

## ON THE CORRECT (AND INCORRECT) USE OF INDICATORS IN PUBLIC ACTION

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Using indicators in a process of public action raises three problems: processing, data production, and use. Readers should immediately be aware that statistical social data (of which indicators are part) do not reflect a state of nature. The seminal works of Alain Desrosières and his followers<sup>1</sup> have amply demonstrated this point. These data come from a production chain whose many stages (and the relationships that link them) are social throughout, from the person or actor forming the starting point of the observation to the aggregate or overall rate. Each stage is in itself a social fact that is historically constructed and permanently reworked by social dynamics. The ways in which a phenomenon such as unemployment, for instance, may be perceived are local before they are processed by the statistician, just as the expectations or conceptions of policies on unemployment vary depending on the dominant social groups and normative models in the country in question. Questionnaires and nomenclatures relating to the same social fact vary from one country to another. Last, but by no means least, administrative statistics (as well as, indirectly, surveys since regulations and social rights have an impact on the expectations and actions of those involved) are marked by the social legislation of the field that they cover (who pays and according to what rules; who is entitled to what and under what conditions). Statistical categories, whether administrative or not, are therefore shaped to some extent by the legal categories of the field (and allied fields). The data that are the by-product of the work of agencies and administrations are thus formatted by their management rules. These rules differ from country to country; they evolve and can be manipulated—and in some cases they are manipulated.

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1. For instance, ALAIN DESROSIERES, *LA POLITIQUE DES GRANDS NOMBRES* (1993); ALAIN DESROSIERES & LAURENT THEVENOT, *LES CATEGORIES SOCIO-PROFESSIONNELLES* (“Repères”) (1988); ROBERT SALAIS, NICOLAS BAVEREZ, & BENEDICTE REYNAUD, *L’INVENTION DU CHOMAGE* (“Quadrige”) (1999).

Overall, statistical categories are based on the aggregation of individual situations, according to a principle of evaluation and conventions of equivalence.<sup>2</sup> These conventions are profoundly marked by historical, institutional, and national idiosyncrasies. In a word, the information on which decisions and action are based is not a fact: it is constructed and selected. This is a dimension that is completely neglected by almost all works on the decision-making processes of European and international organizations. The protagonists of these processes are not very or not at all aware of this dimension. It is nevertheless crucial for the use of indicators. Two examples spring to mind.

Being informed by the European Commission<sup>3</sup> that the women's participation rate in 2001 was 65% in Great Britain and 56% in France is one thing. No right-thinking person would dispute that one of these figures is arithmetically higher than the other. Concluding that performance in terms of women's participation in work is better in Great Britain than in France is another matter and is not as clear-cut. This second observation is meaningful only if all the factors discussed above and forming part of data production are identical or at least comparable; in other words, assuming that the data can be recalculated from factors that are identical throughout. British practices and legislation are, for instance, more relaxed than in France in terms of part-time working conditions (in particular working time and wages). Corrected by the differences in working time distribution, the women's participation rate, called "full-time equivalent," is 50% for both countries—they are thus on a par! Nevertheless, the United Kingdom is congratulated for being one of the countries that has already exceeded the objective. France is among those countries that have set national objectives to increase women's participation in employment.<sup>4</sup> In this way, the Commission therefore sees the statistic as a scientific truth reflecting a state of nature that is set in stone. A job is a job: employment situations are fully comparable, everywhere, at all times, and for all those involved. Only quantitative performance has meaning and is, moreover, assessed at the most global level. It is good to take any job, whatever it is, as performance is increased.

The ILO is not free from such problems. The special issue, fascinating from cover to cover, of the *International Labour Review*

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2. DESROSIÈRES, *supra* note 1.

3. Joint Employment Report COM(2002)521 final.

4. *Id.* at 53.

looking at the indicators of decent work<sup>5</sup> uses the unionization rate to assess the degree of trade union freedom and compares this rate for twenty-two countries. Irrespective of trade union freedom and the strength of industrial movements, mandatory possession of a trade union card for entitlement to aspects of social and legal protection obviously has an impact on this rate. This is one of the reasons why France is ranked 22nd and last among the countries selected as regards the unionization rate in one of the articles in this issue. However, “social dialogue” is considered to be almost non-existent in France in the following table. If, however, one day (and some thought has been given to this, but for reasons other than improving the ranking) trade union membership status entitled people to the social services provided by trade unions in France, the level of union freedom would mechanically increase in France. The ratio between the institutional importance of trade union organizations and the degree of effectiveness of trade union freedom is obviously a matter for discussion. However, nobody can be unaware of the complexities that are opened up and the arbitrary nature of the proposed measurement.

