

Tomaševski's 4-A on Java: Measuring the Right to Reproductive Health

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1. Katarina Tomaševski's 4-A Scheme

Katarina Tomaševski's 4-A scheme – framing indicators under the four headings of availability, accessibility, acceptability, and adaptability – has been adopted and adapted in many parts of the world and for a great variety of settings.¹ Tomaševski's acute sense of methodology and pedagogics made her develop such approaches: tools that would be practical and concrete, yet attractive and memorable. The 4-A scheme neatly captures the full range of aspects of the right (to education, but easily adaptable to any right) by dividing it into the four elements. Utilising the comprehensive legal framework that is international human rights law also provides a foundation that is applicable practically worldwide.

As Special Rapporteur on the Right to Education, Tomaševski's visited Indonesia in 2002.² In her report, she analysed the progressive realisation of the right to education in Indonesia through her 4-A scheme. She made several important findings that are still valid today, and her key recommendation was the elaboration of a rights-based education strategy that would specify, among other things, the key aims of education, identify priorities, and detail institutions and procedures for the monitoring and enforcement of the right to education.³ Against this background, it was logical to build on Tomaševski's scheme when defining and implementing a project on measuring rights in East Java, Indonesia.

We will proceed under three additional sections: provide background on the setting in Indonesia as to research, benefits of using indicators, and focus on stronger impact of development cooperation and research projects (2); explain details of a project between the University of Surabaya and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) (3); conclude by elaborating on how the 4-A scheme was adapted and developed and offer some tentative outcomes of the project (4).

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¹ Developed during her mandate on the right to education, see e.g. *Human Rights Obligations in Education: The 4-A Scheme* (Wolf Legal Publishers, Nijmegen, 2006). It has been used and developed by e.g. the New Zealand Human Rights Commission report: *Human Rights in New Zealand Today*, <www.hrc.co.nz/report/chapters/chapter15/education01.html>; see also e.g. International Council on Human Rights Policy, *Local Government and Human Rights: Doing Good Service*, 2005, <www.ichrp.org/paper_files/124_p_01.pdf>, and also at least seemingly similar to the 4-A Scheme: *Monitoring housing rights – Developing a set of indicators to monitor the full and progressive realisation of the human right to adequate housing*, Working Paper No. 1, United Nations Housing Rights Programme, 2003.

² In July 2002, UN doc. E/CN.4/2003/9/Add.1, 4 November 2002. Katarina Tomaševski was the first Special Rapporteur on the right to education and during the time she held the mandate (1998–2004) she undertook missions to, in addition to Indonesia, the UK and Northern Ireland, Uganda, Turkey, USA, Colombia and China. More information about the mandate of Special Rapporteur, and Tomaševski's mission reports, can be found on the website of the Office of the UN High Commissioner for Human Rights, <www2.ohchr.org/english/issues/education/rapporteur/index.htm>, and on the website of the Right to Education project, <www.right-to-education.org>.

³ UN doc. E/CN.4/2003/9/Add.1, 4 November 2002, p. 2.

2. Setting in Indonesia – Human Rights Research, Need for Impact and Indicators

With its 230 million inhabitants, Indonesia has the fourth largest population in the world spread across 17,000 islands. Although a predominantly Muslim population, Indonesia is a diverse and complex country as regards culture, language, ethnicity and people as well as religion. After the fall of the Suharto regime, a period of rapid democratisation and establishment of rule of law and human rights institutions started in the country. In the summer of 2009, the second direct presidential election was held and for the first time a democratically-elected president, Mr. Susilo Bambang Yudhoyono, was re-elected.

In terms of often quoted statistics, Indonesia ranks 111 in the 2009 Human Development Index (HDI) rankings,⁴ and thus lags behind many of its neighbours in the region, e.g. Malaysia (66), Thailand (87) and the Philippines (105), as well as countries such as Turkey (79) and China (92). In Transparency International's Corruption Perception Index for 2009, Indonesia finds itself in the exact same position, ranking 111.⁵ Again, according to this Index, Indonesia performs less favourably than its regional neighbours, with the exception of the Philippines.

