

Community Rights Monitoring & Evaluation for the Kosovo Context

Working Paper

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ECMI Kosovo is the principal non-governmental organisation engaged with minority issues in Kosovo, with the overarching aim to develop inclusive, representative, community-sensitive institutions that support a stable multi-ethnic Kosovo.

ECMI Kosovo contributes to the developing, strengthening and implementation of relevant legislation, supports the institutionalisation of communities-related governmental bodies, and enhances the capacity of civil society actors and the government to engage with one another in a constructive and sustainable way.

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LIST OF ACRONYMS AND ABBREVIATIONS

AOGG	Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender Issues
CCC	Consultative Council for Communities
CoE	Council of Europe
CRICR	Committee on the Rights and Interests of Communities and Returns
CRIs	community rights indicators
EC	European Commission
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)
ECMI Kosovo	European Centre for Minority Issues Kosovo
ECRML	European Charter for Regional or Minority Languages
EHRC	Equality and Human Rights Commission (United Kingdom)
EU	European Union
FCNM	Framework Convention for the Protection of National Minorities
ICCPR	International Covenant on Civil and Political Rights and its Protocols
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
M&E	monitoring and evaluation
MCR	Ministry for Communities and Returns
MEST	Ministry of Education, Science and Technology
MF	Measurement Framework
MIA	Ministry of Internal Affairs
MLGA	Ministry of Local Governance and Administration
NGO	non-government(al) organisation
OCA	Office for Community Affairs
OHCHR	Office of the High Commissioner for Human Rights
OLC	Office of the Language Commissioner
OPM	Office of the Prime Minister
OSCE	Organization for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo
WG	Working Group

1. INTRODUCTION

This Working Paper aims to serve as basis for discussion on the development and introduction of a community¹rights monitoring and evaluation (M&E) system for Kosovo institutions, based on community rights indicators (CRIs). To this end, it explains why CRIs are relevant to the Kosovo context, what steps would need to be taken to design such a M&E system, and offers practical recommendations on how to apply this methodology in Kosovo. The approach set out in this paper is not meant to be conclusive, but rather to stimulate and direct the debate on this issue.

The Working Paper is mainly based on the methodology developed by the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) on the use of indicators in the monitoring of human rights. The OHCHR has been engaged for years in the development and promotion of the use of this methodology, and has established widely accepted international norms on the use of indicators in human rights monitoring, as described in detail in its report 'Human Rights Indicators: A Guide to Measurement and Implementation'. Although the OHCHR's indicator framework does not specifically discuss community rights, but human rights in general, its methodology is transferable to community rights, which form a part of the human rights framework.

The Working Paper is divided into four chapters:

- Chapter 1 provides an introduction into the problems that currently exist in relation to the monitoring and evaluation of community rights in Kosovo gives a basic description of the concepts of monitoring and evaluation and discusses why CRIs could be an appropriate and desirable solution to the problems discussed.
- Chapter 2 examines the United Kingdom's (UK) human rights M&E system and extracts a number of interesting best practices that can contribute to guiding the process in Kosovo, while taking the local context into account.
- Chapter 3 describes Kosovo's main current monitoring and evaluation practices in relation to community rights.
- Chapter 4 presents a clear overview of each of the six steps that need to be followed to design a M&E system, based on CRIs, identifies key questions that need to be answered in the process, and offers corresponding recommendations.

1.1 Background

As stated in its Constitution, the Republic of Kosovo is a multi-ethnic society. It comprises various communities, including the Albanian, Serb, Turk, Bosnian, Roma, Ashkali, Egyptian, Gorani, Croat and Montenegrin communities. Kosovo 'regards its national, ethnic, linguistic and religious diversity as a source of strength and richness in the further development of a democratic society based on the

¹ In this Working Paper, and in line with the *Law on Protection and Promotion of the Rights of Communities and their Members in Kosovo*, communities are defined 'as national, ethnic, cultural, linguistic or religious groups traditionally present in the Republic of Kosovo that are not in the majority'. Members of the Albanian community who are not in the majority in a given municipality are also entitled to enjoy community rights as defined in the law.

rule of law',² as outlined in the *Law on Protection and Promotion of the Rights of Communities and their Members in Kosovo*.

Kosovo has, through its national legislation, committed itself to respect a number of international and European treaties, and developed a comprehensive legislative, policy and institutional framework for the protection and promotion of the rights of minority communities.³ However, the implementation of this framework remains a major challenge in Kosovo. For instance, the European Commission's 2011 Progress Report highlighted the limited progress in the areas of education and the use of languages, two priority areas for minority communities.⁴

As shown by extensive research and interviews conducted by ECMI Kosovo, as well as findings of reports from international organisations,⁵ there are a number of interrelated challenges related to M&E of community rights in Kosovo:

- Lack of comprehensive and systematic monitoring and evaluation of community rights by government institutions, as a result of the absence of adequate tools and capacities and a lack of institutional coordination, among others;
- Lack of sufficient reliable qualitative and quantitative quality data, and pertinent reports available on community rights implementation by government institutions, which hinders informed, evidence-based, targeted policy-making and an efficient use of the limited existing resources;
- In addition, there is a lack of follow up on issues and recommendations highlighted in existing monitoring reports.

In order to overcome these challenges, ECMI Kosovo proposes to develop a monitoring and evaluation (M&E) system on community rights for the Kosovo context, which will be based on community rights indicators (CRIs).