Two ways of using (in the broad sense) indicators in a political process, one instrumental and the other ethical, are contrasted in Section I. This contrast is used in Section II to analyze the ways in which indicators are currently being used in the open method of coordination (OMC) developed by the European Union in social affairs (especially the European Employment Strategy) and in the OECD program on equal opportunities and equity in education. Section III explores the features of an ethical approach to indicators with a view to evaluating the implementation of international labor standards (ILS) by the member countries of the ILO. A brief conclusion relates the use of indicators to an international organization’s political stance.

#### I. MANY WAYS OF FORMULATING AND USING INDICATORS

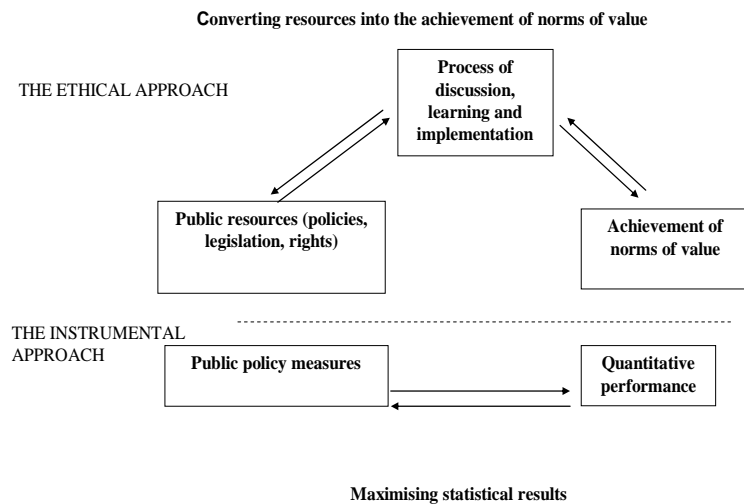
Diagram 1 summarizes our main argument. This Diagram contrasts two types of relationship between public policy and evaluation: a causal and instrumental relationship (Section A.) and a mediated and ethical relationship (Section B.). This is precisely the question that the use of indicators raises. In the following, the term “policy” is taken in a broad sense. It covers both public policies in the

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5. *Measuring Decent Work*, 142 INT’L LAB. REV. tbls. 14–15, at 151–52 (2003).

normal sense as well as legislative activity and, on a day-to-day basis, the management procedures of administrations and organizations dealing with public matters.

**Diagram 1. Two conceptions of the relationships between public policies and evaluation**



#### A. *The Causal and Instrumental Conception of Indicators*

The causal and instrumental conception is represented by the English-speaking world's New Public Management<sup>6</sup> (NPM) or rather its school (as there are differences within it). This is the lower portion of Diagram 1. Enterprise management is the original source (especially from the point of view of benchmarking techniques). These methods pursue essentially instrumental goals. Outcomes and performance are the only things that matter in these methods. Indicators are used to measure performance and competitively to rank enterprises or any other body (political organizations, etc.). Any reform or improvement of what exists is good whatever the nature of the means used (especially their basis or implication in terms of social

6. This is excellently presented in *La nouvelle gestion publique*, 1 LES POLITIQUES SOCIALES (Frédéric Varone & Jean-Michel Bonvin eds., 2004).

justice, international norms, or fundamental rights) since it improves performance at constant cost. In more theoretical terms, NPM and the methods that have been developed from it function using a consequential approach. It is possible, according to these methods, to draw up a diagram of direct causality linking the quantitative results achieved in respect of the indicators adopted to the means used. This ostensible diagram of causality is used, with no mediation, to adjust means when performance with respect to management indicators is poor. The aim is therefore less to *evaluate* (in the sense of taking a set of values as a reference) than to *measure* and seek out action variables through which performance can be improved.

