to plan human rights interventions. Also, human rights dialogues come with a high risk of inertia and failure, in any case. In addition, there is the question of attributability, just as with interventions by means of Technical Cooperation,

because changes depend on the political will to make them, and the latter is always influenced by many factors. It is therefore far from easy to establish a causal link between a dialogue and any changes that might occur, or, in other words, it is hard to know if the changes are the result of the dialogue. They may, after all, have been caused by largely external factors (for example, lobbying by transnational networks or the threat of impending resolutions by the human rights bodies of the United Nations). Alternatively, they may be the effects of internal factors, such as upcoming elections and increasing economic or political vulnerability. It is therefore all the more important to use planning procedures that allow the various possible factors, as well as the risks, to be identified. At the same time, the goal and objectives of the dialogue must be determined, and the various activities as well as their expected results must be specified. This should be done in such a way as to make it possible to develop, already in the planning stage, appropriate methods for observing the dialogue's effects.

In this connection, the planning for human rights dialogues and Technical Cooperation activities for human rights may actually benefit from experience gained in development cooperation by adopting the appropriate planning procedures, above all the so-called project cycle management.²⁵ This procedure starts with a thorough analysis of the situation that is both sector-specific and gender-sensitive in order to identify possible objectives of an intervention and its underlying logic, as well as target groups and stakeholders.²⁶

At the core of operations planning with the help of project cycle management is the differentiation between activities and their results. Results are permanent outcomes for an intervention's immediate target groups (for example, the judiciary and prison staff), that is to

²³ The evaluation report on the Technical Cooperation of the Office of the High Commissioner for Human Rights concluded that the programme's activities were not sufficiently integrated with the other programmes of the United Nations: Flinterman / Zwamborn (2003), 88. Already since the mid-1990s, there have been reports of similar findings with regard to the coordination of various sponsors in the area of human rights and the integration of human rights promotion with developments in society at large: Heinz (1994), 51. See also International Council for Human Rights Policy (2000) and Woodman (2004) on the insufficient coordination of donors and the consequences thereof: excessive support for certain institutions, above all in urban centres, competition among donors for certain partners, donor-driven agendas of partner institutions.

²⁴ See DFA (2004), 22–23.

²⁵ For a detailed discussion of this approach see: EuropeAid (2001); on its usefulness for human rights promotion: SIDA (2000), viii, xi; Andreassen / Sano (2004), 9, 10. For an opposing view see: Sørbo / Tostensen (2005), 41, 53. They deny the applicability of this planning approach by arguing that it ignores the logic and dynamics of the political processes involved in the promotion of human rights and democracy, and that it produces linear assumptions about cause and effect. The authors do not, however, offer a convincing alternative.

²⁶ On the requirements for a human rights situation analysis, see section 2.1 above.

say, they are qualitative results of activities and not the activities themselves.²⁷ By contrast, an overriding goal describes a change that will benefit the whole population, or at least a representative part of it ("improvements in the situation of male and female prisoners").

Figure 2 Activities and results for training interventions

Goal	Improvement of prisoners' situation		
		Possible Indicators	Possible Data
Result	Application and relevance of acquired knowledge and techniques	x % of trainees apply the acquired knowledge/techniques in their daily work routines; x % of trainees are promoted in x number of years	Post-training survey
Activities	Training for prison wards and administrators	Number of trainees; ethnic (and/or social, gender, generational) composition of trainees; position of trainees	Pre- and Post-training survey

Without such a distinction between activities, results, and goals, all the planning will amount to no more than developing and mechanically carrying out activities ("completed so and so many dialogue sessions"; "published expert reports"; "provided so and so much further education for judges"). It will not become clear, however, what kind of results these activities are supposed to produce, nor how they are connected to the achievement of the overall goal.²⁸ Furthermore, it would be difficult to monitor the dialogue for quality. As will be explained in the following chapter, it is not possible to assess the impact or to evaluate the dialogue without differentiating between activities and results.

²⁷ For human rights promotion in the context of Technical Cooperation, some authors propose different or additional distinctions to be made between outputs and purposes. "Purpose" refers to the immediate benefits of an activity for the target group, while "output" refers to goods and services delivered by the project. SIDA (2000), 13; EuropeAid (no year), 115; OECD (2002), 4. This differentiation appears not to have been widely adopted in the literature on human rights: Andreassen / Sano (2004), 14; Kapoor (1996), 5.

²⁸ This is the main criticism that human rights dialogues, as well as projects for the promotion of human rights, are faced with again and again: SIDA (2000), xi. A similar view is also clearly expressed by the authors of an evaluation report on the Technical Cooperation programme of the Office of the High Commissioner for Human Rights: "An overview of the evaluations of the projects makes clear that they are focused on the activities carried out much less than on effects or results." Flinterman/ Zwamborn (2003), 39-40.

3

Measuring Impact: Forms and Methods

This chapter will focus on different forms of measuring the impact of human rights dialogues. Impact assessment is an essential precondition for transparency and credibility, but also for the partners' ability to learn. In section 3.1 the terms for the various procedures of measuring impact will be defined. Section 3.2 introduces the different methods of measurement. The discussion takes up experiences from development cooperation, in so far as they can be fruitfully applied to human rights dialogues and human rights promotion.

3.1 Forms of Impact Assessment

As a technical term, impact assessment is a generic term that covers two procedures, impact monitoring and evaluation.

Monitoring

Impact monitoring is one of the instruments for controlling projects and programmes. It builds on planning procedures that allow activities and results to be monitored and managed during implementation. Usually, impact monitoring relies on qualitative and quantitative indicators (for the terminology, see section 3.2.2).

Evaluation

Among other things, evaluation consists of analyzing both the achievement of the goals and the sustained nature of a project's effects. Evaluation implies a double look. First, the comparison of "before" and "after", and second, the comparison of what happens "with intervention" and what happens "without intervention". Starting from the planning documents, an evaluation

is based on the results of periodic monitoring of the achievement of indicators and benchmarks. An evaluation then assesses the effectiveness of the chosen instrument in relation to the achieved results. In other words, evaluations assume the observation of effects during an intervention. Overall, evaluations are very complex and expensive.²⁹

Ex post Observations

Ex post observations of a human rights situation must be distinguished from these two technical forms of impact assessment. Such observations are comparably inexpensive, since they aim at assessing changes with regard to the original situation. Sometimes changes in the situation are attributed to the intervention though, i.e. the human rights dialogue, without examining whether it was the intervention that brought about the result. This, of course, is not correct as the fact that the ex post observation takes place after a human rights dialogue does not prove a causal relationship.

To sum up, impact monitoring is one of the instruments for managing and assessing interventions. Like evaluations, it primarily looks at changes in the human rights situation as well as the effectiveness of interventions and the instruments employed. An ex post observation, on the other hand, examines changes in the situation but does not relate them to the effectiveness of the instruments.

The following section will continue the theoretical discussion on impact assessment at the level of methods and units of measurement. The section starts with a short introduction on the debate concerning the measurement of human rights performance.

²⁹ SIDA (2000), 17, earmarks 10 per cent of a project's budget for evaluation.

3.2 Methods of Measuring Impact

3.2.1 The Debate on the Quantitative Description of Human Rights Performance

So far, the reflections on measuring the impact of human rights dialogues have some shortcomings. They have not sufficiently taken into account that impact assessment in the sense of impact monitoring and evaluation requires a quantitative description of human rights performance. There are several ways this shortcoming can be overcome. One approach is to use international indices. Such indices compare countries with respect to their legal provisions intended to protect human rights and with respect to actual violations of these norms. Although this approach has been well researched, it is in fact rather controversial. Mostly, such indices are developed and used by political scientists. By correlating their data with variables like economic development, system of government, and political culture, these scholars try to demonstrate what boosts the ratification and implementation of human rights conventions on the one hand, or the occurrence of human rights violations on the other.³⁰ In development cooperation, such indices are used politically, in order to measure the performance of governments and to allocate funds accordingly. As a matter of principle, human rights experts view these indices rather critically. Such indices have not yet been used for measuring the effectiveness of human rights dialogues.³¹

Independently of the controversy around indices, another discussion relates to the use of indicators and benchmarking in human rights work and scholarship. Even though both debates deal with the quantitative description of human rights performance, their goals

and objectives are different. As used by the treaty bodies, benchmarks and indicators are intended to facilitate monitoring of human rights treaties compliance and the cooperation with ratifying states.³² In the context of development cooperation their purpose is to monitor and evaluate the impact of human rights promotion.³³

All in all, no consensus has as yet emerged concerning the question whether and how human rights performance can be described by quantitative methods.³⁴ But at least everybody agrees that basic conceptual work is necessary before such a quantitative description of human rights performance can be attempted.³⁵ Accordingly, there is no generally accepted set of human rights indicators or benchmarks that might be applied to human rights dialogues. Most of the indicators used in connection with human rights promotion have been developed in programmes designed to promote the rule of law or good governance. Frequently, however, they are insufficiently disaggregated by gender and region.³⁶

3.2.2 Indices, Indicators and Benchmarks: Definitions, Scope, and Their Potential Uses

"There is currently considerable confusion over the purpose, methodology, terminology and typology of indicators".³⁷ This is how a 2002 study by the Organisation for Economic Cooperation and Development starts. Today, this statement still holds true. Criteria, benchmarks, and indicators are often used colloquially, and then as synonyms rather than as technical terms.³⁸ In the following paragraphs, these terms will therefore be briefly defined, while their scope and potential uses will be illustrated.

³⁰ The most pertinent contributions were made by Barsh (1993); Carey / Poe (2004); Foweraker / Landman (1997); Goldstein (1992); Hathaway (2002); Keith (1999); Poe / Keith / Tate (1999); Poe / Tate (1994).

³¹ See Tomačevski (1989), 50-53 and United Nations, General Assembly (1993), para 148.

³² Scheinin (2005); Report of Turku Expert Meeting on Human Rights Indicators (2005), 7-9.

³³ As donors increasingly adopt rights-based approaches in development, they will have to give more thought to the question of how these approaches can be operationalized, and how their successes can be monitored.

³⁴ See the debate in the 1990s: United Nations, Sub-Commission on Prevention of Discrimination and Protection of Minorities (1990); United Nations, General Assembly (1993).

³⁵ Malhotra / Fasel (2005), 24; in the same vein, Landman (2005) and Thede (2001).

³⁶ A good overview can be found in Vera Institute for Justice (2003); see also: Kapoor (1996), 23-29. For gender-related data, see: <http://devdata.worldbank.org/genderstats/> and <http://ddp-ext.worldbank.org/ext/MDG/gdmis.do>.

³⁷ OECD (2002), 3. A summary of the United Nations debates and documents from the 1990s can be found in United Nations, Secretary-General (1999), para 16.

³⁸ Kirby, for example, speaks of indicators, but then goes on to describe benchmarks. Green, on the other hand, carefully distinguishes between these terms (2001), 1080: "In brief, *benchmarks* can be defined as goals or targets that are specific to the individual circumstances of each country. As opposed to human rights indicators, which measure human rights observation or enjoyment in absolute terms, human rights *benchmarks* measure *performance* relative to individually defined standards" (italics in the original).

Indices

Indices are highly aggregated composites of various statistical data. They are expressed as scales, numerical values or qualitative terms. The best-known indices are the Freedom House Index and the Human Development Index. Both are used by academics and development practitioners.

Qualitative Benchmarks

Qualitative benchmarks are concrete, normative standards or criteria that the current situation is compared to. "Minorities' access to the law" or "equal opportunity for women in the job market" are examples of such benchmarks. Often they are used in the form of yes-or-no checklists, for instance, when the ratification of human rights conventions or their implementation in constitutions and legislation must be documented. Primarily, qualitative benchmarks are currently used for documenting human rights violations (see section 4.3.1.2 below).

Performance Benchmarks

Qualitative benchmarks must be distinguished from what could be called quantitative benchmarks, but in the literature is referred to as performance benchmarks. These latter set a target pegged to a deadline, for example, "the reduction of illiteracy rates of rural women between 15 and 24 years of age by so and so many percentage points by 2008", or "release of 50 political prisoners by the end of 2005". Performance benchmarks are thus concrete targets that have been specified at an institutional, regional, national or international level. Performance benchmarks are mainly used in connection with reforms of administrative agencies and institutions.³⁹ Currently, the most prominent examples of performance benchmarks are the Millennium Development Goals.⁴⁰ This type of benchmarking depends on qualitative information about current policies and their results. For the examples mentioned above, this means that there must be reliable and up-to-date statistics on illiterate women from various

age groups and regions, as well as data on the approximate total number of political prisoners. For monitoring the overall human rights situation, performance benchmarks can be used if they are linked to indicators. Thus, the prisoner benchmark can measure whether the agreed number of prisoners has indeed been released, while an indicator ("total number of political prisoners") will reveal whether new political prisoners were detained during the same time.

Performance benchmarks are very useful for monitoring human rights dialogues or Technical Cooperation activities that aim to improve specific policies in human rights relevant sectors or the services of certain institutions. If complex objectives are to be monitored by performance benchmarks they must be linked to indicators.

Indicators, Especially Human Rights Indicators

Here, indicators shall refer to those measurement units that can be used to determine the extent of changes directly or indirectly as well as multi-dimensionally, or in other words, with regard to their absolute occurrence, quality and scope.

In social science literature, indicators are required to be, among other things, specific, relevant and sensitive enough to register even short-term changes. There are three different kinds of indicators: quantitative, qualitative, and participatory. Quantitative indicators are derived from data collected by statistical methods. Qualitative indicators are based on survey results, such as questionnaires (see section 3.3 on data collection).⁴¹ Participatory indicators are those measurement units, whether quantitative or qualitative, that have been jointly developed with target groups, partners or stakeholders.⁴²

A number of proposals have been made on how best to conceptualize indicators designed specifically for human rights purposes.⁴³ A few authors have tried to use the three-pronged state obligation to respect, to protect and to fulfil human rights. Accordingly, they

³⁹ See Audit Commission (2000); Audit Commission (2000a); see also UNDP (2000), 99 for examples of the use of benchmarks in development cooperation.

⁴⁰ For the indicators gathered in connection with this benchmarking process, as well as their application to human rights, see United Nations, Secretary-General (2004), Annex 5 and United Nations, Economic and Social Council (2003).

⁴¹ See Kapoor (1996), 7–9; International Council for Human Rights Policy (2005), 26–27.

⁴² For a detailed discussion of the advantages and disadvantages of the various kinds of indicators in the work of national human rights institutions, see International Council for Human Rights policy (2005), 26–29.

⁴³ Overviews of these proposals are provided by Malhotra / Fasel (2005); report of Turku Expert Meeting on Human Rights Indicators (2005); Landman / Häusermann (2003). So far, however, no one has come up with a comprehensive and well-tested set of such indicators.

have suggested indicators for the respect of human rights norms (e.g. number of cases of ill treatment in detention), for the protection of human rights (e.g. effective protection for the victims of domestic violence), as well as for the fulfilment of human rights (e.g. school enrolment rates, etc.).⁴⁴ Others group indicators into those for human rights-related results (occurrence of violations, extent of guarantees) and those for human rights-related processes. The latter are to measure how the government lives up to its obligation to comply with the norms and to fulfil the various rights, for example, with regard to non-discrimination and the possibilities of redress.⁴⁵ Such indicators would therefore measure the support for vulnerable groups in various policy areas, as well as the establishment of agencies or mechanisms for filing complaints, and the scope of their remit.

In principle, solidly developed indicators can be used to describe and measure changes in the human rights situation, as well as in the policies pursued in those sectors that are relevant for human rights. Indicators can be used as the only basis for monitoring or in combination with other measurement units. All in all, indicators may be used for monitoring and managing complex human rights dialogues, and evaluating their impact.

Common Characteristics of Performance Benchmarks and Indicators

Performance benchmarks and indicators share many characteristics. They can be used for measuring the achievement of project objectives, results, and activities. It is therefore necessary to develop them during the planning stage of a dialogue, as well as to continuously adjust them during the actual conduct of the dialogue.⁴⁶ Furthermore, their formulation requires data that reflect the actual state of affairs. Accordingly, the sustainable gathering of data by institutions in the partner country should be one of the objectives of the dialogue or the Technical Cooperation programme. An appropriate period of time must be scheduled for this purpose, and adequate funding must be provided for in the budget. One last common characteristic is shared by all units of measurements used in impact assess-

ments. Projects and institutions must not overextend themselves by trying to meet too many benchmarks or indicators, or by choosing unrealistically ambitious ones. They should measure only things that are relevant, achievable, and measurable at justifiable cost in time, money and effort. Otherwise, the attention of everybody involved will shift from substantive goals and results to their measurability.⁴⁷

3.3 Mechanisms for Gathering Data: Strengths and Weaknesses

Sources and methods of data collection are central to all debates on the quantitative description of human rights-related performance. However, data collection is also essential for monitoring the impact of human rights dialogues and for evaluating them, as well as for human rights promotion since any measurement of change requires base line data. As a matter of principle, gathering this type of data is a responsibility of the partner country. As such, data collection should be a separate and independent objective of any human rights dialogue.

The common mechanisms for collecting data consist of:

- survey results of various types, primarily aimed at qualitatively assessing the human rights situation (representative surveys of opinions or perceptions, household surveys, entry or exit polls for clients of institutions);
- data on human rights violations that are derived from the observation of national events (events-based monitoring), for example, the country reports by human rights organizations like amnesty international and Human Rights Watch;
- data on the human rights situation and on human rights abuses that are based on assessing the situation with a view to certain standards or criteria (standard-based monitoring), such as those stipulated by treaties, agreements, certain guidelines, or conference resolutions of the United Nations;

⁴⁴ For example, Malhotra / Fasel (2005a).

⁴⁵ For example, the proposal by Green (2001) and Landman (2004) and (2005).

⁴⁶ "[I]n some senses, the search for appropriate ... indicators is itself an indicator of deficiencies at the planning stages of the project." This is how a group of evaluation experts sums up this fact: SIDA (2000), 114. Kapoor (1996), 5 argues that indicators can be useful instruments only if they are developed during the planning phase.

⁴⁷ On this point, there is general agreement in the literature: Vera Institute (2003), 4, 13; Kapoor (1996), 13; Audit Commission (2000), 8.

- national or international socio-economic statistics, preferably disaggregated according to criteria such as gender etc.⁴⁸

Many institutions insist on using quantitative data as a basis for impact assessment.⁴⁹ However, with regard to human rights work, this seems to be overly ambitious, given the limited availability of data and the general difficulty to quantify human rights performance. At the same time, it also seems to underestimate the relevance of qualitative data. Instead of attempting such categorical evaluations, the following paragraphs will therefore present a brief description of the strengths, weaknesses, and costs of the various mechanisms.

Up-to-date and reliable socio-economic statistics, such as those that form the basis for the Human Development Index, are not available for many countries. And even the ones that do exist are often insufficiently disaggregated by gender, age, region, etc.⁵⁰ On the one hand, this makes it difficult to use these kinds of data for human rights work. On the other hand, there is no use in waiting for the availability of tailor-made human rights statistics. Instead, data that can be used should be used.⁵¹ And what is more, this situation presents a great potential for the future, especially for the treaty bodies. By cooperating with the United Nations Statistics Division, the treaty bodies can help revise the requirements for the socio-economic data collected by countries in such a way as to facilitate their applicability to human rights issues.⁵²

Different challenges arise from the collection of data that are generated when national events are observed – for example, elections or the intervention of security

forces in demonstrations or civil wars. This kind of monitoring focuses on the systematic and most egregious human rights abuses. If, for instance, torture is used systematically in a civil war, simultaneous violations of economic rights by state and non-state actors may not be documented the same way.⁵³ This weakness can be partially overcome by combining events-based and standards-based monitoring. Thus, all events and developments that are relevant for human rights are always covered. This kind of comprehensive monitoring is indeed very demanding, but especially for international human rights organizations and national human rights institutions there simply is no alternative. Organizations should disclose the method of monitoring they use, while the reporting formats should be standardized as much as possible.⁵⁴

Surveys, on the other hand, mostly produce qualitative data. Surveys are very feasible in training programmes if the participants, as the immediate target group, can be interviewed directly (for example by means of entry or exit polls). Surveys can be very expensive, however, if, for instance, the evaluation of Technical Cooperation activities requires that indirect target groups, or in other words, a representative share of the population, need to be included in order to check whether the overall objective has been achieved.

In sum, it can be said that all mechanisms for gathering data on the situation and development of human rights have undeniable strengths with regard to their meaningfulness, but also certain weaknesses as far as their costs and practicability are concerned. In the development of indicators and benchmarks the following points must be taken into consideration: What is the basis of

⁴⁸ A good overview of the methods of human rights monitoring is provided by: Guzmán / Verstappen (2003), 25f.; on the collection of data: Landman / Häusermann (2003), 4; UNDP (2004), 6ff.; Malhotra / Fasel (2005), 5–22.

⁴⁹ See, for example, Malhotra / Fasel (2005), 7. Their main intention is to prevent subjective factors from influencing the evaluation of the data.

⁵⁰ See United Nations, Sub-Commission on Prevention of Discrimination and Protection of Minorities (1990), para 8, 27–28; UNDP also concedes that the Human Development Index does not yield much information for human rights-related questions: UNDP (2000), 108.

⁵¹ This is expressed quite clearly by Malhotra / Fasel (2005), 25: "... in most cases, the possibility of using the available information on the socio-economic indicators ... at the international, national and sub-national level for use as human rights indicators has not been adequately explored." See also: United Nations, Secretary-General (2004), Annex 4 on the revised requirements for reporting to the treaty bodies.

⁵² See United Nations, Sub-Commission on Prevention of Discrimination and Protection of Minorities (1990), para 10 for the situation at the beginning of the 1990s; for information on more recent efforts, see United Nations, Economic and Social Council (2003a); Report of Turku Expert Meeting on Human Rights Indicators (2005), 9; Malhotra / Fasel (2005), 10–18.

⁵³ The processing of such data also raises some methodological issues. Thus, the quantitative documentation of human rights violations requires a decision as to exactly which human rights-related aspects of an event are to be recorded – all of them or just the most serious one. If, for example, persons were tortured they are also likely to have been arrested illegally. In addition, numerous other rights have usually been violated as well. Should these abuses be recorded or just the peak of the event, in other words the torture? The portrayal of the human rights situation will look quite different, depending on the approach that is finally adopted. See Cingranelli / Richards (2004), 6; Poe / Keith / Tate (1999), 298.

⁵⁴ An important step in this direction was the development of standardized reporting formats for human rights violations by Human Rights Information and Documentation Systems (HURIDOCs).

the data? How can the partner country's institutions collect data that are current and reliable, and how can they do so in a sustainable manner? It should therefore be a central goal and topic of human rights dialogues to exchange views with partner countries concerning the collection of data on human rights-related facts, as well as to support these countries with regard to collection of relevant data.

4

The Practice of Impact Assessment

The focus of the following chapter will be various forms of impact assessment for human rights dialogues. The first part 4.1 introduces methods for impact assessment for dialogues where improvements in the normative environment of the partner country are envisaged. Section 4.2 takes a look at dialogues that are intended to change specific human rights policies. Section 4.3 finally deals with the possibilities of measuring the impact of those dialogues that aim at improving the overall human rights situation.

Three models, one for each of the three kinds of goal pursued in human rights dialogues, will be developed here. These models are not intended to be understood as evaluations of past or current dialogues.

can be members of parliament as well as experts from academia and the legal profession, but also representatives of the justice and foreign ministries. At the same time, it is necessary to continuously include those forces critical of human rights, for example by means of joint working groups of experts holding functionally equivalent positions. Depending on the political situation in the country, cooperation with civil society groups may boost the domestic lobby for the ratification of conventions and their national implementation (see section 1.2 above).

What are the methods and units of measurement that the partners can utilize to assess the impact of dialogues with such a goal?

4.1 Dialogue Model: Changes on the Normative Level

Human rights dialogues can try to improve a country's willingness to ratify human rights conventions or to implement them into national law. In such dialogues the first objective must usually be to convince the partner country's representatives of the relevance and universal validity of human rights. This requires precise knowledge of the country's legal and political reservations to the human rights system of the United Nations or the region. It is also important to understand those debates in the partner country that criticize the values and rights embodied in human rights treaties as culturally or religiously irrelevant or as threatening to national identity. Such a dialogue should therefore include, among other things, a detailed discussion of the two countries' various historical and political experiences with the recognition of human rights norms. It should also provide a forum where cultural, religious and political reservations regarding human rights norms can be voiced, discussed and dealt with. Depending on the political system, the target groups for such a dialogue

4.1.1 Impact Assessment Based on Indices

A number of studies by political scientists use indices in order to document the development of the international status of ratifications quantitatively, while others use them to measure the implementation of essential human rights in constitutional guarantees or legislative acts.⁵⁵ Above all, these indices are interesting for ex post analyses of dialogues. They can show the phases during which the partner country took steps towards implementation, but also how developments in the partner country compare to those in other countries.

An index on the normative situation in countries has been developed by Hans-Otto Sano and Lore Lindholt as part of their project called Human Rights Indicators at the Danish Human Rights Institute. They measure the normative environment (formal commitment) by aggregating four components:

- ratification of fundamental international and regional human rights instruments;
- ratification of other conventions of the United Nations;

⁵⁵ Landman (2004), 912, 914, 915 and Foweraker / Landman (1997) have done the most extensive research in this respect.

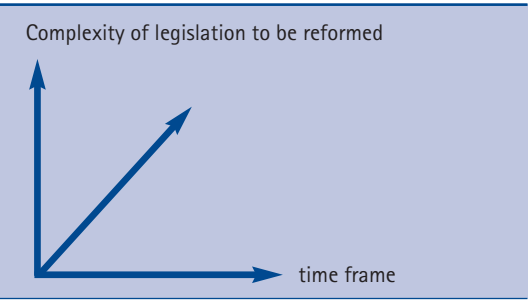
- reservations to conventions of the United Nations or the region;
- existence of a national Bill of Rights.⁵⁶

They depict this normative environment on a scale from zero (strong formal commitment) to eight (no formal commitment), and analyse their results with respect to regions. As a result, only East and South East Asia, as well as South Asia, show an intermediate commitment, while all other regions show a strong commitment. This index can be used for ex ante and ex post analyses of the normative environment. However, because of the (as yet) short time span it covers, it is not particularly meaningful. For measuring impact in the technical sense, other methods, especially benchmarks, are more widely used and more appropriate. They will be described in the following sections.

4.1.2 Impact Assessment Based on Qualitative Benchmarks

The partners can use qualitative benchmarks as a checklist in order to see if the country's constitution and laws guarantee certain rights stipulated by the conventions. Basically, this is similar to the way in which most countries write their reports to the treaty bodies. The respective articles of the conventions are juxtaposed with the corresponding laws or regulations of the country. Whether in this form, or in the form of qualitative benchmarks, these methods document the current status at a certain point in time. With qualitative benchmarks, the partners can therefore examine the legal situation ex post facto and can determine whether any changes occurred after the dialogue. To monitor these changes, though, qualitative benchmarks must be given a dynamic dimension by placing them within a time frame.

Figure 3 Qualitative benchmarks pegged to time frame and complexity of task



Drastically simplified, such a timetable might look like this:

Figure 4 Improving the normative environment: using qualitative benchmarks as results

Time Frame	Benchmark
12-24 months	Access to material and relevant actors is granted; base line studies are completed
24 months	First draft based on international standard is presented
36 months	Time table to pass the law is completed
48 months	Legislation is passed

The advantage of arranging qualitative benchmarks in this way is obvious: The partners can formulate them relatively clearly and keep them manageable. The arrangement of benchmarks within a time frame permits partners to focus on the results of their activities. The partners get a chance to control the success of the dialogue and to exit if certain benchmarks are not met by the date agreed. Measuring impact by following this model is comparatively simple: it measures whether legislative initiatives that may have been taken are compatible with international standards in purely normative terms. It does not, however, measure the results of the application of these laws which would be much more complicated.

To sum up: Dynamic qualitative benchmarks permit partners to monitor changes at the normative level reasonably well and comparatively inexpensively.

4.2 Dialogue Model: Changes in Human Rights Policies

Dialogues can try to bring about changes in human rights specific policies. Such dialogues require that the partners treat each other in a very cooperative way and that they have at least similar expectations of the dialogue. According to this model then, the partners will choose specific topics, such as the prevention of torture, relations with civil society, or abolishing the death penalty. In connection with these topics, they will dis-

56 Sano / Lindholt (2002), 5. The choice of the individual components of the index raises the question why and how "fundamental" conventions are distinguished from "other" UN conventions. Another problem is the insufficient distinction between procedural and substantive reservations. Also, it remains unclear why the acceptance of mechanisms for filing individual complaints is not part of the index.

cuss certain policies, for example, the issue of how to deal with complaints about torture and abuse, the relations between government and non-governmental organizations (NGOs), or the review processes with respect to death sentences. With this approach, the normative environment will, of course, also be taken into account. Primarily, however, the focus will be on institutions that apply existing laws and regulations. The common objective of changing policies makes it necessary to involve target groups that implement and execute the respective policies. With regard to the prevention of torture, these target groups include security forces, police, experts on forensic medicine, and prosecutors. In addition, they include groups of persons affected by these policies, such as victims' or survivors' associations, and human rights NGOs.

Such dialogues do not focus on culture-specific arguments on human rights or their derivation and validity. Instead, they are characterized by workshop-like, long-term, and specialist debates on the current situation and its ramifications, as well as by activities for capacity building. Furthermore, it is important that the dialogue activities are not restricted to urban centres. The sustainable gathering of data by partner institutions must be an independent goal of such dialogues. The following section examines methods for impact assessment of this model of human rights dialogues.

4.2.1 Impact Assessment Based on Benchmarks

Qualitative benchmarks can be used to check whether a certain human rights-related policy has been adopted, for example, whether a national human rights institution has been established and given an appropriate mandate.⁵⁷ Qualitative benchmarks are, however, hardly suitable for observing how well, or how poorly, the institution functions with regard to its mandate. But measuring changes in human rights policies implies both: the question of the existence as well as the performance of certain policies.⁵⁸ Because the latter is a dynamic process, it is better captured by performance benchmarks and indicators.

Figure 5 Using performance benchmarks to improve the situation of prisoners

Goal	Improvement of the situation of male and female prisoners
Target groups	Ministries for the Interior and Justice; judiciary; prosecutors; prison administrations, at central and regional levels
Activities	Political dialogue; expert meetings and workshops; technical cooperation, with components in training and information management.
Results	Access to and quality of water, sanitation, nutrition, health care are improved; Pre-trial detainees and convicts are separated; Overcrowding is reduced; Access to complaint mechanisms is improved.
Performance benchmarks	X % of male and female prisoners have access to specified benefits until the end of 2005; X + 1 % of male and female prisoners have access to specified benefits until the end of 2006; Reduction of prison-related infectious diseases by x % at the end of 2005 etc. In x % of all well-founded complaints submitted by prisoners, those responsible were held accountable by the end of 2005 etc.

Performance benchmarks are specific targets that have been agreed on at the institutional, regional, national, or international level. They are designed for the respective policies and the bodies in charge of them. Similar to indicators, they can measure performance levels by measuring the quantitative and qualitative differences between the target stipulated and the actual state of affairs. Figure 5 above illustrates the use of performance benchmarks. In order to measure the degree to which the overall goal has been achieved ("improving the situation of prisoners"), these targets can also be linked to indicators. Possible indicators might be the following:

⁵⁷ See International Council for Human Rights Policy (2005), 8: "*Benchmarks* are standards that define the minimum attributes of national institutions with respect to their legal foundation, membership, mandate, funding and so on. National institutions should meet such benchmarks because, if well-defined, they will determine whether or not the institution is in a position to achieve its fundamental purpose which is to promote and protect human rights *effectively*, as well as more specific programme objectives." (Italics in the original).

⁵⁸ This is not to suggest that human rights policies can, or should, not be measured with regard to other criteria, such as their efficiency.

- total number of prisoners relative to a) prison staff, and b) prison cells that conform to international standards;
- share of the funds allocated for prisons earmarked for equipping them according to international standards;
- access to meaningful information about the filing of complaints;
- the time it takes from the filing of a complaint to a decision concerning this complaint.⁵⁹

Thus, changes in policies and services of certain institutions can be measured quite well with the help of performance benchmarks, whether with or without additional indicators.

The advantage of performance benchmarks is their specificity, which makes disagreements about their interpretation less likely. This is very different in the case of qualitative objectives or quantitative indicators. For example, the objective "improving the capacity of government agencies to deal with human rights complaints" or an indicator like "number of complaints about human rights violations" leave ample room for partners to have very different notions of what the objective implies or the indicator means. Performance benchmarks thus have a specificity and clarity that make them particularly suitable for impact assessment and evaluation in connection with this dialogue model.

4.2.2 Impact Assessment Based on Indicators

Policy changes can also be identified with the help of solidly constructed indicators, because they can capture absolute events, as well as the quality and scope of changes. The essential prerequisite for the development and the use of such indicators is, as in the case of performance benchmarks, the availability of data on the actual state of affairs.

Figure 6 illustrates how multi-dimensional quantitative indicators can be used for measuring the achievement of the objective "boosting the role of the supreme court in the review of death sentences".

Figure 6 Strengthening the supreme court in reviewing death sentences: possible indicators

Dimension	Operationalisation	Possible Indicators
Result in terms of absolute number	Number in a specific period of time	Number of death sentences examined by the Supreme Court
Result on specific levels	Number on a specific level / period of time / particular region / with a view to a particular community	Number of death sentences passed between year x and year z reviewed by the Supreme Court; number of death sentences passed against members of certain communities (or: passed for certain crimes) which were reviewed by the Supreme Court
Result in terms of scope	Percentage	Percentage of all primary court sentences (per year) handing down the death sentence; percentage of all Supreme Court rulings confirming the death penalty

Such multi-dimensional indicators make it possible for the partners to control the implementation of a comparatively manageable, human rights-related policy over a planning horizon of several years.

In choosing a particular model of impact assessment, that is, in deciding whether primarily to use performance benchmarks or indicators, the partners will also take into consideration the policy area in question. Thus, independent institutions like the judiciary and national human rights institutions cannot simply be told what their results are to be ("the supreme court reverses a certain percentage of all rulings by courts of first instance"; "the national human rights institution brings a certain percentage of complaints to court"). Here, indicators seem to be much more appropriate. But for institutions bound by orders and instructions, such as prison administrations and police stations, the partners

⁵⁹ Adapted from: Vera Institute for Justice (2003), 55–58.

can indeed agree on specific targets to be checked against performance benchmarks, as the examples have shown.

To sum up: Dialogues that aim at changing specific policies have clear and manageable objectives. Their impact is comparatively easy to observe. Sustainable data collection by the partner is a necessary part of such dialogues. However, it is not an end in itself but a prerequisite for transparency and accountability, and as such an essential contribution to changing the respective policy.

4.3 Dialogue Model: Improving the Human Rights Situation

Many human rights dialogues and programmes for the promotion of human rights intend to improve the human rights situation on the ground. This is a very complex goal because the partners want to bring about changes in all areas of human rights protection. They must try to put an end to human rights violations (and if necessary to investigate and prosecute perpetrators), as well as to create the conditions for a sustainable institutionalization of human rights. Raising public awareness of human rights can also be an objective. Strategies, target groups, and instruments for such dialogues must therefore be accordingly complex. The capabilities of civil society must be enhanced, just like those of human rights-related agencies in cities and rural areas. Mechanisms for lodging complaints must be set up or strengthened, human rights education must be institutionalized, and finally, human rights violations must be reduced in both number and degree. With the objectives being so complex, impact assessment must meet very tough requirements. The following sections will discuss two possibilities. Section 4.3.1 explains how impact of such a dialogue can be measured by examining the reduction in human rights abuses. Section 4.3.2 looks at ways of measuring the impact of such dialogues multi-dimensionally. In other words, how can changes in the number of human rights violations, as well as changes in policies that aim to institutionalize human rights, be documented?

To summarize the findings before-hand: The comparison of both methods shows that the multi-dimensional

approach to monitor changes in the human rights situation is more appropriate than a form of impact assessment that just measures the number of human rights violations.

4.3.1 Measuring the Reduction in Human Rights Violations

As perceived by the public, improvements in the human rights situation correlate with a reduction in the number and gravity of human rights abuses. Human rights dialogues aiming at improving the overall human rights situation have to face these expectations and must therefore try particularly hard to employ transparent forms of impact assessment, as well as to pursue appropriate communication strategies.

There are several methods for measuring human rights violations. Currently, the most frequently used methods are indices and qualitative benchmarks. They will be described in the following sections. First, however, it should be mentioned that both methods are above all suitable for an ex post analysis of the human rights situation. But they cannot be used for monitoring the impact of a human rights dialogue and for evaluating it in the technical sense defined above.

4.3.1.1 Impact Assessment Based on Indices

4.3.1.1.1 Freedom House Index

The Freedom House Index is probably the best-known index in political science. It is based on standards or qualitative benchmarks respectively. Experts evaluate the global situation of certain civil and participatory rights by analyzing media reports. Freedom House then converts these assessments into a numerical scale and divides them into the categories political rights and civil liberties.⁶⁰ Next, the average of the values of these two categories is used to classify the country as "free", "partially free", and "not free". For some countries, the index covers the period from 1973 to 2004, a time span long enough to be relevant.

In spite of the harsh criticism levelled at the index,⁶¹ it is still being used by scholars⁶² and development prac-

⁶⁰ For a detailed description of this method see Freedom House (2003).

⁶¹ UNDP (2000), 91. Goldstein's criticism is particularly scathing (1992), 48: "... the basis for assigning of scores seems to be entirely impressionistic; ... the scales are obscure, confusing, and inconsistent and change from year to year."

⁶² In addition to other sources, Keith (1999) uses the Freedom House Index for her analysis of the impact of human rights conventions.

titioners. Thus, the U.S. Agency for International Development (USAID) uses the Freedom House Index to measure the achievement of the objectives of USAID activities intended to enhance the rule of law and the respect for human rights.⁶³

Yet how sensitive is the index to changes? The classification as "not free" has not changed over the past twenty years for 43 per cent of the 161 countries, for which the Freedom House Index provides data for the period from 1983 to 2003. For 25 per cent of these countries the index does not show any change in any year. At the other end of the scale, 23.6 per cent of the countries have consistently been classified as "free". This means that the index documents any fluctuations between "not free", "partially free" and "free" for only 33 per cent of the countries.⁶⁴ Given this lack of sensitivity of the Freedom House Index, it would seem quite problematic to use a country's rank in the index as a solid basis for monitoring the achievement of activities aimed at promoting human rights, as it has been suggested by USAID.

4.3.1.1.2 Human Rights Indices

The Danish Human Rights Institute has developed an index that is explicitly oriented towards human rights. It is especially designed to manage and monitor the institute's projects in development cooperation. Four separate indices are used to measure the government's commitment to civil and political rights, to economic, social and cultural rights, as well as to women's rights.⁶⁵

In addition, the formal commitment of countries is measured and grouped by region (see section 4.1.1 above).

Sano and Lindholt develop the index for the commitment to civil and political rights on the basis of human rights violations as counted in the country reports released annually by human rights organizations (amnesty international, Human Rights Watch) and the U.S. Department of State. However, they only draw on data for the late 1990s. As yet, the index therefore does not cover a sufficiently long time span.

The CIRI Index, a database maintained by political scientists David Cingranelli and David Richards, is based on almost exactly the same data. This database covers 195 countries for the period from 1981 to 2003. Like the index of Sano and Lindholt, it uses the human rights violations recorded in the annual reports by the U.S. Department of State and amnesty international and then aggregates these data in separate indices.⁶⁶ Two of these indices are the Index for Physical Integrity Rights and the Index for Empowerment Rights shown below in Figure 7.⁶⁷ Both indices run on numerical scales from zero (no respect for these rights) to eight and ten respectively (no violations of these rights).

The database is a working tool for political scientists. Like the index developed by Sano and Lindholt, however, it is also intended as an instrument for monitoring the impact of human rights policy (as well as of other policies) on the number of human rights abuses.⁶⁸ Figure 7 samples data from the index:

⁶³ USAID (1998), 14. USAID develops its own indicators only for subordinate objectives, such as improving the normative environment and setting up mechanisms for lodging complaints.

⁶⁴ Percentage calculations based on: Freedom House (2004). The calculations include only those countries, for which continuous data are available for the period from 1984 to 2003 (n=161). The various ranks "free", "partially free", and "not free" were assigned numerical values.

⁶⁵ The basic problem with this index is the different nature of the things that Sano and Lindholt measure. In the case of civil and political rights they measure violations of the norms, in the case of economic, social, and cultural rights they measure compliance with the norms, and in the case of women's rights they measure the degree to which women are discriminated against: Sano / Lindholt (2002), 5.

⁶⁶ The coding rules are very transparent, see Cingranelli / Richards (2004).

⁶⁷ Physical integrity rights: violations of the right to protection from extralegal execution, forced disappearances, torture and imprisonment for political reasons. Empowerment rights: violations of the right to free movement, free speech, political participation, freedom of religion, as well as of workers' rights. Unlike other indices, the CIRI database also includes comprehensive data on violations of women's rights.

⁶⁸ In the words of the authors: "It is designed for use by scholars and students who seek to test theories about the causes and consequences of human rights violations, as well as policy makers and analysts who seek to estimate the human rights effects of a wide variety of institutional changes and public policies including democratization, economic aid, military aid, structural adjustment, and humanitarian intervention." Cingranelli / Richards (2004a).

Figure 7 Physical Integrity Rights and Empowerment Rights Indices, 1983–2003

Both indices show considerable movement. Respect for empowerment rights, that is, among other things, the right to political participation, has been stagnant at the lowest level since 1988. By contrast, respect for physical integrity rights has visibly moved between intermediate values and the lowest level. Since 2000, it has been falling steadily though.

As opposed to the Freedom House Index, the two indices by Cingranelli and Richards appear to be constructed in such a way as to make them relatively sensitive even to short and medium-term changes. If, by the way, the picture presented in Figure 7 were to represent an assessment of the success of human rights policy towards a specific country, there would be cause for alarm concerning the effectiveness of the instruments employed.

To sum up, indices may be used to capture human rights violations, and to that effect they can, in the colloquial sense of the word, be used as indicators for the success of human rights dialogues. The main caveat concerns the data the indices themselves are based on, as mentioned above. Furthermore, the resulting picture will be rather sobering. A more serious limitation of impact assessment by indices, however, is the fact that,

like every ex post analysis, it does not answer the question of how to improve policy or human rights dialogues respectively.

4.3.1.2 Impact Assessment Based on Qualitative Benchmarks

Most often, qualitative benchmarks are used for measuring human rights violations, for example in the context of human rights impact assessments.⁶⁹ They are better known, however, in connection with the work of amnesty international and Human Rights Watch. The method also appears to be employed as a model for the evaluation of the EU dialogues. On the basis of these examples, the following sections will show how qualitative benchmarks are applied to the documentation of human rights violations.

4.3.1.2.1 Qualitative Benchmarks in Annual Country Reports

The country reports by amnesty international and other institutions that release annual reports use qualitative benchmarks, that is to say, certain standards

⁶⁹ The only available handbook to date was published by the Norwegian Agency for Development Cooperation: NORAD (2001). It is intended to help the agency's staff to check each project as to its contribution and its expected impact with regard to human rights. The following criteria are to be checked: equality/non-discrimination; the right to participate and to organize; the right to information; the right of the poor to procure a minimum income and food; and the opportunity to file complaints when rights are violated. The handbook can thus be seen as an attempt to prevent human rights violations by interventions of development cooperation or corporate investments. It is not intended to be used as a basis for the promotion of human rights though.

derived from, above all, civil and political rights. The most important events in a particular country are then reviewed in light of these standards. The continuous flow of information provided by regularly published country reports can thus be combined into a picture of developments and qualitative changes in the human rights situation.

Annual reports do not attempt to quantify the human rights situation, however. To be sure, numbers are used in the description of events, for example the number of people arrested at a demonstration. But the purpose of these numbers is simply to illustrate the seriousness of violations, not to quantify them in absolute numbers. This is how the American political scientist Claude and his colleague Jabine, a prominent statistician, summarize the character of these annual reports: "While the reliability ... is often reputed to be very high ... they do not provide systematic and comprehensive coverage of human rights violations. Each group operates under the constraints of its respective mandate and resources, leaving lacunae in geographic, topical, and temporal coverage."⁷⁰

As these reports emphasize selected events and qualitative changes, they are used for impact measuring only indirectly, namely in form of the indices mentioned above. USAID is alone in using the reports of the U.S. Department of State as a basis for assessing the human rights situation qualitatively, and, as mentioned earlier, the Freedom House Index for gauging the success of its programmes to promote democracy and the rule of law.

4.3.1.2.2 Qualitative Benchmarks in EU Human Rights Dialogues, Especially the EU Dialogue with Iran

The EU employs qualitative benchmarks for evaluating its human rights dialogues.⁷¹ Because of the limited access to EU documents, it is impossible to tell whether they are also used for monitoring dialogues.⁷² However, the EU uses the term benchmark rather inconsistently and, unlike this study, without distinguishing between qualitative benchmarks and performance benchmarks. As far as the units of measurement for assessing the success of the EU human rights dialogues are concerned, EU documents use both the term criteria and benchmarks. Their exact meaning, however, remains unclear.⁷³

Goals of EU Human Rights Dialogues

The goals of EU human rights dialogues are, by contrast, stated relatively clearly. The 2001 guidelines for human rights dialogues stipulate that such dialogues are to pursue various political objectives that are to be adjusted to the situation in the country concerned. The list of objectives comprises the following items:

- the discussion of issues that concern both sides;
- the intensification of the cooperation on human rights issues at the multilateral level, for example within the United Nations framework;
- the expression of the EU's concern over the human rights situation in the respective country;
- the attempt to collect information on the human rights situation and to improve the latter.⁷⁴

⁷⁰ Claude / Jabine (1992), 25-26. For similar criticism of events-based monitoring, see also Landman (2005), 22-23; Malhotra / Fasel (2005), 16-22.

⁷¹ On the terminology of EU human rights dialogues, see footnote 1, above.

⁷² See footnote 5, above. The available documents do not reveal either whether the impact of EU dialogues is assessed by any means other than interviews with the participants in the dialogue meetings.

⁷³ Here a short overview of the various formulations: "The European Union will also, on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the *benchmarks* and also criteria for a possible exit strategy." Council of the EU (2001), para 6 (2) (italics in the original).

"It welcomes Iran's agreement, ... on the principle that both parties would enter into a dialogue with no pre-conditions, that all human rights issues could be discussed under the dialogue, that each party could choose to terminate the dialogue at any time, and that realistic and concrete benchmarks to evaluate progress would need to be established." Council of the EU (2002a), 10 para 2.

"The EU should establish a set of *benchmarks* to evaluate progress in a human rights dialogue and an exit strategy, if no progress is achieved within a reasonable period of time." ... "The European Union is committed to deal with the priority issues, which shall be included in the agenda for every dialogue meeting." Council of the EU (2002), para 3 (A), 4 (italics in the original).

⁷⁴ Council of the EU (2001), para 4.

According to the 2001 guidelines then, improvements in the human rights situation are only one of several possible goals. However, a more precise statement can be found in a communication on the implementation of this guideline, which was published by the Working Party on Human Rights (COHOM) at the end of 2004: Improvements in the human rights situation are considered a criterion for the continuation or discontinuation of a dialogue and therefore a direct goal of EU human rights dialogues.⁷⁵

Goals of the EU-Iran Human Rights Dialogue and Benchmarks for the Dialogue

With regard to the dialogue between the EU and Iran (2002–2004), improvements in the human rights situation had already been chosen as the goal relatively early.⁷⁶ Accordingly, the EU was thinking about benchmarks for the Iran dialogue as early as 2002. The EU Council came up with the following list:

- the signing, ratification, and implementation of international human rights instruments;
- cooperation with UN special rapporteurs as well as the working groups set up by the United Nations;

- improvements with regard to the death penalty and particularly cruel forms of punishment, such as stoning;
- improvements concerning the prevention and abolition of torture and other cruel, inhuman or degrading treatment or punishment;
- improvements with regard to discrimination;
- improvements in the penal system;
- the guarantee of openness, access, and transparency.⁷⁷

Because of the limited access to EU documents, it is impossible to discern whether these qualitative benchmarks were pegged to a time frame.⁷⁸

To be sure, the benchmarks formulated by the EU for the dialogue with Iran are, on the whole, very far-reaching, but precisely because of this they are very soft. They demand improvements in almost all areas of civil and political rights, and they do so, at least as far as one can tell, without laying down clear guidelines.⁷⁹ Almost every political system would need several decades for such developments. The benchmarks' lack of determinacy, however, also makes it very difficult for the partners to come to an understanding about the results of the dialogue, especially with regard to all issues that go beyond legislative measures.

