

## Impact case study (REF3)

<b>Institution: University of Essex</b>		
<b>Unit of Assessment: 18 – Law</b>		
<b>Title of case study: Strengthening Accountability for the Right to Health</b>		
<b>Period when the underpinning research was undertaken: 2003-2017</b>		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b> Paul Hunt	<b>Role(s) (e.g. job title):</b> Professor, School of Law	<b>Period(s) employed by submitting HEI:</b> 2000-2018 (leave of absence 01/2019-present)
Judith Bueno de Mesquita	Lecturer, School of Law	2001-2009; 2011-2013; 2015 - present
<b>Period when the claimed impact occurred: 2015-2019</b>		
<b>Is this case study continued from a case study submitted in 2014? N</b>		
<b>1. Summary of the impact</b>		
<p>Hunt and Bueno de Mesquita's research strengthened global and domestic accountability for the right to health in three principal ways:</p> <p>i) Hunt's <b>structural, process and outcome</b> model of right-to-health indicators is widely adopted internationally by leading human rights actors, transforming worldwide measurement of States' compliance with right to health and other human rights obligations (2015-19);</p> <p>ii) Hunt and Bueno de Mesquita's <b>monitor, review and remedial action</b> accountability framework catalysed the establishment, and shaped the mandate of, a cutting-edge global health accountability procedure (2015);</p> <p>iii) Hunt and Bueno de Mesquita's <b>research on implementation</b> empowered national human rights institutions to undertake right-to-health assessments, including in Azerbaijan (2015) and Kosovo (2016), improving accountability for, and enjoyment of, sexual and reproductive health rights by vulnerable groups.</p>		
<b>2. Underpinning research</b>		
<p>Hunt and Bueno de Mesquita's research in the following areas materially transformed right to health accountability internationally and domestically:</p> <p><b>1. Operationalising accountability for the right to health through indicators and benchmarks</b></p> <p>Most States have binding international treaty obligations to take appropriate measures to progressively realise the right to health in line with available resources. Lacking a methodology for measuring progressive realisation, the human rights community turned to indicators in the 1990s, yet there was confusion about: (a) the difference between indicators and benchmarks; (b) the relationship between health and right-to-health indicators; and (c) how to classify right-to-health indicators in accordance with different aspects of States' international human rights obligations. Without more clarity, States were able to use the apparent ambiguity of the progressive realisation clauses as a way of avoiding their obligations to implement the right to health, i.e., asserting that they were doing all that was possible within their available resources.</p> <p>From 2003-2006, Hunt's research, supported by consultations with the World Health Organisation (WHO) and the Office of the UN High Commissioner for Human Rights (OHCHR), provided much-needed clarity to the topic, in particular by developing the <b>structural, process and outcome</b> framework of right-to-health indicators <b>[R1]</b>. Corresponding to (a)-(c) above, he explained: how indicators work with benchmarks; that health indicators can serve as right-to-health indicators, provided they are tied to a right-to-health norm; and how indicators can be classified as <i>structural</i> (e.g. protection of the right to health in constitutions and laws; ratification of international treaties),</p>		

*process* (e.g. efforts to meet obligations flowing from right to health protections in those treaties and laws) and *outcomes* (e.g. the results of these efforts, e.g. health outcomes).

Employing this structural, process and outcome framework provides a way for rights holders and duty bearers, as well as human rights review bodies and civil society organisations, to develop indicators that are systematically mapped across different areas of States' right to health obligations, which are needed to pinpoint where progress is being made and where obstacles persist. This approach has helped significantly to identify the actions that are needed for the progressive realisation of the right to health.

## **2. Revitalising accountability in global health: the *monitoring, review and remedial action* framework**

The aim of the indicator-benchmark methodology and terminology is to enhance accountability by providing greater precision in reviews of States' compliance with right to health obligations. However, in working to develop the indicators framework, which involved consultations with the WHO, Hunt and Bueno de Mesquita became aware that health professionals conflated monitoring with accountability. Linked to this, in global public health, oversight was routinely limited to monitoring, falling short of the accountability approach of international human rights law that also embraces review and remedies. As monitoring and accountability are clearly distinct, in new research, Hunt and Bueno de Mesquita delineated clearly these distinctions.