1.2 Defining Monitoring & Evaluation

In this context, monitoring refers to the practice of continuously or regularly gathering qualitative and quantitative information concerning the implementation and enjoyment of community rights. In order to monitor progress or setbacks, effective monitoring tools are needed. Indicators are among the most appropriate devices to this end:⁶ an indicator is 'a piece of information used in measuring the extent to which a legal right is being fulfilled or enjoyed in a given situation.'⁷ For example, one of the indicators concerning the implementation of languages rights in Kosovo would be the number of municipalities which have websites in all applicable official languages.

Evaluation, on the other hand, is generally a more complex and deeper process, as it consists of analysing the information gathered through monitoring (as well as information from other sources that may be relevant) and subsequently assessing the information and making a judgment on the basis of that information. As such, evaluation considers the objectives of the relevant law, policy or programme and compares the results and impact of activities to the attainment of those objectives,

² Article 1.1, *Law on Protection and Promotion of the Rights of Communities and their Members in Kosovo*

³ See Chapters 2 and 3.

⁴ EU Progress Report 2011, 19-20.

⁵ See e.g. EU Progress Report 2011.

⁶ Chapman 1999, p. 1, Hunt & Leader 2010, p. 37.

⁷ Green 2001, p. 1065.

with the aim of identifying and drawing conclusions on any existing gaps and deficiencies and supporting policy decisions on current and future directions.

Finally, the findings of a monitoring and evaluation process are usually compiled into reports that should be disseminated among the relevant institutions and the public to be used to inform policy decisions according to those findings, and to hold the government accountable for its performance.

1.3 Relevance of Monitoring & Evaluation for Kosovo

In recent years, the importance of monitoring and evaluation for the implementation of human and community rights has become increasingly clear at the international level, with many national and international human rights monitoring mechanisms, as well as civil society organisations and states using human rights indicators to monitor the implementation of human rights.⁸ Some of the key advantages of introducing an effective and systematic monitoring and evaluation system for community rights in Kosovo would be the following:

- The data collection conducted through monitoring would provide a wealth of relevant and measurable information, which would allow for the measurement of progress made and the identification of potential gaps and deficiencies in the implementation of community rights;
- The findings of the evaluation process would provide a strong basis for informed, evidence-based, targeted policy-making and efficient use of the limited existing resources;
- It would strengthen transparency and accountability for the implementation of laws;
- It would increase institutional cooperation and coordination, which is lagging behind, presenting a hindrance to European Union (EU) accession process; and,
- Finally, it would contribute to the process of accession to the EU and reporting to European and international bodies, as described in the box below.

⁸ Report of the United Nations High Commissioner for Human Rights, Economic and Social Council, Geneva, 4–29 July 2011

Kosovo's Integration into European and International Organisations

The development and implementation of more effective monitoring, evaluation and reporting mechanisms for human and community rights is crucial for Kosovo as it prepares to join European and international organisations:

European Union

The Kosovo government has reaffirmed its ambition to become a member state of the European Union (EU). Respect and promotion of human and community rights is an important component to EU accession. The 2012 European Commission (EC) Analytical Report on Kosovo emphasised that the institutional set-up for promoting human rights needs to be simplified and monitoring enhanced (EU 2011).

Council of Europe

The Council of Europe (CoE) Framework Convention for the Protection of National Minorities (FCNM) is directly applicable in Kosovo through article 22 of its Constitution. Although Kosovo is still not a formal member of the CoE nor a signatory to the FCNM, it is subject to a specific monitoring arrangement in conformity with a 2004 Agreement between the United Nations Interim Administration Mission in Kosovo (UNMIK) and the CoE. Currently, reporting to the CoE is carried out by UNMIK, through the Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo. However, in early 2013 the Assembly of the Council of Europe adopted a decision to establish closer and more direct working relations with Kosovo while retaining its neutrality.* This could possibly lead to a more active role of Kosovo institutions in the fulfilment of Kosovo's reporting obligations to the CoE.

United Nations

Despite the fact that Kosovo is not a member State of the United Nations (UN), several UN human rights treaties are directly applicable in Kosovo through article 22 of the Constitution, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). State Parties must monitor and report on the implementation of these international instruments to UN treaty bodies on a regular basis. Additionally, the UN Human Rights Council conducts a regular review of the human rights situation of all UN members states (the Universal Periodic Review). As part of this review, UN member states are required to submit a country report on their human rights situation. Due to Kosovo's status issue, it does not have formal reporting obligations, either in relation to UN treaties or the Universal Periodic Review (UPR). However, Kosovo has submitted a number of informal country reports and in line with its UN membership aspirations, it is relevant for Kosovo to strengthen its monitoring and reporting mechanisms for human rights and community rights in order to prepare for the responsibilities that lay ahead of an eventual UN membership.

* See: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2013/02/04/feature-04

2. INTERNATIONAL BEST PRACTICES: THE UK AS A CASE STUDY

Although the use of indicators in the monitoring and evaluation of human and community rights is a relatively recent development, a considerable number of countries and international organisations are engaged in developing and implementing such M&E systems based on indicators. Therefore, it is worthwhile to examine other countries' experiences in this field in order to extract lessons learned and best practices. This Chapter will examine the United Kingdom's (UK) monitoring and evaluating system on human rights and equality. This particular case study has been selected because the UK has made available a wealth of information on both the process of developing indicators, as well as on the implementation of a human rights monitoring system based on indicators.

