A quantitative approach to the right to education

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Impact paragraph

This research concerns the measurement of the right to education, and how that right – as solidified in a country’s laws – is related to primary education outcomes. This impact paragraph is an accessible summary of that research, with a reflection on its relevance, intended impact, and target audience.

Twice this millennium, world leaders have come together to pledge to erase global poverty and launch an agenda filled with measurable targets to monitor their progress. This is not so much special because of the pledge itself (world leaders tend to make all sorts of lofty pledges when they get together), but rather because they choose to monitor their progress. The Millennium Development Goals – and its successor the Sustainable Development Goals – break down the overall goal in several sub-goals, and attach multiple measurable targets to each of these. The fifth Millennium Development Goal, for example, is to improve maternal health. There are two targets associated with this: to reduce the maternal mortality ratio by 75 percent, and to achieve universal access to reproductive health. It might seem odd that improving maternal health is a sub-goal of erasing global poverty, but this is reflective of the understanding that poverty is more than a lack of money. What good is money if you are illiterate, unhealthy, or being discriminated against because of your gender? Not much good, and that is why erasing global poverty (sometimes referred to as achieving human development) includes more than just monetary poverty.

This call for a more just and equal world used to come mostly from human rights. Back in 1941, US President Roosevelt stated that people everywhere in the world should enjoy the following four freedoms: freedom of speech, freedom of worship, freedom from want, and freedom from fear. After the war, the United Nations took up the mantle of human rights, first drafting the Universal Declaration on Human Rights, and later elaborating its content into legally binding international treaties, such as the International Covenant on Economic, Social, and Cultural Rights. Despite all this work (and progress) it seems that global development goals have superseded human rights in the international development work and lingo. The attractiveness of targets is that they are measurable, thus allowing for easy monitoring. Human rights, on the other hand, have the added value that they are legally enforceable, and thus provide more protection to individuals than abstract global goals. As both global goals and human rights have a similar end objective (freedom from want), this research asks if it is possible to have the best of both worlds: human rights
that are measurable (and thus easy to monitor and compare) while retaining their legal character. Of course, they also still need to contribute to the greater good (freedom from want).

This is easier said than done.

For one, there are multiple ways to measure human rights. They can be understood as the laws that codify the rights, as the process by which these rights are implemented, or as the outcomes to which they aspire. Human rights come as a package, furthermore, meaning that they strengthen each other. The right to political participation, for example, is a lot easier to exercise if you also have a right to education and to freedom of expression. To keep things manageable, we choose to focus on just one right (to primary education) and one aspect (the right as codified in the law).

Second, in order to know that human rights indeed contribute to the greater good, we need to collect and compare the laws of many countries over a long period of time. This step is particularly tricky, as most laws are tailor-made to fit the historical, social, cultural, and legal context of each country. If we take all of that into account, there is no way we can come up with a target that is as easy to measure and monitor as the global development goals. We thus need to simplify, but in doing so we lose valuable nuances that give a human right its power in a particular context. This difficult trade-off is far from the only one in human rights measurement, and one has to accept that the knowledge produced in this process is always partial and incomplete. In this dissertation, we took care to clearly present our dilemmas and consistently decide them based on the overall goal of the project.

Third, there are many ways to conceptualise (and thus measure) the right to education. In Chapter 2, we explored those and settled on the minimum core obligations (MCOs). Not all countries are able to deliver all human rights completely to all their inhabitants with immediate effect. States therefore have the freedom to increase enjoyment of these rights progressively, to the best of their abilities. The risk of this system is that in very poor countries there is no human right left to speak off. To prevent this minimum core obligations were developed. They set out a minimum floor for each right that is not subject to progressive realisation. For the right to education, the list of minimum core obligations is:
These results, and this research more broadly, contain a number of relevant lessons. The first is that the picture painted by the global development goals is not as rosy as it sometimes seems. While the number of children that enrol in, and complete primary schools has increased dramatically in the last thirty years, the legal protection of the right to education has lagged behind. This means that real progress is not guaranteed, and that children remain vulnerable to sudden economic, political, or social winds of change – such as the COVID-19 pandemic.

The second is that measuring human rights is challenging. Our goal of combining the best of human rights and global goals necessitated many trade-offs, and with each trade-off you lose a bit of the nuance and power of the right – the measurement always remains incomplete. Due to the scope of this research (studying many countries over a long time period) this process gets repeated many times. The choice for minimum core obligations – a rather limited conceptualisation of the right to education – is telling in this regard. Measuring human rights on this scale is inevitably handicapping it, and it should not be surprising that the contribution of these Platonic cave shadows of human rights to the greater good are limited.

As an aside, some of the reasons that measurement on a macro scale take away from the thing being measured are also true for global development goals: we might have been able to send the great majority of the world’s children to primary school, but what have they learned? Many ‘graduate’ with barely functional literacy and numeracy skills, ill-equipped to participate in their society. Does being in school really contribute to eradicating global poverty in all its forms?

These lessons should resonate with scholars, development practitioners, and human rights activists alike. The dissertation is set-up in such a way that it is accessible to those schooled in the legal and social sciences alike, hopefully contributing to bridging the gap between these rather different disciplines. The research can be used in multiple ways:

1. As a practical blueprint for other scholars looking to measure human rights. While it is an applied work, we have been careful in structuring the measurement literature, documenting the different steps, and explaining the possible trade-offs to be encountered.

We developed this list into a set of 18 indicators, where each indicator measures if a certain aspect of one of the MCOs is present in a country’s education legislation. We carefully spelled out all the different traps that we could fall into during this process of designing and implementing indicators, and still did not manage to evade all of them – showing again how difficult it is to reliably and validly measure human rights.

These indicators were applied to 45 countries in sub-Saharan Africa, Latin America, and the Caribbean for a period of 29 years (1990-2018), resulting in over 23,000 data points. The fourth challenge was to aggregate the information per country-year into a single index number, and was discussed in Chapter 3. We chose a simple, intuitive aggregation method, and then explored how the legal protection of the right to education evolved in this period. While each country had a different pattern, overall the trend is positive – almost all countries managed to substantially improve their protection of the right to primary education. None of the countries under study managed to completely fulfil the minimum core obligations, however. This is disappointing, to say the least, as MCOs are a minimum floor below which there is no human right left to speak of.

After addressing all these measurement challenges, it was time for the final litmus test: does the legal right to education contribute to the greater good? The greater good in this case was the percentage of children going to primary school, and the percentage of children who finished primary school. In Chapter 4 we found that there was a small, but statistically significant effect of improving the law on both of these outcomes, but that this effect took a long time to materialise (seven to nine years). Possible explanations for this delay are that the education infrastructure (the number of schools and teachers) needs to catch-up with the increased demand for schooling, and that teachers also need time to be taught in (and convinced of the added value of) the new rights-based education. Only changing the law is thus not enough to make the right to education a reality!
These results, and this research more broadly, contain a number of relevant lessons.

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1. As a practical blueprint for other scholars looking to measure human rights. While it is an applied work, we have been careful in structuring the measurement literature, documenting the different steps, and explaining the possible trade-offs to be encountered.
2. As a cautionary tale about global development goals and ‘the power of numbers’ at a macro level. Despite strong improvement in development outcomes, the legal protection of these gains remains lacklustre. Next to this, measurement is a process fraught with contestable choices – many of which remain hidden from view in the final ‘index’ or ‘target’.

3. As a source of information for people interested in the development and current state of the right to education in national legislation in sub-Sahara Africa, Latin America, and the Caribbean. To this end the Right to Education data will be published as an open access data set.