In company management theories, this works as follows.<sup>7</sup> In an evolving competitive context, an outmoded firm has, if it is to survive, to develop its organization by imitating the innovative routines of its competitors (“best practices”). It has correctly to identify these innovative routines, transfer them appropriately to its own organization and then successfully rally its staff to take up these routines and implement them efficiently. The framework of the European OMC is similar. In outline, the OMC applied to a policy field has four stages: 1. setting guidelines for the European Union; 2. drawing up a list of benchmarking indicators; 3. transposing the guidelines into national policies with appropriate targets and measurements; and, 4. periodic monitoring based on peer reviews, exchanges of best practices, and drawing up of country recommendations.

The difficulty of the problems to be resolved (pinpointing best practices, transfer, creation of a consensus) becomes evident when thinking about what is involved in the transposition of this company management method to public administrations and, above that, to the coordination of national policies by a center that, in contrast to the management of an enterprise, has no hierarchical power to decide and lead. The resolution of the first problem—pinpointing best practices—shapes that of the following stages. Performance gaps between firms (in this case national policies) need to be measured in a consistent and viable way. These gaps have to be appropriately correlated with the firm’s objectives (or policies) and related to the causes in question, i.e., best practices. It is at this crucial point that the indicators used come into play. If, in the case of a firm, agreement

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7. L. Tronti, *Fruitful or Fashionable? Can Benchmarking Improve the Employment Performance of National Labour Markets?*, in *FROM LUXEMBOURG TO LISBON AND BEYOND. MAKING THE EMPLOYMENT STRATEGY WORK* 67–83 (E. Best & D. Bossaert, eds., 2001).

may be very readily obtained about objectives (profit, growth, cost reduction, share value, productivity, etc.) and their quantification and some relationships pinpointed between them, public policies raise much more problematic issues. Their goals are many and contradictory. The same problem can be identified and resolved in various ways in different countries. It is often impossible to untangle the skein of interactions that leads from quantitative performance to the identification of best practices. There is a risk that learning is diverted away from actual performance toward discovering instrumental ways of improving scores in terms of statistical benchmarking. It may well be that discussion is unnecessary in enterprise. However, political and social discussion, which is as wide-ranging and detailed as possible, seems necessary if agreement, or a minimum compromise, is to be reached on the values and norms on which public decisions are to be based. It is obviously necessary to abide by the idea that no public decision can be made without being related to basic objectives. These are precisely the two constraints that are being disregarded by the European OMC, over and above a formal mention (as will be seen in Section II.A).

These features do not necessarily mean that the transposition of these methods to fields more resistant to a measurement of performance and a purely instrumental conception of means is doomed in advance. At the least, they may well have a major impact unless they are neutralized. It would seem logical to think that an instrumental conception of the ILS could be included in the action of the ILO only with difficulty.

### *B. The Mediated and Ethical Conception of Indicators*

In contrast, the whole weight of this second conception of indicators and the relationship to be established between public policy and evaluation is attached to the act of *evaluation*. Evaluation involves an explicit reference to values. This is a ternary and not a binary scheme (upper portion of Diagram 1).

The outcomes targeted by national policies are the extent to which each country has achieved (in other words, actually implemented) fundamental principles or rights. The concept of actual implementation is complex but important. What has to be evaluated goes beyond the, albeit necessary, enactment of laws or formal rights (or a simple institutional factor such as the unionization rate that tells us practically nothing about the exercise of the corresponding freedom or of actual practice). What is targeted is the extent to which

a right (or a norm) has become a *real* institution, i.e., the extent to which it has become part and parcel of practices and of economic, political, and social expectations within the country in question. The starting point for the use of indicators is miles apart from any assumption that national situations are comparable. For correct evaluation, account has to be taken of idiosyncrasies; moreover, the evaluation has to be conducted by “local” actors themselves under certain conditions of public discussion. As is stressed by the works on statistics cited in the introduction, there is a qualitative gap between a general category, which any indicator implies, and local categories that are necessarily rooted in the historical and social processes specific to each country. Only the actors, provided they adhere to the objectives of the action, are able, through their local knowledge, to assess this gap, to locate its salient dimensions (that may well differ in different countries) and to propose indicators that are in keeping with the extent to which norms have been achieved.