In the UK, the Equality and Human Rights Commission (EHRC), an independent public body, is mandated to promote and monitor human rights in England, Wales and Scotland.⁹ In recent years, the EHRC has been developing a Measurement Framework (MF) to measure equality and human rights in Britain. In the MF particular attention is paid to minority communities, as part of human rights, as part of the EHRC's mandate in relation to equality, and its mandate in relation to the creation of good relations between communities.¹⁰ Indicators, including human rights indicators based on the UN OHCHR framework, play a central role in this MF.

Specifically, the EHRC commissioned four major reports on measuring equality, good relations, children's rights and human rights.¹¹ These reports identify both relevant indicators and their possible sources of verification. The indicators identified in these reports form the basis of the MF. Currently, the EHRC is in the process of collecting, publishing and analysing the data related to these indicators. The box below sets out some of the main characteristics of the UK's Human Rights Measurement Framework.¹²

UK Human Rights Measurement Framework

- Anchored in the OHCHR Indicator Framework, adjusted for the UK context:
 - Uses both quantitative and qualitative indicators
 - Uses process, structural and outcome indicators
 - Emphasises the disaggregation of data
- Indicators were developed by experts using a broad consultative approach
- Indicators were grounded in both the domestic and international legal framework
- Indicators were selected to be valid, important, legitimate, and from a credible and reliable source
- Utilises mainly administrative data and statistical surveys, supplemented with other data also from non-official sources such as media and NGO reports
- Is based mainly on existing data and paid considerable attention to cost-minimisation
- For all required data, identifies the responsible bodies for data collection
- Makes available online: the methodology for the identification of indicators; the raw monitoring data; the methodology for the statistical analysis of the data; the assessment reports.

⁹ See <http://www.equalityhumanrights.com/about-us/vision-and-mission/>.

¹⁰ See <http://www.equalityhumanrights.com/key-projects/good-relations/>.

¹¹ See <http://www.equalityhumanrights.com/key-projects/our-measurement-framework/>.

¹² Equality and Human Rights Commission, Research report 81, 'Human Rights Measurement Framework: Prototype panels, indicator set and evidence base'.

¹² Equality and Human Rights Commission, Research report 81, 'Human Rights Measurement Framework: Prototype panels, indicator set and evidence base'.

3. MONITORING OF COMMUNITY RIGHTS IN KOSOVO

Monitoring of community rights in Kosovo is conducted both at the local and at the central level. Depending on the issue, municipal organs report to different institutions. The main bodies responsible for the monitoring of community rights at the local level are the Municipal Offices for Communities and Returns (MOCR) and Municipal Human Rights Units (MHRU). Generally, in relation to issues regarding community rights municipalities report to the Ministry of Local Governance and Administration (MLGA) and the Ministry of Communities and Returns (MCR). The MLGA and the MCR both have their own monitoring mechanisms and are the principal central level organs which monitor the implementation of community rights at the local level.

However, taking into consideration the fact that many issues related to communities fall within the larger human rights framework and are cross-cutting issues, monitoring is also conducted by other line ministries. For example, in relation to community issues in the education field, municipalities report to the Ministry of Education, Science and Technology (MEST), which has a Human Rights Unit and a Communities and Returns Unit responsible for human and community rights. Alternatively, on the issue of repatriation the MOCRs report to the Ministry of Internal Affairs (MIA).

At the central level, ministries report on community issues to the Office for Community Affairs (OCA) within the Office of the Prime Minister (OPM), while on more general human rights issues, municipalities and ministries report to the Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender Issues (AOGG) also located within the OPM.

Monitoring is also conducted by independent public agencies. The Ombudsperson Institution is mandated to monitor and report on the implementation of human rights in general, including community rights. The Office of the Language Commissioner (OLC) is responsible for monitoring the compliance of public institutions with the *Law on the Use of Languages*, and report its findings to the Government and Assembly of Kosovo.¹³ To illustrate, the monitoring system of the MLGA starts with the different municipal departments such as the MOCR and MHRU, which prepare reports for the MLGA on the implementation of certain laws in their municipalities. The MLGA in turn compiles a report twice a year and sends it to the AOGG and the OPM.

Regardless of these existing mechanisms, the monitoring of community rights by the Kosovo government remains: (1) fragmented, with no single institutions monitoring community rights as a whole; (2) lacks a methodological approach; (3) and, is plagued by a lack of comprehensive and harmonised data. Moreover, results of current monitoring activities do not lead to proper policy evaluation and subsequent policy adjustments.

Finally, it should be mentioned that international organisations also monitor the implementation of community rights. The OSCE Mission in Kosovo is particularly active in this field and has published three editions of its *Community Rights Assessment Report* (2010, 2011 and 2012) on the implementation of community rights. These reports are sent as the official Progress Reports to the Council of Europe, in light of Kosovo's monitoring obligations under the Framework Convention on National Minorities (see box in Chapter 1.3). The European Commission also includes a section on community rights in its annual progress reports on Kosovo (see box in Chapter 1.3). However, as aforementioned, it is important that Kosovo institutions improve their own monitoring, evaluation and reporting mechanisms for human and community rights as Kosovo prepares to join European and international organisations.

¹³ Regulation on the Office of the Language Commissioner, Articles 17 – 18.