⁷⁵ "Decisions [on engaging in structured human rights dialogues] ... will be taken case-by-case on the basis of the criteria of art 6.1 of the guidelines on human rights dialogues, extended on the basis of the experience gained in the process of evaluating the EU human rights dialogues with China and Iran: – major concerns on the part of the EU about the human rights situation on the ground in the country concerned, – genuine commitment on the part of the authorities of the country concerned with regard to a human rights dialogue with the EU and to improve the human rights situation on the ground, – a positive impact of a human rights dialogue on the human rights situation on the ground should reasonably be expected." Council of the EU, COHOM (2004), 5, para 4.

The same development can also be observed in the goals of Swiss human rights dialogues, albeit in the other direction. In 2000, for example, the Swiss Federal Council declared improvements in the human rights situation to be a criterion for the continuation of human rights dialogues, and therefore a goal: Bundesrat (2000), 2592. In the same spirit, a press release at the start of the Swiss-Iranian dialogue in 2003 stated that the two countries "had made a contribution to the improvement of the still difficult human rights situation in Iran": Confoederatio Helvetica (2003). With its Medium-Term Concept, the Swiss foreign ministry released a more precise statement to the effect that the goals of the dialogues included improvements in the normative environment, improvements in the two countries' mutual trust, the enhancement of implementation mechanisms, as well as the promotion of local human right groups: DFA (2004).

⁷⁶ See, for example, the terms of reference for the experts who participated in the first round of the dialogue in 2002: "The objective of an EU-Iran Human Rights Dialogue is to bring about concrete improvements in the human rights situation in Iran. The Iranian authorities will be asked to formulate their objectives." Council of the EU (2002), II, para 1. Elsewhere, the EU was quite explicit: "The Council stresses the importance it attaches to the opportunity presented by such a dialogue to bring about concrete improvements in the respect for human rights and fundamental freedoms in Iran." ... "The Council expects determined progress in the essential reform of the judicial system and with respect to the enforcement of the rule of law ..." "Recalling that the purpose of the dialogue is to achieve concrete progress on the ground, the Council agrees to assess the results of the dialogue on a regular basis.": Council of the EU (2002a), 10, 11.

⁷⁷ Ibid.

⁷⁸ Concrete targets have repeatedly been suggested to the EU by third parties, see: FIDH (2002); Human Rights Watch (2002). There is some question as to whether the EU has ever agreed on its benchmarks with its Iranian partner. Informed observers say that it never happened.

⁷⁹ With these benchmarks the EU undercuts its own guidelines on human rights dialogues, which emphasize the importance of setting realistic benchmarks, and with good reason. Unrealistic or hazy benchmarks are liable to jeopardize the credibility of the dialogue. Public opinion is justified in asking why dialogues are continued when there has not been any noticeable progress in terms of the benchmarks. Observers may conclude that human rights dialogues are not an appropriate instrument of policy. Dialogue partners may wonder why benchmarks are stipulated to begin with if they have no role in the further conduct of the dialogue as it is continued even if the benchmarks are not met. They might assume that benchmarking is a purely formal exercise.

Analyzing the Evaluation of the EU-Iran Dialogue

As shown above, the goals of the EU-Iran dialogue comprise improvements in the normative environment as well as a reduction in the number of violations. As far as can be inferred from the accessible documents and statements by participants, the EU measures the achievement of these goals by a combination of standards-based and events-based monitoring; and the evaluation of the EU Iran dialogue issued in October 2004 uses the qualitative benchmarks mentioned above. The events that occurred during the period under scrutiny are interpreted in terms of these benchmarks in order to conclude whether the country has moved forward or backward with regard to human rights.⁸⁰ This method is similar to the one employed by amnesty international in its annual reports (see section 4.3.1.2.1, above).⁸¹ And as far as the results are concerned, the EU evaluation is similar to the country reports of human rights organizations, too: There is a clear emphasis on the documentation of human rights abuses. Overall, this form of evaluation by qualitative benchmarks captures the actual state in various areas at a point in time chosen arbitrarily.⁸² But it remains unclear how violations, events, and policy changes are connected with each other.

This type of qualitative benchmarking is hardly suitable for monitoring dialogues and assessing their impact if the dialogues aim at comprehensive improvements in the human rights situation. Qualitative benchmarks of this type are therefore also problematic for evaluating dialogues, because this method does not allow to pose the question whether measures agreed on in the dialogue are in fact responsible for particular events. Yet, the logic of intervention, and thus the logic of assessment, are relevant for an evaluation in the technical sense that does not only focus on changes in the situ-

ation but also on the effectiveness of the instrument. In the final analysis, the course of action chosen by the EU is not the "evaluation of the dialogue with Iran" that it was billed as. Rather, it is a review of the human rights situation in certain areas of civil and political rights after two years of dialogue.

In sum: The reduction in human rights abuses can indeed be measured and documented with the help of indices and qualitative benchmarks. Both methods make ex post assessments possible. They do not, however, permit any monitoring of the results of the dialogue or its evaluation in the technical sense.

Jumping ahead by briefly summarizing the main thoughts of the following section: Even though observers of dialogues look particularly at the reduction or increase of human rights violations, changes in the human rights situation are a process with many dimensions, and need to be measured them accordingly.

4.3.2 Monitoring the Human Rights Situation Multi-Dimensionally

Changes in the human rights situation comprise change with respect to the occurrence of human rights abuses, change with respect to policies relevant to human rights, and change with respect to the normative environment. Such a comprehensive and multi-dimensional view of the human rights situation is what characterizes the work of the United Nations treaty bodies that watch over the enforcement of human rights conventions, as well as the work of special thematic and country rapporteurs. Accordingly, the treaty bodies, more than anyone else, have for quite some time been looking at ways of documenting changes in the human rights situation quantitatively as

⁸⁰ The evaluation is accessible under the document number CFSP/PRES/HAG/1160/04, albeit without the text on pages 3 to 34, which contains the assessment of the events during the period under scrutiny on which the evaluation hinges; see Council of the EU, Presidency (2004).

⁸¹ As a matter of fact, the Fédération Internationale des Droits de l'Homme (FIDH) released a similar assessment of the human rights situation in July 2004, shortly before the evaluation of the dialogue by the EU: FIDH (2004). Also in the summer of 2004, Human Rights Watch published a report on torture and prison conditions in Iran: Human Rights Watch (2004).

⁸² As a matter of principle, this is true of the annual country reports by human rights organizations, which are compiled and released at fixed times of the year. The EU-Iran dialogue was evaluated two years after the start of the first dialogue meeting. It just so happened that the evaluation took place during the first few months after the 2004 elections for the Iranian parliament, which had all along been expected to produce a conservative majority. In a certain way, the evaluation served the political purpose of allowing the EU to comment on the situation in Iran following the elections.

well as qualitatively. Institutions trying to operationalize rights-based approaches, as well as to assess their impact, have also studied this question intensively in recent years. Their thoughts and ideas can be utilized for complex human rights dialogues as well.

In a study for UNDP on impact assessment with the help of human rights indicators, for example, Maria Green recommends that they should be classified as result-oriented and process-oriented indicators. Result-oriented indicators are to be used for measuring the implementation of the government's human rights obligations. Process-oriented indicators, on the other hand, are to measure qualities of processes, i.e. whether they meet criteria such as rights to non-discrimination, accountability and participation.⁸³ Todd Landman of the human rights centre at Essex uses similar categories. He proposes that the human rights situation, as well as changes with regard to human rights, should be measured in terms of the normative environment (human rights in principle), in terms of the respect for human rights (human rights in practice), and in terms of policies intended to guarantee human rights (human rights

as outcomes of government policy). Rajeev Malhotra and Nicolas Fasel of the Office of the High Commissioner for Human Rights come up with similar categories in a study dealing with human rights indicators.⁸⁴

The normative advantage of these models lies in the relative proximity to the three-pronged state obligation, which is based on the idea that the obligations of governments consists of the obligation to respect, to protect, and to fulfil human rights.⁸⁵ The operational advantage lies in the fact that successes regarding the respect of human rights can be documented separately from successes regarding fulfilment, as well as from successes in the normative environment. This operational advantage, however, is also what makes impact assessments using this model quite expensive and very demanding with respect to the amount of data required. Figure 8 offers some examples:

Figure 8 Improving the human rights situation: impact monitoring based on human rights indicators and benchmarks

Indicators for the enjoyment of rights or Outcome-indicators	Indicators of conduct or process	Benchmarks/indicators of principle or structure
Number of allegations of violence against women	Number of allegations of violence against women examined by independent national institutions	Number of ratified human rights instruments relating to women's rights, e.g. CEDAW
Number of allegations of torture/extra-judicial executions	Number of allegations of torture/extra-judicial executions examined by independent national institutions; Number of allegations of torture/extra-judicial executions committed against members of certain communities (ethnic minorities, urban or rural poor).	Number of ratified human rights treaties (international, regional) Number and legal weight of reservations/declarations to the treaties Acceptance of individual complaint mechanism Cooperation with UN-special rapporteurs (permission for visits and follow-up etc.) Implementation of treaties in national constitution and legislation
Number of death sentences/executions;	Budget share for legal aid; number of death penalty cases where accused had access to legal aid.	
Average or minimum/maximum period of pre-trial detention	Length of pre-trial detention among different categories of detainees.	

⁸³ Green (2001).

⁸⁴ Landman (2005); Malhotra / Fasel (2005), 25-30; Malhotra / Fasel (2005a).

⁸⁵ As Malhotra / Fasel (2005), 29 clearly state, the indicators are not derived from the three-pronged model of state obligations.

If this model is operationalized it becomes clear that it contains human rights-related assumptions about a relationship of cause and effect between the relevant processes and results. The example in Figure 8, for instance, assumes that

- accountability will, in the long term, reduce the occurrence of violence against women and torture ("allegations of violence against women or torture are investigated by independent national institutions");
- free legal assistance in capital cases will lead to a declining number of death sentences;
- a decrease in the incidence of discrimination among various groups of prisoners will reduce the total length of time spent on remand.

These human rights specific assumptions about cause and effect are certainly not sufficient for controlling very complex dialogue activities and results. It is, for example, conceivable that the average length of pre-trial detention is reduced, while discrimination between groups of prisoners is not. Yet the model described above makes it quite easy to observe that there can be improvements in the human rights situation, even though human rights policies have not changed fundamentally. Conversely, it is also conceivable that policies affecting accountability change when, for example, a national human rights institution is established and given a comprehensive mandate that permits it to investigate individual cases effectively. It is nevertheless possible that human rights violations will increase, or at least that they will not decrease in the long term. The model also allows observers to determine whether this is the case.

On the whole, this indicator model, as proposed by Maria Green and, in slightly modified form by Landman, appears to be quite suitable for measuring the manifold processes affecting the development of the human rights situation. If solid indicators for activities and results are developed within the framework of this model, it will also be suitable for impact assessment, and thus for evaluating dialogues and the programmes of Technical Cooperation. It is hard to imagine that methods requiring less data can be devised for measuring the impact of dialogues aimed at improving the human rights situation.

4.4 Conclusion: Impact Assessment for Human Rights Dialogues

As far as measuring the effectiveness of human rights dialogues is concerned, it is important to employ terminology that is both clear and appropriately refined. Evaluation and impact monitoring are technical procedures intended, among other things, to analyze the effectiveness of dialogues in achieving their goals and objectives. In the case of ex post analyses the latter aspect does not apply, because such studies can only reveal changes relative to the original situation at the outset, whatever their cause may be.

Dialogue partners should consciously choose methods and units of measurement. In other words, they should decide, above all, whether to use indicators or benchmarking models, or a combination thereof, with a view to the dialogue's goals and objectives and the available data. As a matter of principle, the continuous collection of disaggregated data by the partner country's institutions is an important part of dialogues.

The analysis of three possible models of dialogues, each with a different kind of goal, finds that dialogue partners can utilize qualitative benchmarks quite well for measuring changes in the normative environment (dialogue model 1). For assessing changes in human rights policies, on the other hand, the partners should prefer quantitative units of measurement, that is benchmarking models, possibly in combination with indicators (dialogue model 2). And if the dialogue partners want to improve the overall human rights situation, they should measure the effects not only in terms of the reduction in human rights violations (dialogue model 3). Instead, in this kind of dialogue, they should also take into consideration the other essential dimensions of the human rights situation, such as changes in the normative environment as well as in the relevant policy areas. The best way to do this is to apply an indicator model adjusted for the purposes of human rights.

5 Recommendations

Human rights dialogues should be defined clearly, and they should be distinguished from other forms of human rights talks.

- Dialogues about the understanding of human rights, individual human rights topics, the human rights situation, or concrete individual cases can take various forms. There are, for example, academic exchange programmes, activities aiming to improve interfaith and intercultural communication, or projects designed to increase capacity at the level of civil society. The term human rights dialogue, however, should be used in a narrower sense. It is a well-planned, long-term instrument of government human rights policy aimed at the improvement of mutual understanding and the achievement of results. As such, it has been agreed on with a partner country (and possibly other countries also). Its planning, as well as its results, should be characterized by transparency with regard to the partner and the public at large. In addition, human rights and human rights obligations can also be addressed in political dialogues.

Human rights dialogues should always be seen and used in the context of other human rights instruments.

- Dialogue is one of several instruments of a government's policy towards human rights. In order to have a positive impact and, if at all possible, to achieve synergy, dialogues should always be seen and conducted within the framework of the various instruments of human rights policy. These instruments should interlock and complement each other. Playing human rights instruments off against each other weakens the system of human rights protection as a whole. The question is not whether pressure by resolutions in and by itself is "better" than dialogues or Technical Cooperation. Rather, it is which instruments effectively promote human rights at a given

point in time, or over a given period of time (i.e., in the short, medium, or long term). Each decision for a particular instrument should be justified and communicated in terms of these considerations, and each instrument must be scrutinized for its results.

The chances of human rights dialogues to have any effects depend on political factors.

- The chances of human rights dialogues to have an impact – as opposed to political pressure, for example – depend on the following questions. To what extent, if at all, have human rights norms already become part of the partner country's conception of itself as a state? Do the government and other institutions of the state deal with international human rights norms in a tactical and instrumental manner, or do they fundamentally affirm the validity of the norms as well as the need for dialogue and reforms? Can groups and organizations of civil society influence the domestic policy debate on human rights? The use of the various instruments of human rights policy, including human rights dialogues, must be consistent with developments in the domestic human rights debate in the partner country.

Human rights dialogues must make use of international reference material.

- At every step of the planning process, starting with the situation analysis, the human rights standards that are to be used as reference points should be formulated as clearly as possible. They must also be up to date with regard to the current state of the international system for the protection of human rights. In addition to the fundamental texts containing the norms themselves, such as human rights conventions at the universal or regional level, these reference standards also comprise the country-specific recommendations of the treaty bodies and the various

special rapporteurs of the United Nations as well as the General Comments developed by the treaty bodies.

- It must be emphasized that, according to the current state of the international debate on human rights, countries face three types of obligations. They must respect human rights norms, they must protect them from infringements by third parties, and they must provide an institutional framework to ensure that they can be effectively enjoyed in practice (obligation to fulfil). This understanding of the nature of state obligations is essential for determining the human rights situation and it should also be utilized for fine-tuning objectives in human rights dialogues and promotion.

The objectives of human rights dialogues should be realistic and clearly defined.

- As a matter of principle, the goal of dialogues should be clearly defined and disclosed to the public of one's own country as well as to the public of the partner country. Objectives should be defined in such a way that they can actually be achieved with the instrument of human rights dialogues. Thus, the participants should formulate operative targets.
- In developing the objectives of a dialogue, the partners should take into consideration how human rights goals are connected with each other. Policy measures adopted in human rights-related areas of policy, for example, are connected to the human rights situation by cause and effect, while the ratification of a convention is linked to its implementation by providing a frame of reference for public discourse and for national jurisdiction.
- At the same time, it is imperative to ensure that the various possible goals can be clearly distinguished from each other. Improvements in the normative environment in the partner country are an important goal of human rights dialogues. The implementation and enforcement of conventions, on the other hand, must be seen as a distinct and very relevant goal of dialogues.
- For dialogues that include a component of Technical Cooperation, it appears to make particular sense to try to change specific human rights-related policies. Policies designed to prevent torture or to guarantee women's access to the labour market, for example, offer more than enough subject matter for long-term dialogues. Such dialogues require the partners

to be cooperative and to have similar objectives and expectations concerning their collaboration.

- Questions of impact assessment should already be addressed when the goals and objectives are defined, as well as throughout the planning stage. In this connection, the continuous gathering of meaningful data on the human rights situation by the partners is an essential objective of human rights dialogues and human rights promotion. This is especially true in the case of objectives that transcend improvements in the normative environment and strive for changes in human rights policy, as well as in the actual human rights situation in the partner country.

Human rights dialogues should be planned transparently, and they should be coordinated with other actors as well. Appropriate methods must be chosen for this purpose.

- Human rights dialogues should be planned and carried out clearly and transparently. Accountability, as an essential principle of human rights policy in general, should also be a guiding principle of human rights dialogues and other measures of human rights promotion.
- The planning of dialogues and other actions or events to promote human rights should utilize procedures that make it possible to distinguish analytically between objectives, activities and results.
- Every dialogue needs a strategy as a reflection of one's own position and goals and of those of the partners.
- Human rights dialogues and Technical Cooperation should be coordinated with other countries and donors.
- The partners' expectations in dialogues do not necessarily have to be identical, but they certainly must be made quite clear. If the dialogue partner wants to discuss certain topics, while blocking others where serious violations can be discerned, one should begin by trying to identify a common set of possible topics acceptable to both sides.
- Especially Western dialogue partners, or countries in the northern hemisphere, should not reject topics that address their own demonstrable weaknesses with regard to the protection of human rights or human rights violations.



The objective of measuring the effects of human rights dialogues should be defined clearly and expressed in the most precise language possible.

- In order to ensure accountability and the capability to learn, human rights dialogues – like all other interventions in complex political systems – should be open to scrutiny with respect to the nature, scope and quality of their effects.
- Impact assessment cannot replace political analysis. Nevertheless, it is an essential prerequisite for guaranteeing the control of interventions as well as the transparent description of processes and results.
- Concerning the choice of the right method for measuring the impact of activities, it must be acknowledged that ex post analyses can indeed document changes in the situation in the partner country. However, they cannot relate such changes to any specific activities and thus the effectiveness of the instruments employed cannot be assessed. The latter is only possible with the more expensive methods of impact monitoring and evaluation.
- In the case of dialogues that initially aim at changing the normative environment qualitative benchmarks pegged to a time frame can be used to measure the achievement of their results and objectives.
- For dialogues trying to change human rights specific policies, performance benchmarks appear to be a particularly suitable method of impact assessment. Combining them with indicators makes it considerably easier to monitor the political environment.

When choosing the forms and methods of impact assessment, the partners should take into consideration the objectives of the dialogue and the data available.

- Choosing the forms and methods of measuring the impact of dialogues is one of the most important planning tasks. As such, it depends on the dialogues' goals and objectives.
- For a well-managed dialogue the methods of impact assessment should be chosen or developed together with the partner country. Should this be impossible, the partner must at least be informed about the (unilaterally used) methods.
- The continuous collection of disaggregated data by the partner is an essential component of complex human rights dialogues.
- Dialogues aiming at actual improvements in the human rights situation must apply complex forms and methods of impact monitoring. For one thing, one-dimensional forms of impact assessment, such as documenting the number of human rights violations, will often paint a rather sobering picture of the situation. For another, they fail to do justice to the complexity of the goal. Multi-dimensional approaches that can measure changes in the nor-

mative environment and in central policy areas, as well as the results of the various policies, are much more appropriate for dialogues with this goal.

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附錄 2：丹麥黃金指標列表與可得資料列表

ANNEX 1

* All Gold Indicators are to be disaggregated by sex and ethnicity

** For a full description of data and data availability, see appendix 2

EQUALITY & NON-DISCRIMINATION



GOLD INDICATOR 1

Percentage of persons with and without disabilities who, during the last year, have experienced discrimination due to sex, age, ethnicity, disability, religion or sexual orientation

SUB-INDICATORS

- a) Percentage of persons with a severe disability who have experienced discrimination on grounds of disability – no comparison with persons without disabilities
- b) Percentage of persons with and without disabilities who have been subjected to violence
- c) Percentage of persons in employment, who responds positively on working with a person with a disability, even if this person requires limited assistance

DIVERSITY & AWARENESS-RAISING



GOLD INDICATOR 2

Percentage of persons with and without disabilities, who within the last week have experienced at least one person with a disability expressing an opinion or otherwise participating in a broadcast/segment/interview on radio, TV or other news media

SUB-INDICATORS

- a) Percentage of persons who believe that persons with disabilities are basically like all other persons, with the same wants, desires and needs
- b) Percentage of primary school pupils with and without disabilities who respond affirmatively to the question 'Other students accept me as I am'

ACCESSIBILITY & MOBILITY



GOLD INDICATOR 3

Percentage of persons with and without disabilities who, during the last week, have experienced problems of accessibility to public transportation such as local buses, train, motorised vehicles, taxis, etc.

SUB-INDICATORS

- a) Percentage of persons, respectively, with and without disabilities who experience problems in accessing buildings that everyone uses, i.e., workplaces, schools, offices, shops and other people's homes
- b) Percentage of government websites that fulfill the WCAG 2.0 AAA standard
- c) Percentage of the total number of first-time broadcast hours that are subtitled on the two public service television channels

LIBERTY AND PERSONAL INTEGRITY



GOLD INDICATOR 4

Percentage of persons with and without disabilities under the age of 30 who have been detained in a prison/detention centre or a psychiatric facility

SUB-INDICATORS

- a) Percentage of persons receiving/having received treatment for a mental illness (within the previous five years) among inmates in prisons and detention centres
- b) Percentage of adults in psychiatric treatment affected by one or more coercive measures in relation to the total number of patients
- c) Average time served for persons sentenced to ordinary incarceration and psychiatric treatment respectively

INDEPENDENT LIVING & COMMUNITY INCLUSION



THE GOLD INDICATOR 5

Percentage of persons with and without disabilities who feel strongly or very strongly that they have influence on their own lives

SUB-INDICATORS

- a) Percentage of persons with and without disabilities who participate on a weekly or monthly basis in cultural urban activities (going to the cinema, concert, theatre or attending sporting events)
- b) Number of persons in residential facilities
- c) Gold Indicator disaggregated by age



EDUCATION

GOLD INDICATOR 6

Percentage of persons with and without disabilities under the age of 25, who leave school early and thus fall within the EU classification 'early school leavers'

SUB-INDICATORS

- a) Percentage (of year group) enrolled in special classes and in special schools
- b) Percentage (of year group) with and without disabilities who take the final examination at primary school level
- c) Percentage (of selected age group) with and without disabilities who complete a tertiary education

HEALTH



GOLD INDICATOR 7

Percentage of persons with and without disabilities, who state that they are in good physical and/or mental health

SUB-INDICATORS

- a) Life expectancy for persons with intellectual disabilities
- b) Life expectancy for persons with psychosocial disabilities
- c) Proportion of obese persons with and without disabilities (BMI > 25/slightly overweight)

EMPLOYMENT



GOLD INDICATOR 8

Percentage of persons with and without disabilities who in a selected week had at least a few hours of paid employment

SUB-INDICATORS

- a) Percentage of persons with a severe disability who during a selected week, have had at least a few hours of paid employment
- b) Percentage of persons with and without disabilities who have experienced discrimination in employment
- c) Percentage of persons with and without disabilities who have expressed desire to work more hours than they currently do

SOCIAL PROTECTION



GOLD INDICATOR 9

Percentage of persons with and without disabilities who, during the last three years, due to economic reasons have been substantially prevented from living what they consider a normal life

SUB-INDICATORS

- a) Proportion of 'poor' persons with and without disabilities
- b) Average retirement income for persons above the nation retirement age, with and without disabilities
- c) Proportion of persons with disabilities who within the past year have had difficulty affording costs related to chronic illnesses or disabilities

POLITICAL PARTICIPATION



GOLD INDICATOR 10

Percentage of persons with and without disabilities who voted in the most recent election to the Danish Parliament (Folketinget)

SUB-INDICATORS

- a) Percentage of persons with disabilities who have been elected to the Danish Parliament (Folketinget), local and regional councils
- b) Percentage of persons with and without disabilities who are members of political parties
- c) Percentage of persons with and without disabilities who are members of an organisation

ANNEX 2

INDICATOR	DATA AVAILABILITY
INDICATOR 1 Equality and non-discrimination	<p>The existing data from the ‘Survey of Health, Impairment and Living Conditions in Denmark’ (SHILD) allow disaggregation by type of disability and various subgroups.</p> <p>Data can be disaggregated, for example, by specific disabilities as well as by other factors such as sex and ethnicity. However, data is only collected every four years. In addition, the available data have shortcomings in relation to the Gold Indicator, since persons with disabilities have not previously been asked about causes of discrimination in relation to disability. Such a questions, however, is expected to be included in future SHILD surveys.</p> <p>The available data consists of the following:</p> <p>A representative random sample survey of the Danish population age 16 – 64, with 19,000 respondents in total. Register-based data for all participants has been retrieved for SHILD in the period from 1980 – 2012. The complete register-based database includes 34,000 Danish citizens.</p>
INDICATOR 2 Diversity and awareness-raising	<p>The existing data from the ‘Survey of Health, Impairment and Living Conditions in Denmark’ (SHILD) allow disaggregation by type of disability and various subgroups.</p> <p>Data is available in the survey ‘Everyday life and living conditions for persons with disabilities’ from 2013 conducted by the Danish National Centre for Social Research (‘Hverdagsliv og levevilkår for mennesker med funktionsnedsættelse’). The Survey is part of SHILD. Data can be disaggregated for example by specific disabilities as well as by other factors such as sex and ethnicity. However, data is only collected every four years. The next survey is expected to be conducted in 2016.</p>

	<p>The survey on everyday life provides a more solid foundation (than what has previously been the case), to clarify potential differences and correlations in living condition between persons with and without disabilities. The survey is based on the International Classification of Function (ICF), which is WHO's international standard framework for measuring health and disability at individual and at population level. The ICF provides a description of disability that pronounces the importance of focusing on the interplay and composition of a person's level of physicality, activity limitations and limitations in participation in surveys like the abovementioned.</p> <p>In 2011, an ad-hoc module³⁸ on disability was added to the 'Eurostat Labour Force Survey'. This module allows for a comparison of data on disability with other areas such as education and employment and further allows comparisons with previous surveys in Denmark and across the EU Member States.</p> <p>The available data consists of the following: A representative random sample survey on the Danish population age 16-64, with 19,000 respondents in total. Register-based data for all participants has been retrieved for SHILD in the period from 1980-2012. The complete register-based database includes 34,000 Danish citizens.</p> <p><u>Regarding sub-indicator a):</u> Data covering this sub-indicator can be included via separate questions in the Danish National Centre for Social Research's SHILD study. Existing data is available in the survey 'Attitudes to persons with disabilities – a survey on general and specific public attitudes' from 2000 ('Holdninger til handicappede - en spørgeskemaundersøgelse af generelle og specifikke holdninger') conducted by the Danish National Centre for Social Research. The survey shows that responses differ</p>
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	<p>when comparing more specific survey questions with more general survey questions. Thus, there may be a need for emphasis on more specific questions than what is used in the present sub-indicator.</p> <p>Data covering sub-indicator a) of Gold Indicator 1 (which concerns attitudes towards persons with disabilities in the workplace) could be used to supplement the present sub-indicator since both covers discrimination in relation to awareness and awareness raising.</p> <p>In order to provide the most balanced and comprehensive picture of people's attitudes towards persons with disabilities, sub-indicator a), in accordance with Article 8 on awareness raising, addresses the overall attitude towards persons with disabilities in the workplace. The data for this sub-indicator can be included via separate questions in the Danish National Centre for Social Research's SHILD survey.</p> <p><u>Regarding sub-indicator b):</u></p> <p>Data can be obtained annually if the Danish Center for Educational Environment (DCUM) incorporates a question on disability identification (e.g. inspired by UNICEF's work on children with disabilities) in the annual 'Survey on children's wellbeing in the Danish primary schools' ('Trivselsmåling'). The survey is prepared by DCUM for the Danish Ministry for Children, Education and Gender Equality.</p>
INDICATOR 3 Accessibility and mobility	<p>The existing data from the 'Survey of Health, Impairment and Living Conditions in Denmark' (SHILD) allow disaggregation by type of disability and various subgroups.</p> <p>Data is available in the survey 'Everyday life and living conditions for persons with disabilities' from 2013 conducted by the Danish National Centre for Social Research ('Hverdagsliv og levevilkår for mennesker med funktionsnedsættelse'). The survey is part of SHILD. Data</p>

	<p>can be disaggregated for example by specific disabilities as well as by other factors such as sex and ethnicity. However, the data is only collected every four years. The next survey is expected to be conducted in 2016.</p> <p>The survey employs a broad concept of disability by examining whether a person has had a long-term health issue or disability as defined in the CPRD. The Eurostat ad-hoc module (2011) allows for a comparison with previous surveys in Denmark and across EU Member States.</p> <p>The baseline data is found in the European Health and Social Integration Survey (EHSIS), which however will not be repeated.</p> <p>In the future, data can be obtained by including survey questions in the Danish National Centre for Social Research's SHILD survey.</p> <p>The available data consists of the following: A representative random sample survey of the Danish population age 16 – 64, with 19,000 respondents in total. Register-based data for all participants has been retrieved for SHILD in the period from 1980 – 2012. The complete register-based database includes 34,000 Danish citizens.</p> <p><u>Regarding sub-indicator a):</u> As with the Gold Indicator, the available baseline data can be found in EHSIS, but this study will not be repeated. In the future, the data can be obtained by including survey questions in the Danish National Centre for Social Research's SHILD survey.</p> <p><u>Regarding sub-indicator b):</u> At present, there is no data concerning this indicator. An EU directive is issued on accessibility to public websites, which</p>
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	<p>makes it likely that the Danish government will start reporting accordingly.</p> <p><u>Regarding sub-indicator c):</u></p> <p>Data can be found in the public service statements of the two national TV media, Danmarks Radio and TV2. This third indicator should reflect the critical importance for equal treatment of persons with disabilities, that they are ensured equal access to news and culture.</p>
INDICATOR 4 Liberty and personal integrity	<p>The existing data from the 'Survey of Health, Impairment and Living Conditions in Denmark' (SHILD) allow disaggregation by type of disability and various subgroups.</p> <p>Data is available in the survey 'Everyday life and living conditions for persons with disabilities' from 2013 conducted by the Danish National Centre for Social Research ('Hverdagsliv og levevilkår for mennesker med funktionsnedsættelse'). The survey is part of SHILD and employs a broad concept of disability by examining whether a person has had a long-term health issue or disability as defined by the CPRD. In 2011, an ad-hoc module³⁹ on disability was added to the 'Eurostat Labour Force Survey'. This module allows for a comparison of data on disability with other areas such as education and employment and further allows comparisons with previous surveys in Denmark and across EU Member States.</p> <p>The data for the Gold Indicator could also be obtained by linking register-based data from crime statistics and mental health treatment records to the SHILD. However, it is doubtful whether the group of persons with disabilities in the SHILD is large enough for the numbers to be representative of persons with disabilities. Efforts should be made to increase the number of persons included in the SHILD so that valid figures on detention of persons with disabilities can be obtained. Another option could be register-based analysis, utilising register-based information</p>

	<p>about people in prison and people receiving psychiatric treatment.</p> <p>The available data consists of the following: A representative random sample survey on the Danish population age 16 – 64, with 19,000 respondents in total. Register-based data for all participants has been retrieved for SHILD in the period from 1980 – 2012. The complete register-based database includes 34,000 Danish citizens.</p>
<p>INDICATOR 5 Independent living and personal integrity</p>	<p>There is currently no data that can measure this Gold Indicator. The Gold Indicator however, forms a framework that enables monitoring of the development over time in addition to investigating more detailed measurements of independence for persons with disabilities, including the option of choosing where to live.</p> <p>Data illustrating freedom of choice in terms of accommodation for persons living in residential facilities is available. However, this data do not apply to persons with disabilities as defined in the CRPD. Moreover, it is, at the moment, not possible to compare freedom of choice in relation to specific types of housing for persons with and without disabilities.</p> <p><u>Regarding sub-indicator b):</u> The available data consists of the following:</p> <p>Data from Statistics Denmark shows that 17,000 adults with a disability live in residential facilities in Denmark. Around 60 percent, or more than 10,000, live on less than 30 m², and more than 6,400 have less than 20m². The survey has been carried out through a questionnaire by Internet as well as by hard-copy of the questionnaire, which was sent out to all Danish residential facilities (as defined in Sections 107 and 108 of the Social Services Act). There were 606 respondents in total, equalling a response rate of 59 percent.</p>

	<p>The survey results show the relative distribution of all responses in each individual category. Results are transferred and compared with the entire population in accordance with 'The Social Resource Statement' ('Den sociale ressourceopgørelse') of 17,012 persons, prepared by Statistics Denmark.</p> <p>Moreover, the National Federation of Social Educators 'Study on adults with disabilities' from 2011 ('Voksenhandicapundersøgelsen') can be used as a data source: The compiled survey is designed as an electronic questionnaire with 131 questions and sub-questions. Respondents are registered members of the National Federation of Social Educators. In total, 1,565 members have responded.</p>
INDICATOR 6 Education	<p>Existing data is available in the 'Eurostat Labour Force Survey'. The 'Labour Force Survey' ('Arbejdskraftundersøgelsen') is the Danish contribution to Eurostat's survey and is included in Eurostat's and OECD's unemployment statistics. The data thus forms the basis of Danish reports on disability, education and employment all prepared by the Danish National Centre for Social Research. The data is based on questionnaire surveys conducted at such frequent intervals in Denmark that the data can be used to identify most trends over time. The indicator's data source also allows for disaggregation by sex and ethnicity.</p> <p>The Gold Indicator provides an opportunity for comparison since "early school leavers" is a definition used by Eurostat.</p> <p>The available data consists of the following: Relevant data primarily originates from the 'Survey on work and employment' prepared by Statistics Denmark in the first quarter 2012, where additional questions were added on disability and long-term health issues, employment</p>

	<p>schemes for persons with disabilities, employers' efforts in relation to employees with a disability, and attitudes towards employed persons with disabilities. The main purpose of the survey is to investigate job market affiliations. The survey is designed as questionnaire-based telephone interviews carried out quarterly among the Danish population age 15-74.</p> <p>Statistics Denmark identified participants for the survey (including the added questions) among 33,985 persons age 15-64 and the survey had 19,428 respondents. Statistics Denmark paired responses with further register-based data from their databank, which added additional information on education, civil status and citizenship.</p> <p>Since ultimo 2011, the Danish National Centre for Social Research has made use of data from the following registers: Register for the Population's Education and Employment ('Register for Befolkningens Uddannelse og Erhverv'). As of 1 January 2012 The Danish Central Office of Civil Registration ('CPR-registeret') and the Register for Households and Families ('Register for Husstande og Familier').</p>
INDICATOR 7 Health	<p>Existing data is available in the EU survey 'Statistics on Income and Living Conditions' (EU-SILC) that contains questions regarding self-assessed health.⁴⁰ Data is collected annually. EU SILC data is based on questionnaire surveys conducted at such frequent intervals in Denmark that the data can be used to identify most trends over time. The indicator's data source also allows for disaggregation by sex and ethnicity.</p> <p><u>Regarding sub-indicator c):</u> Data for sub-indicator c) is not available in EU-SILC, but can be found in various reports prepared by The Danish National Institute of Public Health</p>

	<p>The available data consists of the following: Available data can be found in the 'Health and Sickness Survey' ('SUSY' or 'Sundheds- og Sygelighedsundersøgelser') from 2010 and 2013, prepared by The Danish National Institute of Public Health.</p> <p>The randomised sample for SUSY-2010 was constructed on similar principles. Out of 25,000 participants, 15,165 respondents (60.7 percent response rate) took part in the survey.</p> <p>For SUSY-2013, all randomly selected participants were more than 16 years of age residing in Denmark as of 1 January 2013. Out of 25,000 participants, 14,465 respondents (57.1 percent response rate) took part in the survey.</p>
INDICATOR 8 Employment	<p>The ad-hoc module to the 'Eurostat Labour Force Survey' and the Danish National Centre for Social Research's reports on 'Disability and Employment' ('Handicap og Beskæftigelse') provide data for measuring this Gold Indicator.</p> <p>In 2011, the ad-hoc module⁴¹ on disability was added to the 'Eurostat Labour Force Survey'. This module allows for a comparison of data on disability with other areas such as education and employment and further allows comparisons with previous surveys in Denmark and across the EU Member States.</p> <p>The Gold Indicator allows for international comparison, as it is an indicator used by Eurostat. The Danish 'Labour Survey' ('Arbejdskraftundersøgelsen') is the Danish contribution to the 'Eurostat Labour Force Survey' and is included in Eurostat's and OECD's unemployment statistics. Data is collected and processed according to uniform principles in</p>

	<p>all the EU Member States. In addition, the Danish 'Labour Force Survey' has been conducted since 1994.</p> <p>The baseline data, collected from telephone questionnaire based surveys, is updated so frequently that the data could form the basis for an assessment of trends over time. Moreover, the indicator's baseline data also allows for disaggregation.</p> <p>The available data consists of the following:</p> <p>The Danish 'Labour Force Survey' ('Arbejdskraftundersøgelsen') is the most comprehensive and continuous survey in Denmark. The survey is carried out quarterly and is based on a random sample of 85,000 Danish citizens age 15-74 who participates in the survey on an annual basis.</p> <p>Additional questions on disability and long-term health issues was added in the first quarter of 2012. It should be noted that the questionnaire only addresses respondents age 15-66.</p> <p>In the first quarter of 2012 Statistics Denmark extracted a gross sample of 39,260 persons whereof 19,428 responded. The same sample size was applied in the first quarter of 2002, the fourth quarter of 2005, first quarter of 2008 and first quarter of 2010. For comparison, a sample-size of 15,600 was used in 2002 (10,892 respondents) and 2005 (9,690 respondents). Finally, a sample-size of 37,766 was used in 2008 (17,886 respondents) and 2010 (17,868 respondents).</p> <p>Statistics Denmark paired responses with further register-based data from their data-bank which added additional information on education, civil status and citizenship.</p>
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	<p>For the 2012 survey, additional information has been added on public benefits from the DREAM-register. The DREAM database is prepared by the Danish Ministry of Employment and administered by the Danish Agency for Labour Market and Recruitment. The database includes information on all public transfer payments administered by Danish ministries, municipalities, and Statistics Denmark for all Danish citizens on a weekly basis since 1991. The DREAM database was compared with self-reported information on sources of income in a population survey from 2001 with about 5000 participants.</p>
<p>INDICATOR 9 Social protection</p>	<p>The existing data from the ‘Survey of Health, Impairment and Living Conditions in Denmark’ (SHILD) allow disaggregation by type of disability and various subgroups. Data can for example be disaggregated by specific disabilities as well as by other factors such as sex and ethnicity. However, data is only collected every four years. In addition, the available data have shortcomings in relation to the Gold Indicator, since persons with disabilities have not previously been asked about disability-related causes of discrimination. Such questions, however, is expected to be included in future SHILD surveys.</p> <p>Survey questions for baseline data for the Gold Indicator is expected to be included in the Danish National Centre for Social Research’s forthcoming study on deprivation.⁴² The indicator will be tested against existing surveys on deprivation (by the Danish National Centre for Social Research and SHILD).⁴³ National data will be based on questionnaire surveys, which in Denmark are conducted so frequently that data can form the baseline for an assessment of trends over time. The baseline data for the Gold Indicator also allows for disaggregation by sex and ethnicity. However, the data for SHILD is only collected every four years. The Gold Indicator's baseline data allows for comparison of persons with and without disabilities across the EU Member states, but will not in itself be</p>

	<p>indicative of whether findings point to possible discrimination. However, the Gold Indicator for discrimination (CRPD Article 5) will partly address this deficiency.</p> <p>The available data consists of the following: A representative random sample survey on the Danish population age 16 – 64, with 19,000 respondents in total. Register-based data for all participants has been retrieved for SHILD in the period from 1980 – 2012. The complete register-based database includes 34,000 Danish citizens.</p>
INDICATOR 10 Political participation	<p>There is currently no data on the political participation of persons with disabilities as defined in the CRPD. The baseline data to be provided must be based on the broad definition of disability as used by the CRPD. The Gold Indicator however, allows for international comparison, as parliamentary elections are comparable across countries.</p> <p>The Danish Institute for Human Rights will work towards the inclusion of relevant survey questions etc. in future surveys and studies to ensure that data for measuring the Gold Indicator will be available.</p>

附錄 3：聯合國十四項人權指標面板

Table 1 Illustrative indicators on the right to liberty and security of person (Universal Declaration of Human Rights, art. 3)

	Arrest and detention based on criminal charges	Administrative deprivation of liberty	Effective review by court	Security from crime and abuse by law enforcement officials
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to liberty and security of person ratified by the State Date of entry into force and coverage of the right to liberty and security of person in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to liberty and security of person Time frame and coverage of policy and administrative framework against any arbitrary deprivations of liberty, whether based on criminal charges, sentences or decisions by a court or administrative grounds (e.g., immigration, mental impairment, educational purposes, vagrancy) Type of accreditation of national human rights institutions by the rules of procedure of the International Coordinating Committee of National Institutions 	<ul style="list-style-type: none"> Time frame and coverage of policy and administrative framework on security, handling of criminality and abuse by law enforcement officials 		
Process	<ul style="list-style-type: none"> Legal time limits for an arrested or detained person before being informed of the reasons for the arrest or detention, before being brought to or having the case reviewed by an authority exercising judicial power, and for the trial duration of a person in detention Proportion of received complaints on the right to liberty and security of person investigated and adjudicated by the national human rights institution, human rights ombudsman or other mechanisms and the proportion of these responded to effectively by the Government Proportion of communications from the United Nations Working Group on Arbitrary Detention responded to effectively by the Government Proportion of law enforcement officials (including police, military and State security force) trained in rules of conduct concerning proportional use of force, arrest, detention, interrogation or punishment 	<ul style="list-style-type: none"> Number/proportion of arrests or entries into detention under national administrative provisions (e.g., security, immigration control, mental impairment and other medical grounds, educational purposes, drug addiction, financial obligations) in the reporting period Number/proportion of releases from administrative detention in the reporting period 	<ul style="list-style-type: none"> Proportion of cases where the time for arrested or detained persons before being informed of the reasons for the arrest, before receiving notice of the charge (in a legal sense) or before being informed of the reasons for the administrative detention exceeded the legally stipulated time limit Number of habeas corpus and similar petitions filed in court in the reporting period Proportion of bail applications accepted by the court in the reporting period Proportion of arrested or detained persons given access to a lawyer or legal aid Proportion of cases subject to review by a higher court or appellate body Reported cases where pretrial and trial detentions exceeded the legally stipulated time limit in the reporting period 	<ul style="list-style-type: none"> Proportion of law enforcement officials formally investigated for physical and non-physical abuse or crime, including arbitrary arrest and detention (based on criminal or administrative grounds) Proportion of formal investigations of law enforcement officials resulting in disciplinary action or prosecution in the reporting period Proportion of uniformed police and other law enforcement officials with visible Government-provided identification (e.g., name or number) Number of persons arrested, adjudicated, convicted or serving sentence for violent crime (including homicide, rape, assault) per 100,000 population in the reporting period Proportion of law enforcement officials killed in line of duty in the reporting period Firearm owners per 100,000 population / Number of firearm licences withdrawn in the reporting period Proportion of violent crimes with the use of firearms Proportion of violent crimes reported to the police (victimization survey) in the reporting period
Outcome	<ul style="list-style-type: none"> Number of detentions, per 100,000 population, on the basis of a court order or action by executive authorities at the end of the reporting period Reported cases of arbitrary, including posttrial, detention (e.g., as reported to the Working Group on Arbitrary Detention) in the reporting period 	<ul style="list-style-type: none"> Proportion of arrests and detentions declared unlawful by national courts Proportion of victims released and compensated after arrest or detention declared unlawful by judicial authority 	<ul style="list-style-type: none"> Proportion of population feeling unsafe (e.g., walking alone after dark or being alone at home at night) Incidence and prevalence of physical and non-physical abuse or crime, including by law enforcement officials on duty, per 100,000 population, in the reporting period 	

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

Table 2 Illustrative indicators on the right to adequate food (Universal Declaration of Human Rights, art. 25)

	Nutrition	Food safety and consumer protection	Food availability	Food accessibility
	<ul style="list-style-type: none"> International human rights treaties relevant to the right to adequate food ratified by the State Date of entry into force and coverage of the right to adequate food in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to adequate food Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to adequate food 	<ul style="list-style-type: none"> Time frame and coverage of national policy on food safety and consumer protection Number of registered and/or active civil society organizations working on food safety and consumer protection 	<ul style="list-style-type: none"> Time frame and coverage of national policy on agricultural production and food availability Time frame and coverage of national policy on drought, crop failure and disaster management 	
Structural	<ul style="list-style-type: none"> Time frame and coverage of national policy on nutrition and nutrition adequacy norms 			
	<ul style="list-style-type: none"> Proportion of received complaints on the right to adequate food investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Net official development assistance for food security received or provided as a proportion of public expenditure on food security or gross national income 			
Process	<ul style="list-style-type: none"> Proportion of targeted population that was brought above the minimum level of dietary energy consumption* in the reporting period Proportion of targeted population covered under public nutrition supplement programmes Coverage of targeted population under public programmes on nutrition education and awareness Proportion of targeted population that was extended access to an improved drinking water source* in the reporting period 	<ul style="list-style-type: none"> Disposal rate or average time to adjudicate a case registered in a consumer court Share of public social sector budget spent on food safety and consumer protection advocacy, education, research and implementation of laws and regulations relevant to the right to adequate food Proportion of food producing and distributing establishments inspected for food quality standards and frequency of inspections Proportion of cases adjudicated under food safety and consumer protection law in the reporting period 	<ul style="list-style-type: none"> Proportion of female-headed households or targeted population with legal title to agricultural land Arable irrigated land per person Proportion of farmers using extension services Share of public budget spent on strengthening domestic agricultural production (e.g., agricultural extension, irrigation, credit, marketing) Proportion of per capita availability of major food items sourced through domestic production, import and food aid Cereal import dependency ratio in the reporting period 	<ul style="list-style-type: none"> Share of household consumption of major food items for targeted population groups met through publicly assisted programmes Unemployment rate or average wage rate of targeted segments of labour force Proportion of targeted population that was brought above the poverty line in the reporting period Work participation rates, by sex and target group Estimated access of women and girls to adequate food within household Coverage of programmes to secure access to productive resources for target groups
Outcome	<ul style="list-style-type: none"> Prevalence of underweight and stunted children under five years of age* Proportion of adults with body mass index (BMI) <18.5 	<ul style="list-style-type: none"> Number of recorded deaths and incidence of food poisoning related to adulterated food 	<ul style="list-style-type: none"> Per capita availability of major food items for local consumption 	<ul style="list-style-type: none"> Proportion of population below minimum level of dietary energy consumption* / proportion of undernourished population Average household expenditure on food for the bottom three deciles of population or targeted population
Death rates, including infant and under-five mortality rates, associated with malnutrition and prevalence of malnutrition (including under-, overnutrition and inadequate intake of nutrients)				
<i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets</i>				

* MDG-related indicators

Table 3

Illustrative indicators on the right to the enjoyment of the highest attainable standard of physical and mental health (Universal Declaration of Human Rights, art. 25)