Also when it comes to reproductive health the picture is bleak and Indonesia finds itself behind its neighbours. With a maternal mortality ratio of about 420 per 100,000 live births, Indonesia is far from reaching the Millennium Development Goal (MDGs) No. 5 of reducing by three quarters the maternal mortality ratio by the intended deadline 2015.⁶ The situation is similar regarding infant mortality and under-five child mortality rates.

Indonesia is state party to the six older of the nine core UN human rights conventions and has signed additionally two of the more recent ones (on migrant workers and persons with disabilities, respectively). However, apart from some initial interest in substantive expansions (signature of the optional protocols to the Convention on the Rights of the Child (CRC)), Indonesia has not opted in for any of the procedural monitoring mechanisms available under the conventions, such as individual complaint mechanisms, with the exception of the optional protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

In the national legislation, human rights are foremost protected in the amended 1945 Constitution. The Constitution includes a chapter on human rights that contains, among many other rights, the right to obtain health care. Additionally, Law no. 39 of 1999 on Human Rights is a comprehensive law that includes a long list of rights and a definition of what constitutes human rights and human rights violations.⁷

Human rights related research in Indonesia is on the increase, and local actors around the country are involved in both academic and applied research, often in cooperation with an international partner. However, given the vast size of the country and the inherent difficulties in collecting primary data at the grassroots level, the reliance upon secondary sources, often provided by government channels, is widespread. Such data may not be updated, not validated and most often not collected through direct communication with the concerned rights holders. Often it is merely compilations of figures from government programmes in place in the field. These compilations of data do not provide a complete picture of the situation, and are sometimes even inaccurate. Additionally, the data has not been collected using human rights

⁴ See statistics of the Human Development Report on UNDP's website at <hdr.undp.org/en/statistics/>.

⁵ See the Corruption Perception Index at Transparency International's website at <www.transparency.org/policy_research/surveys_indices/cpi/2009>.

⁶ See statistics from 2005 in WHO's *World Health Statistics 2009*, available at <www.who.int/whosis/whostat/EN_WHS09_Full.pdf>.

⁷ For a more comprehensive account of human rights reform and international human rights law in Indonesia, see J. Nilsson, *Implementation of International Human Rights Law – A Discourse Theoretical Study Illustrated by the Right to Family Planning in Indonesian Law*, Lund University, 2009, in particular pp. 108–115.

based methods and are not analysed through a human rights prism. The use of such data can result in conclusions that are not evidence-based, but rather based on ‘what the situation should be like’, that is, using the data to support a predetermined position. One could suspect that this could be a remnant from research in the social sciences under Soeharto, which was intended to give evidence to support the systems in place. This is arguably common practice in academic research in authoritarian regimes.

It should be mentioned, however, that the reasons for the inadequate data is often understandable. Local government officials are not trained data collectors and often do not have the necessary means to undertake proper research. This is coupled with that fact that many issues that indeed are human rights issues are not viewed as such. Health is often one of them. The rapid decentralisation has also put further pressure on the local government officials that nowadays have to act far more independently, rather than waiting for orders from the central level. The research traditions and facilities at the universities around Indonesia are also in many cases in need of modernisation, meaning that research published by the universities often suffer from similar shortcomings.⁸

The project envisaged at University of Surabaya in cooperation with the RWI aimed at supporting the need for reliable, robust information on the actual situation that could contribute to the national and local developments of evidence-based policy that could have real impact on the ground. Human rights indicators were for this reason to form a core part of the project.⁹

3. Project with University of Surabaya

The Centre for Human Rights Studies at the University of Surabaya is a leading *PusHAM*¹⁰ in Indonesia. The Centre is involved in activities both within the University as well as in the local community and maintains one of the leading human rights documentation centres in Indonesia. We call here the University of Surabaya *PusHAM* for UBaya, the common short form for the University as a whole.