4. DESIGNING A MONITORING AND EVALUATION SYSTEM: METHODOLOGY AND PROCESS

In order to overcome the challenges described in Chapter 1, improve the overall enjoyment of community rights, and make progress towards the effective implementation of laws, EU accession and reporting to international bodies, ECMI Kosovo proposes to develop a M&E system on community rights in Kosovo, which will be based on community rights indicators (CRIs).

This section presents a theoretical overview and practical examples of how the process of designing and implementing a M&E system works, broken down into five steps, listed in the box below. Moreover, through the identification of key questions and the provision of corresponding recommendations, it analyses the possible design and implementation of such a system in Kosovo.

Steps for Designing a Monitoring and Evaluation System

Step 1: Determine the specific rights and attributes that will be monitored and evaluated

Step 2: Identify the indicators, benchmarks and sources of verification

Step 3: Determine which will be the bodies responsible for monitoring and compiling the final reports

Step 4: Setting the timeframe of the monitoring and evaluation cycle

Step 5: Decide how to publish the results of the M&E process

Step 1: Determine the specific rights and attributes that will be monitored and evaluated

The first step in developing a system to monitor and evaluate the implementation and enjoyment of community rights in Kosovo is to define what is understood by ‘community rights’. Kosovo has a comprehensive legislative framework for the protection and promotion of the rights of minority communities. The following are the key domestic provisions concerning minority communities in Kosovo:

- *Constitution of the Republic of Kosovo* (hereinafter the *Constitution*);
- *Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo* (hereinafter *Law on Communities*);
- *Law on Local Self-Government*;
- *Law on the Use of Languages*;
- *Law on Education in the Municipalities of the Republic of Kosovo*; and
- *Law on Pre-University Education in the Republic of Kosovo*.

In addition, a series of international and European instruments that guarantee human and minority rights are to be respected and applied in Kosovo, as per articles 22 and 58.2 of its Constitution, including the following:

Council of Europe

Framework Convention for the Protection of National Minorities (FCNM);

European Charter for Regional or Minority Languages (ECRML);

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols.

United Nations

Universal Declaration of Human Rights (UDHR);

International Covenant on Civil and Political Rights and its Protocols (ICCPR);

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

So, the question arises, which of these laws and international and European instruments will inform the definition of community rights for the purpose of the M&E system? In choosing such a document it is important to take into account whether this document is legally binding in Kosovo and whether it provides an adequate definition of community rights.

Community Rights in the *Constitution*

Article 59 of the *Constitution* sets out a comprehensive list of community rights. Below is a summary of the rights listed in this article:

Members of communities shall have the right, individually or in community, to:

1. Express, maintain and develop their culture;
2. Receive public education in one of the official languages of the Republic of Kosovo of their choice at all levels;
3. Receive pre-school, primary and secondary public education, in their own language;
4. Establish and manage their own private educational and training;
5. Use their language and alphabet freely in private and in public;
6. Use their language and alphabet in their relations with the municipal authorities;
7. Use and display community symbols;
8. Have personal names registered in their original form and in the script of their language as well as revert to original names that have been changed by force;
9. Have local names, street names and other topographical indications;
10. Have guaranteed access to, and special representation in, public broadcast media;
11. To create and use their own media;
12. Enjoy unhindered contacts among themselves within the Republic of Kosovo and establish and maintain free and peaceful contacts with persons in any State;
13. Enjoy unhindered contacts with, and participate without discrimination in the activities of local, regional and international non-governmental organizations.
14. Establish associations for culture, art, science and education as well as scholarly

The choice of reference document should enable the development of a list of specific rights that make up the general framework of community rights. However, these rights are still quite general and will be difficult to link to specific indicators. Therefore, it is useful to identify specific attributes that make up a certain right.¹⁴ For example, the right to establish cultural associations is an attribute of the right of communities to express, maintain and develop their culture and the right to form political parties is an attribute of the communities' right to effective political participation. Ideally, a limited number of attributes (around four) are selected for each right, while still capturing the essence of that right's normative content. Also, attributes of different rights should, as far as possible, not overlap. It is important to highlight that the selection of one document as the primary reference source for the identification of the specific rights of the community rights framework, should not lead to the disregard of other legal documents. In fact, all relevant domestic, international and European legal instruments should be used to define the normative content of the identified community rights and should thus play a key role in defining the attributes of each right. For example, if the *Constitution* would be selected as the reference document, both the *Law on Use of Languages* and the ECRML should be consulted to define the normative content and attributes of communities' right to freely use their language in private and public.

Question 1: Which international instrument(s), domestic law(s) and/or policies will form the reference point for the community rights monitoring and evaluation system?

Question 2: Based on the selected document, what are the specific rights and their attributes that make up the community rights framework in Kosovo?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that either the *Law on Communities* or the *Constitution* should be the basis for any monitoring and evaluation system of community rights in Kosovo. The *Constitution* is the highest legal order in Kosovo and contains a comprehensive list of community rights. The *Law on Communities*, on the other hand, is the most comprehensive document on this issue, is in line with international standards and covers all aspects of community rights. The FCNM would also be an appropriate option, considering the reporting obligations under this convention described under Chapter 1. However, Kosovo's unclear status in relation to the CoE is a serious obstacle in this regard.

The attributes of the rights should be defined on the basis of the broader domestic and international legislative framework, including the FCNM.

¹⁴ Human Rights Indicators, p 31.