	Sexual and reproductive health	Child mortality and health care	Natural and occupational environment	Prevention, treatment and control of diseases	Accessibility to health facilities and essential medicines
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to the enjoyment of the highest attainable standard of physical and mental health (right to health) ratified by the State Date of entry into force and coverage of the right to health in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to health, including a law prohibiting female genital mutilation Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to health Estimated proportions of births, deaths and marriages recorded through vital registration systems 	<ul style="list-style-type: none"> Time frame and coverage of national policy on physical and mental health Time frame and coverage of national policy for persons with disabilities Time frame and coverage of national policy on medicines, including list of essential medicines, measures for generic substitution 	<ul style="list-style-type: none"> Time frame and coverage of national policy on child health and nutrition 	<ul style="list-style-type: none"> Time frame and coverage of national policy on physical and mental health Time frame and coverage of national policy for persons with disabilities Time frame and coverage of national policy on medicines, including list of essential medicines, measures for generic substitution 	<ul style="list-style-type: none"> Time frame and coverage of national policy on physical and mental health Time frame and coverage of national policy for persons with disabilities Time frame and coverage of national policy on medicines, including list of essential medicines, measures for generic substitution
	<ul style="list-style-type: none"> Proportion of received complaints on the right to health investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Net official development assistance for the promotion of the health sector received or provided as a proportion of public expenditure on health or gross national income* 	<ul style="list-style-type: none"> Proportion of schoolchildren educated on health and nutrition issues Proportion of children covered under programme for regular medical check-ups in the reporting period Proportion of infants exclusively breastfed during the first 6 months Proportion of children covered under public nutrition supplement programmes Proportion of children immunized against vaccine-preventable diseases (e.g., measles*) 	<ul style="list-style-type: none"> Proportion of targeted population that was extended access to an improved drinking water source* Proportion of targeted population that was extended access to improved sanitation* CO₂ emissions per capita* Number of cases of deterioration of water sources brought to justice Proportion of population or households living or working in or near hazardous conditions rehabilitated Number of prosecutions under domestic law on natural or workplace environment Proportion of driving licences withdrawn for breaches of road rules 	<ul style="list-style-type: none"> Proportion of population covered under awareness-raising programmes on transmission of diseases (e.g., HIV/AIDS*) Proportion of population (above age 1) immunized against vaccine-preventable diseases Proportion of population applying effective preventive measures against diseases (e.g., HIV/AIDS, malaria*) Proportion of disease cases detected and cured (e.g., tuberculosis*) Proportion of population abusing substances, such as drugs, chemical and psychoactive substances, brought under specialized treatment Proportion of mental health facilities inspected in the reporting period 	<ul style="list-style-type: none"> Per capita government expenditure on primary health care and medicines (Improvement in) Density of medical and paramedical personnel, hospital beds and other primary health-care facilities Proportion of population that was extended access to affordable health care, including essential drugs,* on a sustainable basis Average availability and median consumer price ratio of 30 selected essential medicines in public and private health facilities Proportion of people covered by health insurance Rate of refusal of medical consultations, by target group (discrimination testing surveys) Proportion of persons with disabilities accessing assistive devices Share of public expenditure on essential medicines met through international aid
Process	<ul style="list-style-type: none"> Proportion of births attended by skilled health personnel* Antenatal care coverage (at least one visit and at least four visits)* Increase in proportion of women of reproductive age using, or whose partner is using, contraception (CPR)* Unmet need for family planning* Medical terminations of pregnancy as a proportion of live births Proportion of reported cases of genital mutilation, rape and other violence restricting women's sexual and reproductive freedom responded to effectively by the Government 				
Outcome	<ul style="list-style-type: none"> Proportion of live births with low birthweight Perinatal mortality rate Maternal mortality ratio* 	<ul style="list-style-type: none"> Infant and under-five mortality rates* Proportion of underweight children under five years of age* 	<ul style="list-style-type: none"> Prevalence of deaths, injuries, diseases and disabilities caused by unsafe natural and occupational environment 	<ul style="list-style-type: none"> Death rate associated with and prevalence of communicable and non-communicable diseases (e.g., HIV/AIDS, malaria, tuberculosis*) Proportion of persons abusing harmful substances Life expectancy at birth or age 1 and health-adjusted life expectancy Suicide rates 	

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

Table 4

Illustrative indicators on the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Universal Declaration of Human Rights, art. 5)

	Physical and mental integrity of detained or imprisoned persons	Conditions of detention	Use of force by law enforcement officials outside detention	Community and domestic violence
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (right not to be tortured) ratified by the State Date of entry into force and coverage of the right not to be tortured in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right not to be tortured, including code of conduct on medical trials and scientific experimentation on human beings Type of accreditation of national human rights institution by the rules of procedure of the International Coordinating Committee of National Institutions 	<ul style="list-style-type: none"> Date of entry into force of code of conduct for law enforcement officials, including rules of conduct for interrogation of arrested, detained and imprisoned persons Date of entry into force and coverage of formal procedure governing inspection of police cells, detention centres and prisons by independent inspection institutions Legal maxima for incommunicado detention Time frame and coverage of health policy for detention centres and prisons 	<ul style="list-style-type: none"> Date of entry into force and coverage of specific legislation on community and domestic violence Number of rehabilitation centres for victims of domestic violence, including women and children 	
	<ul style="list-style-type: none"> Proportion of received complaints on the right not to be tortured investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Proportion of communications sent by the Special Rapporteurs on torture and on violence against women responded to effectively by the Government in the reporting period Proportion of law enforcement officials (including police, military, specialized investigation agencies and custodial staff) trained in rules of conduct concerning proportional use of force, arrest, detention, interrogation or punishment 	<ul style="list-style-type: none"> Actual prison occupancy as a proportion of prison capacity in accordance with relevant United Nations instruments on prison conditions Proportion of detained and imprisoned persons in accommodation meeting legally stipulated requirements (e.g., drinking water, cubic content of air, minimum floor space, heating) Number of custodial and other relevant staff per inmate Proportion of detention centres and prisons with facilities to segregate persons in custody (by sex, age, accused, sentenced, criminal cases, mental health, immigration-related or other) 	<ul style="list-style-type: none"> Proportion of law enforcement officials formally investigated for physical and non-physical abuse or crime (including torture and disproportionate use of force) in the reporting period Proportion of formal investigations of law enforcement officials resulting in disciplinary action or prosecution Proportion of arrests and other acts of apprehending persons where a firearm was discharged by law enforcement officials 	<ul style="list-style-type: none"> Proportion of public social expenditure on public awareness campaigns on violence against women and children (e.g., violence by intimate partners, genital mutilation, rape) Proportion of health-care and community welfare professionals trained in handling domestic violence issues Proportion of teaching staff trained against the use of physical violence against children Proportion of teaching staff subjected to disciplinary action, prosecuted for physical and non-physical abuse of children Proportion of women reporting forms of violence (physical, sexual or psychological) against themselves or their children initiating legal action or seeking help from police or counselling centres Number of persons arrested, adjudicated, convicted or serving sentence for violent crime (including homicide, rape, assault) per 100,000 population in the reporting period
Process	<ul style="list-style-type: none"> Proportion of detained or imprisoned persons in facilities inspected by an independent body in the reporting period Proportion of custodial staff formally investigated for physical and non-physical abuse or crime on detained or imprisoned persons (including torture and disproportionate use of force) in the reporting period Proportion of formal investigations of custodial staff resulting in disciplinary action or prosecution 			
Outcome	<ul style="list-style-type: none"> Incidence and prevalence of death, physical injury and communicable and non-communicable diseases (e.g., HIV/AIDS, malaria and tuberculosis, * mental impairment) in custody Proportion of detained or imprisoned persons held incommunicado or in prolonged solitary confinement Reported cases of inhuman methods of execution and treatment of persons sentenced to death/incarcerated in the reporting period Proportion of detained or imprisoned persons with BMI < 18.5 		<ul style="list-style-type: none"> Incidence of death and physical injury resulting from arrests or other acts of apprehending persons by law enforcement officials in the reporting period 	<ul style="list-style-type: none"> Proportion of children or pupils per 1000 enrolled and patients who experienced corporal punishment in schools and medical institutions Incidence and prevalence of deaths and crimes related to community and domestic violence (including homicide, rape, assault) in the reporting period
	<ul style="list-style-type: none"> Reported cases of torture or cruel, inhuman or degrading treatment or punishment perpetrated by an agent of the State or any other person acting under its authority or with its complicity, tolerance or acquiescence, but without any or due judicial process (e.g., as reported to the Special Rapporteurs on torture/ violence against women), in the reporting period Proportion of victims of torture or cruel, inhuman or degrading treatment or punishment who received compensation and rehabilitation, in the reporting period 			

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

Table 5

Illustrative indicators on the right to participate in public affairs (Universal Declaration of Human Rights, art. 21)

	Exercise of legislative, executive and administrative powers	Universal and equal suffrage	Access to public service positions
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to participate in public affairs ratified by the State Date of entry into force and coverage of the right to participate in public affairs in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to participate in public affairs, including freedom of opinion, expression, information, media, association and assembly Date of entry into force of universal suffrage, right to stand for election, legal provisions defining citizenship and limitations (including age limits) on permanent residents with respect to the right to participate in public affairs at national and local levels Quota, time frame and coverage of temporary and special measures for targeted populations in legislative, executive, judicial and appointed bodies Type of accreditation of national human rights institutions by the rules of procedure of the International Coordinating Committee of National Institutions Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to participate in public affairs 	<ul style="list-style-type: none"> Periodicity of executive and legislative elections at national and local level Date of entry into force and coverage of laws establishing an independent national electoral body 	<ul style="list-style-type: none"> Date of entry into force and coverage of legal provisions guaranteeing access to public service positions without discrimination Date of entry into force and coverage of administrative tribunals or dedicated judicial redress mechanism for public service matters
Process	<ul style="list-style-type: none"> Proportion of received complaints on the right to participate in public affairs investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government 	<ul style="list-style-type: none"> Proportion of the voting-age population registered to vote Reported irregularities (intimidation, corruption or arbitrary interference) with registration, maintenance and review of electoral rolls Number of complaints per elected position recorded and addressed in the election process by national and subnational electoral authorities Share of public expenditure on national and subnational elections spent on voter education and registration campaigns Number of political parties registered or recognized at national level Proportion of voting-age population not affiliated to political parties 	<ul style="list-style-type: none"> Proportion of vacancies in (selected) public authorities at national and subnational levels filled through selection of women and candidates from target population groups Proportion of cases filed in administrative tribunals and dedicated judicial redress mechanism for public service matters adjudicated during the reporting period Proportion of positions in the public service reserved to nationals or citizens
Outcome	<ul style="list-style-type: none"> Proportion of seats in parliament,* elected and appointed bodies at subnational and local levels held by women and members of target groups 	<ul style="list-style-type: none"> Average voter turnout in national and local elections, by sex and target group Proportion of invalid and blank votes in elections to national and subnational legislatures 	<ul style="list-style-type: none"> Reported cases of denial of access to public service or position on account of discrimination Proportion of public service positions held by women and members of target groups

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* MDG-related indicators

Table 6

Illustrative indicators on the right to education (Universal Declaration of Human Rights, art. 26)

	Universal primary education	Accessibility to secondary and higher education	Curricula and educational resources	Educational opportunity and freedom
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to education ratified by the State Date of entry into force and coverage of the right to education in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to education, including prohibition of corporal punishment, discrimination in access to education, making educational institutions barrier-free and inclusive education (e.g., children with disabilities, children in detention, migrant children, indigenous children) Date of entry into force and coverage of domestic law on the freedom of individuals and groups (including minorities) to establish and direct educational institutions Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to education 	<ul style="list-style-type: none"> Time frame and coverage of national policy on education for all, including provision for temporary and special measures for target groups (e.g., working and street children) Time frame and coverage of national policy on vocational and technical education Date of entry into force and coverage of regulatory framework including standardized curricula for education at all levels Proportion of education institutions at all levels teaching human rights / number of hours in curricula on human rights education Proportion of education institutions with mechanisms (student council) for students to participate in matters affecting them 		
Process	<ul style="list-style-type: none"> Proportion of received complaints on the right to education investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Public expenditure on primary, secondary and higher education as proportion of gross national income; net official development assistance for education received or provided as proportion of public expenditure on education* 	<ul style="list-style-type: none"> Transition rate to secondary education by target group Gross enrolment ratio for secondary and higher education by target group Dropout rate for secondary education by grade for target groups Proportion of students enrolled in public secondary and higher education institutions Share of annual household expenditure on education per child enrolled in public secondary school or higher education Proportion of pupils (by target group) receiving public support or grant for secondary education Proportion of secondary or higher education teachers fully qualified and trained Proportion of students enrolled in vocational education programmes at secondary and post-secondary level 	<ul style="list-style-type: none"> Proportion of schools or institutions conforming to national requirements on academic and physical facilities Periodicity of curricula revision at all levels Number of educational institutions by level recognized or derecognized by regulatory body during the reporting period Average salary of schoolteachers as percentage of regulated minimum wage Proportion of teachers at all levels completing mandatory in-service training during reporting period Ratio of pupils to teachers, in primary, secondary, public and private education 	<ul style="list-style-type: none"> Proportion of education institutions engaged in "active learning" Proportion of adult population covered by basic education programmes Proportion of students, by level, enrolled in distance and continuing education programmes Number of institutions of ethnic, linguistic minority and religious population groups recognized or given public support Proportion of labour force retraining or enhancing skills at public or subsidized institutions Proportion of higher learning institutions enjoying managerial and academic autonomy Personal computers in use per 100 population*
Outcome	<ul style="list-style-type: none"> Net primary enrolment ratio* by target group, including children with disabilities Dropout rate for primary education by grade for target groups Proportion of enrolled children in public primary schools Proportion of pupils (by target group) covered under publicly supported programmes or incentives for primary education Proportion of public schools with user charges for services other than tuition fees Proportion of primary education teachers fully qualified and trained Proportion of children getting education in their mother tongue Proportion of pupils in grade 1 who attended preschool 	<ul style="list-style-type: none"> Ratio of girls to boys in secondary education* by grade Proportion of children completing secondary education (secondary completion rate) Number of graduates (first-level university degree) per 1000 population 	<ul style="list-style-type: none"> (Improvement in) Density of primary, secondary and higher education facilities in the reporting period 	<ul style="list-style-type: none"> Proportion of women and targeted population with professional or university qualification
* Youth (15–24 years)* and adult (15+) literacy rates (i.e., reading, writing, arithmetic, problem-solving and other life skills) <i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets</i>				

* MDG-related indicators

Table 7 Illustrative indicators on the right to adequate housing (Universal Declaration of Human Rights, art. 25)

	Habitability	Accessibility to services	Housing affordability	Security of tenure	
Structural	<ul style="list-style-type: none">International human rights treaties relevant to the right to adequate housing ratified by the StateDate of entry into force and coverage of the right to adequate housing in the constitution or other forms of superior lawDate of entry into force and coverage of domestic laws for implementing the right to adequate housingType of accreditation of national human rights institutions by the rules of procedure of the International Coordinating Committee of National InstitutionsNumber of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to adequate housing	<ul style="list-style-type: none">Time frame and coverage of national housing policy or strategy for the progressive implementation of measures, including special measures for target groups, for the right to adequate housing at different levels of governmentTime frame and coverage of national policy on rehabilitation, resettlement and management of natural disasters	<ul style="list-style-type: none">Date of entry into force and coverage of legislation on security of tenure, equal inheritance and protection against forced eviction		
Process	<ul style="list-style-type: none">Proportion of homes (cities, towns and villages) brought under the provisions of building codes and by-laws in the reporting periodShare of public expenditure on social or community housingHabitable area (sq. m.) added through reclamation, including of hazardous sites and change in land-use pattern, in the reporting periodHabitable area (sq. m. per capita) earmarked for social or community housing during the reporting period	<ul style="list-style-type: none">Share of public expenditure on provision and maintenance of sanitation, water supply, electricity and other services of homesProportion of targeted population that was extended sustainable access to an improved water source,* improved sanitation,* electricity and waste disposal in the reporting period	<ul style="list-style-type: none">Proportion of households that receive public housing assistance, including those living in subsidized rental and subsidized owner-occupied housingProportion of targeted households living in squatter settlements rehabilitated in the reporting periodProportion of homeless population that used public or community-based shelters in the reporting period	<ul style="list-style-type: none">Average time taken to settle disputes related to housing and land rights in courts and tribunalsNumber/proportion of legal appeals aimed at preventing planned evictions or demolitions ordered by courts in the reporting periodNumber/proportion of legal procedures seeking compensation following evictions in the reporting period, by result after adjudicationNumber and proportion of displaced or evicted persons rehabilitated or resettled in the reporting period	<ul style="list-style-type: none">Proportion of received complaints on the right to adequate housing investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded effectively to by the GovernmentNumber of and total public expenditures on housing reconstruction and rehabilitation by evicted/displaced persons during the reporting periodNet official development assistance for housing (including land and basic services) received or provided as proportion of public expenditure on housing or gross national income*Proportion of targeted residents reporting satisfaction with how involved they feel in decision-making affecting their enjoyment of the right to adequate housing
Outcome	<ul style="list-style-type: none">Proportion of population with sufficient living space (persons per room or rooms per household) or average number of persons per room among target householdsProportion of households living in permanent structure in compliance with building codes and by-lawsProportion of households living in or near hazardous conditions	<ul style="list-style-type: none">Proportion of urban population living in slums*Proportion of population using an improved drinking water (public / private) source, sanitation facility, electricity and waste disposalProportion of household budget of target population groups spent on water supply, sanitation, electricity and waste disposal	<ul style="list-style-type: none">Proportion of households spending more than “X” per cent of their monthly income or expenditure on housing or average rent of bottom three income deciles as a proportion of the top threeAnnual average of homeless persons per 100,000 population(“X” being defined normatively for the national context)	<ul style="list-style-type: none">Reported cases of “forced evictions” (e.g., as reported to the special procedures), in the reporting periodProportion of households with legally enforceable, contractual, statutory or other protection providing security of tenure or proportion of households with access to secure tenureProportion of women with title to land or property	

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

Table 8

Illustrative indicators on the right to work (Universal Declaration of Human Rights, art. 23)

	Access to decent and productive work	Just and safe working conditions	Training, skill upgrading and professional development	Protection from forced labour and unemployment
Structural	<ul style="list-style-type: none"> International human rights and ILO treaties relevant to the right to work ratified by the State Date of entry into force and coverage of the right to work in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to work, including regulations to ensure equal opportunities for all and eliminate employment-related discrimination as well as (temporary) special measures for target groups (e.g., women, children, indigenous persons, migrants) Number of registered and/or active NGOs (per 100,000 persons), including trade unions, involved in the promotion and protection of the right to work 	<ul style="list-style-type: none"> Time frame and coverage of a national policy for full and productive employment Date of entry into force and coverage of regulations and procedures to ensure safe and healthy working conditions, including an environment free of sexual harassment, and establishing an independent monitoring body Maximum number of working hours per week stipulated by law Minimum age for employment by occupation type Duration of maternity, paternity and parental leave and leave entitlements on medical grounds and proportion of wages paid in covered period 	<ul style="list-style-type: none"> Time frame and coverage of national policy on vocational education and skill upgrading Proportion of administrative regions with specialized public agencies to assist individuals in finding employment 	<ul style="list-style-type: none"> Time frame and coverage of awareness-raising programme on labour standards Time frame and coverage of policy for the elimination of forced labour, including worst forms of child labour, domestic work and work of migrants and human trafficking
Process	<ul style="list-style-type: none"> Proportion of received complaints on the right to work, including just and safe working conditions, investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms (e.g., ILO procedures, trade unions) and the proportion of these responded to effectively by the Government Proportion of target population receiving effective support to (re)enter the labour market Annual employment growth (job creation rates), by education level Average time spent on unpaid domestic or family care work as well as on unpaid work in family business by women, men and children Proportion of requests by parent or guardian for certified childcare arrangements (e.g., kindergarten) reviewed and met in the reporting period Average number of job applications before being invited to an interview, by target group (e.g., ILO discrimination testing surveys) 	<ul style="list-style-type: none"> Proportion and frequency of enterprises inspected for conformity with labour standards and proportion of inspections resulting in administrative action or prosecution Proportion of employees, including domestic workers, whose salary level is covered by legislation (e.g., minimum wage) and/or negotiation involving social partners (unions) Proportion of workers who moved from precarious to stable contracts during the reporting period 	<ul style="list-style-type: none"> Proportion of employees with recent job training Proportion of unemployed persons involved in skill upgrading and other training programmes, including publicly financed jobs Improvement in secondary and tertiary enrolment ratios in the reporting period 	<ul style="list-style-type: none"> Proportion of informal sector workers shifted to formal sector employment in the reporting period Proportion of children in productive activity Estimated number of labour force in the informal sector receiving some public support Proportion of targeted unemployed persons covered by unemployment / social security benefits
Outcome	<ul style="list-style-type: none"> Employment-to-population ratios,* by sex, target group and education level Proportion of voluntary part-time workers to total part-time employed population Share of women in wage employment in the non-agricultural sector* Proportion of workers in precarious employment (e.g., short-, fixed-term, casual, seasonal workers) 	<ul style="list-style-type: none"> Incidence of occupational accidents, including acts of violence, personal injury, disease or death Ratio of women's to men's wages (or other target groups), by sector Proportion of identified positions (e.g., senior officials, managerial positions in public/private service) held by women and members of other target groups 	<ul style="list-style-type: none"> Proportion of workers employed after skill upgrading and other training programmes, including publicly financed jobs Long-term unemployment rates (1 year or more of unemployment), by sex, target group or region Distribution of labour force by level of education 	<ul style="list-style-type: none"> Unemployment rates, by sex, target group and level of education (labour force survey (LFS)/registered) Incidence of forced labour, including worst forms of child labour, domestic work and work of migrants and human trafficking Reported cases of violation of the right to work, including forced labour, discrimination and unlawful termination of employment and proportion of victims who received adequate compensation
<ul style="list-style-type: none"> Gini indices and ratio of lowest/highest income quintiles or consumption expenditures (before and after taxes) 				
<i>All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets</i>				

* MDG-related indicators

Table 9 Illustrative indicators on the right to social security (Universal Declaration of Human Rights, art. 22)

	Income security for workers	Affordable access to health care	Family, child and dependent-adult support	Targeted social assistance schemes
	<ul style="list-style-type: none">International human rights and ILO treaties relevant to the right to social security ratified by the StateDate of entry into force and coverage of the right to social security in the constitution or other forms of superior lawDate of entry into force and coverage of domestic laws for implementing the right to social security, including in the event of sickness, old age, unemployment, employment-related injury, maternity, paternity, disability or invalidity, survivors and orphans, health care (including reproductive health care), and family and child supportTime frame and coverage of policy for universal implementation of the right to social security			
Structural	<ul style="list-style-type: none">Date of entry into force and coverage of insurance or tax-based social security schemeLegally prescribed qualifying period, rate of contribution, duration (e.g., length of maternity leave) and rate of benefits under different schemesDate of entry into force and coverage of international agreements on export of social security benefits (including on double taxation) to country of origin for migrant workers and families	<ul style="list-style-type: none">Date of entry into force and coverage of regulation on mandatory health insuranceTime frame and coverage of national policy on health and access to health care, including for reproductive health and for persons with disabilitiesTime frame and coverage of national policy on drugs, including on generic drugs	<ul style="list-style-type: none">Date of entry into force and coverage of public support for families, including single-parent families, children and dependent adultsLegally prescribed qualifying period, rate of contribution, duration and rate of allowances	<ul style="list-style-type: none">Time frame and coverage of social assistance programmes and non-contributory schemes for persons in specific situations of need (e.g., IDPs, refugees, war victims, long-term unemployed persons, homeless persons)Time frame and coverage of national policy on unemployment
	<ul style="list-style-type: none">Proportion of received complaints on the right to social security investigated and adjudicated by the national human rights institution, human rights ombudsperson or other relevant mechanisms and the proportion of these responded to effectively by the GovernmentProportion of targeted population appropriately informed of its entitlements and benefits (in cash or in kind) under the applicable social security schemesNet official development assistance for implementing this right, received or provided as a proportion of public expenditure on social security and gross national income			
Process	<ul style="list-style-type: none">Number of workers newly registered as participant in the social security scheme in the reporting periodProportion of requests for benefits (e.g., unemployment benefit, pension) reviewed and met in the reporting periodProportion of cases or complaints concerning social security obligations of enterprises effectively responded to by Government or relevant social security agencyProportion of enterprises covered under domestic social security regulations and proportion thereof subjected to administrative action or prosecution	<ul style="list-style-type: none">Per capita public expenditure on primary health facilities (including for reproductive health care) and essential medicinesNumber of targeted individuals newly registered as participant in the health insurance system in the reporting periodProportion of household expenditures on health goods and services covered by health insurance / public supportProportion of births attended by skilled health personnel*Proportion of target population within X hour(s) of medical and paramedical personnel and relevant health-care facilities	<ul style="list-style-type: none">Public expenditure on family, children and dependent-adult allowance or benefit schemes per beneficiaryProportion of household expenditure (food, health, day care, education, housing) on children and dependent adults covered by public support(Improvement in) Density of nursery/childcare centres and nursing homes for the targeted population or regions in the reporting period	<ul style="list-style-type: none">Public expenditures for targeted social assistance schemes per beneficiary(Improvement in) Density of administrative offices and personnel providing targeted social assistanceProportion of requests for social assistance (e.g., income transfer, subsidized housing, disaster relief) reviewed and met
Outcome	<ul style="list-style-type: none">Proportion of labour force participating in social security scheme(s)Proportion of workers covered under social security who requested and received social security benefits in the reporting period	<ul style="list-style-type: none">Proportion of population covered by health insurance (public or private)Proportion of population that renounced health-care services during the past 12 months for economic reasons, by service (e.g., dental care, medical consultation, drugs, surgery)	<ul style="list-style-type: none">Proportions of entitled families, children and dependent adults receiving public support	<ul style="list-style-type: none">Proportion of population in specific situations of need receiving social assistance for food, housing, health care, education, emergency or relief services
	<ul style="list-style-type: none">Proportion of individuals in the formal or informal economy below national poverty line before and after social transfers*			
All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets				

* MDG-related indicators

Table 10 The right to freedom of opinion and expression (Universal Declaration of Human Rights, art. 19)

	Freedom of opinion and to impart information	Access to information	Special duties and responsibilities
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to freedom of opinion and expression (freedom of expression) ratified by the State Date of entry into force and coverage of the right to freedom of expression in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to freedom of expression, including availability of judicial review of any decision taken by the State to restrict it Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to freedom of expression Date of entry into force and coverage of code of conduct/ethics for journalists and other media persons 	<ul style="list-style-type: none"> Date of entry into force and coverage of legislation on access to information Date of establishment of an independent monitoring mechanism (e.g., information commissioner) Date of entry into force and coverage of statistical legislation to protect independence and quality of official statistics Time frame and coverage of national policy to promote access to information technology 	<ul style="list-style-type: none"> Date of entry into force and coverage of domestic law prohibiting propaganda for war Date of entry into force and coverage of domestic law(s) prohibiting advocacy of national, racial, religious or sexist hatred constituting incitement to discrimination, hostility or violence
	<ul style="list-style-type: none"> Date of entry into force and coverage of legislation for the protection of the freedom of the media, including decriminalization of libel, defamation and slander Date of entry into force and coverage of domestic law for the protection and safety of journalists and any other media persons, including protection against disclosure of sources Date of entry into force and coverage of domestic law for equal opportunity of access to radio concessions and TV broadcast frequencies Time frame and coverage of national policy on education for all, including provisions for temporary special measures for target groups, human rights curricula and "active learning" 	<ul style="list-style-type: none"> Proportion of received complaints on the right to freedom of expression investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Proportion of communications from the special rapporteurs (e.g., Special Rapporteur on the promotion and protection of the right to freedom of expression) responded to effectively by the Government 	
Process	<ul style="list-style-type: none"> Number of newspapers, magazines, radio stations, TV broadcasts, Internet sites by ownership (public or private) and audience figures Number of mergers or acquisitions by media companies investigated, adjudicated and refused by an independent competition commission in the reporting period Number of newspapers, articles, Internet sites and other media broadcasts closed or censored by regulatory authorities Proportion of complaints filed by journalists or any other media persons investigated, adjudicated and approved by courts or other competent mechanisms Number of media institutions of ethnic, linguistic minority and religious population groups recognized or given public support Proportion of requests for holding demonstrations accepted by administrative authorities Proportion of schools engaged in "active learning", giving children the opportunity to express themselves freely 	<ul style="list-style-type: none"> Proportion of information requests by the media responded to effectively by the Government Subscriptions and average daily sales of national and main regional newspapers Proportion of population with access to TV and radio broadcasts Number of personal computers in use with Internet access per 100 population* Number of Internet domains registered per 1000 population 	<ul style="list-style-type: none"> Proportion of judicial actions on alleged libel, defamation and slander investigated and resulting in conviction Proportion of judicial actions against propaganda for war investigated and resulting in conviction Proportion of (quasi-)judicial actions against advocacy of national, racial, religious or sexist hatred investigated and resulting in conviction
Outcome	<ul style="list-style-type: none"> Number of journalists and any other media persons who reported sanctions, political or corporate pressure for the publication of information 	<ul style="list-style-type: none"> Reported cases of non-disclosure of documents, archives and administrative or corporate data of public interest (e.g., justice records, arms exports, environmental data, asylum seekers) Proportion of different linguistic population groups having access to media broadcasts in their own language 	<ul style="list-style-type: none"> Proportion of victims of libel, defamation or slander who received compensation and rehabilitation
	<ul style="list-style-type: none"> Reported cases of killing, disappearance, detention and torture against journalists, human rights defenders or any other persons who exercised their right to freedom of expression, perpetrated by an agent of the State or any other person acting under its authority or with its complicity, tolerance or acquiescence, but without any or due judicial process (e.g., reported to United Nations special procedures) 		

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

Table 11

Illustrative indicators on the right to a fair trial (Universal Declaration of Human Rights, arts. 10-11)

	Access to and equality before courts and tribunals	Public hearing by competent and independent courts	Presumption of innocence and guarantees in the determination of criminal charges	Special protection for children	Review by a higher court
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to a fair trial ratified by the State Date of entry into force and coverage of the right to a fair trial in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to a fair trial, including on procedures for the appointment, remuneration, dismissal of persons exercising judicial functions Number of registered and/or active NGOs (per 100,000 persons) involved in the promotion and protection of the right to a fair trial 	<ul style="list-style-type: none"> Time frame and coverage of national policy on judicial services, including on strengthening courts, against extortion, bribery or corruption Date of entry into force and coverage of regulatory bodies for judicial and legal profession 	<ul style="list-style-type: none"> Identified/prescribed time limits to guide pretrial and trial stages in the determination of charges against a person Time frame and coverage of national policy on the provision of legal aid to specific population groups 	<ul style="list-style-type: none"> Date of entry into force and coverage of juvenile court Date of entry into force and coverage of rehabilitation systems for children involved in crime Legal age of criminal responsibility 	<ul style="list-style-type: none"> Date of entry into force and coverage of the right to appeal to a higher court and full review of legal and material aspects of person's conviction and sentence
Process	<ul style="list-style-type: none"> Proportion of received complaints concerning the right to a fair trial investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and proportion of these responded to effectively by the Government Number of communications from the Special Rapporteur on the independence of judges and lawyers and proportion responded to effectively by the Government Proportion of judges, prosecutors and lawyers trained on human rights and related standards for the administration of justice 	<ul style="list-style-type: none"> Proportion of persons with judicial functions (e.g., judges and prosecutors) formally investigated for breach of duty, irregularity, abuse (e.g., corruption) Proportion of formal investigations of persons with judicial functions resulting in disciplinary action or prosecution Number/proportion of civilians tried by military courts or special courts Average number of cases assigned/completed by person with judicial functions at different levels of judiciary Share of public expenditure on courts and prosecution system Average salary of persons with judicial functions as percentage of regulated minimum wages 	<ul style="list-style-type: none"> Proportion of cases where the time for arrested persons before receiving notice of the charge (in a legal sense and in language they understand) exceeded statutory or mandated limit Proportion of public attendees at court who rate services and court as highly accessible in their own language (court user survey) Proportion of defendants with access to adequate facilities, a lawyer or legal aid for their defence Proportion of pending cases and average duration of criminal trials Proportion of cases where time between arrest and trial exceeded statutory or mandated limit Reported cases of killing, assault, threat and arbitrary dismissal of persons with judicial functions 	<ul style="list-style-type: none"> Proportion of prosecutors and defence lawyers working on juvenile cases with specialized training in juvenile justice Proportion of juvenile detainees provided with free legal assistance within 24 hours of the start of custody Proportion of juveniles in custody receiving education/vocational training by trained teachers for same hours as students that age at liberty Proportion of courts adapted to handling juvenile cases Proportion of convicted juveniles sentenced to imprisonment Proportion of juveniles accessing rehabilitation services after release 	<ul style="list-style-type: none"> Proportion of convictions for serious offences in which the person convicted received legal assistance to consider seeking review by higher court/tribunal Proportion of cases appealed by defendants or by prosecutors Proportion of cases where the right to appeal is excluded or restricted to specific issues of law
Outcome	<ul style="list-style-type: none"> Conviction rates for indigent defendants provided with legal representation as a proportion of conviction rates for defendants with lawyer of their own choice Proportion of crimes (e.g., rape, physical assaults) brought before judicial authorities 	<ul style="list-style-type: none"> Proportion of total hearings opened to general public Proportion of adjudicated cases for which at least one irregularity in the pretrial determination of charges was noted by the courts 	<ul style="list-style-type: none"> Proportion of convictions obtained in absentia (in whole or in part) Reported cases of presumption of guilt and prejudgement by a court or public authorities (e.g., adverse public statements) 	<ul style="list-style-type: none"> Number of children arrested/detained per 100,000 child population Recidivism rates of juveniles 	<ul style="list-style-type: none"> Proportion of criminal convictions in which sentence was reduced or a criminal conviction vacated or returned for retrial or resentencing

Conviction rates by type of adjudicated crime (e.g., rape, homicide, physical assaults) and characteristics of victims and perpetrators (e.g., sex, juvenile)

Reported cases of arbitrary detention in the reporting period

Reported cases of miscarriage of justice and proportion of victims who received compensation within a reasonable time

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

Table 12

Illustrative indicators on violence against women (Universal Declaration of Human Rights, arts. 1-5 and 16)

	Sexual and reproductive health and harmful traditional practices	Domestic violence	Violence at work, forced labour and trafficking	Community violence and abuse by law enforcement officials	Violence and (post-)conflict and emergency situations
	<ul style="list-style-type: none"> International human rights treaties relevant to the elimination of discrimination against women, including all forms of violence against women, ratified by the State without reservations Date of entry into force and coverage of the principle of non-discrimination between men and women and prohibition of all forms of violence against women in the constitution or other forms of superior law Date of entry into force and coverage of domestic law(s) criminalizing violence against women, including rape, domestic violence, trafficking, traditional harmful practices, stalking and sexual abuse of children Date of entry into force and coverage of legal act instituting an independent oversight body with specific mandate to protect women against violence (e.g., accredited NHR) Time frame and coverage of policy or action plan for the elimination of discrimination and all forms of violence against women and including data collection and dissemination programme Number of registered or active NGOs and full-time equivalent employment (per 100,000 persons) involved in the protection of women against violence 	<ul style="list-style-type: none"> Date of entry into force and coverage of legislation criminalizing marital rape and incest Date of entry into force and coverage of legislation protecting gender equality and women's ability to leave abusive relationships (e.g., equal inheritance, asset ownership, divorce) 	<ul style="list-style-type: none"> Time frame and coverage of policy or programme against sexual harassment in the workplace Time frame and coverage of policy to combat trafficking, sexual exploitation and forced labour and provide protection and access to remedy for victims 	<ul style="list-style-type: none"> Date of entry into force and coverage of legislation defining rape in relation to a lack of consent rather than use of force Time frame and coverage of policy to combat community violence and abuse by police forces 	<ul style="list-style-type: none"> Time frame and coverage of policy or programme to prevent or address sexual violence in conflict, post-conflict or emergency situations Time frame and coverage of special measures for participation of women in peace processes
Structural	<ul style="list-style-type: none"> Time frame and coverage of policy to eliminate harmful traditional practices, including female genital mutilation, early or forced marriage, honour killing or maiming and foetal sex determination Legally stipulated minimum age for marriage 	<ul style="list-style-type: none"> Proportion of received complaints on all forms of violence against women investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Proportion of public social sector expenditure on national awareness-raising campaign on all forms of violence against women (including harmful traditional practices) and on national prevention programme integrated into school curriculum Number of perpetrators of violence against women (including harmful traditional practices, domestic violence, trafficking, sexual exploitation and forced labour) arrested, adjudicated, convicted and serving sentences (by type of sentence) 			
Process	<ul style="list-style-type: none"> Proportion of women of reproductive age using or whose partner is using contraception and effective preventive measures against sexually transmitted diseases (e.g., HIV/AIDS)* Unmet need for family planning* Number of safe and unsafe abortions per 1,000 women of reproductive age Proportion of women whose age at marriage is below 18 years** Proportion of managerial and other leader positions (e.g., religious leader) occupied by women 	<ul style="list-style-type: none"> Proportion of women reporting forms of domestic violence to law enforcement officials or initiating legal action Number of available places in shelters and refugees per 1,000 population (urban and rural) Number of adopted restraining orders Proportion of men and women who think that abuse or violence against women is acceptable or tolerable 	<ul style="list-style-type: none"> Proportion of and frequency of business organizations inspected for conformity with labour standards Proportion of migrants working in the sex industry Proportion of informal sector workers (e.g., domestic workers) shifted to formal sector employment 	<ul style="list-style-type: none"> Proportion of new recruits to police, social work, psychology, health (doctors, nurses and others), education (teachers) completing a core curriculum on all forms of violence against women Proportion of victims of rape who had access to emergency contraception or safe abortion, prophylaxis for sexually transmitted infections/HIV Proportion of sexual crimes (e.g., rape) reported to the police (population survey) Proportion of formal investigations of law enforcement officials for cases of violence against women resulting in disciplinary action or prosecution 	<ul style="list-style-type: none"> Proportion of health staff trained in medical management and support for victims of sexual and other violence Proportion of victims of sexual and other violence accessing appropriate medical, psychosocial and legal services Proportion of reported cases of sexual or other violence where victims (or related third parties) initiated legal action Proportion of expenditure on relief and emergency assistance devoted to women and child welfare
Outcome	<ul style="list-style-type: none"> Proportion of women subjected to female genital mutilation** Sex ratio at birth and age 5-9 years Maternal mortality ratio* and proportion of deaths due to unsafe abortions 	<ul style="list-style-type: none"> Proportion of women who have experienced physical and/or sexual violence by current or former partner in the past 12 months / during lifetime** Proportion of women subjected to psychological and/or economic violence by their intimate partner** 	<ul style="list-style-type: none"> Reported cases of women/men victims of trafficking (within and across countries), sexual exploitation or forced labour Proportion of working women who have been victims of sexual abuse/harassment in the workplace 	<ul style="list-style-type: none"> Proportion of women/men who report feeling unsafe in public places or limiting their activities because of safety or harassment Proportion of women who have experienced physical violence or rape / sexual assault during the past year [lifetime]** 	<ul style="list-style-type: none"> Reported cases of death, rape (attempted or completed) and other incidents of violence against women that occurred in conflict, post-conflict or emergency situations

* Femicide rates (e.g., murder by intimate partner, sexual murder, killing of prostitutes, honour killing, female infanticide, dowry deaths)
 ** Proportion of women who have experienced physical, sexual and psychological violence during the past year [lifetime], by severity of violence, relationship to the perpetrator and frequency**

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

** UNECE indicator

Table 13

Illustrative indicators on the right to non-discrimination and equality (Universal Declaration of Human Rights, arts. 1, 2 and 7)

	Equality before the law and protection of person	Direct or indirect discrimination by public and private actors nullifying or impairing equality of livelihood opportunities	Special measures, including for participation in decision-making	
Structural	<ul style="list-style-type: none">International human rights treaties relevant to the right to non-discrimination and equality (right to non-discrimination) ratified by the StateDate of entry into force and coverage of the right to non-discrimination, including the list of prohibited grounds of discrimination, in the constitution or other forms of superior lawDate of entry into force and coverage of domestic laws for implementing the right to non-discrimination, including on the prohibition of advocacy constituting incitement to discrimination and hatredDate of entry into force and coverage of legal act constituting a body responsible for promoting and protecting the right to non-discriminationPeriodicity and coverage of the collection and dissemination of data relevant to assessing the implementation of the right to non-discriminationNumber of registered or active NGOs and full-time equivalent employment (per 100,000 persons) involved in the promotion and protection of the right to non-discrimination	<ul style="list-style-type: none">Time frame and coverage of policy or programme for equal access to education at all levelsTime frame and coverage of policy and programmes to provide protection from discriminatory practices interfering with access to food, health, social security and housing	<ul style="list-style-type: none">Time frame and coverage of policies for equal access to decent workTime frame and coverage of policy for the elimination of forced labour and other abuse at work, including domestic work	
	<ul style="list-style-type: none">Proportion of received complaints on cases of <i>direct</i> and <i>indirect</i> discrimination investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms (e.g., equal opportunity commission) and the proportion responded to effectively by the GovernmentProportion of targeted population (e.g., law enforcement officials) trained on implementing a code of conduct for the elimination of discriminatory practices	<ul style="list-style-type: none">Ratio of targeted population (e.g., girls) in the relevant population group in primary and higher education* and by kind of school (e.g., public, private, special school)*Proportion of health-care professionals (landlords) handling requests from potential patients (tenants) in a non-discriminatory manner (source: discrimination testing survey)Proportion of public buildings with facilities for persons with physical disabilitiesProportion of targeted populations that was extended sustainable access to an improved water source, sanitation, * electricity and waste disposal	<ul style="list-style-type: none">Proportion of enterprises (e.g., government contractors) that conform with certified discrimination-free business and workplace practices (e.g., no HIV test requirements)Proportion of job vacancy announcements stipulating that among equally qualified (or comparable) candidates a person from a targeted population group will be selected (e.g., women, minority)Proportion of employers handling applications of candidates in a non-discriminatory manner (e.g., ILO discrimination testing survey)Proportion of employees (e.g., migrant workers) reporting discrimination and abuse at work who initiated legal or administrative actionProportion of time dedicated to unpaid domestic work and caregiving by women	<ul style="list-style-type: none">Proportion of targeted population groups accessing positive action or preferential treatment measures aiming to promote de facto equality (e.g., financial assistance, training)Proportion of education institutions at all levels teaching human rights and promoting understanding among population groups (e.g., ethnic groups)Proportion of members of trade unions and political parties who are women or from other targeted population groups and the proportion thereof presented as candidates for election
Process	<ul style="list-style-type: none">Proportion of victims of discrimination and bias-driven violence provided with legal aidNumber of persons (including law enforcement officials) arrested, adjudicated, convicted or serving sentence for discrimination and bias-driven violence per 100,000 populationProportion of women reporting forms of violence against themselves or their children initiating legal action or seeking help from police or counselling centresProportion of requests for legal assistance and free interpreters being met (criminal and civil proceedings)Proportion of lawsuits related to property where women appear in person or through counsel as plaintiff or respondent	<ul style="list-style-type: none">Educational attainments (e.g., youth and adult literacy rates), by targeted population group*Birth, mortality and life expectancy rates disaggregated by targeted population groupProportion of targeted populations below national poverty line (and Gini indices) before and after social transfers*	<ul style="list-style-type: none">Employment-to-population ratios* by targeted population groupWage gap ratios for targeted population groups	<ul style="list-style-type: none">Proportion of relevant positions (e.g., managerial) in the public and private sectors held by targeted population groupsProportion of seats in elected and appointed bodies at subnational and local level held by targeted population groups*
Outcome	<ul style="list-style-type: none">Prevalence/incidence of crimes, including hate crime and domestic violence, by target population groupReported cases of arbitrary killing, detention, disappearance and torture from population groups ordinarily subject to risk of discriminatory treatmentConviction rates for indigent defendants provided with legal representation as a proportion of conviction rates for defendants with lawyer of their own choice			<ul style="list-style-type: none">Reported number of victims of <i>direct</i> and <i>indirect</i> discrimination and hate crimes and proportion of victims (or relatives) who received compensation and rehabilitation in the reporting period

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

Table 14 Illustrative indicators on the right to life (Universal Declaration of Human Rights, art. 3)

	Arbitrary deprivation of life	Disappearances of individuals	Health and nutrition	Death penalty
Structural	<ul style="list-style-type: none"> International human rights treaties relevant to the right to life ratified by the State Date of entry into force and coverage of the right to life in the constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to life Type of accreditation of national human rights institutions by the rules of procedure of the International Coordinating Committee of National Institutions Date of entry into force and coverage of a coroner (forensics examiner) and cause of death certification system Date of entry into force and coverage of formal procedure governing inspection of police cells, detention centres and prisons by independent inspection agencies 	<ul style="list-style-type: none"> Date of entry into force and coverage of habeas corpus provision in the constitution 	<ul style="list-style-type: none"> Time frame and coverage of national policy on health and nutrition 	<ul style="list-style-type: none"> Number of subnational administrative entities that have abolished death penalty Date of entry into force and coverage of safeguards for those facing death penalty (including minimum age, pregnancy, mother of young children, disabilities)
Process	<ul style="list-style-type: none"> Proportion of received complaints on the right to life investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the Government Proportion of communications from the Special Rapporteur on extrajudicial, summary or arbitrary executions responded to effectively by the Government in the reporting period Proportion of law enforcement officials and custodial staff trained in rules of conduct concerning proportional use of force, arrest, detention, investigation and treatment of persons in custody Proportion of law enforcement officials formally investigated for physical or non-physical abuse or crime that caused death or threatened life in the reporting period Proportion of formal investigations of law enforcement officials resulting in disciplinary action or prosecution in the reporting period Ratio of persons brought into formal contact with law enforcement authorities (i.e., suspected, arrested or cautioned) for alleged arbitrary deprivation of life / homicides (intentional and non-intentional) to number of reported cases Proportion of persons brought into formal contact with law enforcement authorities for alleged deprivation of life / homicides (intentional and non-intentional) who are convicted Proportion of identified perpetrators of reported cases of arbitrary deprivation of life prosecuted, arrested, adjudicated, convicted or serving sentence in the reporting period 	<ul style="list-style-type: none"> Proportion of communications from the Working Group on Enforced or Involuntary Disappearances responded to effectively by the Government in the reporting period Proportion of cases where pretrial detention exceeded the legally stipulated time limit Number of habeas corpus and similar petitions filed in courts in the reporting period, per 1000 persons detained Ratio of persons brought into formal contact with law enforcement authorities for alleged disappearance / abduction to number of reported cases Proportion of persons brought into formal contact with law enforcement authorities for alleged disappearance / abduction who are convicted 	<ul style="list-style-type: none"> Proportion of population using an improved drinking water source* Proportion of births attended by skilled health personnel* Proportion of population below minimum level of dietary energy consumption* Proportion of targeted population covered by public nutrition supplement programmes Proportion of population using an improved sanitation facility* Proportion of one-year-olds immunized against vaccine-preventable diseases (e.g., measles*) Proportion of disease cases detected and cured (e.g., tuberculosis*) 	<ul style="list-style-type: none"> Number of convicted persons on death row in the reporting period, on a specified date, including by age, sex (pregnancy, motherhood status) and nationality Average time spent by convicted persons on death row Proportion of accused persons facing capital punishment provided with access to a lawyer or legal aid Proportion of convicted persons facing capital punishment exercising the right to have their sentence reviewed by a higher court Reported cases of expulsion or imminent expulsion of persons to a country where they may face the death penalty
Outcome	<ul style="list-style-type: none"> Homicides (intentional and non-intentional) rate per 100,000 population Number of deaths in custody per 1,000 detained or imprisoned persons, by cause of death (e.g., illness, suicide, homicide) Reported cases of arbitrary deprivation of life and death threats (e.g., as reported to the Special Rapporteur on extrajudicial, summary or arbitrary executions) 	<ul style="list-style-type: none"> Reported cases of disappearance (e.g., as reported to the Working Group on Enforced or Involuntary Disappearances) Proportion of cases of disappearance clarified, by status of person at the date of clarification (at liberty, in detention or dead) 	<ul style="list-style-type: none"> Infant and under-five mortality rates* Maternal mortality ratio* Life expectancy at birth or age 1 Prevalence of and death rates associated with communicable and non-communicable diseases (e.g., HIV/AIDS, malaria and tuberculosis*) 	<ul style="list-style-type: none"> Proportion of death sentences commuted Number of executions (under death penalty)

All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metadata sheets

* MDG-related indicators

附錄 4：英國人權測量框架專家諮詢意見回饋問卷



Centre for the Study of
Human Rights

Specialist Consultation on the Human Rights Measurement Framework

Consultation Feedback Form

INSTRUCTIONS - PLEASE READ FIRST

This document sets out the consultation questions we would like you to consider and provides space for your feed-back and comments.

Please note that although we ask for your name and organisation, you will be given the opportunity to state if your comments can be attributed or not.

Thank you for your participation. Now please read the following carefully:

You are invited to respond to a number of consultation questions. These give you an opportunity to provide us with feedback on our shortlist of indicators and measures, and on the approach that we are adopting.

PLEASE NOTE: THE CONSULTATION IS RUNNING FOR 12 WEEKS FROM JUNE 21ST 2010, AND WILL CLOSE SEPTEMBER 12TH 2010. ALL CONSULTATION FEEDBACK FORMS NEED TO BE RETURNED BY SEPTEMBER 12TH 2010.