The RWI and UBaya have cooperated since 2000. The project in focus started in 2007 and focused specifically on indicators relating to the following aspects related to reproductive health: early marriage/pregnancy, family planning, pregnancy, childbirth, post natal, safe abortion, violence against women, sexually transmitted infections including HIV/Aids, and knowledge of reproductive organs.

The project was made up of two phases with the first phase aimed at assessing the success of three government programmes that focused on the rights to education and health in three cities and two districts in East Java using the 4-A scheme.¹¹ East Java’s more than 30 million people make it the second largest province in Indonesia population wise. The province is divided into 29 entities called regencies and nine cities, including both urban and remote rural communities and everything in between. The areas of the province also differ widely in terms of development. The administrative centre is the city of Surabaya, which is Indonesia’s second largest city, located approximately one hour by plane from the capital city Jakarta.

⁸ See e.g. H. Juwana, ‘Teaching International Law in Indonesia’, 5:2 *Singapore Journal of International and Comparative Law* (2001) pp. 412–425.

⁹ On human rights indicators, see e.g. J. Grimheden, ‘Indicators for Monitoring Human Rights’, in G. Alfredsson *et al.* (eds.), *International Human Rights Monitoring Mechanisms* (Martinus Nijhoff, Leiden, 2009) pp. 421–428.

¹⁰ PusHAM, or Pusat Studi Hak Asasi Manusia, is the term used for human rights research centres at Indonesian universities. The total number of PusHAMs across the country is around 30. PusHAM Ubaya’s website can be accessed at <pusham.ubaya.ac.id/>.

¹¹ For simplicity we refer to this as 4-A even though it was modified into a ‘3A+Q’ where the Q represented quality.

The purpose of the first phase of the project was to provide a detailed picture of the situation in the research area regarding the rights to health and education, which would serve as benchmarks for coming phases of the project. This would be done by developing and piloting innovative research tools and methodologies. The results achievement was satisfactory but it became evident that both the research focus and the sample area were too extensive.

The second phase concerned collection of data and information that were checked against the country specific reproductive health indicators of the World Health Organization (WHO) using the 4-A scheme, in order to assess the availability and quality of reproductive health services in three areas in one Banyuwangi municipality in East Java. The research focus was based on a needs assessment and a lengthy planning process. Based on the lessons learned from the first phase, the scope was limited even further to entail only the maternal health aspects of reproductive health. Similarly, the research area was significantly narrowed to facilitate that reliable and representative data could be collected and analysed.

The research tools and methodologies from the first project were further developed and adjusted to the new focus. The aim of the second phase was to provide reliable research data on reproductive health from a human rights perspective that could serve as a baseline study for a possible policy reform project focusing on reproductive health for poor women in East Java. The results of the second phase were more detailed, relevant and reliable than that of the first. Perhaps the most relevant finding was that government programmes are assessed not on the actual situation on the ground, but on what is stated in legislation, procedural guidelines and other rules.

Gender and poverty were two cross-cutting themes in the project, as poor women suffer indiscriminately from non-realisation of reproductive health and rights, and as a consequence their quality of life is significantly affected. A gender perspective was mainstreamed, *i.e.* in the formulation of questionnaires and guidelines for focus group discussions and semi-structured interviews. Some of the questions also related to the power relation between spouses with regard to decisions regarding reproductive health issues.

Both phases of the project followed a similar process, which will be described here in short.¹² An internal capacity development training was held for the researchers at Ubaya to more closely familiarise them with the substantive contents of international and national law relating to the issues at stake, as well as research theories and current developments. After the training, the research tools and methodologies were adjusted and later assessed through a consultation workshop with national and international experts in the field. After finalising a research plan, the surveys were carried out in the field with the help of research assistant that collected the data in various ways, including through desk studies, questionnaires, semi-structured interviews and focus group discussions. The collected data was analysed by framing structure, process and outcome indicators under the 4-A scheme (this will be elaborated on below). After analysis of the data, the results of the studies were summarised in a report and presented to the various stakeholders that had partaken in the project during 'dissemination dialogues'.