Step 2: Identify the indicators, benchmarks and sources of verification

Once it is defined *what* will be monitored (i.e. the reference document, the rights to be measured and the attributes that make up those rights), there is a need to establish how the implementation and enjoyment of these rights will be monitored and evaluated. In this regard, indicators are useful tools for monitoring: they are pieces of information that can measure the extent to which a specific right or entitlement is implemented. When combined with accurate data collection (or **sources of verification**) and concrete and realistic targets (or **benchmarks**), the use of indicators can enable the measurement of progress over time, and make the M&E process significantly more transparent, methodological and accurate.

What is an indicator?

OECD/DAC defines indicators as a (Hansen, E.A., Sano, H. (2006):

“[q]uantitative or qualitative factor or variable that provides a **simple** and **reliable** means to **measure achievement**, to **reflect the changes** connected to an intervention, or to help **assess the performance**” of the relevant actors.”

The UN OHCHR Human Rights Indicator Guide defines a human rights indicator as:

*“specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that **addresses and reflects** human rights principles and concerns; and that can be **used to assess and monitor** the promotion and implementation of human rights.”*

Although this definition refers to human rights indicators, it can easily be applied to community rights indicators, as part of the international human rights framework.

In order to design appropriated CRIs and assign benchmarks and sources of verification, a number of factors should be taken into consideration, the most important of which are discussed below.

Characteristics of a good indicator

The Danish Agency for Development Cooperation (Danida) has developed a useful checklist of what characteristics good indicators should have:¹⁵

- **Valid** – Does the indicator directly represent the result it is intended to measure?
- **Objective** – Is the definition precise and unambiguous about what is to be measured?
- **Reliable** – Is the data consistent or comparable over time?
- **Practical** – Can data be collected easily, on a timely basis and at reasonable costs?
- **Useful** – Will the data be useful for decision-making and learning?
- **Owned** – Do partners and stakeholders agree that this indicator makes sense?

Types of indicators I: Structural, process and outcome indicators

¹⁵ Danida: Monitoring at Programme and Project Level – General Issues, Technical Advisory Service, Danida, Ministry of Foreign Affairs, Copenhagen April 2006

To measure community rights implementation and enjoyment effectively, it is necessary to look at (1) the intent or commitments of the state to the protection and promotion of community rights, (2) the concrete efforts of the state to make that commitment a reality and (3) the impact of those efforts on community rights enjoyment.¹⁶ These three ways of looking at community rights correspond to three types of indicators: structural, process and outcome indicators.

- **Structural indicators** aim to measure the “acceptance, intent and commitment” of a state to community rights.¹⁷ Specifically, they look at a state’s commitment to international standards on community rights (e.g. through the ratification of relevant treaties/agreements), and to what extent those commitments are translated into an adequate domestic legislative, institutional and policy framework for the protection and promotion of community rights. As such, structural indicators look at the ratification of international agreements, the adoption of laws and the establishment of institutions. Furthermore, attention should also be given to developed policies, relevant strategies and related action plans. For example, the international and European human and community rights instruments directly applicable in Kosovo could be a structural CRI for Kosovo.
- **Process indicators** aim to measure the state’s “ongoing efforts to transform their human [and community] rights commitments into the desired results”.¹⁸ Thus, they assess the extent to which a state is implementing policy and legislative measures to ensure the realisation of community rights, providing a link between state commitments and the actual enjoyment of community rights. This can involve looking at budget allocation, the number of people served through a specific programme or the number of complaints received and processed through a certain redress mechanism. Process indicators are particularly suited to measure change over time, i.e. the progressive realisation of a right. In designing process indicators it is important to ensure that they measure the efforts of the state and have a link to relevant structural and outcome indicators. For example, the number of hours of programming in community languages on the public TV broadcaster would be a process indicator in relation to the right of minority communities to guaranteed access to community programming in their language.
- **Outcome indicators** measure the overall enjoyment of a specific right. They measure the “impact of various underlying processes (that can be captured by one or more process indicators); it is often a slow moving indicator, less sensitive to capturing momentary changes than a process indicator”.¹⁹ For example, the percentage of community members with access to public programming in their community language would be an outcome indicator, linked to the process indicator mentioned above.

To summarise: structural indicators look at whether the state has made the necessary commitments to community rights, process indicators measure the efforts made by the state to make those commitments a reality, and outcome indicators measure whether those policies have had the desired effect in ensuring the realisation of specific rights.

Types of indicators II: Qualitative vs. quantitative indicators

¹⁶ Human Rights Indicators 2012, p. 34

¹⁷ Human Rights Indicators 2012, p. 34

¹⁸ Human Rights Indicators 2012, p. 36

¹⁹ Human Rights Indicators 2012, p.37

In the design of indicators it is important to distinguish between qualitative and quantitative indicators, and carefully consider which type is most appropriate to the circumstances. **Quantitative indicators** refer to indicators which have a “quantitative form, such as numbers, percentages or indices”.²⁰ An example of a quantitative indicator in relation to the right to political representation would be the number of members of the Kosovo government from minority communities. **Qualitative indicators**, on the other hand, present information in a narrative form.²¹ An example of a qualitative indicator in relation to the right to education would be the availability of a fully developed curriculum and corresponding textbooks in Serbian, Turkish, Bosnian and Romani.