This second conception takes a less triumphant stance than the first. It recognizes that the performance indicators based on the causal approach cannot measure these levels of achievement even though they obviously have a more or less direct and more or less subjective relationship with them. It does not refute their usefulness, but subordinate to more essential purposes. Public policies are not there to improve their results, since such a conception would place the target of the evaluation alongside the organizational efficiency of the state in a self-referring loop. Their objective has to be sought from the point of view of fundamental objectives: social justice, human development, equity, advances in real freedom (evaluated throughout the whole range of economic, political, and social rights). The main issue of the evaluation is taken back to the median “zone” where, to make progress with achievement, policy implementation and learning have to interact (shown in the diagram as “learning and implementation process”). This no longer involves a mechanistic and external causality, but a collective human process. Advances in final outcomes in terms of achievement cannot be isolated from the development of knowledge and of the capacities of action and initiative of each of the participants (individuals, administrations, organizations) in this process. The correct inner working of this process will determine, on one hand, how public policies develop and their tools are refined and, on the other hand, how achievement and the knowledge of actual implementation progress, in other words how effectively achievement and policies are linked. In contrast to the notion of “best practices” of the NPM school, it is less a question of a

country importing routines from outside than of learning by itself (through feedback) how to make independent progress toward further achievement. Nothing will happen, over and above appearances, without the independent initiative of the participants. That it is this initiative that needs to be triggered has to be the premise of any action focusing on the universal nature of its objectives.

The development of this conception owes much to the works of Amartya Sen on the capability approach<sup>8</sup>, and on fundamental rights.<sup>9</sup> While Amartya Sen's thinking is, in international circles, attached, among other things, to human development indicators (HDI), its intellectual core is much deeper and much more complex. In particular, the core of the concept of "capability" is the premise that any public policy has to be based on a real freedom of action and choice. Developing this real freedom is both socially just and economically efficient. For Sen, such a development requires a demanding democracy and ongoing public debate.

## II. TWO EXPERIENCES: THE EUROPEAN OMC AND THE OECD PROGRAM ON EQUITY IN EDUCATION

Having defined the essential parameters, we shall now look at two experiences in which the use of indicators is playing a key role: the Open Method of Coordination (OMC) developed by the European Union in the social field (especially the European Employment Strategy) and the OECD program on equal opportunities and equity in education.

### A. *The Open Method of Coordination in the European Employment Strategy*<sup>10</sup>

The OMC's main features come from the repertory of New Public Management; indicators are conceived in a causal and instrumental way (lower portion of Diagram 1). At the end of the 1990s, in a field in which the European authorities had few of their

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8. AMARTYA SEN, UN NOUVEAU MODÈLE DE DÉVELOPPEMENT ÉCONOMIQUE (2001); Robert Salais, *Incorporating the Capability Approach into Employment and Social Policies, in EUROPE AND THE POLITICS OF CAPABILITIES* 283–300 (Robert Salais & Robert Villeneuve eds., 2004).

9. Amartya Sen, *Elements of a Theory of Human Rights* 32 PHIL. & PUB. AFF. 315–56 (2004).

10. See the more detailed analysis in Robert Salais, *La politique des indicateurs. Du taux de chômage au taux d'emploi dans la stratégie européenne pour l'emploi*, in LES SCIENCES SOCIALES A L'ÉPREUVE DE L'ACTION. LE SAVANT, LE POLITIQUE ET L'EUROPE 287–331 (B. Zimmermann ed., 2004).



own powers, which were at best shared, and in which the European impetus in terms of directives had ground to a halt, the Commission saw the OMC as a way of gaining face among the Member States. It was (and continues to be) essential, moreover, for the governments and the Commission to show public opinion that they were not being inactive in a sensitive field such as employment and unemployment on which elections were won and lost. Using this method, the Member States retained their powers to draw up, decide upon, and implement their national policies. They merely agreed to coordinate these policies using a common method managed at European level, and did so readily because the approach did not seem to impinge on politics and had an appearance of neutrality and objectivity running counter to the techniques of governance. The advocates of the OMC were keen for it become the European method in the social field. The Constitutional Treaty is more reserved about the relevance of the OMC, which is not included in the treaty as such.

1. The Table of Indicators: No Discussion of the Normative Nature of Employment Policy Benchmarking

The main performance indicators (at the head of the list) relate to employment levels. They refer to the commitments that the Member States made at the Lisbon summit (March 23–24, 2000) to reach targets for Europe by 2010: 70% employment among the population of working age (15–64), 50% among people aged 55–64, and 60% among women. Any work counts, whatever its length, number of hours of work per week, status, etc. (in other words its quality) if it is deemed to be a “job” by the national or European statistical source used. Although a full-time equivalent is calculated for the population of working age (15–64), the sole policy focus in the annual reports on the EES is the gross employment rate. Indicators, initially called “effort” indicators, are intended to measure the efficiency of action plans from three points of view (prevention, activation, and return to employment): proposal (and earliness of this proposal in terms of length of unemployment) of an action plan to every unemployed person in order to improve their employability, participation in employment policy measures, and return to employment.