Both projects resulted in compilations of large amounts of informative, primary data, collected directly from both rights holders and duty bearers. The data, analysed against the 4-A scheme, provides a detailed picture of the situation with regards to certain elements of the rights to health and education in the survey areas. Other outputs of the projects are innovative

¹² A more detailed account of the entire process is available in the project report prepared by Ubaya (available through RWI). There were several important steps in the research process that will not be accounted for here due to space constraints, such as desk studies to collect secondary data, training for research assistants and development and testing of the questionnaires and focus group discussion blueprints.

research tools and methodologies, including questionnaires, focus group discussions and semi-structured interviews that are adapted to the local conditions in East Java.

In conclusion, compared to the results of traditional research in Indonesia, the results of the two projects carried out by Ubaya and RWI can be more useful for the purpose of human rights related policy reform, as they are evidence-based, validated and collected using human rights related methods. The findings are thus a novelty in the research community in Indonesia, as they provide a picture of what the situation actually is like, assessed from a human rights perspective. However, work still remains in presenting the results in a way that fully makes use of the method applied.

4. The 4-A Scheme Adapted and Impact of the Study

Katarina Tomaševski presented her 4-A scheme in relation to the right to education in her first annual report as Special Rapporteur on the right to education in 1999.¹³ A year later the Committee on Economic, Social and Cultural Rights in its General Comment 14 on the right to the highest attainable standard of health presented a variation of the 4-A scheme and stated that the right to health in all its forms and at all levels contains the following interrelated and essential elements: availability, accessibility, acceptability and quality.¹⁴

In 2003, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Paul Hunt, proposed the following categories of right to health indicators: structural indicators, process indicators and outcome indicators.¹⁵ The research framework for the project with University of Surabaya drew upon these constructions in order to give the researchers a method through which their data could be collected and analysed. In effect it was decided to merge the structure used by Paul Hunt, a method commonly used by the United Nations, and that of Tomaševski, so as to create a matrix that better could capture the various aspects of a right: the 4A-scheme was on the vertical axis and a horizontal dimension was added with structure, process and outcome.

¹³ UN doc. E/CN.4/1999/49, 13 January 1999, paras. 51–74. *See also* UN doc. E/CN.4/2000/6, 1 February 2000, paras. 32–65; and UN doc. E/CN.4/2001/52, 11 January 2001, paras. 64–65.

¹⁴ Committee on Economic, Social and Cultural Rights General Comment No. 14 (2000) on the right to the highest attainable standard of health. The Committee had already earlier introduced variations of the 4-A scheme, for example in relation to the rights to adequate housing and food.

¹⁵ UN doc. A/58/427, 10 October 2003.

Table 1

Matrix based on the 4A and structure-process-outcome, with examples of the broader aspects

	Structural	Process	Outcome
Available	Legislation Budget Complaints mechanisms	Policy	Implementation
Accessible	Non-discriminatory Geographic Physical		
Acceptable	Quality of health / Education Rights-based		
Adaptable	No contradictions: Central – Local Incentives		

The matrix allowed for a more systematic approach to rights. The empty boxes in the lower right corner in the Table above (Table 1) would contain specific indicators depending on the project component.

As for outputs of the project, apart from the research findings that can be used as baseline data by other researchers or government entities and the research method that can be applied by other actors conducting similar studies, more concrete research findings were made. These concerned, for instance, the identification of gaps in institutions and resources, mapping and effect of introduced government measures, and the possibility of partnerships between traditional actors – such as ‘birth attendants’ – with educated midwives.

The project was an example of efficient twinning with innovative elements, all aimed at capacity development. The adapted framework with the 4A-scheme enabled the research to focus in on some indicators in each of the ‘boxes’ formed in the matrix. A solid structure was maintained by covering the core aspects of the right, as developed in the 4-A scheme. With Tomaševski’s 4A-scheme, research on measuring the right to reproductive right on Java became comprehensive and rights-based – an otherwise rare sight in Indonesia.