You may:

Complete the consultation questions and submit the form straight away using the prompts on the form.

OR

Save the consultation paper to your computer and complete the form later. Once finished, please email it to prechr@lse.ac.uk. *This is the best option if you want to complete the form in stages.*

Please use the navigation panel on the left-hand-side of this page. If you require more space, please continue on a separate document and email it to prechr@lse.ac.uk.

Following the questions, there will be a section called "About You" where you can enter your name, email and organisation. Here you will be asked if you would like your comments to be attributable or not.

If you have any problems submitting your comments using the prompts on the form itself, please save it to your computer and then attach it to an email addressed to prechr@lse.ac.uk.

If you have any questions about the form or how to submit it, please contact **Tiffany Tsang**, email: prechr@lse.ac.uk. You may also read and contribute to the other consultation papers available at <http://personal.lse.ac.uk/prechr/>.

INTRODUCTION

The Equality and Human Rights Commission and the Scottish Human Rights Commission has commissioned a team from the Centre for Analysis of Social Exclusion (CASE) in partnership with the British Institute of Human Rights and the LSE Centre for the Study of Human Rights to develop a Human Rights Measurement Framework.

The purposes of the HRMF are

- To produce a credible and objective methodology with which to measure compliance with and progress towards implementation of the human rights framework in Britain.
- To provide the Commission's, Government, public bodies, NGO's and others with an interest in human rights with data against which to prioritise action on human rights.
- To meet the statutory responsibilities of the Equality and Human Rights Commission to monitor and report on progress in relation to Equality and Human Rights.

The research team has already developed a conceptual grid for the Human Rights Measurement Framework, building on international good practice. The next step in the development of the Human Rights Measurement Framework (HRMF) is to reach agreement on a set of indicators and measures to “populate” the panels for England, Scotland and Wales. In order to achieve this objective, we are undertaking a specialist consultation to ensure that the views of key stakeholder groups and subject experts are fully explored.

- The principle aim of the specialist consultation is to reach maximum possible agreement on a shortlist of approximately 50 ‘spotlight’ indicators and associated measures that can be used to “populate” the HRMF for England, Scotland and Wales
- For Scotland and Wales, an additional aim is to identify matching sources (the provisional shortlist of indicators and measures focuses on England)

- We are also recording other feedback and comments, for example, on the definition of a human rights indicator, on the panels, on language, on coverage of vulnerable groups, on the types of data that should be covered, etc.

The research team has prepared a provisional list shortlist of indicators and measures for each panel, as a basis for discussion at the Specialist Consultation. The shortlist will be revised as a result of the specialist consultation, and a data gathering exercise will be undertaken, based on the agreed set of indicators and measures. The panels, including the provisional indicators and measures, are available for you to review in a separate document which is available on the consultation website

http://personal.lse.ac.uk/prechr/hrmf/HRMF_panels.pdf

Background information on the Human Rights Measurement Framework and the approach we are adopting is set out in a Background Project Briefing Paper which is available on the consultation website

http://personal.lse.ac.uk/prechr/hrmf/HRMF_background.pdf

We have also developed a longlist of indicators that are being used internationally for human rights monitoring purposes. This is a reference document and should be used by anyone requiring further detailed information. This is also available on the consultation website

http://personal.lse.ac.uk/prechr/hrmf/HRMF_longlist_of_indicators_and_measures.pdf

Further information

The specialist consultation is running for twelve weeks mid-June until mid-September 2010. If you would like to participate in the consultation, please email prechr@lse.ac.uk

Section 1: About you

Name:

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Organisation / institution (if any):

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You may choose whether or not you wish your comments to be attributable. Please choose one of the following:

	a) Yes comments can be attributed to my organisation ONLY
	b) Yes, comments can be attributed to my organisation AND to me personally
	c) No, comments cannot be attributed.

Section 2: Definition of a human rights indicator

We are proposing the following definition of a human rights indicator for the purposes of the project:

[H]uman rights indicators are specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights. (HRI/MC/2006/7)

This definition was taken from a recent report of the Office of the High Commissioner for Human Rights Indicators Framework. It is based on the formulation used by Special Rapporteur Paul Hunt in his various reports to the Commission on Human Rights (for instance A/58/427, section II). In implementing this definition, we suggest that a measure of human rights may not need to use the term 'human rights' in the language. For example, measuring dignity and respect, autonomy, participation etc, can capture human rights concerns.

1. Do you have any feedback or comments on this definition?

2. Do you have an agreed definition of a human rights indicator that you use in your everyday work/organisation?

Section 3: Identification of good practice examples

1. Are you aware of agreed lists of human rights indicators that are being used for monitoring purposes in England, Scotland or Wales?

2. Are you aware of good practice use of human rights indicators within official statistical monitoring systems?

3. Do you have examples of human rights indicators from your everyday work/organisation on which we could draw?

4. Do you have any further suggestions or comments regarding statistical indicators that we could include in the short-lists of indicators in each domain, that are particularly important from a human rights perspective?

Section 4: Overall comments on panels

1. Overall, do you think that the panels will make a useful contribution to human rights monitoring in England, Scotland and Wales?

Please select:

Yes ☐

No ☐

2. Do you think that dividing the panels by structure, process and outcome indicators is useful?

Please select:

Yes ☐

No ☐

3. Overall, are there any comments you would like to make about the focus, language or design of the panels (e.g. coverage of the Human Rights Act, the international human rights framework, the rights covered in the first round of panel development, etc)?

4. Do you think we have got the language right for describing the Framework (Human Rights Measurement Framework)?

Section 5: Vulnerable groups

We would like to define a list of ‘vulnerable groups’ to assist us in unpacking equality characteristics and as is recommended as good practice. In a previous project – the Equality Measurement Framework for Children and Young People – the following list of vulnerable groups was suggested:

- Asylum seekers and refugees (including un-accompanied asylum seeking children)
- Children whose families have no recourse to benefits (covers immigrants, asylum seekers and refugees)
- Children looked after by social services
- Children in the Criminal Justice System (CJS)
- Children with parents who are in contact with the CJS or who suffer from substance or alcohol abuse
- Children resident or detained in public or private institutions
- Children at risk of abuse and neglect
- Gypsies and Travellers
- Trafficked children
- Homeless children
- Children from families who have no recourse to public benefits
- Disabled children (with separate reporting for physical and mental health difficulties, Special Education Needs, Additional Education Needs and Additional Support for Learning)
- Children living in income poverty
- Children who are carers
- Children living in unsuitable accommodation
- Children who are recognised as being in need
- Care leavers
- Young adults (in relation to transitional issues)
- Any other child or young person on the Children In Need register (which includes any child referred to Children’s Social Care Services in England).

Do you have any suggestions for who should be included in a list of vulnerable groups for children and adults?

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Section 6: Anything else?

1. Do you have any other overall comments about the project, the panels or human rights monitoring that you would like us to record?

2. Do you have any suggestions or comments about additional ways in which we could draw on human rights principles and standards in taking the development of the HRMF forward?

Section 7: Comments and Feedback on each panel

Table 1: The right to life

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 2: The right to freedom from torture, inhuman or degrading treatment or punishment

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 3: The right to liberty and security of the person

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 4: The right to a fair trial

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 5: The right to private and family life

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

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2. Do you have any suggestions about data sources that we could draw on for this panel?

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3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

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4. Are there any indicators or measures under this panel that you would remove?

--

5. Do you have any comments about the way in which the design of this panel could be improved?

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For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

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Table 6: The right to adequate food

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 7: The right to health

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 8: The right to education

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

2. Do you have any suggestions about data sources that we could draw on for this panel?

3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

4. Are there any indicators or measures under this panel that you would remove?

5. Do you have any comments about the way in which the design of this panel could be improved?

For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

Table 9: The right to adequate housing

1. Do you have any suggestions about indicators or measures that we could draw on for this panel?

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2. Do you have any suggestions about data sources that we could draw on for this panel?

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3. Is your organization working with any indicators or measures that are relevant to the development of this panel?
If yes, please specify details

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4. Are there any indicators or measures under this panel that you would remove?

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5. Do you have any comments about the way in which the design of this panel could be improved?

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For Scotland and Wales

6. Are you aware of any matching Scottish and Welsh Sources that we could draw on for this panel?
If yes, please specify details

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附錄 5：英國人權測量框架面板與證據基礎—生命權

Part III

The Human Rights Measurement Framework panels, indicators and evidence base

Chapter 5

The Right to Life (Human Rights Act, Article 2)

**Please read Part II Guidance on using and interpreting the
Human Rights Measurement Framework first.**

5 The Right to Life (Human Rights Act (HRA), Article 2)

Panel and indicators

Protection of the right to life by the state, its agents or bodies fulfilling a public function				
Indicators	Use of unlawful/arbitrary force by the state, its agents or bodies fulfilling a public function		Other action/inaction by the state, its agents or bodies fulfilling a public function	
	Non-institutional context	Institutional context (covers prisons, police stations, secure units, detention centres, schools, health and social care settings, etc.)	Non-institutional context	Institutional context (covers prisons, police stations, secure units, detention centres, schools, health and social care settings, etc.)
Structural (indicators of 'commitment in principle')	Indicator 1: Legal and constitutional framework <ul style="list-style-type: none"> Protection of the right to life in domestic law (including constitutional/'higher' law) Status of ratification of relevant international treaties Indicator 2: Legal precedents, gaps and standard-setting <ul style="list-style-type: none"> Principles established in key cases (domestic and ECHR) and international standard-setting processes Gaps in protection and non-implementation of legal judgements and recommendations 			
Process (indicators of 'steps taken' – including legal, regulatory and public policy measures)	Indicator 3: Regulatory framework <ul style="list-style-type: none"> Key regulators, inspectorates, ombudsmen and other mechanisms for complaints handling Relevant responsibilities and powers, national minimum standard frameworks and inspection/complaints-handling criteria Indicator 4: Public policy framework <ul style="list-style-type: none"> Primary legislation, policies, plans, targets and goals Codes and guidance (covers guidance to military personnel/police, prison and other security and detention personnel on the use of lethal/potentially lethal force, and guidance on the use of force and restraint in the health and social care context) Spotlight resource allocations (including public expenditure on child protection and adult protection) 			

<p>Outcome (indicators of the position of individuals and groups in practice/emergence of a human rights 'culture')</p>	<p>Indicator 5: Outcomes of key judicial, regulatory and investigative processes</p> <ul style="list-style-type: none"> • Violations of the right to life: Case law outcomes • Key concerns raised by human rights monitoring bodies • Outcomes of judicial processes/inspection, regulation and complaints procedures/independent inquiries, investigations and reviews that engage Article 2. For example: <ul style="list-style-type: none"> – outcomes of independent investigations into the use of unlawful/arbitrary force – findings by regulators/inspectorates relating to the failure to protect life ('positive duties') including failure to protect from homicide (in the police and criminal justice context) and investigations into 'excess', 'avoidable' and 'preventable' deaths and deaths through neglect within the health and social care context – outcomes of inquest and coroner's findings and other death review processes (for example, child death reviews/serious case reviews for 'safeguarding adults'/domestic homicide reviews (established under Domestic Violence, Crime and Victims Act 2004 Article 9 (1) 'significant case reviews' and fatal accident inquiries in Scotland) that result in findings of neglect and/or serious criticism of actions of the state, its agents or bodies fulfilling a public function • Key allegations by private individuals and civil society organisations/reports in the media <p>Indicator 6: Spotlight statistics: Deaths in the police and criminal justice system context</p> <ul style="list-style-type: none"> • Deaths within prisons, secure units, police and court cells, immigration and asylum centres and during transit (covering deaths from natural causes, non-natural causes and self-inflicted deaths) • Deaths during or following contact with the police (by category of death) <p>Indicator 7: Spotlight statistics: Deaths within health and social care institutions/community care</p> <ul style="list-style-type: none"> • Statistics on 'excess deaths', 'avoidable' and 'preventable' deaths and deaths through neglect in health and social care establishments and in the community health and social care context • Statistics on the use of Do Not Resuscitate orders without consent/applications to administer lifesaving medical treatment especially for those with and without capacity <p>Indicator 8: Spotlight statistics: Protection from third party violations – homicide within society, community and families</p> <ul style="list-style-type: none"> • Homicide rates per million disaggregated by characteristics of victim including age, gender, race/ethnicity and disability) with separate reporting of hate crime homicide, religious/racially incited homicide and domestic homicide <p>Indicator 9: Spotlight statistics: Premature mortality within families, community and society</p> <ul style="list-style-type: none"> • Life expectancy, infant mortality, suicide rates and accidental deaths <p>Indicator 10: Public attitudes, understanding and experiences</p> <ul style="list-style-type: none"> • Public attitudes towards the right to life as a right 'you should have' and 'you do have' • Self-reported experiences of protection of life
<p>Key disaggregation characteristics include ethnicity/race, gender, disability, sexual orientation, transgender, religion and belief, age, social class, area (region, urban/rural, remoteness) with separate reporting of the non-private household population and at risk/vulnerable groups including individuals staying in/resident/detained in public and private institutions; individuals living in poverty; refugees/asylum seekers, vulnerable children and young people (for example, children in need, 'looked after children', children who are carers), Gypsies and Travellers, etc.</p>	<p>Indicators should be systematically disaggregated</p>

Evidence base

Structural indicators

Indicator 1: Legal and constitutional framework

Table 1: Protection of the right to life in domestic law (including constitutional/‘higher’ law)

- UK HRA, Article 2.

Table 2: Status of ratification of relevant international treaties⁴³

- International Covenant on Civil and Political Rights (ICCPR) Article 6 – ratified.
- ICCPR First Optional Protocol – not ratified (individual complaints mechanism).
- ICCPR Second Optional Protocol – ratified (abolition of death penalty).
- United Nations Committee on the Rights of the Child (UNCRC) Article 6 – ratified.
- Convention for the Protection of All Persons from Enforced Disappearances – not ratified.
- ECHR and Protocols 1, 2, 3, 5, 6, 8, 10, 11, 13 and 14 – ratified.
- Geneva Conventions – ratified.⁴⁴

Indicator 2: Legal precedents, gaps and standard-setting

Table 3: Principles established in key cases (domestic and ECHR)

Procedural aspects

- *McCann and Others v UK* [GC] no. 18984/91 [1995] ECHR⁴⁵ – The European Court of Human Rights established that the obligation to ensure that everyone’s life is protected by law includes a procedural aspect whereby the circumstances of a deprivation of life receives public and independent scrutiny. See also *Jordan v UK* no. 24746/94 [2001] ECHR.⁴⁶
- *R (on the application of Amin) v Secretary of State for Home Department* [2003] UKHL 51⁴⁷ – The House of Lords established that it is indispensable that proper procedures are in place for ensuring accountability of agents of the state in the context of the right to life.
- *R (Middleton) v West Somerset Coroner and Another* [2004] UKHL 10⁴⁸ – The House of Lords considered the extent that an inquest fulfils requirements under Article 2. These concern the need for an effective public examination by an independent official body into any death occurring in circumstances in which the substantive obligations of Article 2 may have been violated and agents of the state may be implicated.

- *R (JL) v The Secretary State* [2008] UKHL 68⁴⁹ – The House of Lords held that a near suicide of a prisoner which left him with brain damage automatically triggered an obligation under Article 2 to conduct an investigation, which is independent, prompt and involves the next of kin.
- *R (Humberstone) v Legal Services Commission* [2010] EWHC 760 (Admin)⁵⁰ – Whether the refusal to give legal aid funding breached the state's obligation to carry out an effective investigation into a death.

Use of force

- *McCann and Others v UK* [GC] no. 18984/91 [1995] ECHR⁵¹ – The European Court of Human Rights established that the use of force must be no more than what is absolutely necessary to defend persons from unlawful violence.

Positive obligations

- *Osman v UK* [GC] no. 23452/94 [1998] ECHR⁵² – The European Court of Human Rights established that police were under an obligation to take reasonable steps to protect life where they knew or ought to have known of a real and immediate risk to life.
- *LCB v UK* [1999] 27 EHRR 212⁵³ – The European Court of Human Rights found that Article 2 includes a duty of the state in healthcare to do 'all that could have been required of it to prevent the applicant's life from being avoidably put at risk' – (the case involved alleged exposure to life threatening levels of radiation linked to nuclear testing. The European Court found that the UK ought to have warned of the risks and subsequently to monitor her health in light of those risks).
- *Calvelli and Ciglio v Italy* [GC] no. 32967/96 [2002] ECHR⁵⁴ – The Grand Chamber of the European Court of Human Rights held that Article 2 imposes positive obligations on the state to make regulations compelling hospitals to adopt appropriate measures for the protection of their patients' lives. However, the European Court found that there had been no violation of Articles 2 and 6.
- *McKerr v UK* no. 28883/95 [2001] ECHR⁵⁵ – The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances and to the identification and punishment of those responsible.

- *Öneryıldız v Turkey* [GC] no. 48939/99 [2004] ECHR⁵⁶ – The case concerned an explosion at a municipal dump caused by a build up of methane gases due to defective equipment, where the authorities had failed to effectively regulate and inspect. The European Court of Human Rights found that there was an obligation under Article 2 to take all appropriate steps to safeguard life and that there was a primary duty on the state to put in place a legislative and administrative framework designed to provide effective deterrence against threats to the right to life. Article 2 ‘must be construed as applying in the context of any activity, whether public or not, in which the right to life may be at stake, and a fortiori in the case of industrial activities, which by their very nature are dangerous.’ The case concerns the obligation for the state to properly regulate and police dangerous activities, and the European Court found a violation of Article 2 in both its substantive and procedural aspect.
- *Savage v South Essex Partnership NHS Foundation Trust* [2008] UKHL 74⁵⁷ – The House of Lords established that in addition to general obligations on health authorities and their staff, Article 2 imposes an obligation to take reasonable steps to prevent harm, where they have knowledge, actual or constructive, of a real and immediate risk to the patient’s life from self-harm. The right to life requires positive measures to protect the lives of individuals in custody in prisons and mentally ill people detained in hospitals (including protection from suicide).
- *Savage v South Essex Partnership NHS Foundation Trust* [2010] EWHC 865 (QB) – The European Court of Human Rights found that the Trust had breached Article 2 because it had the requisite knowledge, actual or constructive, of a real and immediate risk to the patient’s life from self-harm, and failed to do all that could reasonably have been expected of it to avoid or prevent that risk.
- *Brecknell v UK* no. 32457/04 [2008] ECHR⁵⁸ – Violation of Article 2 (lack of independence of the investigating body during the initial stages of the investigation).
- *Opuz v Turkey* no. 33401/02 [2009] ECHR⁵⁹ – In a judgement establishing that the right to life requires positive measures to protect women from domestic violence, the European Court of Human Rights found a violation of Articles 2, 3 and 14.
- *Rabone v Pennine Care NHS Trust* [2010] EWCA Civ 698⁶⁰ – The Court of Appeal established that the Article 2 operational obligation set out in *Savage* does not extend to voluntary patients in hospital, who are suffering from physical or mental illness, even where there is a ‘real and immediate’ risk of death.
- *McCann v UK* [GC] no. 18984/91 [1995] ECHR⁶¹ (cited above) also established the positive duty to undertake effective official investigations under Article 2 where death follows use of lethal force by agents of the state.

Deportation

- *Al-Saadoon & Mufdhi v UK* no. 61498/08 [2010] ECHR⁶² – The European Court of Human Rights considered the case of two Iraqi civilians accused of murdering two members of the UK Armed Forces which was transferred to the Iraqi High Tribunal which has the power of imposing the death penalty. It found a violation of the rights of the claimants under Article 2.

Extraterritorial aspects

- *Al Skeini & Others v Ministry of Defence* [2008] 1 AC 153 – This case concerned the application of the HRA 1998 in relation to six deaths that occurred during the occupation of southern Iraq by UK forces. The Appellate Committee held unanimously that the exceptions to territoriality were limited and were confined to examples such as embassies and naval frigates. On the facts of the appeal, the Committee held that HRA jurisdiction was capable of extending to a British military base (on which one of the deceased, Mr Mousa, was tortured to death) but refused to extend it beyond its gates, notwithstanding that British Forces were in occupation and control of Basra and its environs.
- *Al-Skeini and others v UK* (GC) no. 55721/07 [2011] ECHR⁶³ – The European Court of Human Rights held that ‘following the removal from power of the Ba’ath regime and until the accession of the Interim Government, the United Kingdom (together with the United States) assumed in Iraq the exercise of some of the public powers normally to be exercised by a sovereign government. In particular, the United Kingdom assumed authority and responsibility for the maintenance of security in South East Iraq. In these exceptional circumstances, the Court considers that the United Kingdom, through its soldiers engaged in security operations in Basrah during the period in question, exercised authority and control over individuals killed in the course of such security operations, so as to establish a jurisdictional link between the deceased and the United Kingdom for the purposes of Article 1 of the Convention.’
- *R (Smith) v Secretary of State for Defence* [2010] UKSC 29⁶⁴ – The Supreme Court considered the jurisdiction of Article 2 and the implications that this has for inquest requirements in relation to a soldier who died of heat stroke while serving in Iraq. Whilst finding that members of a state’s armed forces serving abroad are not automatically within the jurisdiction of the state, a public inquest was found to be necessary ‘because the evidence that was placed before the Coroner has raised the possibility that there was a failure in the system that should have been in place to protect soldiers from the risk posed by the extreme temperatures in which they had to serve. On the facts disclosed it was arguable that there was a breach of the State’s substantive obligations under article 2. This was enough to trigger the need to give a verdict that complied with the requirements of article 2.’

Assisted suicide

- *Pretty v UK* no. 2346/02 [2002] ECHR⁶⁵ – The European Court of Human Rights established that the right to life does not incorporate right to commit suicide. [c.f. recent Swiss case *Haas v Switzerland* no. 31322/07 ECHR⁶⁶, where right to choose manner and timing of death was an element of Article 8, provided the individual had the legal and practical capacity to take their life. There is no positive duty under the ECHR to support someone to realise that element of self-determination. The applicant had tried several psychiatrists and none would provide him with the prescription for medication he felt he needed to take his life.]

Withdrawal of life sustaining treatment

- *Airedale NHS Trust v Bland* [1993] AC 789⁶⁷, *Re A (Children) (Cojoined twins: Surgical Separation)* [2001] Fam 147⁶⁸ – The domestic courts have found that the withdrawal of life-sustaining treatment from terminally ill patients will not violate Article 2.
- *NHS Trust A v Mrs M, NHS Trust B v Mrs H* [2001] 1 All ER 801 and *North Staffordshire Combined Healthcare Trust v Dorothy Humphries* [2001] 2 FLR 501 – the principles set out by the House of Lords in *Bland v Airedale NHS Trust*, according to which it may be lawful to withdraw artificial nutrition and hydration from patients in a persistent vegetative state, are compatible with Articles 2 and 3 of the ECHR (NHS Litigation Authority, 2007).⁶⁹
- *Re OT* [2009] EWHC 633 (Fam) – The High Court found that the withdrawal of life sustaining treatment, which was no longer in the patient's best interest, was not a breach of Article 2 or Article 8.

Table 4: Principles established in international standard-setting processes

- In its General Comment 6, the UN Human Rights Committee (UNHRC) has stated that the state is not only under a negative obligation to refrain from intentional and unlawful taking of life, but also a positive obligation to protect life (including, for example, steps to reduce infant mortality and to increase life expectancy). The state is required to take 'all possible measures to reduce infant mortality and to increase life expectancy'.⁷¹

Table 5: Gaps in legal protection

- Individual complaints under ICCPR First Optional Protocol.
- Domestic legislation – the Joint Committee on Human Rights (JCHR) highlighted that there was no protection available under UK law for circumstances where there has been a serious breach of the right to life as a result of the gross management failure of a private or public organisation, but no identifiable individual within the organisation can be proved to be responsible for the failure. (JCHR, 2007).⁷²

For relevant primary legislation, see Table 9

Table 6: The right to life – non-implementation of legal judgements and recommendations

- The JCHR highlighted a series of cases concerning the use of force by the security forces in Northern Ireland, *Jordan*, *McKerr*, *Finucane*, *Kelly*, *Shanaghan*, and *McShane*, arguing that they are notable for the considerable delay there has been in agreeing appropriate implementation measures, in particular in respect of establishing new independent inquiries in the individual cases concerned.⁷³

Process indicators

Indicator 3: Regulatory framework

Table 7: The right to life – identification of key regulators, inspectorates, ombudsman and examples of relevant responsibilities, powers and standards

- Independent Police Complaints Commission (IPCC) (investigate all deaths following police contact and complaints).
- Prisons and Probation Ombudsman (PPO) (investigate all deaths in custody).
- Ministerial Board on Deaths in Custody.⁷⁴
- Independent Advisory Panel on Deaths in Custody.⁷⁵
- HM Inspectorate of Prisons (HMIP) for England and Wales.
- HMIP for Scotland.
- Care Quality Commission (CQC) (responsive inspections and investigations relating to deaths).
- Health and Social Care Ombudsman (complaints handling, including relating to deaths)
- Office for standards in education, children's services and skills (Ofsted).
- Health and Safety Executive (HSE).
- Police Complaints Commissioner for Scotland (investigate complaints, including complaints about deaths and Quality of Service complaints).
- Crown Office and Procurator Fiscal Service (COPFS).
- Scottish Public Services Ombudsman.
- Scottish Fatal Accidents Inquiries – the primary investigative mechanism to comply with Article 2 in Scotland, undertaken by Sheriffs.⁷⁶

- HM Inspectorate of Constabulary for Scotland.
- HM Inspectorate of Constabulary(HMIC).
- Crown Prosecution Service (CPS).
- National Preventive Mechanism (NPM)⁷⁷.

Table 8: Spotlight responsibilities and powers of key regulators and inspectors

Example 1: The procedural duty to investigate deaths under Article 2 – interpretation by the IPCC

In a submission to the JCHR in 2006, the IPCC noted that Article 2 of the ECHR is interpreted as involving not only a negative obligation upon the state not to take life, but also a positive obligation to take steps to protect the right to life, including a procedural obligation to ensure that there is an adequate and effective investigation into deaths which are alleged to have arisen from the use of lethal force by state agents, or from the state's negligent failure to protect the lives of persons for whom it is responsible.

The IPCC submission further notes that IPCC investigations enable the state to comply with the requirement under Article 2 for an effective independent investigation into any alleged breach by the police. Any death or serious injury following some form of direct or indirect contact with the police where there is reason to believe that the contact may have caused or contributed to the death or serious injury, must be referred to the IPCC, regardless of whether there has been a complaint. In this way, through its investigatory function, the IPCC plays an important role in ensuring compliance by the state with Article 2 where the police are concerned. An effective independent investigation is followed by full criminal proceedings or, in their absence where a death is involved, an inquest. In this way, the state discharges its procedural investigative obligations under Article 2.

Source: IPCC (2006).

Example 2: The positive duty to take reasonable measures to prevent suicide in prisons under Article 2 – interpretation by HMIP Scotland

In Scotland, standards used in the inspection of prisons are explicitly linked to human rights standards including international human rights treaties, the HRA and domestic and regional jurisprudence. International and domestic case law feed into an inspection model and a system of indicators, which include regular inspections to ensure that appropriate steps are taken to ensure that individual prisoners are protected from harm by themselves and others. In interpreting its duties under the right to life, HMIP Scotland is clear that the duties of the regulator extend to the positive duty to take reasonable measures to protect life:

‘Article 2 of the European Convention on Human Rights (Schedule 1 of the Human Rights Act 1998) guarantees the right to life. The UK Parliamentary Joint Committee on Human Rights has emphasised that there is a close link between the right to life and the duty of care: Article 2 imposes on States, not only a negative duty not to take life intentionally or negligently, but also a positive duty to safeguard life. Case law makes it clear that the duty of care linked to the positive obligation to protect life comes into play whenever the prison authorities know or ought to know that there is a risk to a prisoner’s life. There is a breach of Article 2 if, when knowing there is a risk, the authorities fail to take reasonable measures to prevent the harm. So the safety and protection of the individual prisoner is a legal duty’.

Source: HMIP (2006).

Example 3: Positive duties to inspect prisons under the CAT

The HMIP Expectations document sets out criteria for assessing the conditions in prisons and the treatment of prisoners. This document notes that the Joint Parliamentary Human Rights Committee considers that independent, human rights based inspection criteria are essential to fulfil the requirements of the Optional Protocol to the CAT, which requires states to have in place an independent expert preventive mechanism for regularly visiting and inspecting places of detention. The Expectations criteria draw on, and are referenced against, both the HRA and international human rights standards. And HMIP's four tests – safety, respect, purposeful activity and resettlement – are increasingly accepted, both domestically and internationally, as the cornerstones of a 'healthy' custodial environment.

As in Scotland, HMIP in England and Wales recognises that there is a duty of care in relation to suicide prevention in prisons and the importance of accountability. Suicide prevention is a key element of the inspection methodology of HMIP. The four tests of a 'healthy prison' were introduced in HMIP's thematic review Suicide is everyone's concern. Judgements against each of the healthy prison tests are made and published in all full inspection reports.

Source: HMIP (2008), www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/expectations_2009.pdf and HMIP (2010b) www.justice.gov.uk/inspectorates/hmi-prisons/docs/HMIP_AR_2008-9_web_published_rps.pdf

Example 4: Review of Fatal Accident Inquiry legislation

Lord Cullen undertook a review of Fatal Accident Inquiry (FAI) legislation in 2009. Key recommendations included extending the categories under which an FAI should be mandatory to include work-related deaths, deaths of any person subject to compulsory detention by a public authority, and deaths of children being maintained in a 'residential establishment'.

Source: Scottish Government (2009b)
www.scotland.gov.uk/Resource/Doc/290392/0089246.pdf

Indicator 4: Public policy framework

Table 9: Spotlight primary legislation⁷⁸

The Corporate Manslaughter and Corporate Homicide Act 2007

This Act, which came into effect in 2008, created a new offence of corporate manslaughter which can be committed by organisations which cause the death of a person through gross negligence management failings.. The legislation strengthens the accountability of custody providers under the criminal law and covers both public and private providers, such as prisons, secure hospitals, police and juvenile detention facilities. The law has also been extended to that it applies to Ministry of Defence and UK Borders Agency customs custodial facilities.

Table 10: Use of lethal force/potentially lethal force – policy guidance and training guidelines

Prison and Secure Training Centre (STC) context

- Prison Services Policy (Prison Service Order (PSO) 1600 Use of Force⁷⁹) and *Use of Force Training Manual*.
- PSO 2700 Suicide prevention and self harm management⁸⁰; PSO 2710 Follow up to deaths in custody.
- The Secure Training Centre (Amendment) Rules, which amended the Secure Training Centre Rules 1998, amend the existing rules to permit STCs to use force against detained children and young people to 'ensure good order and discipline'. The Amendment Rules were criticised for widening the scope for restraint in STCs (JCHR, 2008).⁸¹
- The Ministry of Justice's (MoJ's) *Physical Control in Care Training Manual*, created by the National Offender Management Service 'to train staff in safe methods of restraining young people in secure training centres', amended July 2010 (National Offender Management Service, 2010).⁸²

Police context

- Criminal Law Act 1967 Part 1 Section 3, use of force in making an arrest.⁸³
- *Guidance on the Safer Detention & Handling of Persons in Police Custody* (Association of Chief Police Officers (ACPO), 2006).⁸⁴
- *Police and Criminal Evidence Act (PACE) Code C*, setting out the requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody.⁸⁵
- *PACE Code Hon* the detention, treatment and questioning by police officers of persons under Section 41 of, and Schedule 8 to, the Terrorism Act 2000.⁸⁶
- *Operational Use of Taser Guidance* (ACPO, 2008).⁸⁷
- *Human Rights Advice on the Use of Taser* (Starmer and Gordon, 2007) – Tasers should be treated as potentially lethal equipment, rather than lethal or non-lethal. The fact that a Taser should be treated as potentially lethal does not mean that its use can never be compatible with Article 2 of the ECHR (the right to life) or the HRA. The proper test under Article 2 of the ECHR and the HRA for the use of a Taser is that its use will be lawful where it is immediately necessary to prevent or reduce the likelihood of recourse to lethal force (for example, conventional firearms).
- ACPO, *Manual of Guidance on Keeping the Peace* (National Policing Improvement Agency (NPIA), 2010).⁸⁹

- HM Inspectorate of Constabulary (HMIC), *Policing Public Order. An overview and review of progress against the recommendations of Adapting to Protest and Nurturing the British Model of Policing*, February 2011⁹⁰. HMIC ‘found less progress on one of its key recommendations (Nurturing the British Model 1a): that a single overarching set of principles on the use of force be adopted across the Service’⁹¹.

Health and social care context

England and Wales

- Mental Health Act 1983 Section 136, relating to the police powers to detain a person suffering from a mental disorder in a public place ‘in a place of safety’.⁹²
- *Mental Capacity Act (2005): Code of Practice*⁹³ – Sections 6.40-6.48 set out the definition of restraint and the conditions that have to be satisfied in order for it to be legally justified, particularly if the person being restrained does not have the capacity to consent (Qureshi, 2009); Sections 24-26 relating to Advance Decisions to refuse treatment.
- *NICE Clinical Guideline 42* – ‘Health and social care staff should be trained to anticipate behaviour that challenges and how to manage violence, aggression and extreme agitation, including de-escalation techniques and methods of physical restraint’ (National Institute for Health and Clinical Excellence (NICE) and Social Care Institute for Excellence (SCIE), 2006).⁹⁴
- Rights, risks and restraints: An exploration into the use of restraint in the care of older people. (Commission for Social Care Inspection (CSCI), 2007a).⁹⁵
- *Guidance for inspectors: How to move towards restraint free care* (CSCI, 2007b).⁹⁶
- *Mental Capacity Act 2005 – Deprivation of Liberty Safeguards – code of practice*⁹⁷ – ‘this code of practice provides safeguards for people who lack capacity specifically to consent to treatment or care in either a hospital or a care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty (as opposed to a restriction of liberty), and where detention under the 1983 Mental Health Act is not appropriate for the person at that time’ (Qureshi, 2009:35).⁹⁸

Scotland

- *Rights, risks and limits to freedom: Principles and guidance on good practice in caring for residents with dementia and related disorders and residents with learning disabilities where consideration is being given to the use of physical restraint and other limits to freedom* (Mental Welfare Commission for Scotland, 2006).⁹⁹

See Table 346.

Outcome indicators

Indicator 5: Outcomes of key judicial, regulatory and investigative processes

Table 11: Violations of the right to life – case law outcomes

Procedural aspects of Article 2

- *McCann and Others v UK* [GC] no. 18984/91 [1995] ECHR¹⁰⁰ – Violation of Article 2 (see Table 3).
- *R (on the application of Amin) v Secretary of State for Home Department* [2003] UKHL 51 – In finding a violation of Article 2 due to the lack of a post-mortem investigation consistent with domestic and Convention standards, the House of Lords established that it is indispensable that proper procedures are in place for ensuring accountability of agents of the state in the context of the right to life (see Table 3).
- *R (Middleton) v West Somerset Coroner and Another* [2004] UKHL 10¹⁰¹ – The House of Lords considered the extent that an inquest fulfils requirements under Article 2. These concern the need for an effective public examination by an independent official body into any death occurring in circumstances in which the substantive obligations of Article 2 may have been violated and agents of the state may be implicated (see Table 3).
- *R (JL) v The Secretary State* [2008] UKHL 68¹⁰² – The House of Lords held that a near suicide of a prisoner which left him with brain damage automatically triggered an obligation under Article 2 to conduct an investigation, which is independent, prompt and involves the next of kin (see Table 3).
- *R (Humberstone) v Legal Services Commission* [2010] EWHC 760 (Admin)¹⁰³ – The refusal to give legal aid funding breached the state's obligation to carry out an effective investigation into a death (see Table 3).

Use of force

- *McCann and Others v UK* [GC] no. 18984/91 [1995] ECHR¹⁰⁴ – In finding a violation of Article 2, the European Court of Human Rights established that the use of force must be no more than what is absolutely necessary to defend persons from unlawful violence (see Table 3).

Positive obligations

- *Osman v UK* [GC] no. 23452/94 [1998] ECHR¹⁰⁵ – The European Court of Human Rights found no violation of Articles 2 and 8, however, it did find that there had been a violation of Article 6 (see Table 3).

- *LCB v UK* [1999] 27 EHRR 212¹⁰⁶ – No violation of Articles 2 and 8 (see Table 3).
- *McKerr v UK* no. 28883/95 [2001] ECHR¹⁰⁷ – Violation of Article 2 (see Table 3).
- *Savage v South Essex Partnership NHS Foundation Trust* [2008] UKHL 74¹⁰⁸ – The Court found a violation of Article 2 (see Table 3).
- *Brecknell v UK* no. 32457/04 [2008] ECHR¹⁰⁹ – Violation of Article 2 (lack of independence of the investigating body during the initial stages of the investigation) (see Table 3).
- *Rabone v Pennine Care NHS Trust* [2010] EWCA Civ 698¹¹⁰ – No violation of Article 2 (see Table 3).
- *R (on the application of Amin) v Secretary of State for Home Department* [2003] UKHL 51¹¹¹ – The House of Lords found that the refusal to hold a public inquiry was a breach of Article 2 (see Table 3).

Deportation and Article 2

- *Al-Saadoon & Mufdhi v UK* no. 61498/08 [2010] ECHR¹¹² – The European Court of Human Rights found a violation of Article 3 (see Table 3).

Extraterritorial aspects of Article 2

- *Al-Skeini and others v UK* (GC) no. 55721/07 [2011] ECHR¹¹³ – The European Court of Human Rights found a violation of Article 2 (procedural aspect) (see Table 3).
- *R (Smith) v Secretary of State for Defence* [2009] EWCA Civ 441¹¹⁴ – Relating to the procedural obligation on the state to undertake an Article 2 investigation (see Table 3).

Assisted suicide

- *Pretty v UK* no. 2346/02 [2002] ECHR¹¹⁵ – The European Court of Human Rights found no violation of Article 2 (see Table 3).

Withdrawal of life sustaining treatment

- *Airedale NHS Trust v Bland* [1993] AC 789¹¹⁶, *Re A (Children) (Cojoined twins: Surgical Separation)* [2001] Fam 147¹¹⁷ – The withdrawal of life sustaining treatment from terminally ill patients will not violate Article 2 (see Table 3).
- *NHS Trust A v Mrs M, NHS Trust B v Mrs H* [2001] 1 All ER 801 and *North Staffordshire Combined Healthcare Trust v Dorothy Humphries* [2001] 2 FLR 501 – The principles set out by the House of Lords in *Bland v Airedale NHS Trust*, according to which it may be lawful to withdraw artificial nutrition and hydration from patients in a persistent vegetative state, are compatible with Articles 2 and 3 of the ECHR (Human Rights Information Service, 2007)¹¹⁸ (see Table 3).
- *Re OT* [2009] EWHC 633 (Fam) – The High Court found that the withdrawal of life sustaining treatment, which was no longer in the patient's best interest, was not a breach of Articles 2 or 8 (see Table 3).

Table 12: The right to life – key concerns raised by human rights monitoring bodies

Domestic

JCHR (2009b) – *Coroners and Justice Bill*¹¹⁹ – Concern that provision for certified inquests would contravene Article 2 of ECHR.

JCHR (2004b) – *Deaths in Custody*¹²⁰ – Examining the causes of deaths in custody, and considering what may be done to prevent these deaths, and to better protect the right to life, and other human rights, of vulnerable people held in the custody of the state.

JCHR (2007) – Treatment of older people in health and social care, including malnutrition and dehydration (see Table 83).

International

United Nations Committee on the Elimination of Discrimination against Women (UNCEDAW) (2008) – Expressed concern over 'the high rate of maternal mortality among all ethnic minorities [as well as high numbers of miscarriages and stillbirths particularly for women from Traveller communities]'. It also noted that 'women of minority and ethnic communities suffer higher rates of depression and mental illness, while women of Asian descent have higher suicide and self-harm rates'.¹²¹

UNCRC (2008) – Was 'very concerned' about UK child deaths in custody as well as 'the high prevalence of self-injurious behaviour among children in custody'. The UNCRC also expressed concern about 'the widening gap in infant mortality between the most and the least well-off groups'.

United Nations Committee on Economic Social and Cultural Rights (UNCESCR) (2009) – Expressed concern about the increasing suicide rates of mental health patients.¹²²

Table 13: The right to life – Commission case law interventions**The need for positive duties to protect life**

Chief Constable of Hertfordshire Police v Van Colle [2008] UKHL 50; *Smith v Chief Constable of Sussex Police*, House of Lords

The Commission made submissions in these cases on the scope of the obligation on law enforcement authorities to take steps to protect individuals from threats to their life by third parties. It argued that the Court of Appeal applied the correct principles as to when a positive obligation had been engaged, that is was necessary to have a flexible approach which did not apply a strict threshold, and that in this case the duty had been breached. The Commission also made submissions on the proper relationship between common law negligence and a failure to discharge the positive obligation implicit in Article 2 of the HRA; for example, that if a negligence claim fails, that does not automatically mean that an HRA claim fails.

In the case of *Van Colle*, concerning whether the *Osman* test under Article 2 had been met such that a positive obligation arose, the House of Lords found the police did not breach Mr Van Colle's right to life under Article 2 of the HRA in failing to take further steps to prevent his murder.

In *Smith*, the case concerned the extending of the duty of care in negligence to cases of failures to protect life. The House of Lords allowed the appeal by Sussex Police and effectively restored the decision of the First Instance Judge who struck out the negligence claim. The House of Lords approved the principle in *Hill v Chief Constable of West Yorkshire Police* [1989] AC 53 that, in the absence of special circumstances, the police owed no common law duty of care to protect individuals against harm caused by criminals, since such a duty would encourage defensive policing and would divert manpower and resources from their primary function of suppressing crime and apprehending criminals in the general public interest.

The need for an effective and independent investigation (and what constitutes an effective and independent investigation)

R (JL) v Secretary of State for Home Department, House of Lords, 2008] UKHL 68. The case concerned an attempted suicide at a young offenders institution. The House of Lords accepted the Commission's submissions that near deaths in custody warranted an independent Article 2 compliant investigation.

Oxfordshire Assistant Deputy Coroner and Secretary of State for Defence v R (Catherine Smith) [2009] EWCA Civ 441. The case concerned the territorial application of the HRA and the ECHR and the duty to hold an independent investigation. The Court accepted the Commission's submissions on the jurisdictional application of HRA and on the need for Article 2 compliant investigation.

R (Smith) v Secretary of State for Defence [2010] UKSC 29. The case concerned the jurisdictional application of human rights protection for British military personnel and the right to an investigation under Article 2. The Supreme Court accepted the Commission's submissions on the need for an Article 2 compliant investigation but did not accept its submissions on the jurisdictional application of the HRA.

Source: Equality and Human Rights Commission (2010c).

Table 14: The right to life – summary of the outcomes of key inspection, regulation and complaints procedures; independent investigations into deaths related to the use of unlawful/arbitrary force; and other official investigations, inquiries and reviews into deaths that result in serious criticism of actions of the state, its agents or bodies fulfilling a public function

Protection of life: army context

- The Bloody Sunday Inquiry¹²³, which found that the unjustifiable firing by soldiers on Bloody Sunday caused the deaths of 13 people and injury to a similar number, none of whom was posing a threat of causing death or serious injury.
- Inquest into the death of Corporal Mark Wright, killed in Afghanistan in 2006, finding that a lack of appropriate military equipment was one of the causes of his death.¹²⁴

Protection of life: police context

- Inquest into death of Paul Davies, finding that his death was contributed to by police neglect, due to lack of training of officers in forced search and control and restraint of a detained person.¹²⁵
- The Stockwell Investigation into the fatal shooting of Jean Charles de Menezes¹²⁶, leading to the prosecution of the Office of the Commissioner of Police of the Metropolis for failing to provide for the health, safety and welfare of Jean Charles de Menezes.

- IPCC Investigation into the death of Ian Tomlinson¹²⁷, relating to the alleged use of force by a police officer that was not necessary, proportionate or reasonable in the circumstances. The Crown Prosecution Service has subsequently determined that the officer involved in the incident will be charged with manslaughter.¹²⁸
- IPCC investigation into the death of Rabina Bibi, finding that the police force failed Ms Bibi by not dispatching police officers to her when she initially called for assistance, contrary to force policy on domestic abuse.¹²⁹
- IPCC investigation into the death of Fiona Pilkington, who had made 33 calls over a seven-year period asking police for help after suffering repeated and continuing abuse and torment from a gang of youths¹³⁰. The IPCC's final report concluded that the failure by police officers to identify Fiona Pilkington, her son and severely disabled daughter 'as a collective vulnerable family unit' was 'at the core of Leicestershire Constabulary's failure to implement a cohesive, structured and effective approach to the harassment/anti social behaviour from which they were suffering' (IPCC, 2009c, 2010:23).¹³¹
- Investigation into *Deaths in or following police custody: An examination of the cases 1998/99 – 2008/09* (Hannan et al., 2010).¹³²

Protection of life: STC context

- Inquest into the death of 14-year-old Adam Rickwood, criticising failings by the private company running the Hassockfield STC, the Youth Justice Board, Prison Service restraint trainers and the Lancashire Youth Offending Team. Finding that unlawful use of restraint contributed to the death (Inquest, 2007).¹³³

Protection of life: prison context

- The Scottish Parliament, Conditions in Scottish Prisons, Research Note 00/34, 16 May 2000¹³⁴, providing some statistical briefing on conditions in Scottish prisons in relation to the practice of slopping out, overcrowding, suicide rates, drugs misuse and violence by prisoners. Finding that 'Levels of suicide... continue to pose a serious problem in Scottish prisons despite the introduction by SPS in 1998-99 of a new estate-wide suicide prevention strategy' (Scottish Parliament, 2000).

Protection of life: immigration detention and deportation

- HMIP, Detainee escorts and removals: A thematic review, August 2009¹³⁵, 'found a number of weaknesses in the systems for monitoring, investigating and complaining about incidents where force had been used or where abuse was alleged' (HMIP, 2010c).¹³⁶

FAI, Scotland¹³⁷

- Suicide at Dunvael Immigration removal centre, 2004¹³⁸, finding that ‘Failure to facilitate communication between non-English speaking detainees and the authorities detaining them is likely to lead to wrong assessments being made, wrong decisions being taken, risks to the physical or mental health of such detainees and to injustice to at least some of them’.
- Suicide at Barlinnie Prison, 2003¹³⁹, emphasising the issue of language difficulties in accurately assessing the suicide risk of a non-English speaking prisoner and finding that the case highlighted ‘the difficulties potentially presented for non-English speaking prisoners and those from different ethnic or cultural backgrounds’.
- Death in hospital, 2004¹⁴⁰, finding that full and accurate medical and nursing notes are absolutely essential to enable a proper assessment of the patient to be made by all medical staff involved in the care of the patient.
- Head injury caused by a fall when under the influence of alcohol, 2004¹⁴¹, recommending that ‘Consideration should be given to the provision of supervised accommodation to which persons arrested or detained under the influence of alcohol might be admitted. Such provision would require... a degree of medical supervision and be subject to a regime of checking or observation similar to that which currently exists for dealing with vulnerable patients in custody’.
- Choking on food in hospital, 2004¹⁴², finding that the death may have been avoided by ‘having in place a system of ensuring patients were provided with the consistency of food for their particular dietary needs’.

Protection of life: health context

- Mid Staffordshire NHS Foundation Trust Inquiry 2009 Report¹⁴³, identifying severe failings in emergency care provided by Mid Staffordshire NHS Foundation Trust between 2005 and mid 2008. See Table 16 for a detailed overview (Healthcare Commission (now the Care Quality Commission), 2009).

Protection of life: health context, maternal deaths context

- Healthcare Commission Investigation into 10 maternal deaths at, or following delivery at, Northwick Park Hospital, North West London Hospitals NHS Trust, between April 2002 and April 2005. The report finds that there were either major or minor deficiencies in the care and treatment provided to all but one of the 10 women¹⁴⁴ (Healthcare Commission (now the Care Quality Commission), 2006).

Protection of life: the mental health context

- Parliamentary Health Service Ombudsman (PHSO) and the Local Government Ombudsman (PHSO, 2009), *Six Lives*, highlights failures in the quality of health and social care services for people with learning disabilities; finding, with maladministration, service failure and unremedied injustice in a number, but not all, of the 20 bodies investigated (three councils, 16 NHS bodies and the Healthcare Commission (now the Care Quality Commission)) (also see Mencap's *Death by Indifference* campaign) (see Table 17 for further details).