The data used for the performance indicators come, for the most part, from Eurostat. The results for the “effort” indicators are provided by national administrations in their National Employment Action Plan. The Eurostat data are what are called “harmonized” data. National sources have been designed, both upstream during the

formulation of the questionnaire, or more often downstream in the statistical processing procedures, to provide the figures required for the categories and accounting frameworks defined at European level. However, the main point is that harmonization does not remove the differences or incomparabilities shaped by the specific features of national institutions or the methods by which national public policies are managed. For these “harmonized” data to be genuinely comparable, what would be needed is a European area with unified institutions, markets, and single rules that would be substituted for (or at least integrated in) their national counterparts, which is by definition not the case as the aim of the European project is precisely to achieve this unified area in the long term.

For instance, national legislation on employment contracts differs and countries that have minimalist and not very binding rules are in a better position from the point of view of their employment rate ranking. This is shown by the example of the women’s participation rate in France and Great Britain. Similarly, the unequal development of general and vocational education and the forms that it takes (depending, for instance, on whether it takes place inside or outside undertakings) calls into question the relevance of the “young people aged 15–24” group and, beyond that, the 15–64 group. The employment rate of “young people aged 15–24” is statistically low for countries that have long been investing in training their labor force (who therefore enter the labor market later). Should these countries reduce their investment in education in order to meet the Lisbon commitments as regards the employment rate—even though the primary Lisbon objective is to make the European economy into a knowledge-based economy?

The “normative” in practice has in no way disappeared from European policies and the OMC, but has simply donned the mantle of the indicators by which the EES is steered. A change of normative model on which employment policies are based is concealed “behind” the list of indicators and has not been explained or publicly discussed. The way in which the labor market is seen in this list excludes the sphere of employment, its management, and its supply. The list focuses solely on the employment demand that is itself summed up as individual employability. There are nevertheless two dimensions to the labor market dynamic: employability (speed of return to employment) and vulnerability (risk of falling into unemployment). If, for instance, an improvement of mean employability goes together with an equivalent increase in vulnerability, there will be no improvement in the employment rate that is the result of these two

input and output flows. This exclusive focus on employability is explained by the particular nature of European policies. As employment comes within the competence of European economic and monetary policy, the EES is therefore targeted on the optimum functioning of the labor market, which leads to a particular conception of prevention. Prevention is only supposed to be triggered once individuals enter the labor market. The *preventive efforts within employment*, which are, in practice, undertaken in enterprises, sectors, or areas and that should be encouraged (changes of products, jobs, and organization in enterprise; training in employment; more secure career paths; collective bargaining on the modernization of enterprises; etc.) are excluded as they are all seen as curbs on market adjustment in this new normative model.

In this new normative model, unemployment is becoming a given, having an economic function serving the growth (price and wage stability) to be achieved by each Member State. Far from working toward its disappearance (as the promotion of the employment rate might lead one to believe) public action is supposed to focus on optimizing this given.

## 2. An Increased Score Does Not Mean an Improved Situation

Politically refuting the gap between European and national categories, which is the starting hypothesis of the OMC, means that national policies and data become instrumental for the purposes of maximizing scores in respect of the indicators. The statisticians whom we interviewed felt that this instrumental dimension was blatant in the debates on the choice of employment rate objectives prior to Lisbon. As regards the employment rate among those aged 15–64:

This is hypocrisy: the Dutch have their invalids, the French and the Germans have their early retirements. While public financing for early retirement has decreased, it has been offset by the growth of convention-based agreements (ARPE). The British rely on their “spontaneous” retirements from work. . . . In short, the indicators have become entirely instrumental, each country pushing forward the definition which suits it best (from the point of view, we should add, of performance).<sup>11</sup>

The problem, at least for those who continue to be attached to the foundations of public action (public interest, fundamental