In 2010-11, drawing on their indicators and benchmarks research and human rights-based approaches to accountability, Hunt and Bueno de Mesquita conceptualised accountability as: **monitoring** (collecting data and information, often using indicators); **reviewing** (assessing data and information *against human rights commitments*); and **remedial action** (putting matters right when review exposes a human rights deficit). This research demonstrated that 'monitoring and evaluation' is one component of accountability; but without review and remedial action it has limited potential to improve public health and human rights [R2 (p. 5), R3, R4, R5].

## **3. Clarifying implementation to enhance domestic accountability**

The health and human rights community was traditionally preoccupied with constitutional protection and litigation to implement the right to health. Hunt and Bueno de Mesquita's research unpacked legislative, policy and programmatic right to health obligations of States, particularly in the area of sexual and reproductive health. Their research highlighted the importance of: the removal of legislative or regulatory barriers; the design of public health and clinical interventions to support equitable access; participation of rights-holders in the design, implementation and oversight of policies and programmes; and of health facilities that provide privacy, inform users of their rights, and are supplied with adequate equipment [R3, R4, R6, R7, R8].

## **3. References to the research** [can be supplied by HEI on request]

**R1** Hunt, P. and MacNaughton, G., "A Human Rights-Based Approach to Health Indicators", in Baderin, M. and McCorquodale, R. (eds.) *Economic, Social and Cultural Rights in Action*. (Oxford University Press 2007), p. 303- 330. ISBN 9780199217908

**R2** Bueno de Mesquita, J., "A Review of Global Accountability Mechanisms for Women's and Children's Health" (The Partnership for Maternal Newborn and Child Health: Geneva, 2011), [https://www.who.int/pmnch/knowledge/publications/2011\\_accountability-mechanisms/en/](https://www.who.int/pmnch/knowledge/publications/2011_accountability-mechanisms/en/)

**R3** Hunt, P., and Gray, T., eds, *Maternal Mortality, Human Rights and Accountability* (Routledge, 2013). ISBN 9780415534581

**R4** Hunt, P., Bueno de Mesquita, J., Lee, J-Y. and Way, SA., "Implementation of Economic, Social and Cultural Rights," in Rodley, N. and Sheeran, S, *Routledge Handbook of International Human Rights Law* (Routledge, 2013), 545-561. ISBN 9780415620734

**R5** Williams, C., and Hunt, P., "Neglecting Human Rights: Accountability, Data and Sustainable

Development Goal 3”, *The International Journal of Human Rights*. 21 (8) (2017), 1114-1143. DOI: <https://doi.org/10.1080/13642987.2017.1348706>

**R6** Cottingham, J., Germain, A., Hunt, P., “Use of Human Rights to Meet the Unmet Need for Family Planning”, *The Lancet*, 380(9837) (2012), 172-180. DOI: [https://doi.org/10.1016/S0140-6736\(12\)60732-6](https://doi.org/10.1016/S0140-6736(12)60732-6)

**R7** Bueno De Mesquita, J., “Maternal Mortality and Human Rights: From Theory to Practice”, in: *Law and Global Health Current Legal Issues*, Freeman, M., Hawkes, S. and Bennett, B., (eds.) (Oxford University Press, 2014). 223- 243. ISBN 9780199688999

**R8** Bueno de Mesquita, J., Kyrezi, A., Lulaj Sinani, M., Istrefi, R., “Sexual and Reproductive Health and Rights in Kosovo: A Reality Beyond the Law – A Report on the National Assessment of Sexual and Reproductive Rights by the Ombudsperson Institution of Kosovo” (OIK, 2016) (available from HEI on request).

#### 4. Details of the impact

**Hunt’s indicators framework transformed global and domestic human rights accountability worldwide, including for the right to health.** Widely deployed, Hunt’s conceptual framework empowered the human rights community to use indicators to monitor progressive realisation over time, thereby strengthening accountability of States for their international human rights obligations.

