SUBMISSION OF INPUTS TO "PROTECTION OF THE RIGHTS OF THE CHILD AND 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT"

Background

The Advanced LLM International Children's Rights Class of Leiden University appreciates the opportunity to provide input to the Office of High Commissioner for Human Rights (OHCHR) in response to Human Rights Council resolution 31/7 of 23 March 2016 requesting the OHCHR to prepare a report on the *Protection of the Rights of the Child and 2040 Agenda for ¨Sustainable Development,* in consultation with all relevant stakeholders, for submission to its thirty-fourth session.

Introduction

Poverty is a persistent global issue. The objective of eradicating poverty has been carried over from the Millennium Development Goals ("MDG") to the Sustainable Development Goals ("SDG"), showing the importance of a global commitment to achieve this goal.[1] The SDG campaign builds upon the successes achieved during the preceding MDG campaign: Target 1.A of the MDGs to halve the proportion of people whose income is less than $1.25 a day seems to have been achieved.[2] However, around 350 million people worldwide are estimated as 'invisible' and, thus, 'left behind' as a result of data collection flaws.[3] This is a particularly serious problem in poorer countries as further explained in section II.[4] The invisibility of extremely poor children in official statistics, and as a likely consequence their absence in poverty eradication policies and practices, further enhances their vulnerability.

Assessed from a child-rights based perspective, the absence of millions of children in official statistics in many countries signals clear breaches of their human

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[1] United Nations Millenium Declaration, G.A. Res 55/2 at 5 ¶19, U.N. Doc. A/RES/55/2 (18 September 2000) and Transforming our world: the 2030 Agenda for Sustainable Development, G.A. Res 70/1 at 7 24, U.N. Doc. A/RES/55/2 (21 October 2015).

[2] In the MDG campaign, Target 1.A of MDG1 aimed to halve, between 1990 and 2015, the proportion of people whose income is less than $1.25 a day and SDG I is End poverty in all its forms everywhere. The focus of this contribution will be on Target 1.1: By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than $1.25 a day. *See* United Nations, We can end poverty – Millennium Development Goals and Beyond 2015, *available at* http://www.un.org/millenniumgoals/poverty.shtml and United Nations, Sustainable Development Goals – 17 goals to transform our world, *available at* http://www.un.org/sustainabledevelopment/poverty both last accessed 7 October 2016

[3] Overseas Development Institute [ODI], *The Data Revolution – Finding the Missing Millions* (April 2015) page 10 [hereinafter ODI, *The Data Revolution*]. *See also the ff:* United Nations Interagency Expert Group on MDG Indicators, *The Millennium Development Goals Report 2015*, page 8 [hereinafter UN, *MDG Report 2015*]; Save the Children, *Leaving No One Behind, Embedding Equity In The Post-2015 Framework Through Stepping Stone Targets* (September 2014) page 5 [hereinafter Save the Children, *Leaving No One Behind*]; and United Nations Children's Fund [UNICEF], *Progress for Children Beyond Averages: Learning from the MDGs* (2015) page 2 [hereinafter UNICEF, *Progress for Children*].

[4] *See generally* ODI, *The Data Revolution;* UN, *MDG Report 2015*; Save the Children, *Leaving No One Behind*; UNICEF, *Progress for Children*

rights. Under Article 2 in conjunction with Articles 6 and 27 of the Convention on the Rights of the Child (hereinafter CRC), State Parties shall ensure that each child, without discrimination of any kind, enjoys the right to survival, development, and an adequate standard of living to the extent of the maximum available resources.[5] If children affected by extreme poverty are not included in official statistics, then arguably these rights, among others, will not be appropriately discharged. After all, equal access to an adequate standard of living implies a State Party's obligation to *know* who the holders of these rights in its jurisdiction are.

The identification of the 'invisible' ones is, thus, critical for achieving that no child is to be left behind in the SDG campaign and for assuring that each child across the globe has equal access to an adequate standard of living needed for her or his survival and development.[6] This contribution first seeks to identify who the invisible children in the MDG campaign are. Second, it singles out some of the causes underlying statistical deficiencies which this contribution argues lies at the heart of children's invisibility. It will conclude with proposals on how to make the invisible children visible as the new SDG campaign is set in motion.

I.   **Who are the invisible children?**

Halfway through the MDG Campaign, UNICEF reported invisibility as one of the biggest issues in achieving the goals set forth in the campaign.[7] Many factors led to the invisibility of the poorest and most disadvantaged: age, sex, ethnicity, disability, and geographic location, among others.[8] The realities of the invisible children are many. Majority of them are exposed to extreme poverty, living on the margins of society, on the street, or in institutions.[9] UNICEF reports that invisible children can be found not only in the developing countries but always amongst the poorest of all societies.[10]

The reasons for the invisibility of children range from a lack of parental care or abuse within the home to a complete oblivion from society.[11] The extreme invisibility is also due to circumstances in which children are being locked away in a work-place; not attending school; or others whose "very existence and identity is not legally or formally

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[5] Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC].