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11. Robert Salais, Gilles Raveaud & Mathieu Grégoire, *L'Évaluation de l'Impact de la Stratégie Européenne pour l'Emploi—Thème 10: Elaboration des Politiques*, ETUDE POUR LA DARES (2002) (in French).

objectives, and rights), is that an improved score does not necessarily mean that the situation has genuinely improved, as can be seen from a number of examples. The creation of work experience or temporary public-sector jobs removes their beneficiaries from the jobseeker statistics (better score for the corresponding indicators) but does not necessarily improve such people's future employability when they leave these jobs (the real and substantive objective). Making it mandatory to accept, as in the British New Deal, one of the offers made (or to lose benefits) removes beneficiaries from the statistics, but does not mean that they are necessarily more employable afterwards. The rules by which the list of registered jobseekers is managed are such that any beneficiary of an active measure is removed from the list. If, as is often the case, the measure fails to integrate its beneficiaries into employment, they are, when they re-register, considered to be new jobseekers. The indicator "% long-term unemployment" is mechanically improved while the actual long-term unemployment situation remains the same. These are examples that are in no way marginal, but are true of many countries and have a significant impact on statistical outcomes.

The European Commission is unable to carry out any in-depth monitoring of the data provided in the national plans because of the vague way in which the indicators are designed. To measure effort, the number of unemployed people who have embarked upon (and who have therefore been offered) an "individual action plan" before they have been unemployed for six months in the case of young people (and twelve months in the case of adults) is measured. To measure the activation rate, the number of participants in "training or similar measures" who were previously unemployed is measured. The effectiveness of measures in terms of beneficiaries' outcomes in the labor market is not, however, measured. The European Commission has not defined what constitutes an action plan or what constitutes training or similar measures. The content of plans and the nature of these measures—especially their match with jobseekers' situations and capabilities—are nevertheless important for their return to employment and the quality and permanence of this employment.

The paradox is that, despite statisticians' praiseworthy efforts and competence,<sup>12</sup> this vagueness could be reduced but is politically

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12. The Indicators Group of the Employment Committee recommended in 2004 that account should not be taken of short interruptions (of less than a month) between periods of unemployment when calculating the number of long-term unemployed people. It is working to produce follow-up indicators. Many States do not, however, have the resources to implement this recommendation.

necessary. It is the prerequisite for retaining the interested and strategic participation of the Member States. On one hand, the Member States did not wait for Europe to make employment policies instrumental. They took up the EES so as to pursue and refine these employment policies (and where possible to find new arguments and resources). As the case of France shows, these policies were guided by two objectives: easing the social situation of unemployed people and having an impact on the political indicator represented by unemployment statistics. On the other hand, bearing in mind the distribution of powers, states do not feel accountable for any genuine improvement of the employment situation *at European level*. The only constraint that they have accepted—resulting from the objective-based steering of the OMC—is that they are accountable to the Commission for their scores. Last, there is a strategic bias in the decisions of the Commission, which is especially exaggerated as its powers are weak and disputed. The strategic advantage of the procedure thus takes priority over any detailed debate about norms, and over the production of knowledge of the diversity of national situations and norms. It removes from the OMC what forms the essence of a public policy, the obligation to justify its (instrumental) means against its (normative) objectives. Nor is the choice of indicators neutral. What, for instance, does an employment rate measured independently of the quality of the jobs making it up actually mean? What this does, in a concealed way, is to cause different normative models to compete (unequally) according to indicators that in practice, favor certain models and in particular the liberal market model.

### 3. The Devil Lies in the Detail

If the OMC moved away from its primary objective (policy steering), it should evaluate the extent to which the employability of the beneficiaries of national policy measures has *really* improved under the effect of the EES. It should monitor, using representative panels, the outcomes of the beneficiaries of active policies from the point of view of their inclusion in employment, the type of job found, and its quality and the advance in their competences. The Member States should also agree to describe the complete production chain of statistical information on the labor market, jobseekers, and the management of agencies and employment measures. This chain is complex. It includes the registration, follow-up, placement, and possible return of beneficiaries. It then includes the methods by

which individual registrations are aggregated in national statistics (encoding, nomenclatures). It is completed by decisions on applications that are able to take account of the specific nature of national statistics and to breathe life into the European indicators. The devil lies in the details. *Political conclusions* should lastly be drawn from these rigorous evaluations as regards the efficiency of measures and ways of improving them. In these areas, there is little internal motivation within the OMC process for such a development. An overhaul of this type could well prove to be politically unsettling as the initial results would not be very reassuring.