Protection of life: social care context

- Inquest into the death of Alan Simper, finding that he died from infected multiple pressure sores as a result of care failings by the nursing home in which he was resident.¹⁴⁵
- Inquest into the death of Will Perrin, finding that his death was due to neglect by the care home in which he resided. The coroner condemned the home's 'failure to provide basic food or nourishment'.¹⁴⁶
- Joint police and Health and Safety Executive investigation into the death of Anthony Pinder, which found that the care home in which Mr Pinder was resident had failed to ensure that staff were adequately trained to carry out the safe physical restraint of residents.¹⁴⁷

End of life care

- PHSO Report (PHSO, 2011), *Care and Compassion. Report of the Health Services Ombudsman on 10 investigations into NHS care of older people*¹⁴⁸, February 2011. The report provides a summary of 10 investigations undertaken by the PHSO; the Ombudsman notes that 'the reasonable expectation that an older person or their family may have of dignified, pain-free end of life care, in clean surroundings in hospital, is not being fulfilled. Instead, these accounts present a picture of NHS provision that is failing to respond to the needs of older people with care and compassion and to provide even the most basic standards of care'.

Treatment of older people in health and social care

- Evidence on compliance with minimum nutritional standards is provided in Care Quality Commission (2011c) (see Table 85 for further details).

Protection of life: child protection context

- Victoria Climbié Inquiry 2003¹⁴⁹, documenting the ‘gross failure’ of the UK’s child protection system leading to the death of Victoria Climbié. The Inquiry’s Chairman concluded that ‘despite the Children Act 1989 having been in force for just under a decade, the standard of investigation into criminal offences against children may not be as rigorous as the investigation of similar crimes against adults’.
- The Laming Review of Child Protection (Baby P case) 2009¹⁵⁰, making wide-ranging recommendations in relation to child protection in the UK (Laming, 2009).
- Adult and Child Protection Committee’s Significant Case Reviews, for example, a significant case review was commissioned in line with national guidance to examine the particular circumstances surrounding the child protection issues, and the role of the various authorities involved, following the death of Brandon Muir in Dundee in 2008.¹⁵¹

Protection of life: Outcomes of serious case reviews

- Safeguarding Adults Board Serious Case Reviews (Jean and Derek Randall case) – finding no neglect by authorities in relation to the death of an elderly couple who died of natural causes in their home after refusing offers of help by local authorities.¹⁵²
- Serious Case Review, Parkside House, Northamptonshire, June 2010 (on behalf of Northamptonshire Safeguarding Vulnerable Adults Board) – a review into the case of five elderly people who died from causes that were considered to be consistent with the effects of severe neglect.¹⁵³

Proportion of child death¹ reviews completed by Child Death Overview Panels (CDOPs) on behalf of Local Safeguarding Children Boards (LSCBs)² which were reviewed as preventable. England, years ending 31 March 2009 and 2010

	Number of child death reviews completed on behalf of the LSCB which were assessed as preventable ⁶ in the year ending 31 March			Proportion of all completed child deaths reviewed which were assessed as preventable ⁷ in the year ending 31 March		
	2009	2010	Total 2009 and 2010	2009	2010	Total 2009 and 2010
England	110	150	260	5%	4%	5%
Region						
North East	10	10	20	12%	6%	7%
North West ¹²	10	10	20	2%	2%	2%
Yorkshire and Humberside	10	10	20	4%	3%	3%
East Midlands	10	20	30	5%	5%	5%
West Midlands	20	30	40	4%	5%	5%
East of England	x	20	20	x	6%	4%
London	20	20	40	5%	5%	5%
Inner London	20	10	30	10%	6%	8%
Outer London	x	10	20	x	4%	3%
South East	30	20	50	14%	4%	7%
South West	10	10	20	15%	5%	7%

Source: Department for Education (2010a), Table A.

Notes:

1. A child for these purposes is defined as a child aged 0 up to 18 years, excluding still births.
2. Figures are rounded to the nearest 10. Figures may not add up due to rounding. Numbers from 1 to 5 inclusive have been suppressed, being replaced by a cross (x). Percentages are shown rounded to whole numbers but where the numerator was five or less or the denominator was 10 or less, they have been suppressed and replaced by a cross (x).

Notes 3-5 are not shown as they relate to additional data from the source table that is not presented here.

6. A preventable child death is defined as 'events, actions or omissions contributing to the death of a child or to substandard care of a child who died, and which, by means of national or locally achievable interventions, can be modified'.

7. A number of panels encountered issues in the first year of reviewing child deaths which meant that the proportion of deaths assessed as preventable was artificially high, or artificially low. For example some panels prioritised the order in which deaths were reviewed to ensure that by 31 March 2009 the deaths with they felt had the greatest learning points were reviewed fully. This resulted in a high proportion of preventable child deaths in the first year of reviewing deaths. Other panels had experienced problems interpreting the definition of preventability, therefore by 31 March 2009 they felt unable to fully review many of the child deaths which were the most complex and more likely to be preventable. This resulted in a low proportion of preventable child deaths in the first year of reviewing deaths.

Notes 8-10 are not shown as they relate to additional data from the source table that is not presented here.

11. This proportion is calculated by dividing the sum of number of child death reviews completed in the year ending 31 March 2009 and 31 March 2010 (column F) by the approximate number of deaths in the year ending 31 March 2009 and 31 March 2010 (Column Q).
12. Please note that one LSCB included child death reviews which had been completed in April 2009 in the data provided for the year ending 31 March 2009, therefore there are a small number of children included in the last two columns in the table.

Table 15: Outcomes of key investigations into deaths – concerns around police response and the failure to protect highlighted by the IPCC

The IPCC Annual Report for 2008-09 details nine deaths that were alleged murders where concerns were raised about the police response prior to the death. The largest group of cases included women (six) who were known to be at risk from their former partners and were subsequently murdered. Two children were found dead after officers responded to a call expressing concerns about their mother's mental welfare. One teenager was shot dead after police were made aware that he had been the target of a stabbing attack.

Source: IPCC (2009d: 5,6).

The IPCC Annual Report for 2009-10 notes that a growing number of referrals and complaints are in cases where violence against and abuse of women is involved. Another trend is the number of cases where the allegation is that the police and other statutory agencies have failed to protect women or vulnerable people from violence and abuse. The IPCC states that:

'Failure to protect covers cases where there has been prior contact with the police, but the allegation or concern is that their actions have not prevented a death, injury or serious offence. Investigations into these cases focus on whether a different course of action by the police could have prevented the tragic outcome'.

A number of relevant investigations into deaths are detailed in the IPCC 2009-10 Annual Report. For example, the IPCC carried out an independent investigation into the way that West Midlands Police responded to contact from Ms Rabina Bibi on the day of her death. Ms Bibi was murdered at her home in Coventry in 2008 by her ex-partner in front of her seven-year-old daughter. The IPCC investigation found that the force failed Ms Bibi by not dispatching police officers to her when she initially called for assistance, contrary to force policy on domestic abuse.

Source: IPCC (2010).

The terms of investigation of the IPCC report into the death of Ms Rabina Bibi included an explicit reference to the duty to take reasonable steps to protect life under the HRA. These included explicit consideration of whether ‘The force had met its obligations – under Article 2 of the Human Rights Act and otherwise – to take reasonable steps to protect Rabina Bibi’s life’.

Source: Report following the IPCC’s independent investigation into West Midlands police contact with Rabina Bibi immediately prior to her death in Foleshill on 3 September 2008, 25 January 2010, www.ipcc.gov.uk/en/Pages/inv_reports_central_region.aspx

The IPCC Annual Report for 2009-10 further notes that the police failure to protect can also be an issue in cases where the police have not responded to reports of anti-social behaviour. An inquest into the deaths of Fiona Pilkington and her daughter ended in September 2009. The inquest heard that Ms Pilkington and her neighbours had made 33 calls over a seven-year period asking police for help after suffering repeated and continuing abuse and torment from a gang of youths outside her home in Barwell. In October 2007, Ms Pilkington drove to a lay-by near Earl Shilton, Leicestershire and set the car alight with herself and her disabled daughter inside the vehicle. The IPCC’s final report concluded that the failure by police officers to identify Fiona Pilkington, her son and daughter ‘as a collective vulnerable family unit’ was ‘at the core of Leicestershire Constabulary’s failure to implement a cohesive, structured and effective approach to the harassment/antisocial behaviour from which they were suffering’.¹⁵⁴

Source: IPCC (2010).

Table 16: Outcomes of key investigations into deaths – investigation of ‘excess deaths’ in Mid Staffordshire NHS Foundation Trust by the Healthcare Commission (now the Care Quality Commission)

In 2008 the Healthcare Commission (now the Care Quality Commission) carried out an investigation into apparently high mortality rates in patients admitted as emergencies to Mid Staffordshire NHS Foundation Trust since April 2005, and the care provided to these patients. It also considered the trust’s arrangements for monitoring mortality rates and its systems for ensuring that patients were cared for safely.

One of the aims of the investigation was to clarify how the trust investigated its apparently high mortality rates.

Analysis undertaken for the investigation showed that the trust consistently had a high mortality rate for patients admitted as emergencies, which it could not explain. The rate had been comparatively high for several years, but the trust had not investigated this. In April 2007, Dr Foster’s Hospital Guide showed that the trust had a hospital standardised mortality ratio (HSMR) of 127 for 2005-06, in other words more deaths than expected. The trust established a group to look into mortality, but put much of its effort into attempting to establish whether the high rate was a consequence of poor recording of clinical information.

The investigation found that the trust did not have a grip on operational and organisational issues, with no effective system for the admission and management of patients admitted as emergencies. Nor did it have a system to monitor outcomes for patients, so it failed to identify high mortality rates among patients admitted as emergencies. This was a serious failing.

Commenting on the national picture and lessons for other organisations, the investigation recommended that in the future trusts should be able to get access to timely and reliable information on comparative mortality and other outcomes, and for trusts to conduct objective and robust reviews of mortality rates and individual cases, rather than assuming errors in data.

Source: Healthcare Commission (now the Care Quality Commission) (2009).

Table 17: Outcomes of key investigations into deaths – investigation into six deaths of people with learning difficulties by the PHSO

The PHSO and the Local Government Ombudsman Six Lives Report sets out the findings of its investigation into complaints about the deaths of six people with learning difficulties.

The report highlights failures in the quality of health and social care services for people with learning disabilities; finding, with maladministration, service failure and unremedied injustice in a number, but not all, of the 20 bodies investigated (three councils, 16 NHS bodies and the Healthcare Commission(now the Care Quality Commission)).

Significant failures in service across both health and social care are identified. The report highlights the impact of organisational behaviour which does not adapt to individual needs, or even consistently follow procedures designed to maintain a basic quality of service for everyone. A lack of leadership and a failure to understand the law in relation to disability discrimination and human rights is highlighted. This led to situations in which people with learning disabilities were treated less favourably than others, resulting in prolonged suffering and inappropriate care.

The PHSO concluded that in one case the death of the person concerned occurred as a consequence of the service failure and maladministration identified. In another case it concluded that it was likely the death of the person could have been avoided, had the care and treatment provided not fallen so far below the relevant standard. In two cases, although complaints of service failure and maladministration were upheld, the Ombudsman did not conclude that the person's death was avoidable.

Source: PHSO (2009).

Table 18: The right to life – key concerns and allegations raised by private individuals and civil society organisations/reports in the media

- Inquest’s *Briefing on the death of Ian Tomlinson*¹⁵⁵, arguing that Mr Tomlinson’s death raises key concerns around ‘police powers, tactics and responsibilities’. Inquest argued that ‘The controversial circumstances surrounding Mr Tomlinson’s death require robust, independent and transparent investigation’. According to Inquest, his death ‘also raises wider contextual questions about:
 - a. the police planning, operation, command and control of the G20 protests;
 - b. the lines of accountability and control in relation to joint police operations;
 - c. the role of the Metropolitan Police Service (MPS) Territorial Support Group (TSG);
 - d. abuse of police powers including the use of excessive and unlawful force;
 - e. the police strategy of forcibly preventing people from leaving the area and the policy of containment known as kettling;
 - f. the police media strategy and their briefings preceding the G20 protests, during the day, and following Ian Tomlinson’s death and how this affected police strategy and behaviour;
 - g. the inaccuracy of official accounts concerning the contact between police officers and Ian Tomlinson and the cause of his death;
 - h. the failure of the police to learn from the Metropolitan Police’s shameful handling of the aftermath of the death of Jean Charles de Menezes;
 - i. the role of the Independent Police Complaints Commission (IPCC) including in relation to the media, and the process of investigating deaths following police contact.’
- Inquest’s *Briefing on the death of Jimmy Mubenga* (Inquest 2011)¹⁵⁶ during removal from the UK whilst being escorted by three private security guards working for Group 4 Services (G4S) contracted by the UK Border Agency (UKBA). The Briefing called for a parliamentary committee inquiry into use of restraint and force in deportation cases and scrutiny by human rights mechanisms.

- Inquest's *Briefing on the death of 14-year-old Adam Rickwood* (Inquest 2007)¹⁵⁷ stated that [t]here have been 29 deaths of children in penal custody in England and Wales since 1990. There has never been a public inquiry following any of these deaths. Collectively they raise thematic issues that need to be addressed in a joined-up manner through a properly resourced inquiry so that appropriate recommendations are made to ensure that lessons are learned and safeguards put in place to protect the lives of children in the future.' Inquest argued that the death of 14-year-old Adam Rickwood¹⁵⁸ 'reignited concerns over the treatment of children by the criminal justice system. His case has attracted substantial parliamentary and public disquiet and led for calls for a radical overhaul of the way the state treats child offenders.' It suggested that its casework 'has highlighted that child deaths are too often linked to failings in the community, the inappropriate use of penal custody for vulnerable children, and inadequate treatment whilst in custody whereby the institutions are unable to care for the vulnerabilities of those that they detain.' Inquest calls for 'a judicial inquiry into the treatment of children within the juvenile justice system which should consider the following issues as part of its deliberations:
 - the type and prevalence of physical restraint used against children in custody;
 - the appropriateness of the force used on children;
 - how the type of the pain inflicting 'nose distraction' technique was originally approved and medically assessed;
 - the monitoring, auditing and reviewing of PCC and if potential risks and injuries were identified;
 - how the staff are trained in the use of restraint.'
- Mencap's *Death by Indifference* campaign – a campaign following the deaths of six people with learning disabilities in NHS care, exposure of alleged 'massive care failings', suggestion that the individuals concerned died unnecessarily as a result of receiving worse healthcare than people without learning disabilities, challenging earlier findings of no 'service failure' by the PHSO¹⁵⁹.

Mencap welcomes the *Six Lives* Report of the PHSO whilst not accepting the finding in relation to GPs. Details of Mencap's position are provided at www.mencap.org.uk/news.asp?id=9637. See Table 14.
- Institute of Race Relations (2006), *Driven to Desperate Measures* – highlighting the deaths of 221 asylum seekers who have died either attempting to reach the UK or in the UK in the past 17 years, including people taking their own lives after having asylum claims rejected or those who died after being returned to countries where they feared for their safety.¹⁶⁰

- Medical Justice, *Outsourcing Abuse: The use and misuse of state-sanctioned force during the detention and removal of asylum seekers* (Birnberg Peirce & Partners et al., 2008).¹⁶¹
- Daily Mail, *Dignity for the Elderly* Campaign against neglect of the elderly within health and social care establishments.¹⁶²

Press/media/advocacy reports of deportation cases

- Brenda Namigadde case – outcome pending, the threatened deportation of lesbian woman to Uganda where she fears for her life after recent attacks on homosexuals.¹⁶³
- Medhi Kazemi case – a gay Iranian teenager granted asylum on the grounds of fearing for his life if returned to Iran.¹⁶⁴
- Dumisani Lungu case – a child and his HIV positive parents face deportation to Malawi where the parents argue that the lack of medical treatment will lead to their rapid deaths.¹⁶⁵

Other press/media/advocacy reports

BBC *Panorama* report that proper maternity care could have prevented the deaths of 17 women in London over 18 months.¹⁶⁶

Indicator 6: Spotlight statistics: Deaths in the police and criminal justice system context

Table 19: Deaths during or following police contact (type of death by gender, age group and by ethnicity), England and Wales, 2008-09

	Road traffic fatalities		Fatal shootings		Death during or following police custody		Other deaths following police contact		Total	
	N	%	N	%	N	%	N	%	N	%
Gender										
Male	34	85	3	100	13	87	24	71	74	80
Female	6	15	0	–	2	13	10	29	18	20
Total	40	100	3	100	15	100	34	100	92	100
Age group										
Not known	0	–	0	–	0	–	1	3	1	1
Under 18 yrs	7	18	0	–	0	–	4	12	11	12
18-20 yrs	4	10	0	–	0	–	3	9	7	8
21-30 yrs	16	40	0	–	2	13	7	21	25	27
31-40 yrs	4	10	3	100	4	27	9	26	20	22
41-50 yrs	2	5	0	–	8	53	8	24	18	20
51-60 yrs	3	8	0	–	1	7	0	–	4	4
61 yrs and over	4	10	0	–	0	–	2	6	6	7
Total	40	100	3	100	15	100	34	100	92	100
Ethnic group										
White	38	95	3	100	10	67	24	71	75	82
Of which:										
White British	36	90	2	67	9	60	20	59	67	73
Any other White background	2	5	1	33	1	7	4	12	8	9

Continued

Table 19: Deaths during or following police contact (type of death by gender, age group and by ethnicity), England and Wales, 2008-09 (*continued*)

	Road traffic fatalities		Fatal shootings		Death during or following police custody		Other deaths following police contact		Total	
	N	%	N	%	N	%	N	%	N	%
Asian or Asian British	0	–	0	–	2	13	2	6	4	4
Of which:										
Asian Indian	0	–	0	–	2	13	0	–	2	2
Any other Asian background	0	–	0	–	0	–	2	6	2	2
Black or Black British	2	5	0	–	3	20	4	12	9	10
Of which:										
Black Caribbean	0	–	0	–	1	7	0	–	1	1
Black African	0	–	0	–	1	7	2	6	3	3
Any other Black background	2	5	0	–	1	7	2	6	5	5
Mixed race	0	–	0	–	0	–	1	3	1	1
Of which:										
White and Black Caribbean	0	–	0	–	0	–	1	3	1	1
Any other ethnic group	0	–	0	–	0	–	2	6	2	2
Not known	0	–	0	–	0	–	1	3	1	1
Total	40	100	3	100	15	100	34	100	92	100

Source: IPCC (2009a), Tables A1.1, A1.2 and A1.3.

Note:

1 Percentages are rounded and therefore may not add up to 100 per cent.

Table 20: Number of fatal injuries incurred by members of the public as a result of a road traffic accident while in pursuit/ emergency response, 1996-07 – 2008-09, Scotland

	Central	Dumfries & Galloway	Fife	Grampian	Lothian & Borders	Northern	Strathclyde	Tayside	Scotland
1996-97	0	0	0	0	0	0	2	0	2
1997-98	0	0	0	0	0	0	0	0	0
1998-99	0	0	1	2	0	0	0	0	3
1999-2000	0	0	0	0	0	0	1	0	1
2000-01	0	0	0	0	1	0	0	0	1
2001-02	0	0	0	0	0	0	0	0	0
2002-03	0	0	0	0	0	0	1	0	1
2003-04	0	0	0	0	0	0	0	0	0
2004-05	n/k	0	0	0	0	0	1	0	1
2005-06	0	0	0	0	0	0	0	1	1
2006-07	1	0	0	0	0	0	0	0	1
2007-08	0	0	0	0	0	0	0	0	0
2008-09	0	0	0	0	0	0	1	0	1

Source: The Scottish Government (2011).

Table 21: Number of fatal injuries incurred by members of the public as a result of a road traffic accident while *not* in pursuit/emergency response, 1996-07 – 2008-09, Scotland

	Central	Dumfries & Galloway	Fife	Grampian	Lothian & Borders	Northern	Strathclyde	Tayside	Scotland
1996-97	0	4	1	0	0	0	1	0	6
1997-98	0	0	0	0	0	0	0	0	0
1998-99	0	0	0	0	0	0	0	0	0
1999-2000	0	0	0	0	0	0	0	0	0
2000-01	0	0	0	0	0	0	0	0	0
2001-02	0	0	0	0	0	0	0	0	0
2002-03	0	0	0	0	0	0	0	0	0
2003-04	0	0	0	0	0	0	0	0	0
2004-05	n/k	0	0	0	0	0	0	0	0
2005-06	0	0	0	0	0	0	2	0	2
2006-07	0	0	0	0	0	0	1	0	1
2007-08	0	0	0	0	0	0	0	0	0
2008-09	0	0	0	0	0	1	0	0	1

Source: The Scottish Government (2011).

Table 22: Fatal incidents investigated by the Prisons and Probations Ombudsman, by type of death and location, England and Wales, 2009-10

	Male prison	Female prison	YOI	Approved Premises	Immigration removal centre	Discretionary	Total
Self-Inflicted	54	1	5	3	0	0	63
Natural Causes	107	4	0	4	0	1	116
Homicide or Attack	0	0	0	0	0	0	0
Illicit Drug Overdose	2	0	0	3	0	1	6
Accidental	0	0	0	0	0	0	0
Unclassified	6	0	0	1	0	1	8
Total	169	5	5	11	0	3	193

Source: PPO (2010).

Table 23: Self-inflicted deaths in prison custody by time in custody and by gender, England and Wales, 2005-09

	2005	2006	2007	2008	2009
Time in custody ¹					
on day of arrival	0	2	1	3	0
1 to 2 days ²	11	3	4	4	8
3 days to one week	2	2	6	3	4
1 week to 1 month	15	6	10	5	6
1 month to 3 months	9	10	11	8	8
3 months to 6 months	12	8	15	8	10
6 months to 1 year	10	11	10	9	6
over one year	19	25	35	20	18
Total self-inflicted deaths	78	67	92	60	60
Gender					
Male	74	64	84	59	57
Female	4	3	8	1	3
Total self-inflicted deaths ³	78	67	92	60	60
Prison population ⁴	75,979	78,127	80,216	82,572	83,461
Three-year rolling average annual rates per 1,000 prisoners (self-inflicted deaths)	1.20	1.05	1.01	0.91	0.86

Source: Ministry of Justice (MoJ) (2010a), Tables 2 and 3.

Notes:

- 1 Time in custody refers to time spent on current offence/prison number. Some prisoners may have previously spent time in prison custody for a different offence with a different prison number but this is not included.
- 2 Prisoners who die on the date of arrival will typically have been in the prison for less than 12 hours. The one to two days' category includes any death after midnight on the date of arrival and before midnight on the second complete day in the prison. Care needs to be taken when interpreting numbers of deaths in the early days of custody as the actual number of deaths in precise 24-hour time slots is not known accurately due to uncertainty about the exact time of incident/death.
- 3 Deaths in prison custody figures include deaths of prisoners while released on temporary license (ROTL) for medical reasons but exclude other types of ROTL (see Data Sources and Quality). Approximately one one-third of the deaths in prison custody shown here actually occur in hospitals or hospices.
- 4 Population statistics are derived from the MoJ – Offender Management Caseload Statistics. The prison population figure shown for 2009 is provisional.

Table 24: Self-inflicted death by sentenced/unsentenced prisoners

According to HMIP, the downward trend in self-inflicted deaths in prisons observed in 2007-08 was maintained in 2008-09. There were 64 deaths in the inspectorate reporting year, compared with 68 in the previous year, and in the calendar year 2009, there were 60, the same as in 2008, and a decline of a third since 2007. As a proportion of the prison population, the rate dropped from 133 per 100,000 in 2002 to 72 per 100,000.

As in previous years, around two-thirds of self-inflicted deaths took place in local prisons, though one in four were in training prisons. A disproportionate number were unsentenced: though only 16 per cent of the population, they accounted for half the deaths. A high proportion of deaths continue to take place in the early days in a new prison. One in three occurred within the first seven days of being in the current prison – an indication of the additional vulnerability at this stage – and 42 per cent occurred within the first 28 days. Foreign national prisoners this year were under-represented in self-inflicted deaths, but life-sentenced prisoners remained over-represented.

Source: HMIP England and Wales (2010b: 11, 21, 22).

Table 25: Child deaths in penal custody, 1990-date, England and Wales (including deaths in privately-run secure training centres)

Name	Sex	Ethnicity	Age	Date	Classification	Establishment	Inquest Verdict
Ryan Clark	Male	White	17	18/04/2011	Self-inflicted	HMYOI Wetherby	Awaited
Liam McManus	Male	UK White	15	29/11/2007	Self-inflicted	HMYOI Lancaster Farms	Narrative
Sam Elphick	Male	UK White	17	15/09/2005	Self-Inflicted	HMYOI Hindley	Narrative
Gareth Price	Male	UK White	16	20/01/2005	Self-Inflicted	HMYOI Lancaster Farms	Narrative
Adam Rickwood	Male	UK White	14	09/08/2004	Self-Inflicted	Hassockfield STC	Narrative
Gareth Myatt	Male	UK mixed	15	19/04/2004	Restraint	Rainsbrook STC	Accidental death + narrative
Ian Powell	Male	UK White	17	06/10/2002	Self-Inflicted	HMP Parc	Misadventure
Joseph Scholes	Male	UK White	16	24/03/2002	Self-Inflicted	HMYOI Stoke Heath	Accidental death
Kevin Jacobs	Male	UK White	16	29/09/2001	Self-Inflicted	HMYOI Feltham	Suicide + neglect
Mark Dade	Male	UK White	16	27/07/2001	Self-Inflicted	HMYOI Wetherby	Misadventure
Anthony Redding	Male	UK White	16	15/02/2001	Self-Inflicted	HMYOI Brinsford	Accidental death
Kevin Henson	Male	UK White	17	06/09/2000	Self-Inflicted	HMYOI Feltham	Suicide
Philip Griffin	Male	UK White	17	01/08/2000	Self-Inflicted	HMYOI Wetherby	Misadventure
David Dennis	Male	UK White	17	30/05/2000	Self-Inflicted	HMYOI Brinsford	Suicide
Anthony Howarth	Male	UK White	17	29/08/1999	Self-Inflicted	HMYOI Hindley	Suicide
Kirk Edwards	Male	UK White	17	30/05/1999	Self-Inflicted	HMYOI Wetherby	Suicide
John Keyworth	Male	UK White	17	10/11/1998	Self-Inflicted	HMYOI Hindley	Accidental death
Nicholas Whelan	Male	UK White	16	09/07/1998	Self-Inflicted	HMYOI Glen Parva	Suicide
Colin Scarborough	Male	UK White	17	17/04/1998	Self-Inflicted	HMP Doncaster	Suicide
Lee Wagstaff	Male	UK White	17	17/01/1997	Self-Inflicted	HMYOI Hindley	Suicide while balance of his mind disturbed

Continued

Table 25: Child deaths in penal custody, 1990-date, England and Wales (including deaths in privately-run secure training centres) (continued)

Name	Sex	Ethnicity	Age	Date	Classification	Establishment	Inquest Verdict
Mark Weldrand	Male	UK White	16	03/12/1995	Self-Inflicted	HMP Doncaster	Accidental death
Chris Greenaway	Male	UK White	16	02/10/1995	Homicide	HMP Stoke Heath	Unlawful killing
Andrew Batey	Male	UK White	17	08/08/1994	Self-Inflicted	HMP Low Newton	Suicide
Joseph Stanley	Male	Irish White	17	10/05/1994	Self-Inflicted	HMP Cardiff	Suicide
David Stewart	Male	UK White	17	13/09/1993	Self-Inflicted	HMP Exeter	Open
Patrick Murphy	Male	UK White	16	02/05/1992	Self-Inflicted	HMYOI Deerbolt	Suicide
Jeffrey Horler	Male	UK White	15	22/09/1991	Self-Inflicted	HMYOI Feltham	Accidental death
Craig Walsh	Male	UK White	15	26/10/1990	Self-Inflicted	HMYOI Glen Parva	Open
Simon Willerton	Male	UK White	17	12/08/1990	Self-Inflicted	HMP Leeds	Open
Philip Knight	Male	UK White	15	12/07/1990	Self-Inflicted	HMP Swansea	Open

Source: INQUEST (2011), Casework and monitoring. Copies of narrative verdicts are available on request from INQUEST.¹⁶⁷

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Acronyms: HMYOI – Her Majesty's Young Offenders Institute; HMP – Her Majesty's Prison; STC – Secure Training Centre.

Reference: *Inquest (2011)*, 'Child deaths in penal custody (England and Wales) 1990-date', available from www.inquest.org.uk/

**Table 26: Deaths of young people aged 21 and under in prison (England and Wales)
1990-date: INQUEST monitoring**

Year	Self-inflicted	Non-self-inflicted	Other Non-natural causes	Homicide	Total
2011	8	0	0	0	8
2010	5	0	0	0	5
2009	9	2	0	0	11
2008	8	0	0	0	8
2007	9	2	0	0	11
2006	3	0	0	0	3
2005	13	0	1	0	14
2004	6	0	1	0	7
2003	13	2	0	0	15
2002	16	2	0	0	18
2001	15	0	0	0	15
2000	18	0	0	2	20
1999	19	1	0	0	20
1998	15	3	0	1	19
1997	16	1	0	2	19
1996	14	3	0	0	17
1995	11	0	0	1	12
1994	12	2	0	0	14
1993	3	0	0	0	3
1992	10	0	0	0	10
1991	5	0	0	0	5
1990	10	0	0	0	10
Total:	238	18	2	6	264

Source: INQUEST monitoring and case work, updated August 2011.¹⁶⁸

Indicator 7: Spotlight statistics: Deaths within health and social care institutions/community care

Table 27: Hospital Standardised Mortality Ratios

Lower than expected mortality	Ratio
Aintree University Hospitals NHS Foundation Trust	85
Ashford and St Peter's Hospitals NHS Trust	90
Barnet and Chase Farm Hospitals NHS Trust	88
Barts and The London NHS Trust	89
Bradford Teaching Hospitals NHS Foundation Trust	81
Cambridge University Hospitals NHS Foundation Trust	81
East Kent Hospitals University NHS Foundation Trust	79
Epsom and St Helier University Hospitals NHS Trust	90
Frimley Park Hospital NHS Foundation Trust	85
Imperial College Healthcare NHS Trust	80
Leeds Teaching Hospitals NHS Trust	91
Maidstone and Tunbridge Wells NHS Trust	92
Mid Staffordshire NHS Foundation Trust	87
North Bristol NHS Trust	90
North West London Hospitals NHS Trust	87
Plymouth Hospitals NHS Trust	86
Royal Free Hampstead NHS Trust	72
Salford Royal NHS Foundation Trust	84
Sheffield Teaching Hospitals NHS Foundation Trust	92
St George's Healthcare NHS Trust	84
Taunton and Somerset NHS Foundation Trust	89
The Newcastle upon Tyne Hospitals NHS Foundation Trust	90
The Whittington Hospital NHS Trust	84
University College London Hospitals NHS Foundation Trust	72
University Hospitals Bristol NHS Foundation Trust	86
West Middlesex University Hospital NHS Trust	86
Continued	

Table 27: Hospital Standardised Mortality Ratios (*continued*)

Higher than expected mortality	Ratio
Barking, Havering and Redbridge University Hospitals NHS Trust	116
Buckinghamshire Hospitals NHS Trust	118
City Hospitals Sunderland NHS Foundation Trust*	114
Derby Hospitals NHS Foundation Trust	112
East Sussex Hospitals NHS Trust*	110
George Eliot Hospital NHS Trust*	113
Hull and East Yorkshire Hospitals NHS Trust	117
Isle of Wight NHS Primary Care Trust*	115
Mid Cheshire Hospitals NHS Foundation Trust	114
Northampton General Hospital NHS Trust*	112
Pennine Acute Hospitals NHS Trust**	110
Royal Bolton Hospital NHS Foundation Trust**	116
Shrewsbury and Telford Hospital NHS Trust*	117
South London Healthcare NHS Trust*	109
Southport and Ormskirk Hospital NHS Trust*	113
The Dudley Group of Hospitals NHS Foundation Trust	115
The Royal Wolverhampton Hospitals NHS Trust*	116
University Hospitals Birmingham NHS Foundation Trust	109
Western Sussex Hospitals NHS Trust*	107

Source: Dr Foster (2010).

Notes:

* Denotes trusts which did not have high HSMRs last year.

** Denotes trusts with high HSMRs for the past six years.

According to the Dr Foster report, the HSMR is one of the most commonly used measures of overall mortality for trusts and looks at those conditions which account for the vast majority of deaths in hospital (80 per cent). The table compares the number of deaths at the trust with an estimate of the number that would happen if mortality ratios were in line with the national average. This takes into account a patient's diagnosis, age, admission method and other characteristics. If a trust has the same number of deaths as estimated, it is given a score of 100. If it has 10 per cent more deaths, it is given a score of 110, or for 10 per cent fewer deaths a score of 90 (Dr Foster 2010: 11).

Table 28: Deaths where malnutrition was the underlying cause of death, by place of death, England and Wales, 1997-09^{1, 2, 3, 4}

Place of death	Deaths (persons)												
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Care home	11	19	8	9	6	6	8	7	4	3	7	8	11
Hospital	34	25	28	26	45	56	51	45	45	62	53	42	57
Other	6	5	9	8	7	5	6	8	12	10	19	17	14
Total	51	49	45	43	58	67	65	60	61	75	79	67	82

Source: Office for National Statistics (ONS) (2011b).

Notes: See Figure 9 for a discussion of the interpretation of this data.

- 1 'Cause of death' was defined using the International Classification of Diseases (ICD), Ninth Revision (ICD-9) codes 260-263 (malnutrition) for the years 1997-2000, and the ICD, Tenth Revision (ICD-10) codes E40-E46 (malnutrition) for 2001 onwards. Deaths were included where malnutrition was the underlying cause of death. The introduction of ICD-10 in 2001 means that the numbers of deaths from these causes before 2001 are not completely comparable with later years.
- 2 'Care home' includes a variety of NHS, local authority and private nursing/care/residential homes; 'Hospital' includes NHS hospitals or multifunction sites, and military and other non-NHS hospitals; 'Other' includes any other place e.g. other types of communal establishment, at home (at a private residential address) and elsewhere.
- 3 Figures for England and Wales include deaths of non-residents.
- 4 Figures are for deaths registered in each calendar year.

Table 29: Deaths (persons) where malnutrition and effects of hunger were mentioned on the death certificate, by place of death, England and Wales, 1997-2009^{1, 2, 3, 4}

Place of death	Deaths (persons)												
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Care home	30	33	26	36	27	26	26	25	27	25	29	38	38
Hospital	175	163	192	181	195	249	222	222	218	268	268	288	284
Other	40	22	49	29	34	19	32	36	35	51	56	56	53
Total	245	218	267	246	256	294	280	283	280	344	353	382	375

Source: ONS (2011b).

Notes: See Figure 9 for a discussion of the interpretation of this data.

- 1 'Cause of death' was defined using the International Classification of Diseases (ICD), Ninth Revision (ICD-9) codes 260-263 (malnutrition) for the years 1997-2000, and the ICD, Tenth Revision (ICD-10) codes E40-E46 (malnutrition) for 2001 onwards. Deaths were included where malnutrition was the underlying cause of death. The introduction of ICD-10 in 2001 means that the numbers of deaths from these causes before 2001 are not completely comparable with later years.
- 2 'Care home' includes a variety of NHS, local authority and private nursing/care/residential homes; 'Hospital' includes NHS hospitals or multifunction sites, and military and other non-NHS hospitals; 'Other' includes any other place e.g. other types of communal establishment, at home (at a private residential address) and elsewhere.
- 3 Figures for England and Wales include deaths of non-residents.
- 4 Figures are for deaths registered in each calendar year.

Table 30: Number of deaths and age-standardised rate per 1 million population, where the cause specified was the underlying cause of death, by place of death, England and Wales, 1997-09^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
c. difficile	1997	..	..	..	..	..	..	..	..	..	..	..	..
c. difficile	1998	..	..	..	..	..	..	..	..	..	..	..	..
c. difficile	1999	19	0.2	0.1	0.3	247	2.8	2.4	3.1	265	3.0	2.6	3.3
c. difficile	2000	..	..	..	..	..	..	..	..	..	..	..	..
c. difficile	2001	26	0.3	0.2	0.4	359	3.7	3.4	4.1	308	3.2	2.8	3.6
c. difficile	2002	21	0.2	0.1	0.3	408	4.2	3.8	4.7	325	3.4	3.1	3.8
c. difficile	2003	28	0.3	0.2	0.4	467	4.8	4.4	5.3	473	5.0	4.5	5.4
c. difficile	2004	41	0.4	0.3	0.5	585	6.0	5.5	6.5	603	6.2	5.7	6.7
c. difficile	2005	74	0.7	0.6	0.9	957	9.7	9.1	10.3	1,032	10.3	9.7	11.0
c. difficile	2006	132	1.2	1.0	1.4	1,714	16.8	16.0	17.6	1,644	16.2	15.4	17.0
c. difficile	2007	207	1.8	1.5	2.0	1,735	16.8	16.0	17.6	2,114	20.3	19.4	21.2
c. difficile	2008	179	1.6	1.4	1.8	2,288	21.8	20.9	22.7	35	0.4	0.2	0.5
c. difficile	2009	123	1.1	0.9	1.3	1,563	14.5	13.8	15.2	26	0.2	0.1	0.3
Dehydration	1997	15	0.2	0.1	0.2	99	1.1	0.9	1.3	6	*	*	*
Dehydration	1998	18	0.2	0.1	0.3	79	0.8	0.7	1.0	13	0.1	0.1	0.2
Dehydration	1999	22	0.2	0.1	0.3	99	1.1	0.8	1.3	11	0.1	0.1	0.2
Dehydration	2000	10	0.1	0.0	0.2	106	1.1	0.9	1.3	11	0.1	0.1	0.2
Dehydration	2001	15	0.1	0.1	0.2	97	1.0	0.8	1.2	6	*	*	*
Dehydration	2002	24	0.2	0.1	0.3	128	1.3	1.1	1.6	7	*	*	*
Continued													

Continued

Table 30: Number of deaths and age-standardised rate per 1 million population, where the cause specified was the underlying cause of death, by place of death, England and Wales, 1997-09 (*continued*)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
Dehydration	2003	21	0.2	0.1	0.3	125	1.3	1.0	1.5	11	0.1	0.1	0.2
Dehydration	2004	22	0.2	0.1	0.3	139	1.4	1.2	1.6	7	*	*	*
Dehydration	2005	29	0.3	0.2	0.4	147	1.5	1.2	1.7	11	0.1	0.0	0.2
Dehydration	2006	37	0.4	0.2	0.5	121	1.1	0.9	1.4	8	*	*	*
Dehydration	2007	32	0.3	0.2	0.4	130	1.3	1.0	1.5	8	*	*	*
Dehydration	2008	41	0.3	0.2	0.5	162	1.5	1.2	1.7	12	0.1	0.0	0.2
Dehydration	2009	24	0.2	0.1	0.3	128	1.1	0.9	1.3	8	*	*	*
Falls	1997	717	7.6	7.0	8.1	3,881	46.6	45.2	48.1	599	9.0	8.2	9.7
Falls	1998	712	7.4	6.9	8.0	3,801	44.7	43.3	46.1	485	7.2	6.5	7.8
Falls	1999	721	7.4	6.9	8.0	4,079	47.5	46.1	49.0	526	7.7	7.1	8.4
Falls	2000	652	6.6	6.1	7.1	4,275	49.1	47.6	50.6	556	8.3	7.6	8.9
Falls	2001	711	7.0	6.5	7.6	4,768	53.4	51.9	55.0	630	9.0	8.3	9.7
Falls	2002	729	7.2	6.7	7.7	4,609	50.8	49.3	52.3	612	8.7	8.0	9.4
Falls	2003	728	7.3	6.7	7.8	5,023	54.9	53.4	56.4	660	9.4	8.7	10.1
Falls	2004	684	6.7	6.2	7.2	5,197	56.4	54.9	57.9	645	9.0	8.3	9.7
Falls	2005	675	6.4	5.9	6.9	5,375	56.4	54.9	57.9	672	9.2	8.5	9.9
Falls	2006	609	5.5	5.1	6.0	5,535	56.4	54.9	57.8	638	8.6	7.9	9.3
Falls	2007	670	5.8	5.4	6.3	5,708	57.0	55.5	58.5	594	7.9	7.3	8.6
Falls	2008	679	5.8	5.3	6.2	5,791	57.0	55.5	58.5	617	7.9	7.3	8.6
Falls	2009	644	5.4	4.9	5.8	5,616	54.2	52.8	55.6	588	7.8	7.2	8.4
Continued													

Table 30: Number of deaths and age-standardised rate per 1 million population, where the cause specified was the underlying cause of death, by place of death, England and Wales, 1997-09 (*continued*)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
MRSA	1997	7	*	*	*	54	0.7	0.5	0.8	42	0.5	0.4	0.7
MRSA	1998	10	0.1	0.0	0.2	56	0.8	0.6	1.0	50	0.6	0.5	0.8
MRSA	1999	10	0.1	0.0	0.2	59	0.7	0.6	0.9	59	0.7	0.5	0.9
MRSA	2000	8	*	*	*	91	1.1	0.9	1.3	92	1.2	0.9	1.4
MRSA	2001	15	0.1	0.1	0.2	130	1.5	1.3	1.8	113	1.3	1.1	1.6
MRSA	2002	11	0.2	0.1	0.2	110	1.3	1.1	1.6	125	1.5	1.2	1.7
MRSA	2003	22	0.2	0.1	0.3	137	1.5	1.3	1.8	163	1.9	1.6	2.2
MRSA	2004	28	0.3	0.2	0.4	124	1.4	1.1	1.6	205	2.4	2.0	2.7
MRSA	2005	30	0.3	0.2	0.4	188	2.1	1.8	2.4	247	2.7	2.3	3.0
MRSA	2006	20	0.2	0.1	0.3	236	2.6	2.3	3.0	263	2.8	2.5	3.1
MRSA	2007	33	0.3	0.2	0.4	180	1.8	1.6	2.1	247	2.7	2.4	3.0
MRSA	2008	17	0.2	0.1	0.2	208	2.2	1.9	2.5	3	*	*	*
MRSA	2009	8	*	*	*	139	1.4	1.2	1.6	0	*	*	*
Pressure sores	1997	95	1.0	0.8	1.2	117	1.4	1.1	1.6	17	0.2	0.1	0.3
Pressure sores	1998	109	1.1	0.9	1.3	128	1.5	1.2	1.7	9	*	*	*
Pressure sores	1999	92	1.0	0.8	1.2	143	1.6	1.4	1.9	15	0.2	0.1	0.2
Pressure sores	2000	73	0.8	0.6	0.9	138	1.5	1.2	1.7	15	0.2	0.1	0.3
Pressure sores	2001	81	0.8	0.6	1.0	137	1.5	1.3	1.8	13	0.1	0.1	0.2
Pressure sores	2002	86	0.8	0.7	1.0	175	1.9	1.6	2.2	22	0.3	0.1	0.4
Pressure sores	2003	99	1.0	0.8	1.2	158	1.7	1.5	2.0	16	0.2	0.1	0.2
													Continued

Continued

Table 30: Number of deaths and age-standardised rate per 1 million population, where the cause specified was the underlying cause of death, by place of death, England and Wales, 1997-09 (continued)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
Pressure sores	2004	69	0.7	0.5	0.9	176	2.0	1.7	2.3	9	*	*	*
Pressure sores	2005	90	0.9	0.7	1.0	178	1.9	1.6	2.2	7	*	*	*
Pressure sores	2006	95	0.9	0.7	1.0	155	1.6	1.3	1.8	14	0.1	0.1	0.2
Pressure sores	2007	89	0.8	0.7	1.0	146	1.4	1.2	1.7	18	0.2	0.1	0.2
Pressure sores	2008	83	0.8	0.6	0.9	147	1.4	1.2	1.6	13	0.1	0.1	0.2
Pressure sores	2009	74	0.6	0.5	0.8	150	1.5	1.3	1.8	19	0.2	0.1	0.3
Septicaemia	1997	58	0.6	0.5	0.8	1,279	19.0	18.0	20.1	39	0.7	0.5	0.9
Septicaemia	1998	75	0.8	0.7	1.0	1,271	18.5	17.5	19.5	34	0.6	0.4	0.8
Septicaemia	1999	70	0.8	0.6	1.0	1,460	21.1	20.1	22.2	38	0.6	0.4	0.7
Septicaemia	2000	53	0.6	0.4	0.8	1,496	21.2	20.1	22.2	35	0.6	0.4	0.8
Septicaemia	2001	93	1.0	0.8	1.2	1,828	24.9	23.8	26.0	37	0.6	0.4	0.8
Septicaemia	2002	85	0.9	0.7	1.1	1,905	24.2	23.2	25.3	41	0.7	0.5	0.9
Septicaemia	2003	77	0.8	0.6	1.0	1,996	25.4	24.3	26.5	29	0.5	0.3	0.6
Septicaemia	2004	85	0.9	0.7	1.1	2,091	26.1	25.0	27.2	32	0.5	0.3	0.6
Septicaemia	2005	105	1.1	0.9	1.3	2,267	27.0	25.9	28.2	46	0.8	0.6	1.0
Septicaemia	2006	111	1.1	0.9	1.3	2,261	26.4	25.3	27.5	44	0.6	0.4	0.8
Septicaemia	2007	107	1.0	0.8	1.1	2,219	25.8	24.8	26.9	47	0.6	0.4	0.8
Septicaemia	2008	108	1.0	0.8	1.2	2,064	23.8	22.7	24.8	45	0.6	0.4	0.8
Septicaemia	2009	90	0.8	0.7	1.0	2,137	24.1	23.1	25.1	53	0.8	0.5	1.0

Source: ONS (2011b).

Notes: See Figure 9 for a discussion of the interpretation of this data.

- 1 'Cause of death' was defined using the ICD, Ninth Revision (ICD-9) for the years 1997-2000, and the ICD, Tenth Revision (ICD-10) for 2001 onwards. The ICD codes used are shown in the definitions worksheet. Deaths were included where the specified cause was the underlying cause of death. The introduction of ICD-10 in 2001 means that the numbers of deaths from these causes before 2001 are not completely comparable with later years.
- 2 'Care home' includes a variety of NHS, local authority and private nursing/care/residential homes; 'Hospital' includes NHS hospitals (excluding psychiatric hospitals) or multifunction sites, and military and other non-NHS hospitals; 'Other' includes any other place e.g. other types of communal establishment (such as psychiatric hospitals or hospices), at home (at a private residential address) and elsewhere.
- 3 Figures for England and Wales include deaths of non-residents.
- 4 Figures are for deaths registered in each calendar year.
- 5 Age-standardised mortality rates per 1 million population, standardised to the European Standard Population. Age-standardised rates are used to allow comparison between populations which may contain different proportions of people of different ages, and so also allow comparisons over time.
- 6 The lower and upper confidence limits have been provided. These form a confidence interval, which is a measure of the statistical precision of an estimate and show the range of uncertainty around the estimated figure. Calculations based on small numbers of events are often subject to random fluctuations. As a general rule, if the confidence interval around one figure overlaps with the interval around another, we cannot say with certainty that there is more than a chance difference between the two figures. Data for c. difficile is not available for 1997, 1998 and 2000 due to the use of ICD-9. Data is available for 1999 because a special coding exercise was carried out.

*Rates are not calculated where there are fewer than 10 deaths.