Quantitative indicators are often viewed as more objective and easier to verify, while qualitative indicators are considered more subjective and more difficult to verify. However, community rights may be difficult to capture only through statistics and the disaggregated data necessary to measure the implementation and enjoyment of community rights may not be available. Therefore, both quantitative and qualitative indicators should play a part in monitoring community rights.

Question 3: What type of indicators should be used?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that structural, process and outcome indicators should be used, in line with the OHCHR framework. The decision on whether to use qualitative or quantitative indicators should be taken on a case by case basis. Factors such as the availability of relevant disaggregated data and ease of data collection should play an important role in the choice of indicators. The aim should be to assign each specific right a combination of qualitative and quantitative indicators.

Benchmarks

In this context, **benchmarks** can be defined as “targets established by particular governments in relation to specific [...] rights”.²² While community rights indicators provide hard data on the implementation and enjoyment of community rights, benchmarks are a useful tool to put this data in the proper context by providing a frame of reference. As such, benchmarks provide concrete information of what the government understands to be adequate implementation of a certain right, and is at the same time a commitment by the government to the standard it set for itself.

Benchmarks are therefore extremely useful in holding the government accountable to concrete commitments to ensuring community rights, and their development is an important process that should involve careful consultation with relevant actors. In order to avoid unrealistic expectations, benchmarks should be realistically achievable in the given term. Moreover, particularly in relation to process indicators, it is useful to specify the timeframe within which the target is expected to be achieved. For example, in relation to the right to equitable employment in public bodies (*Constitution*, Article 61), a benchmark could be: 10% of the staff of all public bodies are members of minority communities by 2015.

In order to put benchmarks in the proper context, they should be accompanied by relevant **baseline data**, i.e. data on what the situation in relation to that benchmark is at the current moment. By combining the use of benchmarks with baseline data, you define not only where you want to go (i.e. the benchmark), but also where you are now (i.e. the baseline), thus enabling the measurement of

²⁰ Human Rights Indicators 2012, p. 17

²¹ Human Rights Indicators 2012, p.17

²² Indicators and Standards for Monitoring Economic, Social and Cultural Rights, Audrey R. Chapman, p. 2.

the gap you need to close to get where you want to be. To continue with the employment example cited above, the corresponding baseline data would be the current percentage of staff from minority communities in all public bodies.

Question 4: What benchmarks should be used and how should they be developed?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that benchmarks should be developed for all indicators. These will form an important expression of commitment of the Kosovo government towards concrete targets in relation to community rights, and will provide an important tool for judging progress in this field. It is therefore important that benchmarks are developed in a consultative fashion and perceived as reasonable targets by both the Kosovo government and minority communities.

Sources of verification

Once the indicators are developed, it is necessary to decide what data (or **sources of verification**) will be used for each indicator. In order to ensure the credibility of an M&E system and its findings, it is important to use multiple respected and objective sources of data. At the same time, in order to ensure the feasibility of the data collection process, efforts should be made to use sources of data that are available at limited costs in terms of time and resources; where possible, existing sources of data should be used.

There are a number of common sources of data used for human rights monitoring, which can be considered as sources of verification:

- **Events-based data on human rights violations** –refers to data linked to “the occurrence of human rights violations”.²³ The main advantage of this type of data is that it provides a very concrete link to community rights. However, it requires that organisations (government or NGOs) keep track of these events in a systematic and accurate fashion. An example of events-based data in the Kosovo context would be the number of community related complaints recorded by the Ombudsperson.
- **Administrative data** – refers to data collected by the government, for example through ministries, municipalities and other governmental institutions. For example, Kosovo’s Ministry for Education, Science and Technology (MEST) collects data on the number of children from minority communities attending Kosovo’s education system.²⁴
- **Statistical surveys** – refers to surveys carried out among a sample of the population, usually focussing on specific topics and specific parts of the population. The results of such surveys can be used to draw conclusions in relation to the population as a whole. They can be resource intensive, but, if executed properly, can generate very specific and accurate data, providing an important source to check the credibility of administrative data.
- **Censuses** – are complete enumerations of all members of the population of a country, providing “basic baseline data on the structure and key characteristics of the population and

²³ Human Rights Indicators 2012, p.52

²⁴ <http://mapl.rks-gov.net/getattachment/949c9281-1b66-463a-9244-25ebf002fb61/Raport-i-Mointorimit-te-Komunave-te-Republikes-se-.aspx>

on variables that do not change rapidly”.²⁵ In Kosovo, censuses are held every 10 years, with the most recent one organised in 2011. While the Kosovo census provides a wealth of information, the data on communities, particularly the Serb and Roma communities, should be treated with caution due to the partial boycott by these communities.²⁶

- **Opinion surveys** – aim at “polling a representative sample of individuals for their personal views on a given issue”.²⁷ As such, they provide subjective, but potentially useful information. In Kosovo, numerous NGOs and international organisations conduct opinion surveys on a wide range of issues (e.g. UNDP’s Public Pulse report and ECMI Kosovo’s report on Socioeconomic Conditions in Northern Kosovo).
- Data based on expert judgements – refers to the assessment of the community rights situation in a certain country based on diverse sources by a limited number of experts. As such this type of data is also highly subjective. In Kosovo, the OSCE Community Rights Assessment Reports and the EC progress reports would fall into this category.

Question 5: What sources of verification should be used?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that sources of verification should be identified on a case by case basis, ensuring that the data collection process is feasible and that the data used are reliable and respected. Efforts should be made to use a varied, but limited number of sources in order to limit the costs and complexity of the data collection exercise.