The political explanation is nevertheless not enough on its own. More fundamentally, the two hypotheses underpinning this type of use of indicators are scientifically incorrect. One is that the choice of indicators—i.e., the variables selected and related to one another—is a purely technical choice felt to be naturally imposed. The approach seems to be that there was prior normative conformity between the Member States, whereas it is precisely obtaining a normative compromise that should be the main issue. The second hypothesis is that the phenomena that need to be accounted for are facts of nature that are not influenced by the diversity of national institutional systems or by social differences. This reflects a positivist belief that the reality to be observed and the measurements supplied by the indicators are identical. The confusion that this generates between measurement and evaluation (according to principles and a scale of *value*) is the ultimate reason why a political game of instrumentalization of the indicators, which is probably not intentional, is taking place. What will take priority in national policy development is the quest for and the selection of systems of action that maximize the indicator in question irrespective of any real improvement of situations. The positivist approach to indicators brings the instrumental approach into play.

*B. The OECD Program on Equal Opportunities and Equity in Education*<sup>13</sup>

In contrast to the example of employment at the European Commission, in the case of education, the OECD has from the outset seen the ethical dimension involved in the evaluation of public

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13. This section is based on the thesis of Delphine Rémillon, DEA Economie des Institutions (2004) (unpublished thesis, Université de Paris X Nanterre) (on file with author). See, in particular, OECD, L'ÉQUITÉ DANS L'ÉDUCATION. ÉLÈVES PRÉSENTANT DES DÉFICIENCES, DES DIFFICULTÉS ET DES DÉSAVANTAGES SOCIAUX (2004).

policies. In this program, the OECD Ministers agreed on an objective: studying how education and training systems could better integrate learners and achieve equitable results for all, while meeting the growing diversity of learners' needs, respecting cultural diversity and improving quality. Our analysis will therefore refer to the mediated and ethical approach to indicators (upper portion of Diagram 1).

### 1. The Reference to Equity

Equity is the value that, in work here, guides the evaluation of national policies. The OECD refers to the United Nations' Convention on the Rights of the Child, which enshrines the right of children to education and the right to development. Equity may be evaluated in different ways. For the OECD, it is important to observe the achievement of the right to development. As everyone should develop, the equity indicator is then the variance of the extent of development (i.e., the extent of individual inequalities in terms of development). In this way, in accordance with Diagram 1, the OECD does not aim to measure performance, but to evaluate the results of educational systems in relation to equity. How can these results be evaluated? The equivalence of the results obtained raises various problems. How can school learning be measured, even when using common procedures and questionnaires? Should the focus be solely on school learning or on subsequent professional or social success? In practice, the OECD has not taken its approach as far as it can; it has taken a "resource-based" approach.<sup>14</sup> It has tried to evaluate the extent to which equity has been achieved through the extent of the additional resources provided in each country for students facing the most problems.

Work has therefore focused on the resources committed under national policies, i.e., in some ways on the input into educational action (left-hand box of Diagram 1). The OECD proposed a particular category, that of "students with special educational needs." In keeping with a logic of integration and social cohesion, the category includes students with disabilities, learning difficulties, or social

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14. The most renowned advocate of the resource-based approach is John Rawls. In this approach, it is considered that the inequality of the resources (such as primary goods) with which individuals are provided is the only matter of concern for public action. The responsibility for results lies entirely with the individual. This approach neglects some key elements which are nevertheless included by Amartya Sen: inequality between individuals possessing identical primary goods, the ability to obtain a result of value, the importance of informed public debate (in contrast to the "veil of ignorance"), the need to achieve fundamental rights.

disadvantages. The participating states were asked to extract from their national statistics those groups falling into this particular category. The OECD is of the view that the allocation of additional resources indicates the presence of students with special educational needs.

The method is not free from biases. Does a large number of students of this kind genuinely reflect an effort to achieve justice or does it rather reflect a highly inefficient educational system and a waste of public resources? It is possible directly to influence the results of the evaluation by making the categories of public spending and the organization of the school system instrumental by placing a small or a large number of students in these categories. From the point of view of equity itself, should these students with problems be separated out (although this is a prerequisite for counting their numbers) if there is a risk that they will be socially stigmatized, or does the exercise of a right not mean that these children should be included in normal classes (which complicates the measurement)? Lastly, national practices are very diverse and despite the agreement reached between the countries on the international definition of this category (finally divided into three), when the countries transcribe their national statistics into the OECD definition, the results vary considerably in terms of levels between countries (even for "natural" disabilities whose extent should in principle vary little from one country to another).