Internationally, Hunt’s respect, protect, fulfil framework **[R1]** was adopted by, and continues to be a central component of the broader conceptual and methodological approach to human rights indicators of the OHCHR **[S1]**. The centrality of Hunt’s framework to the OHCHR is reflected in it being prominently displayed on the OHCHR’s webpage on human rights indicators **[S2]**. The webpage, translated into 6 languages, is accessed by human rights activists, state officials, national human rights commissions from around the world, every day. In 2018, OHCHR promoted Hunt’s framework in its technical guidance note: *A Human Rights-based Approach to Data*, aimed at policy makers, statisticians and data specialists in government or civil society organisation, published to support a rights-based approach to measuring and implementing the 2030 Agenda for Sustainable Development **[S3, p. 20]**. This report highlighted that the respect, protect and fulfil framework first published by Hunt **[R1]**, “has been promoted by international, regional and national human rights mechanisms” **[S3, p. 20]**.

In the Americas, Hunt’s framework **[R1]** was adopted by the Working Group mandated to identify the indicators to be used to monitor compliance with the Protocol of Salvador, the primary instrument focused on economic, social and cultural rights in the Americas region. It was incorporated in its report *Progress Indicators for Measuring Rights under the Protocol of San Salvador* (2015) **[S4, pp. 24-5 and 33-60]**. This provides guidance for State party reports under the Protocol, allowing the Working Group to hold States accountable with greater precision and consistency.

#### **‘Monitor, review and remedial action’ led to a new global public health accountability body**

In 2010–11, on the basis of his research, Hunt was invited to become a member of a Working Group of the UN Commission on Information and Accountability on Women’s and Children’s Health (COIA). The COIA took up Hunt and Bueno de Mesquita’s framing of accountability **[R2, R3, R5]** in its final report, recommending the establishment of a review body to oversee progress. In 2015, the Independent Expert Review Group (IeRG), which was established pursuant to this COIA recommendation, in turn recommend the UN Secretary General to: “By 2016, establish and implement a global independent accountability mechanism to **monitor, review, and act** on results and resources for women’s, children’s, and adolescents’ health, working across all 17 SDGs, reporting annually to the UN Secretary-General.” In 2015, Julian Schweitzer of the thinktank Results for Development, confirmed that the COIA framing, derived from Hunt and Bueno de Mesquita’s research, “is now widely accepted in global health” **[S5, p. 62]**.

The mandate of the Independent Accountability Panel (IAP), established by the UN Secretary-General in response to the IeRG recommendation, is framed with direct reference to Hunt and Bueno de Mesquita's framework, "to command attention from the global community across the full range of the Global Strategy accountability framework – **monitor, review and act**" [S6, p. 2]. It combines traditional UN global health monitoring, which was grounded in data, with an independent review of progress including recommendations to governments. The IAP's inaugural report was devoted to an expanded version of Hunt and Bueno de Mesquita's framework (monitor, review, remedy, action) to improve women's, children's and adolescents' health worldwide [S7a, pp. 2, 8-12; S7b].

Hunt and Bueno de Mesquita's accountability framework was adopted by the Northern Ireland Human Rights Commission in its report *Human Rights Inquiry: Emergency Health Care* (2015), where it was used to frame research and findings on accountability in the context of emergency healthcare [S8, pp. 88-94].

### **Transforming accountability and implementation of the right to health through National Human Rights Institutions**

Hunt and Bueno de Mesquita's research on implementation [R3, R4, R6, R7, R8] paved the way for national human rights institutions, traditionally preoccupied with civil and political rights, to hold governments accountable for the right to health, including sexual and reproductive health. Their research led to improvements for rights-holders and was used by UN agencies at the global and domestic levels in technical guidance and cooperation, and by national human rights institutions (NHRI) in their accountability activities.

Based on her research on domestic implementation of the right to health [R4], and on sexual and reproductive health [R2, R7], the United Nations Population Fund (UNFPA) appointed Bueno de Mesquita as a consultant to lead NHRI research teams undertaking the first national assessments of sexual and reproductive health and rights (SRHR) in Azerbaijan (2014-15) [S9a] and Kosovo (2016) [R8]. Programme Analyst, UNFPA Azerbaijan, confirms the impact of the resulting report [S9b], which was co-authored by Bueno de Mesquita, and which included recommendations that drew on her research on legal and policy channels for implementation:

*"...for boosting our advocacy efforts regarding legal and policy reforms on SRHR. ... the report is indeed used as a major source of evidence when it comes to the issues of violence against women, Family Planning, etc.... we are currently using the findings to speed up the process of endorsement of the Law on [reproductive health and family planning] as well as the next cycle of Reproductive Health Strategy," [S9b].*

The assessment enabled UNFPA to engage with the Government on taboo issues e.g. sex-selective abortions [S10, pp. 76-78], and was showcased as a case study in its ground-breaking guidance for other NHRIs to undertake SRHR country assessments and national inquiries [S10, pp. 76-78].