It should also be highlighted that although international organisations provide a wealth of data on human and minority rights in Kosovo, government institutions should seek to expand and improve their own data collection mechanisms.

Disaggregation of data

In order to measure community rights accurately, access to **disaggregated data** is essential, as it allows the exposure of forms of *hidden* discrimination or marginalisation. For example, it can be the case that a certain community faces no problems in access to education in southern Kosovo, but faces severe obstacles in access to education in northern Kosovo. Without data disaggregated by geographical region, it would be impossible to identify such geographical differences. The UN OHCHR recommends that data is disaggregated “by prohibited grounds of discrimination, such as sex, age, disability, ethnicity, religion, language, social, economic, regional or political status of people.”²⁸ However, disaggregated data can be hard to collect and the level of disaggregation described above may not be feasible.

In disaggregating data, special care should be given to the three main human rights principles in relation to data-collection processes: self-identification, participation and data protection.²⁹ The principle of **self-identification** is an international standard also enshrined in Article 57.2 of the

²⁵ Human Rights Indicators 2012, p.63

²⁶ ECMI Kosovo Policy Brief: Minority Communities in the 2011 Kosovo Census Results: Analysis and Recommendations

²⁷ Human Rights Indicators 2012, p.65

²⁸ REPORT ON INDICATORS FOR MONITORING COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS INSTRUMENTS, HRI/MC/2006/7, 11 May 2006, p. 8

²⁹ Human Rights Indicators 2012, p.46

Kosovo's *Constitution*. According to this principle, every individual has the right to freely choose to be treated or not to be treated as member of an ethnic community. This means that in data collection, individuals should be allowed to indicate what community or communities he/she belongs to.

The principle of **participation** refers to the good practice of ensuring the consultation and involvement of minority communities in the data definition and data-collection processes to “help ensure the relevance and accuracy of the data collected”.³⁰

Finally, the principle of **data protection** mainly refers to the right to privacy, also enshrined in Kosovo's *Constitution* (Article 36) and further expanded on in the *Law on the Protection of Personal Data*. Population statistics often contain sensitive information, especially if they are related to ethnic status. This is particularly so in the case of Kosovo, where ethnic relations remain an important and sensitive political issue. Therefore, in line with the UN Human Rights Committee's General Comment No. 16 (1988), extreme care should be taken to ensure that “information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible with the Covenant”.

Question 6: To what extent should monitoring data be disaggregated?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion monitoring data should be disaggregated to the greatest extent possible by the prohibited grounds of discrimination, but that consideration should be given to the feasibility of collecting such data. At the very least, data should be disaggregated by ethnicity, municipality, gender and age. Data collection should comply with relevant international human rights standards.

Step 3: Determine the bodies responsible for monitoring, evaluation and compiling the final reports

Once the sources of verification have been identified, it is time to look at which institution will be responsible for (1) implementing the monitoring system, including data collection, compilation and publication, and (2) for conducting the broader evaluation of community rights implementation and enjoyment.

Kosovo has a comprehensive and complex institutional framework for community rights. The following are the key central and municipal level institutions that deal specifically with the protection and promotion of the rights and interests of minority communities in Kosovo:

Central Level	Municipal Level
• Consultative Council for Communities (CCC), under Office of the President • Office for Community Affairs (OCA), under Office of the Prime Minister (OPM) • Office of the Language Commissioner	• Municipal Office for Communities and Returns (MOCR) • Municipal Human Rights Unit (MHRU) • Municipal Communities Committee (CC)

³⁰ Human Rights Indicators 2012, p.48

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|---|--|
| <ul style="list-style-type: none"> • Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues (AOGG) • Ministry for Communities and Returns (MCR) • Ministry for Local Self Governance (MLGA) • Ministry for Education, Science and Technology (MEST) • Ministerial Human Rights Units • Human Rights Coordinator • Kosovo Assembly Committee on Rights and Interests of Communities and Returns (CRICR) • Ombudsperson • Independent Media Commission | <ul style="list-style-type: none"> • Deputy Chairperson of the Municipal Assembly for Communities • Deputy Mayor for Communities |
|---|--|

In deciding which institutions should be assigned the different tasks, a review of their mandate and evaluation of their resources should be conducted. A wide range of institutions, including independent public bodies, will need to be involved in the data collection process, as different institutions have access to different sources of data, in correspondence with their mandates. For example, the MEST can provide data on access to education of minority communities, while the MCR can provide data on the returns process.

The data collection process will have to be coordinated and managed by one central body, which should ideally also be responsible for the compilation, analysis and publication of the data. These are complex tasks and the assigned institution should have sufficient human and financial resources to effectively execute the required responsibilities. Moreover, it should have the mandate and authority to coordinate and task a large number of government institutions as well as the ability to implement the monitoring system in an objective and independent fashion. In this process, it is common to outsource the more technical parts of the monitoring process, including the data compilation and analysis.

Furthermore, an institution will have to be assigned the responsibility for the evaluation of the implementation and enjoyment of community rights, based on the monitoring data provided through the CRIs, in conjunction with other available information. This institution could be the same as the institution responsible for the management and coordination of the monitoring process. However, considering the more analytical and less technical nature of the evaluation process, this institution should be respected as an expert body on community rights and give sufficient voice to relevant outside stakeholders, such as civil society representatives and experts.