Table 31: Number of deaths and age-standardised rate per 1 million population, where the cause specified was mentioned on the death certificate, by place of death, England and Wales, 1997-2009^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home			Hospital			Other		
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number
c. difficile	1997	..	..	..	..	..	..	..	..	..
c. difficile	1998	..	..	..	..	..	..	..	..	..
c. difficile	1999	32	0.3	0.2	0.5	457	5.2	4.7	5.7	486
c. difficile	2000	..	..	..	..	..	..	..	..	..
c. difficile	2001	38	0.4	0.3	0.5	621	6.6	6.0	7.1	555
c. difficile	2002	33	0.3	0.2	0.4	752	8.0	7.4	8.5	631
c. difficile	2003	46	0.4	0.3	0.6	880	9.2	8.6	9.8	878
c. difficile	2004	81	0.8	0.6	1.0	1,086	11.3	10.6	11.9	1,071
c. difficile	2005	126	1.2	1.0	1.5	1,763	18.0	17.2	18.8	1,868
c. difficile	2006	240	2.2	1.9	2.5	3,111	30.9	29.8	32.0	3,129
c. difficile	2007	395	3.5	3.1	3.8	3,534	34.9	33.7	36.1	4,395
c. difficile	2008	370	3.3	3.0	3.7	5,420	53.6	52.1	55.0	141
c. difficile	2009	218	1.9	1.6	2.1	3,627	35.0	33.9	36.2	88
Dehydration	1997	66	0.7	0.5	0.9	608	7.1	6.5	7.7	40
Dehydration	1998	74	0.7	0.6	0.9	550	6.4	5.9	6.9	53
Dehydration	1999	61	0.6	0.5	0.8	561	6.4	5.9	7.0	59
Dehydration	2000	53	0.5	0.4	0.7	546	6.1	5.6	6.6	46
Dehydration	2001	65	0.7	0.5	0.8	587	6.5	5.9	7.0	50
Dehydration	2002	98	1.0	0.8	1.2	775	8.5	7.9	9.1	41

Continued

Table 31: Number of deaths and age-standardised rate per 1 million population, where the cause specified was mentioned on the death certificate, by place of death, England and Wales, 1997-2009 (*continued*)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
Dehydration	2003	99	1.0	0.8	1.2	773	8.5	7.9	9.1	56	0.7	0.5	0.8
Dehydration	2004	93	0.9	0.7	1.1	799	8.5	7.9	9.1	64	0.8	0.6	0.9
Dehydration	2005	111	1.1	0.9	1.3	837	8.8	8.2	9.3	64	0.7	0.5	0.9
Dehydration	2006	155	1.5	1.2	1.7	932	9.5	8.9	10.1	70	0.8	0.6	1.0
Dehydration	2007	133	1.2	1.0	1.4	905	9.0	8.4	9.6	71	0.8	0.6	1.0
Dehydration	2008	143	1.3	1.1	1.5	934	9.0	8.5	9.6	71	0.8	0.6	0.9
Dehydration	2009	125	1.1	0.9	1.3	816	7.8	7.3	8.4	71	0.8	0.6	0.9
Falls	1997	1,563	16.6	15.8	17.4	7,559	87.1	85.2	89.1	990	13.8	13.0	14.7
Falls	1998	1,614	16.8	16.0	17.6	7,781	88.0	86.1	90.0	850	11.7	10.9	12.5
Falls	1999	1,588	16.4	15.6	17.2	8,274	93.1	91.1	95.1	897	12.3	11.5	13.1
Falls	2000	1,521	15.4	14.7	16.2	8,593	95.1	93.1	97.1	884	12.2	11.4	13.0
Falls	2001	1,050	10.5	9.8	11.1	6,313	69.9	68.2	71.7	857	11.8	11.0	12.5
Falls	2002	1,109	11.0	10.3	11.6	6,298	68.4	66.7	70.1	851	11.6	10.9	12.4
Falls	2003	1,113	11.1	10.4	11.7	6,723	72.8	71.1	74.5	884	12.0	11.2	12.8
Falls	2004	997	9.7	9.1	10.3	6,817	73.2	71.5	74.9	842	11.3	10.6	12.1
Falls	2005	1,013	9.6	9.0	10.2	7,053	73.3	71.6	75.0	900	11.8	11.1	12.6
Falls	2006	915	8.3	7.8	8.9	7,169	72.5	70.8	74.2	841	10.9	10.2	11.6
Falls	2007	981	8.6	8.1	9.2	7,458	74.0	72.3	75.7	815	10.5	9.8	11.2
Falls	2008	1,009	8.7	8.1	9.2	7,577	74.0	72.3	75.6	848	10.5	9.8	11.2
Falls	2009	963	8.1	7.6	8.6	7,318	70.0	68.4	71.6	818	10.3	9.6	11.0
Continued													

Table 31: Number of deaths and age-standardised rate per 1 million population, where the cause specified was mentioned on the death certificate, by place of death, England and Wales, 1997-2009 (*continued*)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
MRSA	1997	33	0.4	0.2	0.5	202	2.7	2.3	3.0	151	2.0	1.7	2.3
MRSA	1998	41	0.5	0.3	0.6	188	2.5	2.1	2.8	180	2.4	2.0	2.7
MRSA	1999	36	0.4	0.3	0.5	223	2.8	2.5	3.2	221	2.8	2.4	3.1
MRSA	2000	43	0.5	0.3	0.6	315	3.9	3.5	4.3	308	4.1	3.6	4.5
MRSA	2001	44	0.4	0.3	0.6	351	4.3	3.8	4.7	336	4.2	3.8	4.6
MRSA	2002	47	0.5	0.4	0.7	332	4.2	3.7	4.6	415	5.3	4.7	5.8
MRSA	2003	58	0.6	0.4	0.7	428	5.3	4.8	5.8	482	6.0	5.4	6.5
MRSA	2004	86	0.8	0.7	1.0	452	5.2	4.7	5.7	600	7.1	6.6	7.7
MRSA	2005	139	1.4	1.1	1.6	673	7.8	7.2	8.3	837	9.9	9.2	10.5
MRSA	2006	100	1.0	0.8	1.2	722	8.3	7.7	8.9	830	9.4	8.8	10.1
MRSA	2007	129	1.3	1.0	1.5	605	6.6	6.1	7.2	859	9.8	9.2	10.5
MRSA	2008	128	1.2	1.0	1.4	1,061	11.9	11.2	12.6	41	0.5	0.3	0.6
MRSA	2009	83	0.7	0.6	0.9	671	7.2	6.6	7.7	27	0.4	0.2	0.5
Pressure sores	1997	355	3.9	3.5	4.4	500	6.1	5.6	6.7	62	0.7	0.5	0.9
Pressure sores	1998	374	4.1	3.7	4.5	509	6.1	5.6	6.7	56	0.7	0.5	0.9
Pressure sores	1999	328	3.5	3.1	3.9	488	5.8	5.3	6.3	60	0.7	0.5	0.9
Pressure sores	2000	306	3.3	2.9	3.6	524	6.2	5.6	6.7	60	0.7	0.5	0.9
Pressure sores	2001	329	3.4	3.0	3.8	512	5.8	5.3	6.3	46	0.5	0.4	0.7
Pressure sores	2002	312	3.1	2.8	3.5	568	6.4	5.9	7.0	69	0.8	0.6	1.0
Pressure sores	2003	321	3.4	3.0	3.7	610	7.0	6.5	7.6	54	0.6	0.4	0.8
											Continued		

Table 31: Number of deaths and age-standardised rate per 1 million population, where the cause specified was mentioned on the death certificate, by place of death, England and Wales, 1997-2009 (*continued*)^{1, 2, 3, 4, 5, 6}

Cause	Year	Care home				Hospital				Other			
		Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶	Number	Rate ⁵	LCL ⁶	UCL ⁶
Pressure sores	2004	282	2.9	2.6	3.2	570	6.6	6.1	7.1	48	0.6	0.4	0.7
Pressure sores	2005	295	2.9	2.5	3.2	647	7.3	6.7	7.8	57	0.7	0.5	0.8
Pressure sores	2006	282	2.7	2.4	3.1	605	6.7	6.2	7.3	67	0.8	0.6	1.0
Pressure sores	2007	313	3.0	2.7	3.3	605	6.5	6.0	7.0	80	0.9	0.7	1.1
Pressure sores	2008	271	2.5	2.2	2.8	575	6.0	5.5	6.5	69	0.8	0.6	0.9
Pressure sores	2009	285	2.5	2.2	2.8	604	6.4	5.9	6.9	84	0.9	0.7	1.1
Septicaemia	1997	632	7.3	6.7	7.8	11,273	156.5	153.6	159.3	287	4.3	3.8	4.8
Septicaemia	1998	693	7.8	7.2	8.3	12,005	163.1	160.1	166.0	289	4.4	3.8	4.9
Septicaemia	1999	717	8.2	7.6	8.8	13,308	179.6	176.5	182.6	308	4.3	3.8	4.8
Septicaemia	2000	702	7.9	7.3	8.4	14,097	186.1	183.0	189.2	279	4.1	3.6	4.6
Septicaemia	2001	784	8.5	7.9	9.1	15,894	203.7	200.5	206.9	325	4.7	4.2	5.2
Septicaemia	2002	764	8.2	7.6	8.8	17,469	217.4	214.2	220.7	364	5.3	4.8	5.9
Septicaemia	2003	825	8.9	8.3	9.5	19,348	238.1	234.8	241.5	363	5.1	4.5	5.6
Septicaemia	2004	819	8.8	8.2	9.4	20,868	252.6	249.2	256.1	408	5.7	5.2	6.3
Septicaemia	2005	899	9.4	8.8	10.0	23,468	276.1	272.6	279.6	421	5.7	5.2	6.3
Septicaemia	2006	995	10.1	9.4	10.7	24,922	288.5	284.9	292.0	481	6.4	5.8	7.0
Septicaemia	2007	1,006	9.9	9.2	10.5	24,366	275.8	272.4	279.3	481	6.2	5.6	6.8
Septicaemia	2008	947	9.3	8.7	9.9	23,810	265.7	262.3	269.0	553	7.1	6.5	7.7
Septicaemia	2009	1,019	9.4	8.9	10.0	23,206	255.3	252.0	258.6	552	7.1	6.5	7.7

Source: ONS (2011b).

Notes: See Figure 9 for a discussion of the interpretation of this data.

- 1 Cause of death was defined using the International Classification of Diseases, Ninth Revision (ICD-9) for the years 1997-2000, and the International Classification of Diseases, Tenth Revision (ICD-10) for 2001 onwards. The ICD codes used are shown in the definitions worksheet. Deaths were included where the specified cause was the underlying cause of death. The introduction of ICD-10 in 2001 means that the numbers of deaths from these causes before 2001 are not completely comparable with later years.
- 2 'Care home' includes a variety of NHS, local authority and private nursing/care/residential homes; 'Hospital' includes NHS hospitals (excluding psychiatric hospitals) or multifunction sites, and military and other non-NHS hospitals; 'Other' includes any other place e.g. other types of communal establishment (such as psychiatric hospitals or hospices), at home (at a private residential address) and elsewhere.
- 3 Figures for England and Wales include deaths of non-residents.
- 4 Figures are for deaths registered in each calendar year.
- 5 Age-standardised mortality rates per 1 million population, standardised to the European Standard Population. Age-standardised rates are used to allow comparison between populations which may contain different proportions of people of different ages, and so also allow comparisons over time.
- 6 The lower and upper confidence limits have been provided. These form a confidence interval, which is a measure of the statistical precision of an estimate and show the range of uncertainty around the estimated figure. Calculations based on small numbers of events are often subject to random fluctuations. As a general rule, if the confidence interval around one figure overlaps with the interval around another, we cannot say with certainty that there is more than a chance difference between the two figures. Data for c. difficile is not available for 1997, 1998 and 2000 due to the use of ICD-9. Data is available for 1999 because a special coding exercise was carried out. *Rates are not calculated where there are fewer than 10 deaths.

Table 32: Deaths caused by malnutrition in Scotland

Figures for deaths by malnutrition in Scotland were released in August 2009 following a parliamentary question by the West of Scotland MSP. In 2009, there were 15 deaths in hospitals where malnutrition was the principal cause of death and a further 67 cases where it was a contributory factor. The number of people dying from malnutrition has remained relatively steady since 2005. The 2009 figures show that over-75 year olds were the most susceptible and that Greater Glasgow and Clyde was the area where the largest number of deaths occurred.

Source: The Scotsman (2010).

Indicator 8: Spotlight statistics: Protection from third party violations – homicide within society, community and families

Table 33: Offences currently¹ recorded as homicide by age and sex of victim, 1999-2000 to 2009-10. England and Wales recorded crime

Age of victim	Sex	1999-2000		2000-01 ²		2001-02		2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-11		2009-10	
		Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.
Under 1 year	M	18	56	22	71	11	37	14	46	18	58	11	34	14	43	10	30	10	29	12	33	11	31
	F	13	43	23	78	5	17	17	59	8	27	11	36	7	22	6	19	11	33	6	17	12	35
1 to 4 years	T	31	50	45	75	16	27	31	53	26	43	22	35	21	33	16	24	21	31	18	26	23	33
	M	7	5	14	11	14	11	15	12	10	8	10	8	5	4	15	12	12	9	8	6	7	5
5 to 15 years	F	4	3	6	5	5	4	11	9	9	8	8	7	4	3	8	7	8	6	8	6	10	8
	T	11	4	20	8	19	8	26	11	19	8	18	8	9	4	23	9	20	8	16	6	17	6
16 to 29 years	M	14	4	20	5	20	5	10	3	16	4	11	3	8	2	16	4	16	4	9	3	9	3
	F	9	2	10	3	7	2	24	7	10	3	10	3	9	3	11	3	6	2	6	2	3	1
30 to 49 years	T	23	3	30	4	27	4	34	5	26	4	21	3	17	2	27	4	22	3	15	2	12	2
	M	148	32	160	35	182	39	151	32	172	37	190	40	165	34	175	35	186	36	163	31	138	26
	F	49	11	60	13	62	14	58	13	54	12	61	13	76	16	52	11	50	10	48	10	39	8
	T	197	21	220	24	244	26	209	23	226	24	251	27	241	25	227	23	236	23	211	21	177	17
	M	182	25	194	26	225	30	213	28	230	30	197	26	178	23	212	28	223	29	164	21	165	22
	F	77	10	82	11	92	12	83	11	72	9	73	9	88	11	74	10	67	9	59	8	72	9
	T	259	17	276	18	317	21	296	19	302	20	270	18	266	17	286	18	290	19	223	15	237	15

Continued

Table 33: Offences currently¹ recorded as homicide by age and sex of victim, 1999-2000 to 2009-10 . England and Wales recorded crime (*continued*)

Age of victim	Sex	1999-2000		2000-01 ²		2001-02		2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-11		2009-10	
		Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.	Number	Rate per million pop.
50 to 69 years	M	60	11	56	10	73	13	71	13	83	15	96	17	76	13	73	12	80	14	82	14	70	12
	F	31	5	18	3	35	6	59	10	39	7	36	6	28	5	29	5	32	5	30	5	33	5
	T	91	8	74	7	108	9	130	11	122	10	132	11	104	9	102	9	112	9	112	9	103	8
70 years and over	M	16	7	18	8	24	10	62	25	21	9	29	12	22	9	17	7	14	5	13	5	21	8
	F	44	12	24	7	39	11	155	43	30	8	31	9	27	7	17	5	29	8	36	10	29	8
	T	60	10	42	7	63	10	217	36	51	8	60	10	49	8	34	5	43	7	49	8	50	8
Total all ages	M	445	18	538	21	549	21	536	21	550	21	549	21	468	18	518	20	541	20	451	17	421	16
	%	66		70		69		57		71		70		66		72		73		70		68	
	F	227	9	227	9	245	9	407	15	222	8	231	9	241	9	197	7	203	7	193	7	198	7
	%	34		30		31		43		29		30		34		28		27		30		32	
	T	672	13	765	15	794	15	943	18	772	15	780	15	709	13	715	13	744	14	644	12	619	11

Source: Ministry of Justice (MoJ) (2011a).

Notes:

- 1 As at 28 September 2010; figures are subject to revision as cases are dealt with by the police and the courts, or as further information becomes available.
- 2 For the year 2000-01 there were 58 victims (54 male and 4 female) of unknown age.
- 3 For the year 2004-05 there were 6 victims of unknown age.
- 4 For the year 2005-06 there were 2 victims of unknown age.

Table 34: Relationship of currently recorded homicide victims¹ to principal suspect by ethnic appearance of victim: England and Wales, combined data for 2005-06 to 2007-08

	Ethnic appearance of victim					Total
	White	Black	Asian	Other	Unknown	
Relationship of victim to principal suspect						
Family	465	35	42	15	19	576
Of which:						
Spouse/lover	282	12	21	9	9	333
Other known	433	67	40	20	9	569
Stranger ^{2, 3}	538	98	65	26	49	776
Total with current suspect	1,436	200	147	61	77	1,921
No current suspect ⁴	193	54	30	8	22	307
Total	1,629	254	177	69	99	2,228

Source: MoJ (2009a), Table 3.6.

Notes:

- 1 Offences recorded as homicide as at 4 November 2008; figures are subject to revision as cases are dealt with by the police and the courts, or as further information becomes available.
- 2 Includes cases where victim's relationship to principal suspect is not known.
- 3 Total includes 52 victims of the 7 July 2005 London bombings.
- 4 Unlike Table 3.5 [in the original source document] , excludes cases where a former principal suspect has been acquitted, etc., and is based upon the all victims 'no suspect' row of Table 1.05 in Povey et al. (2009) *Homicides, Firearm Offences and Intimate Violence 2007/08*.

**Table 35: Homicides currently¹ recorded for all victims by relationship of victim to principal suspect, 1999-2000 to 2009-10.
Recorded crime for England and Wales**

Numbers	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Male victims											
Victim acquainted with suspect											
Son or daughter	31	43	31	27	19	14	16	22	27	23	17
Parent	9	6	10	12	23	15	14	7	14	9	10
Partner/ex-partner	23	26	29	30	26	39	22	30	34	31	21
Other family	17	18	13	10	15	16	15	14	16	9	19
Friend/acquaintance	139	142	154	134	168	176	138	179	185	169	145
Total known	219	235	237	213	251	260	205	252	276	241	212
Victim not acquainted with suspect											
Stranger ²	152	221	214	241	234	238	210	199	198	166	148
No suspect	74	82	98	82	65	51	53	67	67	44	61
Total not known	226	303	312	323	299	289	263	266	265	210	209
Total	445	538	549	536	550	549	468	518	541	451	421
											Continued

**Table 35: Homicides currently¹ recorded for all victims by relationship of victim to principal suspect, 1999-2000 to 2009-10.
Recorded crime for England and Wales (*continued*)**

Numbers	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Female victims											
Victim acquainted with suspect											
Son or daughter	19	38	12	27	18	21	13	18	19	13	23
Parent	6	5	12	11	9	7	6	3	12	12	11
Partner/ex-partner	89	101	118	106	96	105	90	91	79	101	95
Other family	5	8	9	8	7	9	6	5	16	5	7
Friend/acquaintance	25	24	30	39	26	32	30	23	28	18	14
Total known	144	176	181	191	156	174	145	140	154	149	150
Victim not acquainted with suspect											
Stranger ²	66	43	40	186	51	42	74	36	28	25	26
No suspect	17	8	24	30	15	15	22	21	21	19	22
Total not known	83	51	64	216	66	57	96	57	49	44	48
Total	227	227	245	407	222	231	241	197	203	193	198
											Continued

**Table 35: Homicides currently¹ recorded for all victims by relationship of victim to principal suspect, 1999-2000 to 2009-10.
Recorded crime for England and Wales (*continued*)**

Percentages	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Male victims											
Victim acquainted with suspect											
Son or daughter	7	8	6	5	3	3	3	4	5	5	4
Parent	2	1	2	2	4	3	3	1	3	2	2
Partner/ex-partner	5	5	5	6	5	7	5	6	6	7	5
Other family	4	3	2	2	3	3	3	3	3	2	5
Friend/acquaintance	31	26	28	25	31	32	29	35	34	37	34
Total known	49	44	43	40	46	47	44	49	51	53	50
Victim not acquainted with suspect											
Stranger ²	34	41	39	45	43	43	45	38	37	37	35
No suspect	17	15	18	15	12	9	11	13	12	10	14
Total not known	51	56	57	60	54	53	56	51	49	47	50
Total	100	100	100	100	100	100	100	100	100	100	100

Continued

Table 35: Homicides currently¹ recorded for all victims by relationship of victim to principal suspect, 1999-2000 to 2009-10. Recorded crime for England and Wales (*continued*)

Percentages	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Female victims											
Victim acquainted with suspect											
Son or daughter	8	17	5	7	8	9	5	9	9	7	12
Parent	3	2	5	3	4	3	2	2	6	6	6
Partner/ex-partner	39	44	48	26	43	45	37	46	39	52	48
Other family	2	4	4	2	3	4	2	3	8	3	4
Friend/acquaintance	11	11	12	10	12	14	12	12	14	9	7
Total known	63	78	74	47	70	75	60	71	76	77	76
Victim not acquainted with suspect											
Stranger ²	29	19	16	46	23	18	31	18	14	13	13
No suspect	7	4	10	7	7	6	9	11	10	10	11
Total not known	37	22	26	53	30	25	40	29	24	23	24
Total	100	100	100	100	100	100	100	100	100	100	100

Source: MoJ (2011a).

Notes:

1 As at 28 September 2010; figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available.

2 Includes not known.

Table 36: Homicides currently¹ recorded for victims under 16 years by relationship of victim to principal suspect, 1999-2000 – 2009-10. Recorded crime for England and Wales

Numbers	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Male victims											
Victim acquainted with suspect											
Son or daughter	29	41	30	26	18	12	15	21	24	20	16
Other family/friend/acquaintance	3	5	6	2	10	7	8	6	7	5	2
Total acquainted	32	46	36	28	28	19	23	27	31	25	18
Victim not acquainted with suspect											
Stranger ²	4	7	3	6	11	7	3	7	6	1	2
No suspect	3	3	6	5	5	6	1	7	1	3	7
Total not acquainted	7	10	9	11	16	13	4	14	7	4	9
Total	39	56	45	39	44	32	27	41	38	29	27

Continued

Table 36: Homicides currently¹ recorded for victims under 16 years by relationship of victim to principal suspect, 1999-2000 – 2009-10. Recorded crime for England and Wales (*continued*)

Numbers	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Female victims											
Victim acquainted with suspect											
Son or daughter	19	34	10	25	16	19	10	17	16	12	20
Other family/friend/acquaintance	1	2	3	9	2	4	2	2	5	3	1
Total acquainted	20	36	13	34	18	23	12	19	21	15	21
Victim not acquainted with suspect											
Stranger ²	5	3	3	11	4	2	6	2	1	1	1
No suspect	1		1	7	5	4	2	4	3	4	3
Total not acquainted	6	3	4	18	9	6	8	6	4	5	4
Total	26	39	17	52	27	29	20	25	25	20	25

Continued

Table 36: Homicides currently¹ recorded for victims under 16 years by relationship of victim to principal suspect, 1999-2000 – 2009-10. Recorded crime for England and Wales (*continued*)

Percentages	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Male victims											
Victim acquainted with suspect											
Son or daughter	74	73	67	67	41	38	56	51	63	69	59
Other family/friend/acquaintance	8	9	13	5	23	22	30	15	18	17	7
Total acquainted	82	82	80	72	64	59	85	66	82	86	67
Victim not acquainted with suspect											
Stranger ²	10	13	7	15	25	22	11	17	16	3	7
No suspect	8	5	13	13	11	19	4	17	3	10	26
Total not acquainted	18	18	20	28	36	41	15	34	18	14	33
Total	100	100	100	100	100	100	100	100	100	100	100

Continued

Table 36: Homicides currently¹ recorded for victims under 16 years by relationship of victim to principal suspect, 1999-2000 – 2009-10. Recorded crime for England and Wales (*continued*)

Percentages	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Female victims											
Victim acquainted with suspect											
Son or daughter	73	87	59	48	59	66	50	68	64	60	80
Other family/friend/acquaintance	4	5	18	17	7	14	10	8	20	15	4
Total acquainted	77	92	76	65	67	79	60	76	84	75	84
Victim not acquainted with suspect											
Stranger ²	19	8	18	21	15	7	30	8	4	5	4
No suspect	4	0	6	13	19	14	10	16	12	20	12
Total not acquainted	23	8	24	35	33	21	40	24	16	25	16
Total	100	100	100	100	100	100	100	100	100	100	100

Source: MoJ (2011a).

Notes:

1 As at 28 September 2010; figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available.

2 Includes not known.

Table 37: Homicide by relationship of victim to principal suspect, all victims, Scotland, recorded crime in 1998-99, 2003-04 and 2008-09

Relationship	Sex of victim	1998-99		2003-04		2008-09	
		N	% of all	N	% of all	N	% of all
Partner/ex-partner	M	8	11.3	1	1.1	5	7.4
	F	9	42.9	4	28.6	13	46.4
Relative (parent, son, daughter, other blood relative)	M	8	11.3	9	9.7	9	13.2
	F	2	9.5	5	35.7	2	7.1
Acquaintance	M	42	59.2	55	59.1	44	64.7
	F	6	28.6	2	14.3	8	28.6
Total known	M	58	81.7	65	69.9	58	85.3
	F	17	81.0	11	78.6	23	82.1
Total unknown (stranger/relationship not known)	M	13	18.3	28	30.1	10	14.7
	F	4	19.0	3	21.4	5	17.9
Total known and unknown (solved cases)	M	71	100	93	100	68	100
	F	21	100	14	100	28	100
Total		92		107		96	

Source: Walby et al. (2010), Table 4.2).

Notes: Data from the Scottish Government. This table includes all victims, including those under 16 years old. The figures are of solved cases. Prior to 2000-01, ex-partner does not necessarily include ex-boyfriend/girlfriend as these may have been recorded as simply acquaintances. Comment from Walby (2010: 23): 'Domestic homicides in Scotland are disproportionately committed against women. For Scotland in 2008/09, 46% of all female homicide victims were killed by a partner or ex-partner, with an additional 7% by another family member. The respective numbers were 7% and 13%.' Original source cited as Scottish Government.

Indicator 9: Spotlight statistics: Premature mortality within families, community and society

Table 38: Period life expectancy by age, country and gender, 2007-09

	England				Wales				Scotland			
	Birth	20	50	80	Birth	20	50	80	Birth	20	50	80
Male	78.0	58.7	30.4	8.0	77.1	57.8	29.7	7.8	75.3	56.0	28.4	7.4
Female	82.1	62.7	33.7	9.4	81.4	62.0	33.0	9.2	80.1	60.6	31.9	8.7

Source: ONS (2010c).

Table 39: Life expectancy at birth and at age 65 (years) in Government Office Regions, by gender, 2007-09

GOR	Males		Females	
	Birth	65 years	Birth	65 years
North East	76.8	17.0	80.9	19.5
North West	76.6	17.0	80.8	19.5
Yorkshire and The Humber	77.4	17.5	81.5	20.0
East Midlands	78.1	17.8	82.1	20.4
West Midlands	77.5	17.7	81.9	20.4
East of England	79.3	18.5	83.0	21.0
London	78.6	18.4	83.1	21.2
South East	79.4	18.7	83.3	21.3
South West	79.2	18.6	83.3	21.3

Source: ONS (2010c).

Table 40: Life expectancy at birth and at age 65 (years) in council areas in Scotland, by gender, 2007-09

Council area	Males		Females	
	Birth	65 years	Birth	65 years
Aberdeen City	75.7	16.4	80.6	19.1
Aberdeenshire	78.0	17.8	81.4	19.8
Angus	76.9	17.7	80.6	19.5
Argyll & Bute	76.5	17.1	80.4	19.6
Clackmannanshire	75.0	15.9	80.9	19.5
Dumfries & Galloway	76.8	17.4	80.6	19.6
Dundee City	73.7	16.7	79.4	19.4
East Ayrshire	74.6	15.9	78.8	18.5
East Dunbartonshire	78.3	18.3	83.1	20.9
East Lothian	76.7	17.0	81.2	19.4
East Renfrewshire	77.8	17.5	82.0	20.4
Edinburgh, City of	76.9	17.5	81.5	20.2
Na h-Eileanan an Iar	73.5	15.7	82.0	20.5
Falkirk	75.9	16.4	79.8	18.4
Fife	76.1	16.8	80.4	19.4
Glasgow City	71.1	13.9	77.5	17.6
Highland	76.3	17.4	81.2	19.8
Inverclyde	73.1	15.5	79.0	18.8
Midlothian	76.6	16.6	81.3	19.2
Moray	76.7	17.1	80.9	19.7
North Ayrshire	74.0	15.9	79.2	18.5
North Lanarkshire	73.7	15.4	78.5	17.9

Continued

Table 40: Life expectancy at birth and at age 65 (years) in council areas in Scotland, by gender, 2007-09 (continued)

Council area	Males		Females	
	Birth	65 years	Birth	65 years
Orkney Islands	75.5	16.4	81.7	19.4
Perth & Kinross	78.2	18.0	81.8	20.1
Renfrewshire	73.7	15.7	79.2	18.2
Scottish Borders	77.1	17.3	81.2	19.5
Shetland Islands	76.2	18.0	81.8	20.7
South Ayrshire	75.9	17.2	80.9	19.6
South Lanarkshire	74.9	15.9	79.9	18.8
Stirling	77.3	17.7	81.8	19.8
West Dunbartonshire	72.5	15.3	78.4	17.9
West Lothian	76.0	16.3	79.7	18.6

Source: ONS (2010c).

Table 41: Life expectancy at birth and at age 65 (years) in local authorities in Wales, by gender, 2007-09

Local authority	Males		Females	
	Birth	65 years	Birth	65 years
Isle of Anglesey/Ynys Môn	76.7	17.4	81.9	20.4
Gwynedd/Gwynedd	77.3	17.4	82.0	20.4
Conwy/Conwy	77.1	17.9	81.5	20.5
Denbighshire/Sir Ddinbych	77.9	18.2	81.3	20.1
Flintshire/Sir y Fflint	78.1	17.5	82.0	20.2
Wrexham/Wreccsam	77.4	17.4	81.2	19.8
Powys/Powys	79.5	18.6	83.2	21.4
Ceredigion/Ceredigion	80.4	19.9	84.1	22.3
Pembrokeshire/Sir Benfro	77.3	17.6	82.2	20.3
Carmarthenshire/Sir Gaerfyrddin	77.3	17.3	81.3	20.0
Swansea/Abertawe	76.9	17.5	81.6	20.2
Neath Port Talbot/Castell-nedd Port Talbot	76.2	16.9	80.7	19.6
Bridgend/Pen-y-bont ar Ogwr	76.4	16.9	81.2	19.9
The Vale of Glamorgan/Bro Morgannwg	78.2	18.0	82.6	20.9
Cardiff/Caerdydd	77.0	17.2	81.8	20.3
Rhondda Cynon Taf/Rhondda Cynon Taf	75.5	16.4	80.0	18.8
Merthyr Tydfil/Merthyr Tudful	74.6	16.0	79.3	19.0
Caerphilly/Caerffili	76.1	16.5	81.1	19.5
Blaenau Gwent/Blaenau Gwent	75.6	16.4	79.1	18.5
Torfaen/Tor-faen	76.8	17.0	81.0	20.0
Monmouthshire/Sir Fynwy	79.5	18.7	83.3	21.5
Newport/Casnewydd	76.7	17.0	81.8	20.3

Source: ONS (2010c).

Table 42: Local areas with the highest and lowest male life expectancy at birth, United Kingdom, 2007-09^{1, 2}

Rank	Local area	Country/Government Office Region	Life expectancy at birth (years)
Highest life expectancy at birth			
1	Kensington and Chelsea	London	84.4
2	Westminster	London	83.4
3	Epsom and Ewell	South East	81.8
4	South Buckinghamshire	South East	81.7
5	Wokingham	South East	81.7
6	South Cambridgeshire	South East	81.6
7	Crawley	South East	81.6
8	Fareham	South East	81.4
9	Elmbridge	South East	81.4
10	East Dorset	South West	81.4
Lowest life expectancy at birth			
1	Glasgow City	Scotland	71.1
2	West Dunbartonshire	Scotland	72.5
3	Inverclyde	Scotland	73.1
4	Na h-Eileanan an Iar	Scotland	73.5
5	Belfast	Northern Ireland	73.5
6	Renfrewshire	Scotland	73.7
7	Blackpool	North West	73.7
8	Dundee City	Scotland	73.7
9	North Lanarkshire	Scotland	73.7
10	North Ayrshire	Scotland	74.0

Source: ONS (2010a).

Notes:

1 Based on boundaries as of 2010.

2 Three-year rolling average, based on deaths registered in calendar years and mid-year population estimates.

Table 43: Period life expectancy by social class, England and Wales, 2002-05

	At birth	At age 65
Social class – Men		
Professional	80.0	18.3
Managerial and technical/intermediate	79.4	18.0
Skilled non-manual	78.4	17.4
Skilled manual	76.5	16.3
Partly skilled	75.7	15.7
Unskilled	72.7	14.1
Social class – Women		
Professional	85.1	22.0
Managerial and technical/intermediate	83.2	21.0
Skilled non-manual	82.4	19.9
Skilled manual	80.5	18.7
Partly skilled	79.9	18.9
Unskilled	78.1	17.7

Source: ONS (2007), cited in Alkire et al. (2009).

Table 44: Infant mortality rates, England, Government Office Regions, 2009

	Number	Mortality rates ¹
England	3,110	4.6
North East	113	3.8
North West	427	4.9
Yorkshire and the Humber	366	5.5
East Midlands	274	5.1
West Midlands	429	6.0
East of England	288	4.0
London	579	4.5
South East	403	3.9
South West	231	4.0

Source: ONS (2010d).

Notes:

1 Infant deaths per 1,000 live births. Infant deaths include deaths under one year.

Table 45: Infant mortality rates, Scotland, NHS Area Boards, 2009¹

	Number	Rate ²
Ayrshire & Arran	18	4.6
Borders	3	2.6
Dumfries & Galloway	5	3.3
Fife	24	5.8
Forth Valley	14	4.2
Grampian	21	3.3
Greater Glasgow	55	3.9
Highland	12	3.8
Lanarkshire	20	3.0
Lothian	33	3.4
Orkney	1	5.0
Shetland	–	–
Tayside	29	6.7
Western Isles	–	–

Source: General Register Office for Scotland (GROS) (2010b).

Notes:

1 Provisional data.

2 Rate per 1,000 live births.

Table 46: Infant mortality rates, Wales, Welsh Local Health Boards, 2009

	Number	Mortality rates ¹
Wales	166	4.8
Betsi Cadwaladr University	44	5.7
Powys Teaching	5	4.0
Hywel Dda	15	3.9
Abertawe Bro Morgannwg University	19	3.3
Cwm Taf	20	5.6
Aneurin Bevan	31	4.6
Cardiff and Vale University	32	5.3

Source: ONS (2010d).

Notes:

1 Infant deaths per 1,000 live births. Infant deaths include deaths under one year. Mortality rates calculated from fewer than 20 deaths are distinguished by italic type as a warning that their reliability as a measure may be affected by the small number of events.

Table 47: Infant mortality rate (IMR) ethnic group: babies born in 2005, England and Wales

	Deaths	IMR
All²	3,200	5.0
Bangladeshi	34	4.2
Indian	93	5.8
Pakistani	231	9.6
African	118	6.0
Caribbean	73	9.8
White British	1,859	4.5
White Other	142	4.3
All other ethnic groups ³	271	5.4
Not stated	357	5.1

Source: ONS (2008b).

Notes:

- 1 Deaths under age one per 1,000 live births.
- 2 Includes birth and death registration records not linked to an NHS Numbers for Babies record.
- 3 Chinese, Other Asian, Other Black, Other, and all Mixed groups.

Table 48: Infant deaths by mother's country of birth, England and Wales, 2009

	Number	Rates ¹
All	3,141	4.4
United Kingdom	2,258	4.2
England and Wales	2,212	4.2
Scotland	28	4
Northern Ireland	15	6.8
Elsewhere	3	7.3
Outside the United Kingdom	883	5.1
Irish Republic	11	3.7
Other European Union	169	3.8
Rest of Europe	25	3.2
Commonwealth		
Australia, Canada and New Zealand	10	2.2
New Commonwealth	437	6.3
Asia		
Bangladesh	40	4.7
India	58	4.6
Pakistan	145	7.9
East Africa	36	8.9
Southern Africa	21	4.5
Rest of Africa	96	7.4
Far East	3	2.2
Caribbean	29	8.4
Rest of the New Commonwealth	9	2.4
United States of America	12	3.9
Rest of World and not stated	219	5.2

Source: ONS (2010b).

Notes:

1 Infant deaths per 1,000 live births.

Table 49: Infant mortality rates by father's Socio-economic Classification (NS-SEC), 2009 England and Wales^{1, 2}

	Number	Rates ³
All	2,899	4.4
Inside marriage⁴		
All ⁵	1,577	4.1
1.1 Large employers and higher managerial	116	3.3
1.2 Higher professional	169	3.2
2 Lower managerial and professional	312	3.5
3 Intermediate	123	5.3
4 Small employers and own account worker	195	3.7
5 Lower supervisory and technical	127	3.2
6 Semi-routine	205	5.4
7 Routine	181	5.6
Other ⁶	103	6.0
Outside marriage joint registration		
All ⁵	1,322	4.7
1.1 Large employers and higher managerial	22	2.3
1.2 Higher professional	32	2.6
2 Lower managerial and professional	132	3.1
3 Intermediate	72	4.9
4 Small employers and own account worker	163	3.8
5 Lower supervisory and technical	177	4.1
6 Semi-routine	216	5.6
7 Routine	257	4.8
Other ⁶	140	5.4

Source: ONS (2010b).

Notes:

- 1 Information on father's occupation is not collected for births outside marriage if the father does not attend the registration of the baby's birth. Figures for live births in NS-SEC groups are a 10 per cent sample coded for father's occupation.
- 2 NS-SEC based on father's occupation at death registration.
- 3 Stillbirths and perinatal deaths per 1,000 live births and stillbirths. Neonatal, postneonatal and infant deaths per 1,000 live births.
- 4 Inside marriage and outside marriage/joint registration only, including cases where father's occupation was not stated. Figures for sole registrations are excluded.
- 5 Includes cases where father's occupation was not stated.
- 6 Students; occupations inadequately described; occupations not classifiable for other reasons; never worked and long-term unemployed. Rates based on less than 10 deaths are in italics.

Table 50: Age-specific mortality rates of all children (aged 0-15) from accidents, by NS-SEC, age group and selected causes, England and Wales 2001-03^{1,2}, rate per million

Age group	0-1 ³	1-4	5-9	10-14	15	0-15	Pedestrian accidents	Drowning	Exposure to fire/hot substances		Suffocation
Higher managerial, professional	13	13	13	15	31	14	2	1	1	1	2
Large employers, higher managers	7	8	18	13	48	15	3	—	—	—	—
Higher professionals	17	17	9	16	15	14	2	2	—	—	—
Lower managerial, professional	26	10	10	22	54	18	3	2	1	1	3
Intermediate	21	27	6	33	77	25	6	3	1	1	4
Small employers, own account workers	91	35	14	29	44	29	7	3	—	—	5
Lower supervisory and technical	97	33	15	29	45	30	7	3	1	1	5
Semi-routine	69	34	28	48	91	42	9	4	4	4	8
Routine	226	63	46	56	65	64	17	5	10	10	13
'Non-occupied' ⁴	217	99	38	73	136	76	18	6	11	11	12
All children	66	32	19	36	67	33	7	3	3	3	6
Ratio 7:1	17.6	4.9	3.6	3.8	2.1	4.5	8.4	3.3	15.9	15.9	6.8
Ratio 'Non-occupied':1	16.9	7.8	2.9	4.9	4.4	5.3	8.9	4.1	18.4	18.4	6.3

Source: Siegler and Al-Hamad (2010), Tables 3 and 4.

Notes:

- Figures in the table are rounded to nearest integer.
- Age-specific mortality rates were not calculated where there were fewer than 3 deaths in a cell, denoted by a hyphen (-).
- Deaths at aged 0 only included postneonatal deaths (children at least 28 days but under one year).
- The 'Non-occupied' category includes 'never worked, long-term unemployed, full-time students, inadequately described and unclassified for other reasons.
- Figures in original table are presented with confidence intervals, refer to Siegler and Al-Hamad (2010) for further details.

Table 51: Deaths as a result of an unintentional injury, children aged under 15, by type of injury, Scotland, year ending 31 December 2009

Type of injury	1985	1990	1995	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number													
Total deaths	147	75	45	36	41	42	31	28	20	26	20	23	21
Road traffic accidents	64	44	28	19	19	13	15	13	10	15	6	18	4
Home	49	14	6	9	12	18	8	7	4	1	5	4	6
Other	34	17	11	8	10	11	8	8	6	10	9	1	11
Standardised death rate¹ per 100,000 population													
Total	7.9	4.8	2.8	2.0	2.7	2.3	2.5	2.2	1.3	2.0	1.2	1.7	1.2
Road traffic accidents	4.7	3.3	2.0	1.3	1.7	0.9	1.4	1.2	0.9	1.5	0.3	1.6	0.4
Home	1.3	0.4	0.1	0.2	0.4	0.5	0.4	0.2	0.0	0.0	0.1	0.1	0.3
Other	1.9	1.1	0.8	0.5	0.6	0.9	0.7	0.8	0.3	0.5	0.8	0.0	0.4

Source:IDS Scotland (2010).

Notes: Data from: GROS.

1 Directly standardised using the European standard population. Definitions available at: www.isdscotland.org/isd/4438.html

Table 52: Deaths as a result of an unintentional injury, children aged under 15, by deprivation quintile, number and standardised mortality ratios, Scotland, year ending 31 December, 2005-09

	Deprivation quintile					Total ¹
	1	2	3	4	5	
Number of deaths	28	16	29	19	13	105
Standardised mortality ratio	126.1	72.5	134.5	90.4	56.2	100.0
<i>Lower 95% confidence interval</i>	<i>79.4</i>	<i>37.0</i>	<i>85.5</i>	<i>49.8</i>	<i>25.6</i>	
<i>Upper 95% confidence interval</i>	<i>172.8</i>	<i>108.0</i>	<i>183.4</i>	<i>131.1</i>	<i>86.7</i>	

Source: IDS Scotland (2010).

Notes: Data from: GROS and Scottish Index of Multiple Deprivation (SIMD).

1 Excludes cases where deprivation quintile could not be assigned. Definitions available at: www.isdscotland.org/isd/4438.html

Table 53: Age-standardised suicide rates¹ (with 95 per cent confidence limits) by sex and age group, England², 1991-2009³

Year	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths
Males 15 and over				
1991	20.2	19.6	20.9	3,778
1992	20.0	19.4	20.7	3,756
1993	19.0	18.4	19.6	3,561
1994	18.5	17.9	19.1	3,507
1995	18.8	18.2	19.5	3,558
1996	17.8	17.2	18.4	3,412
1997	17.5	16.9	18.1	3,327
1998	19.8	19.2	20.5	3,777
1999	19.1	18.4	19.7	3,670
2000	18.1	17.5	18.7	3,497
2001	17.5	17.0	18.1	3,421
2002	16.8	16.2	17.4	3,292
2003	16.6	16.1	17.2	3,298
2004	16.5	16.0	17.1	3,295
2005	16.1	15.6	16.7	3,251
2006	15.4	14.9	15.9	3,131
2007	14.9	14.3	15.4	3,043
2008	15.8	15.3	16.4	3,263
2009	16.1	15.5	16.6	3,330

Continued

Table 53: Age-standardised suicide rates¹ (with 95 per cent confidence limits) by sex and age group, England², 1991-2009³ (*continued*)

Year	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths
Females 15 and over				
1991	6.5	6.1	6.8	1,331
1992	6.4	6.1	6.8	1,332
1993	6.1	5.8	6.5	1,290
1994	5.7	5.4	6.0	1,207
1995	5.7	5.4	6.1	1,202
1996	5.7	5.3	6.0	1,179
1997	5.7	5.3	6.0	1,171
1998	5.8	5.5	6.1	1,209
1999	5.7	5.4	6.0	1,201
2000	5.9	5.5	6.2	1,228
2001	5.3	5.0	5.6	1,131
2002	5.3	5.0	5.6	1,138
2003	5.3	5.0	5.6	1,132
2004	5.6	5.3	5.9	1,215
2005	5.4	5.1	5.7	1,157
2006	4.8	4.5	5.1	1,044
2007	4.4	4.1	4.7	950
2008	4.7	4.4	5.0	1,019
2009	4.8	4.5	5.1	1,060

Source: ONS (2011a).

Notes:

- 1 Rates per 100,000 population standardised to the European Standard Population.
- 2 Excludes deaths of non-residents.
- 3 Deaths registered in each calendar year. 'Suicide' is defined as deaths given an underlying cause of intentional self-harm or injury/poisoning of undetermined intent. In England and Wales, it has been customary to assume that most injuries and poisonings of undetermined intent are cases where the harm was self-inflicted but there was insufficient evidence to prove that the deceased deliberately intended to kill themselves (Adelstein and Mardon, 1975). This cannot be assumed in children due to the possibility that these deaths were caused by unverifiable accidents, neglect or abuse. Therefore, only adults aged 15 years and over are included in the figures.

Table 54: Age-standardised suicide rates¹ (with 95 per cent confidence limits) by sex and age group, Wales², 1991-2009³

Year	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths
Males 15 and over				
1991	22.6	19.8	25.4	247
1992	24.6	21.7	27.6	269
1993	20.6	17.9	23.2	228
1994	22.0	19.3	24.8	245
1995	23.8	20.9	26.7	264
1996	20.5	17.8	23.1	226
1997	19.4	16.8	22.0	214
1998	21.4	18.7	24.1	236
1999	24.6	21.6	27.5	268
2000	22.9	20.0	25.7	252
2001	23.1	20.2	25.9	253
2002	21.0	18.2	23.7	229
2003	23.4	20.6	26.3	254
2004	22.9	20.1	25.7	258
2005	18.8	16.3	21.3	213
2006	19.4	16.9	22.0	223
2007	20.3	17.7	22.9	232
2008	17.1	14.7	19.5	195
2009	17.4	15.0	19.8	201

Continued

Table 54: Age-standardised suicide rates¹ (with 95 per cent confidence limits) by sex and age group, Wales², 1991-2009³ (continued)

Year	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths
Females 15 and over				
1991	5.9	4.6	7.3	73
1992	6.2	4.9	7.6	78
1993	5.1	3.8	6.3	62
1994	5.6	4.4	6.9	75
1995	5.0	3.7	6.2	62
1996	4.5	3.3	5.7	55
1997	6.2	4.8	7.6	74
1998	6.5	5.1	7.9	82
1999	5.1	3.8	6.3	65
2000	5.6	4.3	7.0	68
2001	4.9	3.7	6.2	59
2002	5.8	4.5	7.2	75
2003	6.6	5.2	8.1	78
2004	5.8	4.4	7.1	72
2005	4.4	3.3	5.6	56
2006	6.3	4.9	7.7	77
2007	4.3	3.2	5.4	57
2008	5.8	4.5	7.2	71
2009	4.3	3.2	5.4	57

Source: ONS (2011a).

Notes:

- 1 Rates per 100,000 population standardised to the European Standard Population.
- 2 Excludes deaths of non-residents.
- 3 Deaths registered in each calendar year. 'Suicide' is defined as deaths given an underlying cause of intentional self-harm or injury/poisoning of undetermined intent. In England and Wales, it has been customary to assume that most injuries and poisonings of undetermined intent are cases where the harm was self-inflicted but there was insufficient evidence to prove that the deceased deliberately intended to kill themselves (Adelstein and Mardon, 1975). This cannot be assumed in children due to the possibility that these deaths were caused by unverifiable accidents, neglect or abuse. Therefore, only adults aged 15 years and over are included in the figures.

Table 55: Age-standardised suicide rates¹ (with 95 per cent confidence limits), Government Office Regions², 2009³

GOR	Males				Females			
	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths	Rate per 100,000 population	Lower confidence limit	Upper confidence limit	Number of deaths
North East	19.2	16.5	21.9	194	4.0	2.8	5.2	43
North West	19.8	18.1	21.5	538	5.9	5.0	6.8	167
Yorkshire and the Humber	15.4	13.7	17.1	321	3.6	2.8	4.4	80
East Midlands	15.2	13.4	17.0	270	5.3	4.3	6.3	103
West Midlands	15.8	14.1	17.5	336	4.7	3.8	5.6	110
East of England	13.7	12.2	15.2	321	4.2	3.4	5.0	102
London	13.6	12.3	14.9	431	4.4	3.7	5.1	139
South East	15.9	14.5	17.2	530	5.2	4.5	6.0	191
South West	18.9	17.0	20.8	389	5.7	4.7	6.7	125

Source: ONS (2011a).

Notes:

- 1 Rates per 100,000 population standardised to the European Standard Population.
- 2 Excludes deaths of non-residents.
- 3 Deaths registered in each calendar year. 'Suicide' is defined as deaths given an underlying cause of intentional self-harm or injury/ poisoning of undetermined intent. In England and Wales, it has been customary to assume that most injuries and poisonings of undetermined intent are cases where the harm was self-inflicted but there was insufficient evidence to prove that the deceased deliberately intended to kill themselves (Adelstein and Mardon, 1975). This cannot be assumed in children due to the possibility that these deaths were caused by unverifiable accidents, neglect or abuse. Therefore, only adults aged 15 years and over are included in the figures.

