

## Indicators and fundamental rights

Workshop, Genoa, 11 march 2010

*Organized under the responsibility of WP6, WP7 and the Coordination*

Evaluating and monitoring public policies through indicators of performance is now widely widespread in international organisations, as well as in national policies. More and more international organizations (as the EU, the World Bank or the ILO) are placing such methods at the heart of their action to follow the respect of fundamental rights or to coordinate their implementation by the States. Producing performance indicators thus tends to become not only a means, but at least in part, a purpose of the activity of international organisations; which, in return, questions the theoretical and political status of fundamental rights as well their strategic use and, even, the risk of their instrumentalization.

From Amartya Sen's works and discussions on resources and capabilities within CAPRIGHT, one learns that for a fundamental right to be meaningful and effective three conditions are required:

1. It accurately formulates legitimate claims with regards to human basic aspirations;
2. It provides real freedom for the claimants: allocation of adequate collective resources, establishment of conditions for a genuine and equal access to everyone
3. Its realization is the product of democratic deliberation in which everyone could participate freely and equally, both to define the substantive content and the modes of action to achieve it.

It follows that the process of evaluation of a fundamental right must not only assess the achievement of these three criteria of quality (accuracy of transcription, real freedom, democratic deliberation), but must also be submitted to them. This point is crucial today. The often high technicalities of the design and measurement procedures for establishing indicators must not hide or exclude the relevance of those criteria. At their core, are the objectivity achieved in judgments based on indicators, the requirements about, not only of efficiency, but, above all, of justice in any action aiming at driving processes of realization of human rights.

The contributions of this workshop are focussing on fundamental rights and indicators, mostly related to work. They cover a wide spectrum of issues. Among them, measurement problems; relevance of the categories or nomenclatures used to local situations (and local meanings or practices); emergence of new collective problems or concerns; political use of indicators to implement norms; the "fundamentality" of rights; tensions between the emergence of governance methods and the use of law regulations, ... Those issues, directly or indirectly, are concerned with the three above criteria, their awareness and taking into due account.

This workshop, thus, aims to identify the nature of the constraints arising in evaluation processes and to highlight some methodological and political issues that remain under-estimated or even absent and uncontrolled.

## PROGRAM

### Morning: 9h30-12h30

- 9h30-10h Dora Sari (Policy Integration Department, ILO), Measuring Trade-Unions Rights Violations at the Country Level
- 10h-10h30 Sandrine Cazes (Institute for the Study of Labour, IZA, Geneva), The *Doing Business* indicators: Measurement issues and political implications

Pause

- 10h45-11h15 Géraldine Thiry (IRES, Université Catholique de Louvain), Beyond the PIB? Reconciling what counts and what to count
- 11h15-12h30 Discussion open by Robert Salais (IDHE)

### Afternoon: 14h30-17h30

- 14h30-15h Patrizia Nanz and Dawid Friedrich (Bremen Universität), The Social Rights Basis of the European Social Model. Lessons from the ECJ's Case Law on Personal Free Movement
- 15h-15h30 Marta Torre-Schaub (IDHE, Paris), What is fundamental in a right? The example of the right for a safe environment

Pause

- 15h45-16h15 Philippe Reyniers (EUI, Florence), European equality rights: an inquiry into new forms of social justice
- 16h15-17h30 Discussion open by Christian Bessy (IDHE)

### Joined papers:

David Kucera (ILO, Geneva) Measuring trade union rights: A country-level indicator constructed from coding violations recorded in textual sources

Janine Berg and Sandrine Cazes (ILO, Geneva), Policy making gone awry: the labor market regulations of the doing business indicators

Isabelle Cassiers et Géraldine Thiry (IRES, Louvain la Neuve), Au-delà du PIB : reconcilier ce qui compte et ce que l'on compte

Robert Salais (IDHE, Paris), Employment and the Social Dimension of Europe : What Constitutive Convention of the Market ?

Patrizia Nanz and Dawid Friedrich (Bremen Universität), The Social Rights Basis of the European Social Model. Lessons from the ECJ's Case Law on Personal Free Movement

Marta Torre-Schaub (IDHE, Paris), *forthcoming*

Philippe Reyniers (EUI, Florence), European equality rights: an inquiry into new forms of social justice (Abstract)

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