Question 7: Which institutions are responsible for collecting what data?

Question 8: Which institution will be responsible for managing the collection analysis and publication of monitoring data?

Question 9: Which institution will be responsible for the evaluation of community

rights?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that the information collecting bodies should be appointed on a case by case basis, depending on the choice of indicators and sources of verification. However, a number of institutions can be expected to play an important role in this process: the Ombudsperson; the Office of the Language Commissioner; the Kosovo Agency of Statistics; and key ministries, including the Ministry of Local Self Governance and the Ministry for Education, Science and Technology, and the Ministry for Communities and Returns.

The OCA would potentially be the most appropriate institution to manage the monitoring process, compile, analyse and publish the collected data; it is the highest level governmental agency responsible for community rights, its mandate includes the monitoring and evaluation of Kosovo government policy on community issues, and it has sufficient capacity to manage this process.³¹ In order to ensure the independence of the monitoring process, the CCC and CRICR could be involved in supervisory roles. However, they lack the institutional resources to play the leading role in the monitoring process.

The primary responsibility for the evaluation process could also be assigned to the OCA. However, it is essential that other institutions play an active, not just supervisory, role in this process. In particular, the CRICR, CCC, Language Commissioner and Ombudsperson should play important roles in this process as key institutions involved in the protection and promotion of community rights in Kosovo. Finally, civil society should also be involved in this process.

Step 4: Setting the timeframe of the monitoring and evaluation cycle

Monitoring the implementation and enjoyment of community rights through CRIs requires the regular collection of considerable amounts of data from a large number of different sources, in order to accurately measure the CRIs. This requires the design of a comprehensive monitoring plan and, importantly, the setting of a timeframe; i.e. how often is the monitoring data collected? Decision on the monitoring cycle should consider feasibility of the timeframe; ideally data would be collected on a continuous basis, but this might put undue strain on the responsible institutions. Therefore, considerable effort should be given to ensuring that the data collection periods fit into the regular monitoring cycles of the relevant governmental institutions. Nonetheless, it should be stressed that data needs to be collected on a regular basis to enable the measurement of progress.

Evaluation typically takes place less frequently than monitoring. Following an evaluation, the government should be given sufficient time to adjust their approach based on the findings of the evaluation. It takes time for such policy adjustments to have a measurable impact on the ground, which should be taken into consideration in deciding the length of the evaluation cycle.

Furthermore, as time goes by, the strengths and weaknesses of the M&E system will become clearer and the M&E system should itself be evaluated regularly and, if necessary indicators, benchmarks and sources of verification should be revised and updated. The changing of indicators or sources of

³¹ <http://www.kryeministri-ks.net/zck/?page=2,97>

verification can however impact the ability to measure progress over time and should thus be done with extreme care.

Question 10: What is the timeframe of the monitoring and evaluation cycle?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that the monitoring exercise should take place on a regular annual basis, while the evaluation of community rights and evaluation the M&E system itself should be conducted after the first year of monitoring and subsequently every 3-5 years.

Step 5: Decide how to publish the results of the M&E process

The final phase in the design of a M&E system is to ensure that the results are made officially and easily available to both the policy makers and the general public. This is usually achieved through the publication of official reports, made available online. As explained above, monitoring and evaluation are separate exercises and consequently their results should also be published in separate reports. These publications should contain all relevant monitoring data as well as the analysis and recommendations extracted from this data. For maximal transparency, the raw data for each indicator should be made publically available, as well as the methodology used for developing the M&E system and collecting the data. The UK's Equality and Human Rights Commission, discussed in Chapter 2, provides a good practice as it publishes its monitoring methodology, monitoring data and assessment online.³²

Moreover, in order to ensure that the findings are properly disseminated, public events and meetings with targeted stakeholders can be organised. Institutions need to be aware of the outcomes of the M&E exercise if they are to use this information to inform their policy decisions, and only when aware of the results of the M&E exercise can the public use this information to hold the government accountable to their actions.

Question 11: How should the M&E results be published?

ECMI Kosovo recommendations: ECMI Kosovo is of the opinion that the M&E results should be compiled into official reports of the Kosovo government, made publically available online. Monitoring reports should be published with each monitoring cycle, and evaluation reports with each evaluation cycle. The monitoring data should also be made accessible online.

³² See www.equalityhumanrights.com.

5. CONCLUDING REMARKS

The design and implementation of a community rights monitoring and evaluation system for Kosovo institutions is indeed a complex and technical process. However, the benefits are multiple; including improved information on community rights, increased transparency, more efficient and evidence-based policy-making and it would contribute to the process of accession to the EU and reporting to European and international bodies.

ECMI Kosovo believes that the process can be successfully carried out, as long as some key factors are taken into account and political will and ownership of Kosovo institutions is ensured. Importantly, the M&E system should be: carefully designed based on the UN OHCHR indicator framework; based on CRIs and benchmarks identified in an open consultative process; as simple as possible and, where possible, utilise existing data and reporting mechanisms; based on clearly defined roles and responsibilities.

ECMI Kosovo is of the opinion that potentially the best way to assess both the value and feasibility of CRIs in the Kosovo context is to implement a pilot-phase through which the proposed M&E methodology is implemented for one field of community rights (e.g. language or political participation rights). Based on the results of this pilot-phase a decision could be taken on how to proceed with the use of CRIs to community rights as a whole.

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