Table 56: Deaths for which the underlying cause was classified as ‘intentional self-harm’ or ‘event of undetermined intent’ by current local authority area: registered in Scotland, 2009

Region	Number	Region	Number	Region	Number
All Scotland	746	East Renfrewshire	7	North Lanarkshire	49
Aberdeen City	34	Edinburgh City	64	Orkney Islands	2
Aberdeen-shire	29	Eilean Siar	3	Perth & Kinross	14
Angus	11	Falkirk	19	Renfrewshire	34
Argyll & Bute	19	Fife	50	Scottish Borders	13
Clackmannanshire	4	Glasgow City	116	Shetland Islands	4
Dumfries & Galloway	24	Highland	32	South Ayrshire	10
Dundee City	23	Inverclyde	11	South Lanarkshire	44
East Ayrshire	15	Midlothian	9	Stirling	9
East Dunbartonshire	9	Moray	17	West Dunbartonshire	14
East Lothian	13	North Ayrshire	24	West Lothian	20

Source: GROS (2010a).

Table 57: Deaths for which the underlying cause was classified as ‘intentional self-harm’ or ‘event of undetermined intent’ by sex and by type of cause: registered in Scotland, 2009

All such deaths		Sex		Type of cause	
Number registered in year		Males	Females	Intentional self-harm	Undetermined intent
Number	746	549	197	568	178

Source: GROS (2010a).

Notes: In mid-2009, the balance between ‘intentional self-harm’ and ‘undetermined intent’ was altered by a change in how Crown Office and Procurator Fiscal Service (COPFS) provides information about suicides. See www.gro-scotland.gov.uk/statistics/theme/vital-events/deaths/suicides/definition-of-stats/how-nrs-classifies/index.html

Table 58: Age-standardised suicide rates by deprivation twentieth and sex, people aged 15 and over, England and Wales, 1999-2003

Deprivation twentieth	Rate per 100,000 population	
	Men	Women
1 (most affluent)	11.9	3.6
2	11.7	4.5
3	13.7	4.5
4	13.2	5.0
5	15.0	3.9
6	15.0	5.0
7	14.8	5.1
8	16.9	4.9
9	17.2	5.0
10	17.2	5.6
11	17.6	6.0
12	17.8	5.6
13	18.7	5.7
14	21.1	5.5
15	20.8	6.3
16	22.0	6.3
17	23.1	6.7
18	22.1	6.1
19	22.2	7.0
20 (most deprived)	25.4	7.4

Source: Brock et al. (2006), cited in Allmark (2010).

Notes: The ONS data from which Brocke created this table states that Carstairs scores provide an index of deprivation at ward level based on an unweighted combination of four census variables: unemployment, overcrowding, car ownership and low Social Class (Social Class IV and V). Originally calculated using the 1981 Census, and subsequently updated following the 1991 Census, the version used here is based on the 2001 Census. All the variables except for low Social Class are the same as in 1991. Social Class was replaced in the 2001 Census by the National Statistics Socio-economic Classification (NS-SEC). The NS-SEC categories have been matched to Social Class IV and V. (Available at: www.statistics.gov.uk/statbase/Product.asp?vlnk=14068&More=Y_) (accessed 4 November 2010).

Table 59: Deaths caused by intentional self harm and events of undetermined intent by gender and Scottish Index of Multiple Deprivation, Scotland, 2000-09

	Numbers		Crude rates		European age-standardised rates (95% confidence intervals)	
	2000-04	2005-09	2000-04	2005-09	2000-04	2005-09
Males						
10 (most affluent)	145	142	11.5	11.2	11 (9.3-13)	11 (9.2-13)
9	148	139	11.9	10.8	11.6 (9.8-13.6)	10.2 (8.5-12)
8	199	221	16.6	17.5	16.1 (13.9-18.5)	16.6 (14.5-19)
7	229	241	18.8	19.0	18.4 (16.1-21)	18.1 (15.9-20.6)
6	288	249	23.4	19.7	22.8 (20.2-25.6)	18.9 (16.6-21.4)
5	288	258	23.3	20.4	22.8 (20.3-25.6)	19.6 (17.2-22.1)
4	361	326	29.0	26.1	28.5 (25.6-31.6)	25.3 (22.6-28.2)
3	372	382	29.9	30.9	29.7 (26.7-32.9)	30.3 (27.3-33.5)
2	443	418	35.4	34.0	35.8 (32.5-39.3)	34 (30.8-37.5)
1 (most deprived)	606	548	48.1	44.8	49.5 (45.6-53.6)	45.4 (41.6-49.3)
Unknown	103	16	-	-	-	-
Scotland	3,182	2,940	25.7	23.4	25.3 (24.4-26.2)	22.9 (22-23.7)

Continued

Table 59: Deaths caused by intentional self harm and events of undetermined intent by gender and Scottish Index of Multiple Deprivation, Scotland, 2000-09 (*continued*)

	Numbers		Crude rates		European age-standardised rates (95% confidence intervals)	
	2000-04	2005-09	2000-04	2005-09	2000-04	2005-09
Females						
10 (most affluent)	57	47	4.3	3.5	3.9 (3-5.1)	3.2 (2.3-4.2)
9	56	42	4.3	3.2	4.2 (3.1-5.4)	2.8 (2-3.8)
8	66	72	5.2	5.4	4.8 (3.7-6.1)	5.1 (3.9-6.4)
7	77	68	6.0	5.1	5.7 (4.5-7.2)	4.8 (3.7-6.1)
6	98	97	7.6	7.3	7.3 (5.9-8.9)	6.9 (5.6-8.4)
5	116	107	8.8	8.0	8.5 (7-10.2)	7.8 (6.4-9.5)
4	110	103	8.1	7.6	7.7 (6.3-9.3)	7.4 (6-9)
3	133	120	9.7	8.8	9.6 (8-11.4)	8.7 (7.2-10.4)
2	147	150	10.5	11.0	10.5 (8.9-12.4)	11.2 (9.5-13.2)
1 (most deprived)	233	207	16.3	15.1	16.7 (14.6-19)	15.2 (13.1-17.4)
Unknown	17	2	-	-	-	-
Scotland	1,110	1,015	8.3	7.6	8.1 (7.6-8.6)	7.3 (6.9-7.8)

Source: Scottish Public Health Observatory (2010a).

Notes: Data from the GROS. **Crude rates**: these are the number of deaths divided by the SIMD population estimate for each sex/year group. The rate per 100,000 population is displayed. **European age-standardised rates (EASRs)**: In order to compare rates in populations with different age structures (ie different areas or over time), rates can be age-standardised by applying a 'standard population'. The standardised rate is calculated by multiplying each crude age-specific rate by the corresponding age group weight from the standard population (in this case the hypothetical European Standard) and then summing up these values over all ages. The rate per 100,000 population is displayed. **Confidence Intervals for the EASRs**: Describes the degree of uncertainty around the EASR. The width of the confidence interval depends on the sample size from which the estimate is derived and the underlying variability in the data. A 95% confidence interval implies that 95 times out of 100 the interval will include the true underlying rate.

Notes:

- 1 The figures shown are based on deaths registered in Scotland. This equates to all deaths that occurred in Scotland and thus, the figures are likely to include a small proportion of deaths for persons who are not residents of Scotland. It is also worth noting that the figures do not relate to deaths in the actual year of death, but to deaths registered in the year. This is important to be aware of because, although the majority of deaths registered in a year will have occurred in that year, a minority will have occurred in the previous year.
- 2 Details of the SIMD 2009 are available at www.scotland.gov.uk/Topics/Statistics/SIMD. These are devised at the datazone geography. Population estimates for 2009 at datazone level are not yet available, therefore, we have estimated rates and EASRs for 2009 using 2008 population estimates.
- 3 For analyses using SIMD 2009, ISD have changed their labelling and now label the categories as 1=most deprived to 5/10=least deprived. Our policy of population-weighting the quintiles remains unchanged, so the datazones contained within each quintile/decile will differ slightly to those presented in Scottish Government releases.

Table 60: Estimated rates of maternal deaths by type and ethnic group, England, 2006-08

Ethnic group	Estimated death rate (direct and indirect) per 100, 000 maternities	95% confidence interval for death rate
White	8.51	7.28-9.96
Mixed	6.08	1.52-24.31
Black	28.05	20.14-39.07
Caribbean	31.89	15.95-63.76
African	32.82	22.17-48.57
Other	8.51	2.13-34.02
Asian	12.24	8.14-18.43
Indian	12.52	6.26-25.04
Pakistani	14.27	8.29-24.58
Bangladehsi	6.08	1.52-24.32
Chinese	15.11	3.78-60.40
Other	7.97	3.99-15.94

Source: Centre for Maternal and Child Enquiries (2011: Table 1.20). Saving Mothers' Lives.¹⁶⁹

Table 61: Estimated rates of maternal deaths by National Statistics Socio-Economic Classification (NS SEC), England and Wales, 2006-08

Social class of husband and partner and partnership status	Estimated death rate (direct and indirect) per 100, 000 maternities	95% confidence interval for death rate
Managerial and professional	6.48	4.65-9.03
Intermediate	13.56	9.48-19.39
Routine and manual	14.87	11.27-19.62
All employed	10.48	8.73-12.58
Unemployed, unclassifiable or not stated	60.15	42.54-85.06
All women with partners	12.78	10.87-15.02

Source: Centre for Maternal and Child Enquiries (2011, Table 1.22).¹⁷⁰

Table 62: Gypsies and Travellers: Evidence on premature mortality

Parry et al. (2004) report an excess prevalence of miscarriages, stillbirths, neonatal deaths and premature death of older offspring in the Gypsy Traveller group compared with other groups. A recent review of the evidence in relation to differentials in life expectancy is provided in Cemlyn et al. (2009: 50) who highlight decreased life expectancy for the Irish Traveller sub-population.

Indicator 10: Spotlight statistics: Public attitudes, understanding and experiences

Table 63: Public attitudes towards ‘being protected if your life is under threat’

	Which of the following, if any, would you say are the most important values for living in Britain today?	And which four of five, if any, are most important to you personally?	And which, if any, do you consider to be fundamental human rights?
	%	%	%
Bring protected if your life is under threat	58	35	44

Source: Kaur-Ballagan et al. (2009), Charts 1, 2 and 3.

Notes: This data is based on a demographically representative, face-to-face omnibus survey with 1,994 British adults over the age of 16 undertaken in August 2008.

Chapter notes

- 43 The status of UN treaty ratification is drawn from the UN Treaty Database, www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet (accessed 4 November 2010). The status of European treaty ratification is drawn from the Council of Europe Treaty Office website, conventions.coe.int/ (accessed 4 November 2010). When a state signs an international treaty this signals its preliminary endorsement of the treaty, it does not create a binding legal obligation. A state which ratifies or accedes to a treaty is asserting that it considers itself to be legally bound by the treaty. Ratification requires the state to have previously signed the treaty, whereas accession is a single step which does not require previous signing. It should be noted that a treaty which has been acceded to or ratified by the UK does not automatically become part of the domestic law; separate legislative action is required to incorporate international law into domestic law (for example, the HRA making the ECHR enforceable in the UK). Nonetheless, ratification or accession is a state's expression that it consents to be legally bound by the treaty, including respecting and implementing its provisions.
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[ministerial-board/](http://iapdeathsincustody.independent.gov.uk/about/ministerial-council-on-deaths-in-custody/ministerial-board/). Terms of reference include all types of death in state custody – in prisons,
in or following policy custody, immigration detention, the deaths of residents of approved
premises and the deaths of those detained under the Mental Health Act in hospital.
75 Providing independent advice and expertise to the Ministerial Board on Deaths in Custody.
76 All recommendations arising from the inquiries are held at [www.scotland.gov.uk/Topics/](http://www.scotland.gov.uk/Topics/Justice/law/fatalaccidentinquiries/Recommend)
[Justice/law/fatalaccidentinquiries/Recommend](http://www.scotland.gov.uk/Topics/Justice/law/fatalaccidentinquiries/Recommend)
77 The Optional Protocol of the Convention Against Torture (CAT) requires that states designate
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for detainees and to make recommendations regarding the prevention of ill-treatment. The
UK's NPM is currently made up of 18 visiting or inspecting bodies in the four different nations
of the UK, covering all forms of detention such as prisons, police custody, immigration
detention centres, children's secure accommodation and mental health institutions. The NPM
is coordinated by HMIP.
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139 www.scotcourts.gov.uk/opinions/fai_wu.html

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附錄 6：英國人權測量框架面板與證據基礎—適當生活

水平權

Chapter 12

The Right to an Adequate Standard of Living (Convention on the Rights of the Child, Article 27; International Covenant on Economic, Social and Cultural Rights, Article 11)

Please read Part II Guidance on using and interpreting the Human Rights Measurement Framework first.

12 The Right to an Adequate Standard of Living (Convention on the Rights of the Child (CRC), Article 27; International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 11)

Panel and indicators

Protection of the right to an adequate standard of living by the state, its agents or bodies fulfilling a public function				
Indicators	Adequate nutrition	Adequate housing	Adequate income/social security	Other basic needs
Structural (indicators of 'commitment in principle')	Indicator 71: Legal and constitutional framework <ul style="list-style-type: none"> Protection of the right to life in domestic law (including constitutional/'higher' law) Status of ratification of relevant international treaties Indicator 72: Legal precedents, gaps and standard-setting <ul style="list-style-type: none"> Principles established in key cases (domestic and ECHR) and international standard setting processes Gaps in protection and non-implementation of legal judgements and recommendations 			
Process (indicators of 'steps taken' – including legal, regulatory and public policy measures)	Indicator 73: Regulatory framework <ul style="list-style-type: none"> Key regulators, inspectorates and ombudsmen Relevant responsibilities and powers, national minimum standard frameworks and inspection/complaints-handling criteria Indicator 74: Public policy framework <ul style="list-style-type: none"> Primary legislation, policies, plans, targets and goals Codes and guidance Spotlight resource allocations 			

<p>Outcome (indicators of the position of individuals and groups in practice/emergence of a human rights 'culture')</p>	<p>Indicator 75: Outcomes of key judicial, regulatory and investigative processes</p> <ul style="list-style-type: none"> • Violations of the right to an adequate standard of living: Case law outcomes • Key concerns raised by human rights monitoring bodies • Outcomes of inspection, regulation and complaints procedures (includes established cases of neglect relating to deprivation in basic needs, outcomes of food hygiene/quality inspection processes, Audit Commission inspection results of local authority social housing provision) • Outcomes of other independent inquiries, investigations and reviews • Key allegations by private individuals and civil society organisations/reports in the media <p>Indicator 76: Spotlight statistics: Income poverty and material deprivation</p> <ul style="list-style-type: none"> • General population absolute and relative poverty measures, by ethnic group, older people, people with disabilities • Additional measures to capture the position of the most disadvantaged groups <p>Indicator 77: Spotlight statistics: Child income poverty and material deprivation – reporting against the Child Poverty Act targets (fulfilment of the child poverty duty)</p> <ul style="list-style-type: none"> • Reporting against national child poverty targets (absolute, relative, material deprivation) <p>Indicator 78: Spotlight statistics: Deprivation in other basic needs</p> <ul style="list-style-type: none"> • Fuel poverty • Homelessness • Average household expenditure on food by income deciles • Percentage of individuals living in sub-standard, unadapted or overcrowded accommodation • Gypsies and Travellers: housing conditions and evictions • Percentage of care leavers aged 19 who will not be going into suitable accommodation • Percentage of children living in bed and breakfast accommodation as allocated by the local authority • Utilities (discrimination and pricing issues) • Water and sanitation • Percentage living in poor environmental conditions <p>Indicator 79: Spotlight statistics: Adequate standard of living – at risk/vulnerable groups</p> <ul style="list-style-type: none"> • Numbers of 'children in need' and numbers of 'looked after children' with primary care category 'low income' (with breakdown by age and asylum-seeking status) • Use of vouchers to support asylum-seekers/destitution amongst undocumented migrants <p>Indicator 80: Spotlight statistics: Public attitudes, understanding and experiences</p> <ul style="list-style-type: none"> • Public attitudes towards the right to an adequate standard of living as a right 'you should have' • Self-reported experience of the right to health an adequate standard of living as a right 'you do have'
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Panel and indicators (continued)

<p>Indicators should be systematically disaggregated</p> <p>Key disaggregation characteristics include ethnicity/race, gender, disability, sexual orientation, transgender, religion and belief, age, social class, area (region, urban/rural, remoteness) with separate reporting of the non-private household population and at risk/vulnerable groups including individuals staying in/resident/detained in public and private institutions; individuals living in poverty; refugees/asylum seekers, vulnerable children and young people (for example, children in need, 'looked after children', children who are carers), Gypsies and Travellers, etc.</p>
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Evidence base

Structural indicators

Indicator 71: Legal and constitutional framework

Table 345: Protection of the right to education in domestic law (including constitutional/‘higher’ law)

The right to an adequate standard of living is not incorporated into domestic law.
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Table 346: Status of ratification of relevant international treaties⁶⁸⁰

ICESCR, Articles 6, 7, 9 and 11 – ratified.

Optional Protocol to ICESCR (communications and inquiries) – not ratified by the UK.

International Covenant on Civil and Political Rights (ICCPR), Article 47 – ratified.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 14 – ratified.

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5 – ratified.

CRC, Articles 3, 18, 23, 26 and 27 – ratified.

Convention on the Rights of Persons with Disabilities (CRPD), Article 28 – ratified.

Convention Relating to the Status of Refugees, Articles 21 and 23 – ratified.

ECHR, Article 1 Protocol 1.

European Social Charter (revised) – signed, not ratified.

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints – not ratified.

Table 347: Principles established in key cases (domestic, ECHR and international)

Housing

- *Europe Roma Rights Centre v Greece* no. 15/2003 [2004] ECSR⁶⁸¹ – In a case relating to the insufficient number of permanent dwellings of an acceptable quality to meet the needs of the settled Roma; the insufficient number of stopping places for Roma who choose to follow an itinerant lifestyle or who are forced to do so; and the systematic eviction of Roma from sites or dwellings unlawfully occupied by them, the European Committee of Social Rights (ECSR) found that ‘the insufficiency of permanent dwellings constitutes a violation of Article 16 of the European Social Charter; that the lack of temporary stopping facilities constitutes a violation of Article 16 of the European Social Charter; that the forced eviction and other sanctions of Roma constitutes a violation of Article 16 of the European Social Charter’.
- *European Roma Rights Centre v Italy* no. 27/2004 [2005] ECSR⁶⁸² – The ECSR found that ‘Article 31 (1) guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, ie it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law The temporary supply of shelter cannot be considered as adequate and individuals should be provided with adequate housing within a reasonable period. The Committee recalls that Article 31 (1) E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in absence of objective and reasonable justifications ... any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter. On the contrary, by persisting with the practice of placing Roma in camps the Government has failed to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all’. The ECSR found a violation of Article 31 of the European Social Charter.
- *R (Weaver) v London and Quadrant Housing* [2009] EWCA Civ 587; [2009] WLR (D) 202⁶⁸³ – A housing association was carrying out public functions, therefore bound by the obligations under the Human Rights Act (HRA).
- *Coughlan & Ors v North & East Devon Health Authority* [1999] EWCA Civ 1871⁶⁸⁴ – Closure of a nursing home breached the legitimate expectations and rights of residents that it would be their home for life under ECHR, Article 8.⁶⁸⁵

Homelessness and nationality

- *R (Morris) v Westminster City Council and First Secretary of State Administrative Court* [2004] EWHC 2191 (Admin)⁶⁸⁶ – In a case relating to the prohibition of nationality/citizenship discrimination in the exercise of the right to a family life and homelessness assistance⁶⁸⁷, the Court ruled that the council's 'refusal to treat the Claimant as having a priority need for accommodation in circumstances where a parent with a dependent child who was not subject to immigration control would have been treated as having a priority need for accommodation amounted to an infringement of her right under Article 14 to enjoy her right to respect for her family life under Article 8 without discrimination'.

Deprivation in basic needs can meet Article 3 threshold

- *R v Secretary of State for Home Department ex parte Limbuela* [2005] UKHL 66⁶⁸⁸ – Refusal to give financial support (including the practice of refusing accommodation or food) to asylum seekers may breach Article 3 if they would otherwise be destitute.

Standard of living

- *MSS v Belgium and Greece* (GC) no. 30696/09 [2011] ECHR⁶⁸⁹ – In the case of an asylum seeker expelled from Belgium to Greece, the European Court of Human Rights found that there had been a breach of Article 3 in relation to the conditions of detention for asylum seekers in Greece – 'the Court considers that the conditions of detention experienced by the applicant were unacceptable. It considers that, taken together, the feeling of arbitrariness and the feeling of inferiority and anxiety often associated with it, as well as the profound effect such conditions of detention indubitably have on a person's dignity, constitute degrading treatment contrary to Article 3 of the Convention. In addition, the applicant's distress was accentuated by the vulnerability inherent in his situation as an asylum seeker'. In finding that the extreme poverty in which the applicant had lived in Greece was a violation of Article 3, the Court noted that 'the Greek authorities have not had due regard to the applicant's vulnerability as an asylum seeker and must be held responsible, because of their inaction, for the situation in which he has found himself for several months, living in the street, with no resources or access to sanitary facilities, and without any means of providing for his essential needs. The Court considers that the applicant has been the victim of humiliating treatment showing a lack of respect for his dignity and that this situation has, without doubt, aroused in him feelings of fear, anguish or inferiority capable of inducing desperation. It considers that such living conditions, combined with the prolonged uncertainty in which he has remained and the total lack of any prospects of his situation improving, have attained the level of severity required to fall within the scope of Article 3 of the Convention'. The Court also found that the applicant's transfer by Belgium to Greece was a violation of Article 3; and further, that 'by transferring the applicant to Greece the Belgian authorities knowingly exposed him to conditions of detention and living conditions that amounted to degrading treatment'.

Social security

- *Stec and others v UK* (GC) nos. 65731/01, 65900/01 [2006] ECHR⁶⁹⁰ – The case involved a number of applicants who had been receiving a Reduced Earnings Allowance following a work injury and who were then transferred onto the Retirement Allowance upon reaching retirement age; the applicants alleged a violation of their Article 14 rights in combination with Article 1 Protocol 1 as the date of their transfer was linked to the pension age and entailed differential treatment on the basis of sex. As the applicants were complaining of inequalities in a welfare system, the European Court of Human Rights emphasised that ‘Article 1 of Protocol No. 1 does not include a right to acquire property. It places no restriction on the Contracting States’ freedom to decide whether or not to have in place any form of social security scheme, or to choose the type or amount of benefits to provide under any such scheme. If, however, a State does decide to create a benefits or pension scheme, it must do so in a manner which is compatible with Article 14 of the Convention’. The Court found that the sex discrimination inherent within the differential age entitlement to receive the State Pension in the UK was originally intended to correct the disadvantaged economic position of women, and continued to be reasonably and objectively justified on this ground.
- *R v Secretary of State for Work and Pensions* [2008] UKHL 63⁶⁹¹ – In a case relating to the exclusion from disability benefits of a homeless disabled person, the House of Lords found that while the applicant’s claim that he had wrongly been deprived of his disability premium fell, in principle, within the ambit of Article 1 Protocol 1 and Article 14, the discrimination against homelessness was justified in these circumstances.

Resource allocation

- *R (on the application of Cawser) v Secretary of State for the Home Department* [2003] EWCA Civ 1522⁶⁹² – A leading case on the allocation of resources and the role of the court, considered in the context of Article 5 rights. See also consideration of this case in *Secretary of State for Justice v James (formerly Walker & Anor): R (on the application of Lee) v Secretary of State for Justice & one other action* [2009] UKHL 22.⁶⁹³

Minimum standards

- *R (on the application of EW) v Secretary of State for the Home Department* [2009] EWHC 2957 (Admin)⁶⁹⁴ – An example of the application of Limbuela. The Court stated that there was no general right to accommodation or a minimum standard of living that could be drawn from the Convention or European law, or from domestic human rights, social or other legislation. The setting of such a minimum standard was a matter for social legislation, not the courts. While the courts could determine that an individual’s living conditions breached Article 3, they could not establish generally what the minimum standard required was.

Non-discrimination

- *Connors v UK* no. 66746/01 [2004] EHRC⁶⁹⁵ – In finding a violation of Article 8, the European Court of Human Rights ruled that ‘The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases... To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the gypsy way of life.’ See also Table 218).

International cases**Housing**

- *Grootboom and Others v Government of the Republic of South Africa and Others* – Constitutional Court Order (CCT38/00) [2000] ZACC 14 (21 September 2000)⁶⁹⁶ – Clarifying the nature and scope of positive human rights obligations in relation to housing, the Constitutional Court found that the South African government had overall responsibility for ensuring that the state complies with the obligation under Section 26 of the South African constitution to provide everyone with a right of access to housing and to take reasonable measures, within its available resources, to ensure that this right is achieved progressively (Institute for Democracy in South Africa (IDASA), 2002).⁶⁹⁷

Standard of living

- *Villagran-Morales et al v. Guatemala*, Inter-American Court of Human Rights (IACrHR), 19 November 1999⁶⁹⁸ – States are required to take positive measures to protect the right to life of street children living in poverty. The IACrHR found a violation of Articles 7, 4, 5, 8.1 and 25 of the American Convention on Human Rights; violation of Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.

Table 348: Principles established in international standard setting processes**General evaluative criteria developed by the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR)**

- Obligations to respect, protect and fulfil human rights.
- Obligations of conduct versus obligations of result.
- Progressive realization/maximum available resources.
- Minimum core threshold approach/immediate obligations.
- Non-retrogression.

Other key international standards

- UNCESCR General Comment 4 – The right to adequate housing⁶⁹⁹ (legal security of tenure, accessible to disadvantaged groups).
- UNCESCR General Comment 7 – The right to adequate housing⁷⁰⁰: forced evictions.
- UNCESCR General Comment 9 – Domestic application of the Covenant.⁷⁰¹
- UNCESCR General Comment 12 – The right to adequate food.⁷⁰²
- UNCESCR General Comment 15 – Right to water⁷⁰³ – availability, quality, accessibility.
- UNCESCR General Comment 18 – Right to work⁷⁰⁴ – availability, accessibility, acceptability and quality.
- UNCESCR General Comment 19 – The right to social security⁷⁰⁵ – availability, social risks and contingencies, adequacy, accessibility.
- UNCESCR General Comment 21 – Right to take part in cultural life⁷⁰⁶ – availability, accessibility, acceptability, adaptability, appropriateness.
- ‘Reasonableness’ of state actions (South African jurisprudence).

Indicator 72: Legal precedents, gaps and standard-setting

Table 349: Gaps in legal protection

The ICESCR is not incorporated into domestic law. The UNCESCR (2002) has expressed concerns about the non-incorporation of the Covenant into domestic law:

‘The Committee deeply regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has still not been incorporated in the domestic legal order and that there is no intention by the State party to do so in the near future. The Committee reiterates its concern about the State party’s position that the provisions of the Covenant, with minor exceptions, constitute principles and programmatic objectives rather than legal obligations that are justiciable, and that consequently they cannot be given direct legislative effect.’⁷⁰⁷

The Revised European Social Charter has been signed but not ratified by the UK.

Process indicators

Indicator 73: Regulatory framework

National Poverty Commission

Children's Commissioner

Child Poverty Commission – as specified in the Child Poverty Act 2010⁷⁰⁸, to be established in 2011

Environment Agency, which manages water resources and enforces water quality standards

Drinking Water Inspectorate, which regulates the quality of drinking water

Ofwat, which is responsible for economic regulation of the water industry

Other utility regulators

Indicator 74: Public policy framework

Table 350: Child Poverty Act/child poverty targets

The Child Poverty Act⁷⁰⁹ creates a statutory duty in relation to the eradication of child poverty and creates the Child Poverty Commission. Duty holders including the Secretary of State, local authorities and partner organisations. Four specific time-bound targets relating to child poverty in 2020 are specified:

- **The relative low income target**

(1) The relative low income target is that less than 10% of children who live in qualifying households live in households that fall within the relevant income group.

(2) For the purposes of this section, a household falls within the relevant income group, in relation to a financial year, if its equivalised net income for the financial year is less than 60% of median equivalised net household income for the financial year.

- **The combined low income and material deprivation target**

(1) The combined low income and material deprivation target is that less than 5% of children who live in qualifying households —

(a) live in households that fall within the relevant income group, and

(b) experience material deprivation.

(2) For the purposes of subsection (1)(a), a household falls within the relevant income group, in relation to a financial year, if its equivalised net income for the financial year is less than 70% of median equivalised net household income for the financial year.

(3) Regulations must specify the circumstances in which a child is to be regarded for the purposes of subsection (1)(b) as experiencing material deprivation in a financial year.

- **The absolute low income target**

(1) The absolute low income target is that less than 5% of children who live in qualifying households live in households falling within the relevant income group.

(2) For the purposes of this section, a household falls within the relevant income group, in relation to a financial year, if its equivalised net income for the financial year is less than 60% of the adjusted base amount.

(3) “The adjusted base amount”, in relation to a financial year, is the base amount adjusted in a prescribed manner to take account of changes in the value of money since the base year.

(4) In this section —

“the base amount” means the amount of median equivalised net household income for the base year;

“the base year” means the financial year beginning with 1 April 2010.

- **The persistent poverty target**

In relation to a financial year (“the relevant financial year”), the persistent poverty target is that less than the target percentage of children who have lived in qualifying households during each of the survey years have lived in households that have been within the relevant income group in at least 3 of the survey years.

(2) The survey years are —

(a) the calendar year that ends in the relevant financial year, and

(b) the 3 previous calendar years.

(3) For the purposes of this section, the target percentage is a percentage to be prescribed by regulations made before 2015.

(4) For the purposes of this section, a household falls within the relevant income group, in relation to a calendar year, if its equivalised net income for the year is less than 60% of median equivalised net household income for the year.

(5) Instead of exercising the power conferred by subsection (3), the Secretary of State may by regulations amend this section so as to substitute a different persistent poverty target for that set out in subsections (1) to (4).

(6) Regulations under subsection (5) may only be made—

(a) before 2015, and

(b) with the consent of the Commission.

Judicial scrutiny of the Child Poverty Bill by the Joint Committee on Human Rights (JCHR)

In its judicial scrutiny of the Child Poverty Bill, the JCHR (2010a) noted: ‘The main purposes of the Bill are to enshrine in law the Government’s commitment to eradicate child poverty by 2020, to define success in eradicating child poverty, and to create a framework to monitor progress at both a national and a local level. To these ends, the Bill places a duty on the Secretary of State to ensure that four UK-wide income poverty targets are met by the end of the financial year 2020-2021.’⁷¹⁰

The JCHR further recognised the Child Poverty Duty as a human rights enhancing measure that provides a means of implementing Article 27 of the CRC and Article 11 of the ICESCR:

‘By providing an unqualified duty to meet the four income targets by the end of the financial year 2020-21, and establishing a detailed framework both for driving and monitoring progress towards the achievement of those targets, the Bill does on its face appear to provide a mechanism for the progressive realisation of children’s right to an adequate standard of living in Article 27 UNCRC and Article 11 ICESCR. It goes some way towards implementing the recent recommendation of the UN Committee on the Rights of the Child that the Government adopt legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for its achievement. We therefore welcome the Bill as a human rights enhancing measure’.

The JCHR further recognised the Child Poverty Duty, which combines political accountability with limited judicial review, as an exemplar of its ‘mid-way model’ for the implementation of economic, social and cultural rights in the UK. The JCHR’s mid-way model provides a basis for giving economic and social rights legal effect in a way which falls short of making them fully justiciable and legally enforceable rights. The JCHR contends that the mid-way model provides a viable ‘middle way: between the traditional positions in the debate about economic and social rights, in which the Government is placed under a duty to make progress towards realising those rights, and is required to report regularly on that progress to Parliament, and the courts have a very limited and closely circumscribed role in reviewing the adequacy of the measures taken to reach the target.

‘We welcome the detailed mechanisms in the Bill to ensure that the Secretary of State is accountable to Parliament for the Government’s performance of the new statutory duty to ensure that the child poverty targets are met. As both we and our predecessor Committee have consistently made clear in previous reports, we consider that in a parliamentary democracy it is the democratic branches of the state (the Government and Parliament) which should have primary responsibility for economic and social policy, in which the courts lack expertise and have limited institutional competence or authority. In our view the scheme of the Bill ensures that primary responsibility for policy on child poverty remains with the democratic branches, by making detailed provision for the Secretary of State’s accountability to Parliament for Government policy on how to meet the targets’.

The JCHR noted its concern, however, that the most disadvantaged children might be excluded from official monitoring arrangements under the Child Poverty Act:

‘[T]he use of targets which apply only to children in qualifying households is potentially indirectly discriminatory, because it necessarily excludes certain children who may well be living in poverty, including Gypsy, Roma and Traveller children, asylum-seeking children living in asylum centres or Bed and Breakfast accommodation, and looked after children living in children’s homes. Such differential treatment of children not living in qualifying households raises the question whether the Bill is compatible with Article 14 ECHR, the right not to be discriminated against in the enjoyment of Convention rights.’⁷¹¹

Table 351: Fuel Poverty Duty

The Warm Homes and Energy Conservation Act (2000) establishes that a person is to be regarded as living in ‘fuel poverty’ if he is a member of a household living on a lower income in a home that cannot be kept warm at reasonable cost. The legislation requires ‘appropriate authorities’ to prepare a strategy (including measures and targets) to ensure that as far as reasonably practical persons do not live in fuel poverty.⁷¹²

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
England:						
<i>of which:</i>						
<i>personal social services</i>	18,519	20,100	21,372	22,489	23,887	24,120
10.1 Sickness and disability	23,103	24,238	25,152	26,429	29,078	31,718
<i>of which:</i>						
<i>personal social services</i>	4,706	5,196	5,429	6,011	6,437	6,765
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	18,397	19,042	19,723	20,418	22,641	24,953
10.2 Old age	54,075	56,764	59,095	63,530	69,884	74,796
<i>of which:</i>						
<i>personal social services</i>	6,562	7,086	7,438	7,712	8,141	8,172
<i>of which:</i>						
<i>pensions</i>	47,513	49,679	51,657	55,818	61,743	66,624
10.3 Survivors	1,481	1,481	1,443	1,434	1,436	1,440
10.4 Family and children	22,462	22,764	22,974	24,035	23,589	23,984
<i>of which:</i>						
<i>personal social services</i>	4,703	5,204	5,488	5,797	6,234	6,411
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	17,760	17,560	17,486	18,237	17,355	17,574

Continued

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	3,074	3,357	3,799	3,554	4,392	6,777
<i>of which:</i>						
<i>personal social services</i>	1,048	1,166	1,501	1,467	1,435	1,046
<i>of which: other unemployment benefits</i>	2,026	2,190	2,298	2,088	2,957	5,730
10.6 Housing	13,079	13,803	14,646	15,490	16,694	19,456
10.7 Social exclusion not elsewhere classified (n.e.c.)	11,082	12,160	13,301	14,379	17,269	19,477
<i>of which:</i>						
<i>personal social services, of which:</i>	1,502	1,448	1,516	1,502	1,641	1,726
<i>of which: family benefits, income support and tax credits</i>	9,580	10,712	11,785	12,876	15,628	17,751
10.8 Research and development (R&D) social protection	2	1	0	–	–	–
10.9 Social protection n.e.c.	3,426	2,913	2,168	1,859	1,813	3,031
Total social protection	131,784	137,481	142,578	150,710	164,154	23,984

Continued

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Scotland:						
<i>of which:</i>						
<i>personal social services</i>	2,292	2,447	2,330	2,748	2,988	3,106
10.1 Sickness and disability	3,001	3,128	3,121	3,334	3,700	4,087
<i>of which:</i>						
<i>personal social services</i>	540	589	524	675	747	825
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	2,460	2,539	2,598	2,659	2,952	3,262
10.2 Old age	6,064	6,295	6,422	6,998	7,780	8,406
<i>of which:</i>						
<i>personal social services</i>	1,013	1,049	949	1,132	1,246	1,307
<i>of which:</i>						
<i>pensions</i>	5,051	5,246	5,473	5,866	6,534	7,099
10.3 Survivors	195	191	187	193	193	198
10.4 Family and children	2,508	2,536	2,565	2,726	2,570	2,589
<i>of which:</i>						
<i>personal social services</i>	555	616	634	714	766	766
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	1,953	1,920	1,931	2,012	1,804	1,823

Continued

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	339	324	360	319	389	607
<i>of which:</i>						
<i>personal social services</i>	78	83	109	106	102	72
<i>of which: other unemployment benefits</i>	261	241	251	213	287	536
10.6 Housing	1,496	1,543	1,570	1,609	1,682	1,882
10.7 Social exclusion n.e.c.	1,110	1,214	1,299	1,390	1,668	1,878
<i>of which:</i>						
<i>personal social services, of which:</i>	106	110	114	121	127	136
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	1,004	1,104	1,184	1,269	1,541	1,742
10.8 R&D social protection	0	0	0	0	1	0
10.9 Social protection n.e.c.	404	384	327	292	319	306
Total social protection	15,116	15,615	15,851	16,861	18,301	19,953

Continued

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Wales:						
<i>of which:</i>						
<i>personal social services</i>	1,546	1,711	1,768	1,902	1,913	1,870
10.1 Sickness and disability	2,246	2,349	2,424	2,515	2,743	2,973
<i>of which:</i>						
<i>personal social services</i>	358	400	430	485	511	522
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	1,888	1,949	1,994	2,030	2,232	2,451
10.2 Old age	3,427	3,596	3,751	4,058	4,455	4,795
<i>of which:</i>						
<i>personal social services, of which:</i>	465	494	518	537	560	563
<i>of which:</i>						
<i>pensions</i>	2,962	3,102	3,234	3,522	3,895	4,232
10.3 Survivors	102	102	100	100	101	102
10.4 Family and children	1,436	1,482	1,495	1,544	1,501	1,496
<i>of which:</i>						
<i>personal social services</i>	308	382	406	420	434	426
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	1,128	1,100	1,089	1,125	1,067	1,070
Continued						

Table 352: Identifiable expenditure on social protection in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	307	332	399	388	440	522
<i>of which:</i>						
<i>personal social services</i>	194	209	276	270	262	186
<i>of which: other unemployment benefits</i>	113	123	123	118	178	336
10.6 Housing	648	668	708	747	806	908
10.7 Social exclusion n.e.c.	865	934	900	1,018	1,148	1,310
<i>of which:</i>						
<i>personal social services</i>	221	225	139	191	145	173
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	644	708	762	827	1,003	1,137
10.8 R&D social protection	0	–	–	–	–	–
10.9 Social protection n.e.c.	172	154	121	109	133	180
Total social protection	9,204	9,617	9,899	10,480	11,328	12,285

Notes: Definitions of expenditure by function are based on the UN Classification of the Functions of Government (COFOG) system, available at:
www.hm-treasury.gov.uk/pespub_economic_functional_analysis.htm

Source: HM Treasury (2010).

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
England:						
<i>of which:</i>						
<i>personal social services</i>	370	398	421	440	464	465
10.1 Sickness and disability	461	480	495	517	565	612
<i>of which:</i>						
<i>personal social services</i>	94	103	107	118	125	131
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	367	377	389	400	440	482
10.2 Old age	1,079	1,125	1,164	1,243	1,358	1,443
<i>of which:</i>						
<i>personal social services, of which:</i>	131	140	147	151	158	158
<i>of which:</i>						
<i>pensions</i>	948	984	1,018	1,093	1,200	1,286
10.3 Survivors	30	29	28	28	28	28
10.4 Family and children	448	451	453	470	459	463
<i>of which:</i>						
<i>personal social services</i>	94	103	108	113	121	124
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	354	348	344	357	337	339

Continued

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	61	67	75	70	85	131
<i>of which:</i>						
<i>personal social services</i>	21	23	30	29	28	20
<i>of which: other unemployment benefits</i>	40	43	45	41	57	111
10.6 Housing	261	274	289	303	324	375
10.7 Social exclusion n.e.c.	221	241	262	281	336	376
<i>of which:</i>						
<i>personal social services</i>	30	29	30	29	32	33
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	191	212	232	252	304	343
10.8 R&D social protection	0	0	0	–	–	–
10.9 Social protection n.e.c.	68	58	43	36	35	58
Total social protection	2,630	2,724	2,809	2,950	3,191	3,487

Continued

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Scotland:						
<i>of which:</i>						
<i>personal social services</i>	451	480	455	535	578	599
10.1 Sickness and disability	591	614	610	649	716	788
<i>of which:</i>						
<i>personal social services</i>	106	116	102	131	145	159
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	484	498	508	517	571	629
10.2 Old age	1,194	1,236	1,255	1,362	1,505	1,620
<i>of which:</i>						
<i>personal social services, of which:</i>	199	206	185	220	241	252
<i>of which:</i>						
<i>pensions</i>	995	1,030	1,070	1,142	1,264	1,368
10.3 Survivors	38	38	37	38	37	38
10.4 Family and children	494	498	501	530	497	499
<i>of which:</i>						
<i>personal social services</i>	109	121	124	139	148	148
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	385	377	377	392	349	351
Continued						

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	67	64	70	62	75	117
<i>of which:</i>						
<i>personal social services</i>	15	16	21	21	20	14
<i>of which: other unemployment benefits</i>	51	47	49	41	56	103
10.6 Housing	295	303	307	313	325	363
10.7 Social exclusion n.e.c.	219	238	254	270	323	362
<i>of which:</i>						
<i>personal social services</i>	21	22	22	23	25	26
<i>of which: family benefits, income support and tax credits</i>	198	217	231	247	298	336
10.8 R&D social protection	0	0	0	0	0	0
10.9 Social protection n.e.c.	79	75	64	57	62	59
Total social protection	2,977	3,065	3,098	3,281	3,541	3,845

Continued

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Wales:						
<i>of which:</i>						
<i>personal social services</i>	525	579	596	638	639	624
10.1 Sickness and disability	762	795	817	844	917	991
<i>of which:</i>						
<i>personal social services</i>	121	136	145	163	171	174
<i>of which:</i>						
<i>incapacity, disability and injury benefits</i>	641	660	672	681	746	817
10.2 Old age	1,163	1,218	1,265	1,362	1,489	1,599
<i>of which:</i>						
<i>personal social services, of which:</i>	158	167	175	180	187	188
<i>pensions</i>	1,005	1,050	1,090	1,182	1,301	1,411
10.3 Survivors	35	34	34	34	34	34
10.4 Family and children	487	502	504	518	502	499
<i>of which:</i>						
<i>personal social services</i>	105	129	137	141	145	142
<i>of which:</i>						
<i>family benefits, income support and tax credits</i>	383	373	367	377	356	357
Continued						

Table 353: Identifiable expenditure on social protection per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
10.5						
Unemployment	104	112	135	130	147	174
<i>of which:</i>						
<i>personal social services</i>	66	71	93	91	88	62
<i>of which: other unemployment benefits</i>	38	42	42	40	60	112
10.6 Housing	220	226	239	251	269	303
10.7 Social exclusion n.e.c.	294	316	303	341	383	437
<i>of which:</i>						
<i>personal social services</i>	75	76	47	64	48	58
<i>of which: family benefits, income support and tax credits</i>	219	240	257	277	335	379
10.8 R&D social protection	0	–	–	–	–	–
10.9 Social protection n.e.c.	58	52	41	36	44	60
Total social protection	3,124	3,256	3,338	3,517	3,785	4,097

Notes: Definitions of expenditure by function are based on the UN COFOG system, available at: www.hm-treasury.gov.uk/pespub_economic_functional_analysis.htm

NB All expenditure on children and adult protection falls under function 10 'Social Protection'. Within that function it falls under sub function 10.4 'Family and children, personal social services'.

Source: HM Treasury (2010, 2011).

Table 354: Identifiable expenditure on housing in England, Scotland and Wales, 2004-05 – 2009-10, £ million

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
England:						
6.1 Housing development	3,049	4,687	5,347	5,975	7,418	8,607
<i>of which:</i>						
<i>local authority housing</i>	1,240	2,955	3,256	3,744	4,588	4,051
<i>of which: other social housing</i>	1,810	1,732	2,091	2,231	2,830	4,556
6.2 Community development	2,322	2,598	2,582	2,899	3,103	2,955
6.3 Water supply	3	-17	-19	-8	-5	-10
6.4 Street lighting	363	424	466	513	577	585
6.5 R&D housing and community amenities	—	—	—	—	—	—
6.6 Housing and community amenities n.e.c	82	89	90	88	88	130
Total housing and community amenities	5,820	7,780	8,466	9,466	11,181	12,266
Scotland:						
6.1 Housing development	707	715	874	950	955	1,135
<i>of which:</i>						
<i>local authority housing</i>	300	323	292	357	501	671
<i>of which: other social housing</i>	407	392	581	593	454	463
6.2 Community development	94	104	116	119	118	154
6.3 Water supply	174	547	661	619	689	588
6.4 Street lighting	8	9	8	8	10	11
6.5 R&D housing and community amenities	15	14	9	8	7	6
6.6 Housing and community amenities n.e.c	18	17	12	43	8	20
Total housing and community amenities	1,016	1,406	1,679	1,746	1,787	1,914

Continued

Table 354: Identifiable expenditure on housing in England, Scotland and Wales, 2004-05 – 2009-10, £ million (*continued*)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Wales:						
6.1 Housing development	98	194	220	200	350	254
<i>of which:</i>						
<i>local authority housing</i>	130	200	225	232	334	257
<i>of which: other social housing</i>	-31	-5	-5	-32	16	-3
6.2 Community development	159	184	200	257	230	251
6.3 Water supply	–	–	–	–	–	–
6.4 Street lighting	26	30	31	34	37	37
6.5 R&D housing and community amenities	–	–	–	–	–	–
6.6 Housing and community amenities n.e.c	0	0	21	21	27	21
Total housing and community amenities	284	409	471	512	644	562

Notes: Definitions of expenditure by function are based on the UN COFOG system, available at: www.hm-treasury.gov.uk/pespub_economic_functional_analysis.htm

Source: HM Treasury (2010).

Table 355: Identifiable expenditure on housing per head in England, Scotland and Wales, 2004-05 – 2009-10

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
England:						
6.1 Housing development	61	93	105	117	144	166
<i>of which:</i>						
<i>local authority housing</i>	25	59	64	73	89	78
<i>of which: other social housing</i>	36	34	41	44	55	88
6.2 Community development	46	51	51	57	60	57
6.3 Water supply	0	0	0	0	0	0
6.4 Street lighting	7	8	9	10	11	11
6.5 R&D housing and community amenities	–	–	–	–	–	–
6.6 Housing and community amenities n.e.c	2	2	2	2	2	3
Total housing and community amenities	116	154	167	185	217	237
Scotland:						
6.1 Housing development	139	140	171	185	185	219
<i>of which:</i>						
<i>local authority housing</i>	59	63	57	69	97	129
<i>of which: other social housing</i>	80	77	114	115	88	89
6.2 Community development	19	20	23	23	23	30
6.3 Water supply	34	107	129	120	133	113
6.4 Street lighting	2	2	2	1	2	2
6.5 R&D housing and community amenities	3	3	2	2	1	1
6.6 Housing and community amenities n.e.c	3	3	2	8	2	4
Total housing and community amenities	200	276	328	340	346	369

Continued

Table 355: Identifiable expenditure on housing per head in England, Scotland and Wales, 2004-05 – 2009-10 (continued)

	2004-05 outturn	2005-06 outturn	2006-07 outturn	2007-08 outturn	2008-09 outturn	2009-10 plans
Wales:						
6.1 Housing development	33	66	74	67	117	85
<i>of which:</i>						
<i>local authority housing</i>	44	68	76	78	112	86
<i>of which: other social housing</i>	-11	-2	-2	-11	5	-1
6.2 Community development	54	62	67	86	77	84
6.3 Water supply	–	–	–	–	–	–
6.4 Street lighting	9	10	10	11	12	12
6.5 R&D housing and community amenities	–	–	–	–	–	–
6.6 Housing and community amenities n.e.c	0	0	7	7	9	7
Total housing and community amenities	96	138	159	172	215	188

Notes: Definitions of expenditure by function are based on the UN COFOG system, available at: www.hm-treasury.gov.uk/pespub_economic_functional_analysis.htm

NB All expenditure on children and adult protection falls under function 10 'Social Protection'. Within that function it falls under sub function 10.4 'Family and children, personal social services'.

Source: HM Treasury (2010, 2011).

Outcome indicators

Indicator 75: Outcomes of key judicial, regulatory and investigative processes

Table 356: Violations of the right to an adequate standard of living: case law outcomes

Housing

- *R (Weaver) v London and Quadrant Housing* [2009] EWCA Civ 587; [2009] WLR (D) 202⁷¹³ – A registered social landlord was a hybrid public authority so the act of terminating the tenancy of its assured tenant was not a private act and was susceptible to judicial review (see Table 347).
- *Coughlan & Ors v North & East Devon Health Authority* [1999] EWCA Civ 1871⁷¹⁴ – The closure of a nursing home violated residents' Article 8 rights (see Table 347).

Homelessness and nationality

- *R (Morris) v Westminster City Council and First Secretary of State Administrative Court* [2004] EWHC 2191 (Admin)⁷¹⁵ – Violation of Article 14 to enjoy the right to respect of family life under Article 8 without discrimination (see Table 347).