[6] Save the Children, *Leaving No One Behind*, page 5, *supra* note 4.

[7] UNICEF, *The State of the World's Children 2006: Excluded and Invisible* (December 2005), pp. 36-37 (fig. 1) *available at* http://www.unicef.org/sowc06/pdfs/sowc06_fullreport.pdf (last accessed 7 October 2016) [hereinafter UNICEF, *State of the World's Children 2006*].

[8] UN, *MDG Report 2015*, page 8.

[9] Save the Children, *Leaving No One Behind*, page 5.

[10] UNICEF, *Progress for Children*, page 2.

[11] *Id.*

acknowledged and recorded by the state".[12] These unregistered children are more likely to be the children of poor people.[13]

II.   **What are the mechanisms of exclusion?**

One of the main mechanisms that led to the exclusion of children living in extreme poverty is the lack or misrepresented collection of disaggregated data needed to measure the real progress of the MDGs.[14] This flawed collection of data inevitably led to the invisibility of the poor and vulnerable children, bringing doubt to the hailed success of MDG 1.

Among the crucial reasons for the lack or misrepresented collection of disaggregated[15] data are the very methods used to collect data to measure progress towards MDG 1. These methods, such as household surveys, prompt the exclusion of extremely poor people, including children. In the least developed countries, household surveys are held not as frequently as in more developed nations. As a result, poverty estimates are typically based on assumptions which may not reflect the real numbers. These surveys also leave out vulnerable people outside of the household sphere as well as slum residents who are difficult to survey.[16]

A second reason for the data flaws is the absence and/or deficiencies in civil registration systems, particularly birth registration. The lack of a formal birth registration breaches children's rights to acquire a nationality and identity[17] and keeps children away from accessing basic services which normally requires an official registered identity before access is granted. Because children are unable to access even

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[12] UNICEF, *State of the World's Children 2006*, page 36.

[13] *Id* at, pp. 36-37 (figure 1)

[14] Another factor identified is that poverty estimates are typically based on assumptions which may not reflect the real numbers. Also another factor is conflict, fragility and crisis within states. Due to their conflict and fragile situations, these countries barely reached any of the MDGs. (*See* Centre for American Progress and Save the Children, *Fragile Progress: The Record of the Millennium Development Goals in States Affected by Conflict, Fragility, and Crisis* (July 2015), pp. 38-42, *accessible at* http://www.savethechildren.org/atf/cf/ %7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/FRAGILESTATES-REPORT_WEB.PDF (last accessed 7 October 2016).

[15] The National Collaborating Centre for Aboriginal Health (University of Northern British Columbia) in The Importance of Disaggregated Data *available at* http://www.nccah-ccnsa.ca/docs/fact%20sheetschild%20and%20 youth /NCCAH_fs_disaggregated_EN.pdf (last accessed 7 October 2016) states: "Disaggregated data is data that has been extrapolated (taken) from aggregated data and divided and broken down into smaller information units. Disaggregating data is another critical step to gaining increased knowledge from collective or aggregated information. Disaggregating data involves delving more deeply into a set of results to highlight issues that pertain to individual subsets of results and/or outcomes of aggregated data. Collective or aggregate data can be broken down or disaggregated, for instance, by: gender, urban/ rural location, income, socio-cultural or ethnic background, language, geographical location, political/ administrative units, or age groups. Fully disaggregating data helps to expose hidden trends, it can enable the identification of vulnerable populations for instance, or it can help establish the scope of the problem and can make vulnerable groups more visible to policy makers."

[16] ODI, *The Data Revolution*, pp. 12-13, *supra* note 4.

[17] CRC, art. 8, *supra* note 6.

the most basic services, being unregistered at birth also negatively impacts children's fundamental rights, particularly their right to life, survival, and development, and enhances their vulnerability.

A third reason for the data flaws is that neither consultation nor representation of the most disadvantaged and poor people was acknowledged in the debate around the MDGs and other formal dialogues organized by the UN and their partners.[18] As the voices of marginalized people or their representatives are not heard, the countries often fail in the accuracy of their reports. They report the progress only of those who were within easier reach, leaving the communities that were most in need behind[19] and, thus, still invisible.