The Ombudsperson Institution of Kosovo confirms that 27 out of 64 far-reaching recommendations of its report [R8], also co-authored by Bueno de Mesquita and applying her knowledge to the local context, were implemented by 2018 [S11a, S11b], with life-changing impact for rights-holders (the beneficiaries), including: the provision of free contraceptives to vulnerable groups including people living in poverty; minorities, adolescents and sex workers; supplying low-cost condoms in vending machines; keeping contraceptives on the essential drugs list; increasing health inspectorate staffing and integrating human rights into its work; making maternal death audits consistent with WHO's guidelines; and adopting a rights-based national HIV action plan.

### **5. Sources to corroborate the impact**

**S1** Email from Senior Statistician, Office of the United Nations High Commissioner for Refugees (previously, Chief Statistician at the Office of the UN High Commissioner for Human Rights

(OHCHR)), received 8 February 2021.

**S2** UN Office of the High Commissioner for Human Rights website, *Human rights indicators – main features of OHCHR conceptual and methodological framework*.

<https://www.ohchr.org/EN/Issues/Indicators/Pages/framework.aspx>

**S3** UN Office of the High Commissioner for Human Rights, *A Human Rights-Based Approach to Data: Leaving No-one Behind in the 2030 Agenda for Sustainable Development* (UN, 2018).

<https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

**S4** Working Group of the Protocol of San Salvador, *Progress Indicators for Measuring Rights Under the Protocol of San Salvador* (Organisation of American States, 2<sup>nd</sup> Edition, 2015).

[http://www.oas.org/en/sedi/pub/progress\\_indicators.pdf](http://www.oas.org/en/sedi/pub/progress_indicators.pdf)

**S5** Schweitzer, J., Accountability in the 2015 Global Strategy for Women's, Children's and Adolescents' Health. *British Medical Journal*. 351:h4248 (2015).

**S6** UN Secretary-General, *Every Woman Every Child, 'Global Strategy for Women's Children's and Adolescent's Health: Strategy and Coordination Group'* (Independent Accountability Panel - Scope of Work and Terms of Reference for Panellists, November 12, 2015).

**S7a** Independent Accountability Panel of the UN Secretary-General to review progress on the 2016-30 Global Strategy for Women's, Children's and Adolescent's Health, *2016: Old Challenges, New Hope* (2016).

[http://iapreport.org/2016/downloads/IAP\\_Report\\_September2016.pdf](http://iapreport.org/2016/downloads/IAP_Report_September2016.pdf)

**S7b** Email from member of the Independent Accountability Panel, confirming impact of Hunt/Bueno de Mesquita's research, 16 December 2020.

**S8** Northern Ireland Human Rights Commission, *Human Rights Inquiry: Emergency Healthcare* (2015) [http://www.nihrc.org/uploads/publications/NIHRC\\_Emergency\\_Healthcare\\_Report.pdf](http://www.nihrc.org/uploads/publications/NIHRC_Emergency_Healthcare_Report.pdf)

**S9a** Bueno de Mesquita, J., Bayramova, P., Rumzada, R, *Assessment of the Implementation Status of Treaty Body Recommendations on Sexual and Reproductive Health and Rights in the Republic of Azerbaijan* (Commissioner for Human Rights, Azerbaijan, United Nations Population Fund, United Nations Office of the High Commissioner for Human Rights, 2015).

**S9b** Email from Programme Analyst (Gender) at the United Nations Population Fund (UNFPA), received June 2019.

**S10** United Nations Population Fund, *A Guide in Support of National Human Rights Institutions: Country Assessments and National Inquiries in the Context of Sexual and Reproductive Health and Well-Being* (2019).

**S11a** Email from Deputy Ombudsperson, Ombudsperson Institution of Kosovo, received 2 July 2019.

**S11b** Ombudsperson Institution of Kosovo, *Kosovo Rekomandimet e Raportit per SHRS eng statusi i zbatueshmerise anglisht fundvit 2018[1]*, 2018.