Deprivation in basic needs can meet Article 3 threshold

- *R v Secretary of State for Home Department ex parte Limbuela* [2005] UKHL 66⁷¹⁶ – Refusal to give financial support (including the practice of refusing accommodation or food) to asylum seekers may breach Article 3 where they would otherwise be destitute (see Table 347).

Social security

- *Stec and others v UK* (GC) nos. 65731/01, 65900/01 [2006] ECHR⁷¹⁷ – No violation of Article 14 taken in conjunction with Article 1 Protocol 1 (see Table 347).
- *R v Secretary of State for Work and Pensions* [2008] UKHL 63⁷¹⁸ – While the applicant's claim that he had wrongly been deprived of his disability premium fell, in principle, within the ambit of Article 1 Protocol 1 and Article 14, the House of Lords ruled that the discrimination against homelessness was justified in these circumstances (see Table 347).

Non-discrimination

- *Connors v UK* no. 66746/01 [2004] EHRC⁷¹⁹ – Violation of Article 8 (see Table 347).

Table 357: Key concerns raised by human rights monitoring bodies

Domestic

JCHR

The JCHR considered the question of domestic incorporation of economic, social and cultural rights (JCHR, 2004a)). In 2008, the JCHR's report (JCHR, 2008b) included recommendations on the inclusion of economic, social and cultural rights in any future bill of rights. It suggested that, in the first instance, the rights to health, education, housing, and an adequate standard of living, should be included in a bill of rights (see Table 262).

Child Poverty

The JCHR (2009e), in scrutinising the Child Poverty Act 2010, noted its concern that 'poverty is a very serious problem affecting all parts of the United Kingdom, including the Overseas Territories, and that it is a particular concern in Northern Ireland, where over 20 per cent of children reportedly live in persistent poverty. Furthermore, the Committee is concerned that the Government's strategy is not sufficiently targeted at those groups of children in most severe poverty and that the standard of living of Traveller children is particularly poor'.⁷²⁰

International

- The UNCESCR was concerned about higher poverty rates, particularly among 'ethnic minorities, asylum-seekers and migrants, older persons, single mothers, and persons with disabilities. (Article 11)' UNCESCR, 2009).⁷²¹
- The UNCESCR was concerned about the extent of homelessness and 'the chronic shortage of housing, in particular social housing, for the most disadvantaged and marginalized individuals and groups, such as persons with disabilities' (UNCESCR, 2009).⁷²²
- The UNCESCR 'recommends that the State party consider ratifying ILO Convention no. 118 on Equality of Treatment (Social Security) and the European Social Charter (Revised). It also recommends that the State party commit itself fully to all the provisions of ILO Convention no. 102 on Social Security (Minimum Standards) ratified by the State party and, for that purpose, consider withdrawing its reservations to Parts 6, 8 and 9 of the Convention' (UNCESCR, 2009).⁷²³

Table 358: Key concerns and allegations raised by private individuals and civil society organisations/reports in the media

•	UNICEF, Report Card 7, <i>Child Poverty in Perspective: An Overview of Child Well-being in Rich Countries</i> , February 2007. ⁷²⁴
•	Child Poverty Action Group, <i>Child Wellbeing and Child Poverty: where the UK stands in the European table</i> , spring 2009. ⁷²⁵
•	British Institute of Human Rights (BIHR), <i>Human Rights and Poverty Project</i> ⁷²⁶ BIHR has raised issues around human rights and poverty, and the need for organisations working with, and for, people facing poverty or social injustice to use human rights to strengthen their impact.

Indicator 76: Spotlight statistics : Income poverty and material deprivation**Table 359: Percentage of individuals in low-income groups by various family and household characteristics, UK, 2009-10**

	Before Housing Costs			After Housing Costs			All individuals (millions)
	Income thresholds – below median						
	50%	60%	70%	50%	60%	70%	
Disability							
Disabled individuals	11	21	31	16	24	34	11.2
Disabled children	9	18	30	17	28	39	0.8
Disabled working-age adults	14	25	35	24	33	42	5.2
Disabled pensioners	8	18	28	8	15	26	5.2
Non-disabled individuals	9	16	24	15	22	28	49.5
Non-disabled children	10	20	31	19	29	38	12.2
Non-disabled working-age adults	9	14	20	15	20	25	30.9
Non-disabled pensioners	10	19	29	9	16	25	6.3
							Continued

Table 359: Percentage of individuals in low-income groups by various family and household characteristics, UK, 2009-10 (*continued*)

	Before Housing Costs			After Housing Costs			All individuals (millions)
	Income thresholds – below median						
	50%	60%	70%	50%	60%	70%	
Ethnic group of head (three-year average)							
White	9	16	24	14	20	27	54.3
Mixed	14	23	31	26	34	42	0.5
Asian or Asian British	21	34	44	30	42	51	3.0
Indian	15	24	31	20	30	37	1.3
Pakistani and Bangladeshi	31	49	63	41	56	68	1.2
Black or Black British	17	28	37	30	41	50	1.6
Black Caribbean	17	24	33	23	33	43	0.6
Black Non-Caribbean	17	30	40	35	46	54	0.9
Chinese or other ethnic group	18	27	33	30	38	44	0.8
							Continued

Table 359: Percentage of individuals in low-income groups by various family and household characteristics, UK, 2009-10 (*continued*)

Region/Country (three-year average)	Before Housing Costs			After Housing Costs			All individuals (millions)
	Income thresholds – below median						
	50%	60%	70%	50%	60%	70%	
England	10	18	26	16	23	30	50.5
North East	12	22	31	16	24	33	2.5
North West	11	19	28	16	24	31	6.8
Yorkshire and the Humber	11	20	30	16	23	31	5.1
East Midlands	11	20	28	15	22	29	4.3
West Midlands	12	22	31	17	25	33	5.3
East of London	9	15	22	14	20	27	5.6
London	11	17	24	21	28	34	7.5
Inner	12	19	26	25	32	39	2.7
Outer	10	16	22	19	26	32	4.8
South East	7	12	19	12	18	24	8.2
South West	10	16	24	14	20	28	5.1
Scotland	10	17	25	13	19	26	5.1
Wales	11	21	31	16	23	31	2.9
Northern Ireland	13	22	32	14	22	30	1.7
All individuals	10	17	25	15	22	30	60.7

Source: Department for Work and Pensions(DWP) (2011b). For the latest Households Below Average Income (HBAI) findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 360: Percentage of individuals living in households with less than 60 per cent of contemporary median household income, by gender and adulthood, UK, 2009-10

	1994- 95	1995- 96	1996- 97	1997- 98	1998- 99	1999- 2000	2000- 01	2001- 02	2002- 03	2003- 04	2004- 05	2005- 06	2006- 07	2007- 08	2008- 09	2009- 10
Before Housing Costs																
Gender and adulthood																
Adult male	15	15	15	15	15	16	15	15	15	15	15	15	16	16	16	16
Adult female	18	18	19	19	19	19	19	18	18	18	17	17	18	18	18	17
Children	25	24	27	27	26	26	23	23	23	22	21	22	22	23	22	20
All individuals (per cent)	19	18	19	20	19	19	18	18	18	18	17	18	18	18	18	17
After Housing Costs																
Gender and adulthood																
Adult male	20	20	20	19	19	19	19	18	19	18	17	19	19	19	19	20
Adult female	24	24	25	24	24	23	23	22	22	21	19	20	21	21	21	21
Children	33	33	34	33	34	33	31	31	30	29	28	30	30	31	30	29
All individuals (per cent)	24	24	25	24	24	24	23	23	22	21	21	22	22	23	22	22

Notes:

Figures are for the UK from 2002-03 onwards. Earlier years are for Great Britain only.

Source: DWP (2011b). For the latest HBAI findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 361: Percentage of individuals living in households with less than 60 per cent of 1998-99 median household income held constant in real terms, by gender and adulthood, UK, 2009-10

	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Before Housing Costs																
Gender and adulthood																
Adult male	19	19	17	16	15	14	13	11	11	11	10	10	11	11	11	10
Adult female	23	22	21	20	19	17	15	13	12	12	11	11	12	12	11	10
Children	30	29	29	28	26	23	19	15	14	14	13	13	13	13	12	11
All individuals (per cent)	23	23	21	20	19	17	15	13	12	12	11	11	12	12	11	10
After Housing Costs																
Gender and adulthood																
Adult male	23	23	22	20	19	18	16	14	13	13	12	13	13	13	14	14
Adult female	28	28	27	25	24	22	19	16	14	14	12	13	13	14	14	13
Children	37	37	36	34	34	31	27	23	21	20	18	19	19	19	19	18
All individuals (per cent)	29	28	27	25	24	22	20	17	15	15	13	14	14	15	15	14

Notes:

Figures are for the UK from 2002-03 onwards. Earlier years are for Great Britain only.

Source: DWP (2011b). For the latest HBAI findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 362: Percentage of pensioners in low-income groups by various family and household characteristics, UK, 2009-10

	Before Housing Costs			After Housing Costs			All pensioners (millions)
	Income thresholds – below median						
	50%	60%	70%	50%	60%	70%	
Age							
60-64	8	15	23	8	14	22	1.9
65-69	8	16	25	7	14	23	2.8
70-74	9	18	29	8	16	26	2.3
75-79	8	21	32	9	16	28	1.9
80-84	11	23	32	9	17	28	1.5
85+	12	23	32	12	19	29	1.1
Gender							
Male	7	16	26	7	14	23	4.3
Female	10	20	30	9	16	27	7.2
Disability and receipt of disability benefits¹							
Those living in families where no-one is disabled	11	20	29	9	17	25	5.1
Those living in families where someone is disabled	8	17	28	8	15	25	6.4
Ethnic group of head (three-year average)²							
White	11	20	31	9	16	26	10.9
Mixed	..	..	..	..	..	..	0.0
Asian or Asian British	23	35	44	20	33	43	0.2
Indian	23	33	41	17	29	38	0.1
Pakistani and Bangladeshi	27	48	55	29	46	57	0.1
Continued							

Continued

Table 362: Percentage of pensioners in low-income groups by various family and household characteristics, UK, 2009-10 (*continued*)

	Before Housing Costs			After Housing Costs			All pensioners (millions)
	Income thresholds – below median						
	50%	60%	70%	50%	60%	70%	
Black or Black British	16	28	40	17	27	44	0.1
Black Caribbean	18	30	44	15	25	42	0.1
Black Non-Caribbean	..	..	..	..	..	..	0.0
Chinese or other ethnic group	20	29	38	19	28	39	0.1
All pensioners ³	9	18	28	8	16	25	11.5

Notes:

- 1 Disability benefits are Disability Living Allowance; Armed Forces Compensation Scheme; Attendance Allowance (for those over 65 years old); Industrial Injuries Disablement Benefit. Disability benefits may be received by or on behalf of the eligible person in the household.
- 2 The figures for Mixed and Black Non-Caribbean have been suppressed due to small sample sizes.
- 3 The totals for all pensioners are shown for the UK for the latest year and are not three-year averages.

'Low income' is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 363: Percentage of pensioners aged 65 or over in material deprivation by various family and household characteristics, United Kingdom

	<i>Percentage of pensioners</i>	
	Material deprivation	Pensioners aged 65 or over (millions)
Economic status of adults in the family		
One or more working	4	1.2
No one working	10	8.4
Age		
65- 69	9	2.8
70- 74	11	2.3
75- 79	9	1.9
80- 84	9	1.5
85+	8	1.1
Family type		
Couple living with others	10	0.5
Couple living alone	6	5.3
Single living with others	22	0.5
Single living alone	12	3.3
Gender		
Male	8	4.3
Female	10	5.3
Marital status		
Couple	6	5.8
Married or civil partnered	6	5.6
Cohabiting	8	0.2
Single	13	3.9
Disability and receipt of disability benefits¹		
Those living in families where no-one is disabled	5	4.0
Those living in families where someone is disabled	12	5.6
One or more disabled adults	12	5.6
In receipt of disability benefits	15	2.2
Not in receipt of disability benefits	10	3.4
		Continued

Table 363: Percentage of pensioners aged 65 or over in material deprivation by various family and household characteristics, United Kingdom (*continued*)

	<i>Percentage of pensioners</i>	
	Material deprivation	Pensioners aged 65 or over (millions)
Tenure		
Owners	6	7.6
Owned outright	5	7.1
Buying with mortgage	15	0.5
Social rented sector tenants	23	1.6
All rented privately	19	0.4
Ethnic group of head (three-year average)^{2, 3}		
White	9.1	
Mixed	0.0	
Asian or Asian British	..	0.1
Indian	..	0.1
Pakistani and Bangladeshi	..	0.0
Black or Black British	..	0.1
Black Caribbean	..	0.1
Black Non-Caribbean	..	0.0
Chinese or other ethnic group	..	0.1
All pensioners⁴	9	9.6

Notes:

- 1 Disability benefits are Disability Living Allowance; Armed Forces Compensation Scheme; Attendance Allowance (for those over 65 years old); Industrial Injuries Disablement Benefit. These benefits may be received by or on behalf of the eligible person in the household.
- 2 The figures for Mixed and Black Non-Caribbean have been suppressed due to small sample sizes.
- 3 There is only one year of data available for the material deprivation indicator and so it is not possible to provide the standard three-year average statistics for the ethnic group of head. Until this detailed information is available, it is only possible to look at larger groupings: in 2009-10, the material deprivation rate for white pensioners aged 65 or over was nine per cent from a population of 9.3 million, and for pensioners aged 65 or over from all other ethnic groups it was 26 per cent from a population of 0.3 million.
- 4 The totals for all pensioners are shown for the UK for the latest year and are not three-year averages.

Source: Family Resources Survey 2009-10, DWP (2011b), Table 6.9db.

Indicator 77: Spotlight statistics: Child income poverty and material deprivation – reporting against the Child Poverty Act targets (fulfilment of the Child Poverty Duty)

Table 364: Percentage of children falling below various thresholds of contemporary median income, UK^{1, 2}, 1998-99 – 2009-10

	<i>Percentage of children</i>			
	Before Housing Costs		After Housing Costs	
	Below median		Below median	
	<i>50%</i>	<i>60%</i>	<i>50%</i>	<i>60%</i>
FRS (UK)				
1998-99	14	26	24	34
1999-2000	13	26	23	33
2000-01	12	23	21	31
2001-02	11	23	20	31
2002-03	11	23	20	30
2003-04	11	22	19	29
2004-05	11	21	18	28
2005-06	11	22	19	30
2006-07	12	22	20	30
2007-08	12	23	21	31
2008-09	11	22	20	30
2009-10	10	20	19	29
Change				
1998-99 – 2009-10 ^{2, 3}	-3	-6	-5	-5
2008-09 – 2009-10 ^{2, 3}	-1	-2	-1	-1

Notes:

- 1 FRS figures are for Great Britain up to 1997-98, and for the UK from 1998-99, with estimates for Northern Ireland imputed for the years 1998-99 to 2001-02. The reference period for FRS figures is single financial years.
- 2 Small changes in estimates from year to year, particularly at the bottom of the income distribution, may not be significant in view of data uncertainties; for information on sampling errors refer to the DWP.
- 3 Due to rounding, the estimates of change in percentages of children below low-income thresholds may not equal the difference between the total percentage of children below thresholds for any pair of years shown.

‘Low income’ is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 365: Number of children falling below various thresholds of contemporary median income, UK^{1, 2}, 1998-99-2009-10

	<i>Number of children (millions)</i>			
	Before Housing Costs		After Housing Costs	
	Below median		Below median	
	50%	60%	50%	60%
FRS (UK)				
1998-99	<i>1.8</i>	3.4	<i>3.1</i>	4.4
1999-2000	<i>1.7</i>	3.4	<i>3.1</i>	4.3
2000-01	<i>1.6</i>	3.1	<i>2.8</i>	4.1
2001-02	<i>1.5</i>	3.0	<i>2.6</i>	4.0
2002-03	<i>1.5</i>	2.9	<i>2.6</i>	3.9
2003-04	<i>1.4</i>	2.9	<i>2.5</i>	3.7
2004-05	<i>1.4</i>	2.7	<i>2.3</i>	3.6
2005-06	<i>1.4</i>	2.8	<i>2.5</i>	3.8
2006-07	<i>1.5</i>	2.9	<i>2.6</i>	3.9
2007-08	<i>1.5</i>	2.9	<i>2.7</i>	4.0
2008-09	<i>1.4</i>	2.8	<i>2.6</i>	3.9
2009-10	<i>1.3</i>	2.6	<i>2.4</i>	3.8
Change				
1998-99 – 2009-10 ^{2, 3}	<i>-0.5</i>	-0.9	<i>-0.7</i>	-0.7
2008-09 – 2009-10 ^{2, 3}	<i>-0.1</i>	-0.2	<i>-0.1</i>	-0.1

Notes:

- 1 FRS figures are for Great Britain up to 1997-98, and for the UK from 1998-99, with estimates for Northern Ireland imputed for the years 1998-99 to 2001-02. The reference period for FRS figures is single financial years.
- 2 Small changes in estimates from year to year, particularly at the bottom of the income distribution, may not be significant in view of data uncertainties; for information on sampling errors refer to the DWP.
- 3 Due to rounding, the estimates of change in percentages of children below low-income thresholds may not equal the difference between the total percentage of children below thresholds for any pair of years shown.

'Low income' is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 366: Number of children falling below various thresholds of 1998-99 median income held constant in real terms, UK^{1, 2}, 1998-99 –2009-10

	<i>Number of children (millions)</i>			
	Before Housing Costs		After Housing Costs	
	Below median		Below median	
	50%	60%	50%	60%
FRS (UK)				
1998-99	<i>1.8</i>	3.4	<i>3.1</i>	4.4
1999-2000	<i>1.5</i>	3.1	<i>2.7</i>	4.1
2000-01	<i>1.2</i>	2.5	<i>2.1</i>	3.6
2001-02	<i>0.9</i>	2.0	<i>1.6</i>	3.0
2002-03	<i>0.9</i>	1.8	<i>1.5</i>	2.7
2003-04	<i>0.9</i>	1.8	<i>1.5</i>	2.5
2004-05	<i>0.9</i>	1.7	<i>1.4</i>	2.3
2005-06	<i>0.9</i>	1.6	<i>1.4</i>	2.4
2006-07	<i>1.0</i>	1.7	<i>1.5</i>	2.5
2007-08	<i>1.0</i>	1.7	<i>1.5</i>	2.5
2008-09	<i>0.9</i>	1.6	<i>1.5</i>	2.4
2009-10	<i>0.8</i>	1.4	<i>1.4</i>	2.3
Change				
1998-99 – 2009-10 ^{2, 3}	<i>1.0</i>	-2.0	<i>-1.7</i>	-2.1
2008-09 – 2009-10 ^{2, 3}	<i>-0.1</i>	-0.2	<i>-0.1</i>	-0.1

Notes:

- 1 FRS figures are for Great Britain up to 1997-98, and for the UK from 1998-99, with estimates for Northern Ireland imputed for the years 1998-99 to 2001-02. The reference period for FRS figures is single financial years.
- 2 Small changes in estimates from year to year, particularly at the bottom of the income distribution, may not be significant in view of data uncertainties.
- 3 Due to rounding, the estimates of change in percentages of children below low-income thresholds may not equal the difference between the total percentage of children below thresholds for any pair of years shown.

'Low income' is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 367: Percentage of children in low-income groups by various family and household characteristics, UK, 2009-10

	Low income and material deprivation ¹	Percentage of children			
		Before Housing Costs		After Housing Costs	
		Below median	Below median	Below median	Below median
		50%	60%	50%	60%
Disability and receipt of disability benefits²					
Those living in families where no-one is disabled	13	9	18	17	27
Those living in families where someone is disabled	24	14	25	23	35
No disabled adult, 1 or more disabled child	16	8	15	13	22
1 or more disabled adult, no disabled child	27	17	30	28	41
1 or more disabled adult, 1 or more disabled child	27	13	28	24	39
In receipt of disability benefits	20	9	17	14	25
Not in receipt of disability benefits	25	15	28	26	39
Ethnic group of head (three-year average)					
White	15	9	19	17	27
Mixed	26	16	28	30	42
Asian or Asian British	28	25	42	36	52
Indian	14	14	27	22	35
Pakistani and Bangladeshi	39	33	54	45	63
Black or Black British	29	18	32	35	48
Black Caribbean	24	18	24	25	39
Black Non-Caribbean	32	19	36	41	54
Chinese or other ethnic group	15	20	33	37	48
All children ³	16	10	20	19	29

Notes:

- 1 A family is in low income and material deprivation if they have a material deprivation score of 25 or more and a household income below 70 per cent contemporary median income, Before Housing Costs. For further details see HBAI Report, website or refer to DWP.
- 2 Disability benefits are: Disability Living Allowance; Armed Forces Compensation Scheme; Attendance Allowance (for those over 65 years old); Industrial Injuries Disablement Benefit. These benefits may be received by or on behalf of the eligible person in the household.
- 3 The totals for all children are shown for the UK for the latest year and are not three-year averages.

Out of a population of 10.8 million children in families where at least one person works, 13 per cent were in households with incomes below 60 per cent of the median Before Housing Costs (20 per cent After Housing Costs). Out of a population of 2.2 million children in families where no-one works, 51 per cent were in households with incomes below 60 per cent of the median Before Housing Costs (75 per cent After Housing Costs).

Within households, pensioners are excluded from the classifications if they are not working, and are included if they are working. For those households where children live only with pensioners, the status of all adults is included in the analysis.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 368: Percentage of children falling below various thresholds of 1998/99 median income held constant in real terms, United Kingdom^{1, 2}, 1998-99 – 2009-10

	<i>Percentage of children</i>			
	Before Housing Costs		After Housing Costs	
	Below median		Below median	
	50%	60%	50%	60%
FRS (UK)				
1998-99	14	26	24	34
1999-2000	11	23	21	31
2000-01	9	19	16	27
2001-02	7	15	13	23
2002-03	7	14	11	21
2003-04	7	14	11	20
2004-05	7	13	11	18
2005-06	7	13	11	19
2006-07	8	13	12	19
2007-08	7	13	12	19
2008-09	7	12	12	19
2009-10	6	11	11	18
Change				
1998-99 – 2009-10 ^{2, 3}	-7	-15	-13	-16
2008-09 – 2009-10 ^{2, 3}	-1	-2	-1	-1

Notes:

- 1 FRS figures are for Great Britain up to 1997-98, and for the UK from 1998-99, with estimates for Northern Ireland imputed for the years 1998-99 to 2001-02. The reference period for FRS figures is single financial years.
- 2 Small changes in estimates from year to year, particularly at the bottom of the income distribution, may not be significant in view of data uncertainties; for information on sampling errors refer to the DWP.
- 3 Due to rounding, the estimates of change in percentages of children below low-income thresholds may not equal the difference between the total percentage of children below thresholds for any pair of years shown.

‘Low income’ is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 369: Percentage and number of children falling below thresholds of low income and material deprivation^{1, 2}, UK³, 2004-05 –2009-10

	Low income and material deprivation		Severe low income and material deprivation		All children
	Percentage	Number (millions)	Percentage	Number (millions)	
FRS (UK)					
2004-05	17	2.2	6	0.7	12.9
2005-06	16	2.1	6	0.7	12.8
2006-07	16	2.0	6	0.7	12.8
2007-08	17	2.2	6	0.8	12.8
2008-09	17	2.2	6	0.8	12.8
2009-10	16	2.0	5	0.7	13.0
Change					
2008-09 – 2009-10 ^{3, 4}	-1	-0.1	-1	-0.1	0.2

Notes:

- 1 A family is in low income and material deprivation if they have a material deprivation score of 25 or more and a household income below 70 per cent of contemporary median income, Before Housing Costs. For the latest HBAI findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents or refer to the DWP.
- 2 A family is in severe low income and material deprivation if they have a material deprivation score of 25 or more and a household income below 50 per cent of contemporary median income, Before Housing Costs. For the latest HBAI findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents or refer to the DWP.
- 3 Small changes in estimates from year to year, particularly at the bottom of the income distribution, may not be significant in view of data uncertainties; see references to sampling errors in original documentation, Appendix 2.
- 4 Due to rounding, the estimates of change in percentages and numbers of children below low-income thresholds may not equal the difference between the total percentage and total number of children below thresholds for any pair of years shown.

‘Low income’ is defined using thresholds derived from percentages of median income for the whole population. Households reporting the lowest incomes may not have the lowest living standards. The bottom 10 per cent of the income distribution should not, therefore, be interpreted as having the bottom 10 per cent of living standards. This is a particular issue for lower thresholds of median income. To reflect this uncertainty in these tables, results for the 50 per cent of median threshold are presented in italics.

Source: DWP (2011b). For the latest HBAI findings see: research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Table 370: Percentage of children experiencing persistent low income, Great Britain¹, 1991-2008

<i>Percentage of children living in households below the threshold in at least three out of four years</i>		
	Before Housing Costs thresholds	After Housing Costs thresholds
	Below 60% median	
1991-94	19	25
1992-95	18	23
1993-96	17	22
1994-97	17	23
1995-98	17	23
1996-99	17	23
1997-2000	17	22
1998-2001	17	21
1999-2002	16	20
2000-03	14	17
2001-04	12	15
2002-05	11	16
2003-06	10	14
2004-07	10	15
2005-08	12	17

Source: DWP (2011b). For the latest HBAI findings see:
research.dwp.gov.uk/asd/hbai/hbai2010/index.php?page=contents

Indicator 78: Spotlight statistics : Deprivation in other basic needs

Table 371: Statutory homelessness: Households accepted by local authorities as owed a main homelessness duty, by ethnicity, England, 1998-2010

	Number of households accepted ¹ during period	White			Black or Black British			Asian or Asian British			Mixed ²			Chinese or other ethnic group			Ethnic group not stated		
		N	%		N	%		N	%		N	%		N	%		N	%	
1998-99	104,260	78,260	75		7,100	7		5,280	5		..	..		6,440	6		7,200	7	
1999-2000	105,580	77,950	74		7,690	7		5,470	5		..	..		6,820	6		7,680	7	
2000-01	114,670	83,820	73		9,860	9		6,430	6		..	..		7,500	7		7,080	6	
2001-02	116,660	83,040	71		10,040	9		6,810	6		..	..		7,790	7		9,010	8	
2002-03	128,540	90,920	71		12,490	10		7,000	5		..	..		9,850	8		8,290	6	
2003-04	135,430	98,070	72		12,960	10		7,020	5		..	..		9,440	7		7,930	6	
2004-05	120,860	89,180	74		12,430	10		6,570	5		1730	1		4,770	4		6,170	5	
2005-06	93,980	69,320	74		9,960	11		5,190	6		1820	2		3,070	3		4,640	5	
2006-07	73,360	54,370	74		7,250	10		4,130	6		1580	2		2,150	3		3,880	5	
2007-08	63,170	45,500	72		6,910	11		3,870	6		1430	2		1,980	3		3,520	6	
2008-09	53,430	37,310	70		6,630	12		3,310	6		1440	3		1,930	4		2,820	5	
2009-10 ^P	40,020	27,250	68		5,600	14		2,620	7		1160	3		1,550	4		1,850	5	

Source: Department for Communities and Local Government (CLG) (2011).

Notes: The term 'homelessness' is often considered to apply only to people 'sleeping rough'. However, most statistics on homelessness relate to the statutory homeless ie those households which meet specific criteria of priority need set out in legislation, and to whom a homelessness duty has been accepted by a local authority. Such households are rarely homeless in the literal sense of being without a roof over their heads, but are more likely to be threatened with the loss of, or are unable to continue with, their current accommodation.

1 Households found to be eligible for assistance, unintentionally homeless and falling within a priority need group, and consequently owed a main homelessness duty by a local housing authority. Figures reflect decisions under the Housing Act 1996, and residual Housing Act 1985 cases.

2 In 2004 Q2 the collection of data for people of mixed ethnicity was introduced. Prior to this date, people would have been counted in the category offering the most appropriate description of their ethnicity.

P Provisional data. Totals may not equal the sum of components because of rounding.

Table 372: Statutory homelessness: Households accepted by local authorities as owed a main homelessness duty, by Government Office Region, England, 1998-2010Number of households accepted¹ and acceptances rate² per 1,000 households.

	England		North East		North West		Yorkshire and the Humber		East Midlands	
	1	2	1	2	1	2	1	2	1	2
1998-99	104,260	5.2	4,460	4.2	13,100	4.7	8,210	4.0	7,660	4.5
1999-2000	105,580	5.2	4,840	4.5	12,770	4.6	8,380	4.1	7,090	4.2
2000-01	114,670	5.6	5,160	4.8	13,190	4.7	9,320	4.5	7,430	4.3
2001-02	116,660	5.7	5,610	5.2	13,280	4.7	10,760	5.2	7,200	4.1
2002-03	128,540	6.2	6,920	6.4	15,020	5.3	15,300	7.3	8,240	4.7
2003-04	135,430	6.5	8,350	7.7	18,030	6.3	16,190	7.7	9,590	5.4
2004-05	120,860	5.8	7,940	7.3	17,360	6.0	13,430	6.3	9,120	5.1
2005-06	93,980	4.4	5,970	5.5	13,180	4.6	9,450	4.4	6,890	3.8
2006-07	73,360	3.4	4,790	4.4	11,380	3.9	8,220	3.8	6,020	3.3
2007-08	63,170	2.9	3,600	3.3	8,530	2.9	7,350	3.4	4,780	2.6
2008-09	53,430	2.5	3,140	2.8	5,490	1.9	6,260	2.8	3,670	2.0
2009-10	40,020	1.8	2,010	1.8	4,010	1.4	3,880	1.8	3,060	1.6

	West Midlands		East of England		London		South East		South West	
	1	2	1	2	1	2	1	2	1	2
1998-99	14,000	6.6	8,680	4.0	26,580	9.2	12,670	3.9	8,930	4.4
1999-2000	13,210	6.2	8,720	4.0	27,950	9.5	12,860	4.0	9,790	4.8
2000-01	13,820	6.5	9,810	4.4	29,710	10.0	14,910	4.6	11,360	5.5
2001-02	14,670	6.8	10,250	4.6	29,320	9.7	14,310	4.3	11,300	5.4
2002-03	14,770	6.8	11,060	4.9	29,790	9.7	14,670	4.4	12,790	6.0
2003-04	15,600	7.2	11,190	4.9	30,080	9.7	15,150	4.5	11,230	5.3
2004-05	14,050	6.4	10,150	4.4	26,730	8.6	12,420	3.7	9,680	4.5
2005-06	11,960	5.4	8,260	3.6	21,140	6.7	9,320	2.8	7,820	3.6
2006-07	8,740	3.9	6,890	2.9	15,390	4.8	6,660	2.0	5,270	2.4
2007-08	9,170	4.1	5,900	2.5	13,800	4.3	5,510	1.6	4,520	2.0
2008-09	8,670	3.9	5,050	2.1	12,780	3.9	4,730	1.4	3,650	1.6
2009-10	7,100	3.2	3,660	1.5	9,460	2.9	3,870	1.1	2,980	1.3

Source: CLG (2011).

Notes: The term 'homelessness' is often considered to apply only to people 'sleeping rough'. However, most statistics on homelessness relate to the statutorily homeless ie those households which meet specific criteria of priority need set out in legislation, and to whom a homelessness duty has been accepted by a local authority. Such households are rarely homeless in the literal sense of being without a roof over their heads, but are more likely to be threatened with the loss of, or are unable to continue with, their current accommodation.

- 1 Households found to be eligible for assistance, unintentionally homeless and falling within a priority need group, and consequently owed a main homelessness duty by a local housing authority. Figures reflect decisions under the Housing Act 1996, and residual Housing Act 1985 cases.
- 2 Any changes from previously published rates are due to revision of household estimates. Totals may not equal the sum of components because of rounding.

Table 373: Number and estimates of rough sleepers, England, 2010

Total of street counts ¹	440
Total estimates of councils that did not count ²	807

Source: CLG (2010b).

Notes: Experimental statistics. Definition of 'rough sleepers': People sleeping, about to bed down (sitting on/in or standing next to their bedding) or actually bedded down in the open air (such as on the streets, in tents, doorways, parks, bus shelters or encampments). People in buildings or other places not designed for habitation (such as stairwells, barns, sheds, car parks, cars, derelict boats, stations, or 'bashes'). Figures are as reported by local authorities.

- 1 The 2010 local authority street counts were carried out between January 2009 and May 2010. Counts for 2010 based on the 2007 count guidance are final.
- 2 Local authorities who did not carry out a count between January 2009 and May 2010 were asked to submit a single figure estimate of the number of people sleeping rough on any given night as at June 2010. In order to obtain a robust estimate these authorities were referred to the definition of people sleeping rough as given in the guidance and advised to speak to the voluntary sector, the police and other local agencies in order to obtain local intelligence on rough sleeping in their local area.

Table 374: Total number of households in fuel poverty, England, 2003-09

	Number of households in group (1000s)	Percentage of households in group
2003	1,222	5.9
2004	1,236	5.9
2005	1,529	7.2
2006	2,432	11.5
2007	2,823	13.2
2008	3,335	15.6
2009	3,964	18.4

Notes: A household is said to be in fuel poverty if it needs to spend more than 10 per cent of its income on fuel to maintain an adequate level of warmth (usually defined as 21 degrees for the main living area, and 18 degrees for other occupied rooms).

Source: Department of Energy and Climate Change (DECC) (2010).

Table 375: Percentage of households in fuel poverty by ethnicity, disability, vulnerability and Government Office Region, England, 2003-08

	Percentage of households in group		Percentage of total fuel poor in group
Year	Not fuel poor	Fuel poor	
Ethnic origin of household reference person			
White			
2003	94.0	6.0	93.9
2004	94.0	6.0	93.9
2005	92.7	7.3	93.0
2006	88.6	11.4	90.7
2007	86.9	13.1	90.4
2008	84.6	15.4	90.0
Ethnic minority			
2003	95.4	4.6	6.1
2004	95.3	4.7	6.1
2005	93.9	6.1	7.0
2006	87.8	12.2	9.3
2007	85.7	14.3	9.6
2008	83.0	17.0	10.0
Someone in household has a Long-term illness or disability			
Yes			
2003	91.0	9.0	45.1
2004	91.6	8.4	41.4
2005	90.2	9.8	39.7
2006	85.2	14.8	37.6
2007	83.4	16.6	37.7
2008	79.7	20.3	38.7
No			
2003	95.4	4.6	54.9
2004	95.1	4.9	58.6
2005	93.8	6.2	60.3
2006	89.9	10.1	62.4
2007	88.3	11.7	62.3
2008	86.4	13.6	61.3
			Continued

Table 375: Percentage of households in fuel poverty by ethnicity, disability, vulnerability and Government Office Region, England, 2003-08 (*continued*)

	Percentage of households in group		Percentage of total fuel poor in group
Year	Not fuel poor	Fuel poor	
Government Office Region			
North East			
2003	91.3	8.7	7.8
2004	90.5	9.5	8.3
2005	88.5	11.5	8.3
2006	83.6	16.4	7.4
2007	81.3	18.7	7.3
2008	78.8	21.2	7.1
Yorkshire and the Humber			
2003	91.4	8.6	14.7
2004	92.3	7.7	13.2
2005	92.0	8.0	11.1
2006	87.3	12.7	11.2
2007	84.5	15.5	11.8
2008	81.8	18.2	12.2
North West			
2003	93.7	6.3	14.6
2004	93.4	6.6	15.3
2005	90.8	9.2	17.6
2006	85.8	14.2	17.1
2007	83.8	16.2	16.8
2008	81.9	18.1	15.9
East Midlands			
2003	93.7	6.3	9.2
2004	94.3	5.7	8.2
2005	91.9	8.1	9.5
2006	87.1	12.9	9.7
2007	85.2	14.8	9.6
2008	80.8	19.2	10.8
			Continued

Table 375: Percentage of households in fuel poverty by ethnicity, disability, vulnerability and Government Office Region, England, 2003-08 (*continued*)

	Percentage of households in group		Percentage of total fuel poor in group
Year	Not fuel poor	Fuel poor	
West Midlands			
2003	93.3	6.7	11.9
2004	93.0	7.0	12.4
2005	91.1	8.9	12.9
2006	86.3	13.7	12.5
2007	82.8	17.2	13.6
2008	77.5	22.5	15.0
South West			
2003	93.5	6.5	11.4
2004	93.8	6.2	10.8
2005	91.7	8.3	11.8
2006	88.4	11.6	10.5
2007	88.3	11.7	9.2
2008	84.5	15.5	10.2
East of England			
2003	94.9	5.1	9.4
2004	93.9	6.1	11.4
2005	93.3	6.7	10.1
2006	90.3	9.7	9.2
2007	89.2	10.8	9.0
2008	87.5	12.5	8.8
South East			
2003	95.6	4.4	12.2
2004	96.1	3.9	10.7
2005	95.1	4.9	11.0
2006	91.5	8.5	12.0
2007	90.5	9.5	11.8
2008	90.1	9.9	10.3
			Continued

Table 375: Percentage of households in fuel poverty by ethnicity, disability, vulnerability and Government Office Region, England, 2003-08 (continued)

Year	Percentage of households in group		Percentage of total fuel poor in group
	Not fuel poor	Fuel poor	
London			
2003	96.4	3.6	8.8
2004	96.1	3.9	9.6
2005	96.1	3.9	7.8
2006	91.7	8.3	10.5
2007	90.0	10.0	11.0
2008	89.2	10.8	9.8
Vulnerable group			
Not vulnerable group			
2003	95.9	4.1	20.3
2004	95.2	4.8	23.1
2005	94.3	5.7	21.8
2006	91.9	8.1	19.9
2007	90.4	9.6	19.8
2008	89.1	10.9	20.5
Vulnerable group			
2003	93.4	6.6	79.7
2004	93.6	6.4	76.9
2005	92.2	7.8	78.2
2006	87.2	12.8	80.1
2007	85.4	14.6	80.2
2008	82.5	17.5	79.5
Total			
2003	94.1	5.9	100.0
2004	94.1	5.9	100.0
2005	92.8	7.2	100.0
2006	88.5	11.5	100.0
2007	86.8	13.2	100.0
2008	84.4	15.6	100.0

Department of Energy and Climate Change (2011) 'Trends in fuel poverty, England, 2003 to 2009', available at: www.decc.gov.uk/assets/decc/Statistics/fuelpoverty/2182-trends-fuel-poverty-england-2003-2009.xls

Notes: A household is said to be in fuel poverty if it needs to spend more than 10 per cent of its income on fuel to maintain an adequate level of warmth (usually defined as 21 degrees for the main living area, and 18 degrees for other occupied rooms).

Indicator 79: Spotlight indicators : Adequate standard of living – at risk/vulnerable groups

Table 376: ‘Children in need’ whose primary need category is low income

Numbers and percentages of ‘children in need’ at 31 March 2010¹, by primary need² at initial assessment³, England⁴, 2010

	Numbers of children in need at 31 March 2010, by primary need	Percentage of the total number of children in need at 31 March 2010, by primary need
Numbers of children in need at 31 March 2010	375,900	n/a
Missing/unknown	13,300	3.5
Abuse or neglect	148,300	39.4
Child’s disability or illness	45,000	12.0
Parent’s disability or illness	12,700	3.4
Family in acute stress	38,500	10.3
Family dysfunction	59,100	15.7
Socially unacceptable behaviour	8,000	2.1
Low income	2,500	0.7
Absent parenting	13,600	3.6
Cases other than children in need	5,500	1.5
Not stated	29,300	7.8
Data confidence indicator ⁵	n/a	n/a

Source: Department for Education (2010b), Table 6.

Notes:

- 1 Data based upon local authorities who submitted data at 31 August 2010.
- 2 Primary need indicates the main reason why a child started to receive services. It should not be left blank and only one reason should be recorded.
- 3 An initial assessment is defined as a brief assessment of each child referred to children’s social care with a request for services to be provided. If a child was the subject of more than one initial assessment during the reporting year, each assessment should be coded separately.
- 4 The total figures for England include estimates for missing data and are rounded to the nearest 100 if over 1,000 or nearest 10 otherwise. Subtotals may not add up to the England total due to rounding.
- 5 The data is published with a ‘data confidence indicator’ which provides guidance on the confidence in the data provided by each local authority. ‘3’ denotes high confidence, ‘2’ denotes medium confidence, ‘1’ denotes low confidence, ‘A’ denotes aggregate information was supplied by the local authority and ‘..’ denotes no data was supplied. Further details on the levels of confidence that apply to this table and on the construction of the confidence indicator are in the publication technical notes, paragraphs 20 to 25.

Table 377: ‘Children looked after’ whose primary need category is low income, by category of need^{1, 2, 3}, England, years ending 31 March 2006 to 31 March 2010

	Numbers				
	2006	2007	2008	2009	2010
Category of Need ⁴	60,300	60,000	59,400	60,900	64,400
Abuse or neglect	37,600	37,200	36,700	37,100	39,200
Child’s disability	2,400	2,300	2,300	2,200	2,200
Parents’ illness or disability	3,200	3,000	2,800	2,700	2,800
Family in acute stress	4,500	4,700	4,900	5,300	5,800
Family dysfunction	6,200	6,300	6,300	6,900	8,000
Socially unacceptable behaviour	1,300	1,300	1,200	1,200	1,300
Low income	110	110	130	140	170
Absent parenting	5,100	5,000	5,100	5,300	4,900

Source: Department for Education (2010c), Table A1.

Notes:

- 1 Numbers have been rounded to the nearest 100 if they exceed 1,000, and to the nearest 10, otherwise. Percentages have been rounded to the nearest whole number. See original publication Technical Notes for more information on rounding.
- 2 Figures exclude children looked after under an agreed series of short term placements.
- 3 Historical data may differ from older publications. This is mainly due to the implementation of amendments and corrections sent by some local authorities after the publication date of previous materials.
- 4 The most applicable category of the eight ‘need codes’ at the time the child started to be looked after rather than necessarily the entire reason they are looked after.

Table 378: ‘Children in need’ at 31 March 2010 whose primary need category at initial assessment is low income, by age and asylum seeking status, England, 2010

Child’s age at 31 March	Frequency
0	97
1	127
2	135
3	126
4	156
5	130
6	137
7	138
8	114
9	144
10	131
11	123
12	108
13	106
14	119
15	136
16	139
17	174
18	72
19	28
20	30
21	11
22 and over	21
Missing	21
Asylum seeking	Frequency
Missing	15
N	2,399
Y	109

Source: Department for Education (2011b), Personal Communication.

Table 379: 'Looked after children' at 31 March whose primary need category is low income, by age^{1, 2}, England, 2010

Year ending 31 March 2010

Coverage: England

All children looked after at 31 March 2010	Numbers				
	Age at 31 March 2010 (years)				
	Under 1	1 to 4	5 to 9	10 to 15	16 and over
All children	10	20	10	20	50
Domestic children	10	20	10	20	50
Unaccompanied asylum seeking children	0	x	0	0	x

Source: Department for Education (2011a), Personal Communication.

Notes:

1 England totals have been rounded to the nearest 10. Figures of 5 or less, except for 0, have been suppressed and replaced with 'x'.

2 Figures exclude children looked after under an agreed series of short term placements.

x Figures not shown in order to protect confidentiality.

Table 380: Supported asylum seekers, 2007-09

	Total	Subsistence only support	In dispersed accommodation	In initial accommodation
Q1 2007	48,800	10,935	36,785	1,075
Q2 2007	48,995	10,865	37,280	850
Q3 2007	48,470	10,160	37,060	1,250
Q4 2007	44,495	8,900	34,150	1,440
Q1 2008	33,865	6,820	25,940	1,105
Q2 2008	31,580	6,495	24,060	1,025
Q3 2008	32,170	6,600	24,290	1,280
Q4 2008	32,580	6,195	25,145	1,240
Q1 2009	33,165	6,020	25,895	1,250
Q2 2009	31,500	5,120	25,535	845
Q3 2009	29,895	4,900	24,170	820
Q4 2009	29,150	4,670	23,845	635

Source: Home Office (2010a), Table 2d.

Table 381: Section 4 support for destitute asylum seekers

This measure covers asylum seekers who are supported under Section 4 of the Immigration and Asylum Act 1999. Individuals are generally eligible for this support if their asylum application has been finally determined as refused but they are destitute and there are reasons that temporarily prevent them from leaving the UK (Home Office, 2010a). Section 4 support is provided in the form of accommodation and vouchers to cover the cost of food and other basic essentials.

At the end of Q4 2009, 11,655 applicants, excluding dependants, were in receipt of Section 4 support, 13 per cent higher than in Q4 2008 (10,295) (Home Office, 2010a). The table below details the number of cases granted Section 4 support from Q1 2007 to Q4 2009.

Decisions to grant Section 4 support, UK, Q1 2007 to Q4 2009

	Number of cases granted Section 4 support
Q1 2007	2,005
Q2 2007	1,635
Q3 2007	1,480
Q4 2007	1,585
Q1 2008	1,875
Q2 2008	2,220
Q3 2008	2,440
Q4 2008	2,580
Q1 2009	2,905
Q2 2009	3,140
Q3 2009	2,620
Q4 2009	1,440

Source: Home Office (2010a), Figure 2a.

Indicator 80: Spotlight Statistics: Public attitudes, understanding and experiences

Table 382: Support for the right to be looked after by the State if you can not look after yourself by population subgroup, England, 2005

[illegible]

Table 382: Support for the right to be looked after by the State if you can not look after yourself by population subgroup, England, 2005 (continued)

Religion/belief (p<0.05)									
	Odds ratio	p-value	95% Conf Interval		Odds ratio	p-value	95% Conf Interval		
Reference group = Christian				IMD (quintile groups)					
Buddhist	1.505	0.341	0.648	3.497	Reference group = IMD First Quintile (least deprived)				
Hindu	1.018	0.938	0.648	1.600	IMD Second Quintile				
Jewish	2.334	0.142	0.752	7.240	IMD Third Quintile				
Muslim	1.446	0.061	0.984	2.125	IMD Fourth Quintile				
Sikh	2.211	0.007*	1.240	3.943	IMD Fifth Quintile				
Any other religion	1.060	0.813	0.656	1.712	Government Office Region (p<0.05)				
No religion	1.255	0.072	0.980	1.607	Reference group = London				
Country of birth (p<0.05)					North West				
					Yorkshire and the Humber				
					East Midlands				
					West Midlands				
					East of England				
					South East				
					South West				
					South West				
Reference group = UK									
Irish Republic	0.393	0.01*	0.193	0.797					
India	0.596	0.008*	0.406	0.873					
Pakistan	1.040	0.878	0.629	1.722					
Bangladesh	0.768	0.259	0.484	1.216					
Jamaica	0.603	0.078	0.344	1.059					
East African New Commonwealth	1.566	0.151	0.849	2.889					
Rest of New Commonwealth	0.936	0.733	0.641	1.368					
Other	0.612	0.002*	0.450	0.831					

Source: Vizard (2010). Notes: Author's calculations from the Citizenship Survey. The data in this table is for England only. It represents the combined sample, corrected for complex survey design. The findings are accurate to three decimal places. * Significance tests are based on logistic regression analysis controlling for gender, long-term limiting illness or disability, ethnicity, age, religion/belief, country of birth, equivalent household income, highest educational qualification, social class, social housing, index of multiple deprivation ranking, Government Office Region.

Chapter notes

- 680 The status of UN treaty ratification is drawn from the UN Treaty Database, www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet (accessed 4 November 2010). The status of European treaty ratification is drawn from the Council of Europe Treaty Office website, conventions.coe.int/ (accessed 4 November 2010). When a state signs an international treaty this signals its preliminary endorsement of the treaty, it does not create a binding legal obligation. A state which ratifies or accedes to a treaty is asserting that it considers itself to be legally bound by the treaty. Ratification requires the state to have previously signed the treaty, whereas accession is a single step which does not require previous signing. It should be noted that a treaty which has been acceded to or ratified by the UK does not automatically become part of the domestic law; separate legislative action is required to incorporate international law into domestic law (for example, the HRA making the ECHR enforceable in the UK). Nonetheless, ratification or accession is a state's expression that it consents to be legally bound by the treaty, including respecting and implementing its provisions.
- 681 www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC15Merits_en.pdf
- 682 www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC27Merits_en.pdf
- 683 [www.lawreports.co.uk/WLRD/2009/CACiv/R\(Weaver\)_v_LondonQuadrant.html](http://www.lawreports.co.uk/WLRD/2009/CACiv/R(Weaver)_v_LondonQuadrant.html)
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- 700 [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)
- 701 www.unhchr.ch/tbs/doc.nsf/0/4ceb75c5492497d9802566d500516036?Opendocument
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