Underlying the above-mentioned flaws in statistics, representation and civil registries are the poor resource allocation (both financial and technical) and political will typical for countries with weak accountability mechanisms. State Parties are expected to take measures to implement the CRC to the maximum extent of their available resources.[20] Investing in proper data collection is one such measure. The very recent General Comment 19 on public budgeting urges State Parties to collect useful and reliable data on children, specifically, among others to:

> (a) Periodically review the mandates and resources of statistical bodies and systems for the collection, processing, analysis and dissemination of child-related demographics and other relevant data;
> (b) Ensure that available information on the situation of children is disaggregated in useful ways, considering different groups of children and the principle of non-discrimination in article 2 of the Convention.[21]

Hence, it can be said that States must allocate budgets for investment in proper data collection so as not to leave any child behind. The engagement of extremely poor people and their representatives in data collection and overall poverty policies as well as a strengthened and focused monitoring by regional and international human rights mechanisms may enhance the State's accountability over its statistical performance.

The lack or misrepresented collection of disaggregated data needed to measure the progress of the MDGs has led to the exclusion and invisibility of children. If children affected by extreme poverty are not included in official statistics, they are

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[18] Nora McKeon for the UN Chronicle, Who Speaks for the Poor People and Why Does in Matter, December 20, 2010, *accessible at* https://www.globalpolicy.org/social-and-economic-policy/the-millenium-development-goals/ 49661.html?ItemId=49661 (last accessed 7 October 2016).

[19] Anna Childs, How the Millennium Development Goals failed the world's poorest children, July 1, 2015, *accessible at http://theconversation.com/how-the-millennium-development-goals-failed-the-worlds-poorest-children -44044* citing UNICEF, Progress for Children Report 2015 (last accessed 7 October 2016).

[20] CRC, art. 4. *Supra* note 6.

[21] UN Committee on the Rights of the Child (CRC), *General comment No. 19 (2016): Public Budgeting For The Realization Of Children's Rights (art. 4)*, 20 July 2016, CRC/C/GC/19.

discriminated against other children in their rights to survival, development, and an adequate standard of living. After all, how can one promote and protect the rights of those invisible without making them visible in the first place?

The hailed successes under MDG 1 that the target of reducing extreme poverty rates by half was met five years ahead of the 2015 deadline[22] are, thus, doubtful. After all, hundreds of millions of poor people may not have been included in the count in the first place. However, the new SDG campaign can remedy the data flaws and render the invisible visible, as will be demonstrated in section III.

III.   How to make the invisible, visible

The children unaccounted for in the MDG campaign can be rendered visible in the SDG campaign once the root causes of the lack or misrepresented collection of disaggregated data have been addressed. This contribution suggests that the use of mobile technology and purposely including People's Organizations (hereinafter POs) in consultations are ways to tackle the flawed methods of collection, faulty systems of birth registration, and failure to include the most disadvantaged in consultation.

MDG consultations acknowledged that the deliberate engagement of POs next to national and international NGOs in the debate around the SDGs and other formal dialogues organized by the UN and their partners, can remedy the lack of consultation and representation of the most disadvantaged and poor people. It is essential to begin a progressive inclusion of social organizations and representatives of the least advantaged people (particularly children), to take into account their standpoints in consultations and dialogues that directly affect them. Special attention has to be given to make sure that their demographics and geographic locations are taken into account. States must recognize and create enabling environments (by mobilizing necessary resources, taking into their languages, social realities, and practices) for POs' to select their own spokespersons and be present at these consultations.[23]

Conclusion

Inadequate data collection, flaws in civil registration and the lack of engagement and participation of society, in particular those excluded or representing the excluded, are singled out in this contribution as some of the root causes for the *de-facto* discrimination against millions of poor children. These children are discriminated against in terms of their enjoyment of social and economic rights that secure survival and development brought about national development endeavors.

Reaching out to the most vulnerable children through innovative data collection, the provision of legal identity to *all*, and consistent and closer engagement of

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[22] United Nations, We can end poverty – Millennium Development Goals and Beyond 2015, *accessible at* http://www.un.org/millenniumgoals/poverty.shtml (last accessed 7 October 2016).

[23] McKeon, *supra* note 19.

marginalized children and their grass-root level representatives are potent vehicles for including poor children in SDG 1 efforts. Engagement of excluded groups and firmer regional and international monitoring can induce enhanced accountability of the State over its (lack of) statistical policies.

Importantly, the discriminatory exclusion of millions of children rendered invisible in the MDG campaign is in violation of a State's obligation not to discriminate and exclude segments of society that are harder to reach. *Knowing* who is vulnerable is a necessary first step towards protecting and fulfilling the rights to a decent standard of living for *all*. Their identification will allow the SDG to reach and invest in poor forgotten children and, thus, contribute towards their right to survival, development, and an adequate standard of living as reflected by the CRC.