## 2. Transparency and Shared Knowledge

These traps are similar to those of the OMC. However, in contrast to the latter, decided in a rush and without any real consultation, the OECD organized a process of common definition with the national authorities, then of implementation and learning about the category of "students with special needs." This process took place over several years; in some ways it is still continuing, or has been designed so that it has no set end. This starts to take account of the median stage of Diagram 1: creating a process of participation, learning, and implementation (although, as it is restricted to the national authorities, it does not include all those involved). In contrast to the OMC, the OECD nevertheless refers to a Charter of Rights and has made a real effort to achieve transparency. The publications throughout the process include a detailed description of the categories used at national level; these shed light on the way in which each country perceives equity in education and what its



priorities are in terms of combating inequalities, thus providing the foundations for a discussion of norms. Countries are invited to provide data on all students for whom additional resources are made available (numbers concerned; places of attendance; breakdown of numbers by age and gender; characteristics of schools and their staff; qualitative factors: legal frameworks + factors facilitating or curbing integration/equity). The data broken down as far as possible are then input into common frameworks. The country representatives carry out this breakdown. They then study and accept the results at meetings. The OECD endeavors to describe in detail its methodology and the data production process (the questionnaire and the tables to be completed by each country are attached in an annex). By showing how the indicators are constructed, and the arbitrary factors and problems involved, the approach enables a critical view to be taken.

### III. INTERNATIONAL LABOR STANDARDS AND INDICATORS

Labor law and social law, in particular, cannot be analyzed in terms of economic costs and benefits, as in the law and economics approach. Competitiveness (reduced, moreover, to costs in general) cannot shape the choices that a community makes for its institutions and the organization of its economy. Many works<sup>15</sup> have shown that there is not one optimum economic model, but several that do not follow the same forms of profitability or competition, and are not based on the same product and service specializations. Their legislation and collective agreements therefore differ, and it cannot be said that one type is in principle better than another. This is, moreover, the challenge of the European theme of quality (of employment and social protection), which is being mishandled, despite the constant references to it, by the OMC. Take away the requirement of quality, and social and labor law will in the long term disappear as protector and guarantor.

This same premise applies equally to international labor standards (ILS) or fundamental rights. An international standard or a fundamental right is not negotiated in principle, and is not arbitrated against another standard or its application refused in the name of competition. In contrast, at a given moment, there exist and there can only exist *achievement* gaps between countries. There are many good reasons for these gaps: different levels of economic development,

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15. See, e.g., ROBERT SALAIS & MICHAEL STORPER, *LES MONDES DE PRODUCTION* (1993); *VARIETIES OF CAPITALISM* (Peter Hall & David Soskice eds., 2001); BRUNO AMABLE, *LES CINQ CAPITALISMES* (2005).

value systems, or specific conventions, i.e., a varying distance from the normative system and the expectations of the international organization that has drawn up the standard. In the case of standards policy, it is therefore of little use to rank countries against one another, to award good or bad points, to enjoin this or that country to progress from a social coverage level of, for instance, 25% to 40% in the following ten years. This would nevertheless be the outcome of the instrumental approach to indicators or the European OMC if they were applied to ILS. The result is evident. The best intentioned governments would be in a position to show progress in the rate of coverage without the actual situation necessarily being improved; the others would continue to sit on the fence.

The mediated and ethical conception of indicators is the correct conception here. The important factor for a country, as we pointed out in Section I.B., is to learn by itself how to make independent progress toward greater achievement. Evaluation has to be the prime mover of this learning and autonomy. Amartya Sen<sup>16</sup> rightly stresses that a policy (in the broad sense) in relation to the achievement of fundamental rights must, if it is to be developed in a given country, be surrounded by an ongoing public debate that is the only way in which this policy can be clarified. Giving this some thought, there are many fronts on which each country needs to pursue an independent policy in relation to international standards:

- a survey in order to produce pertinent data on the range of factors leading to the unequal achievement of a standard according to the people concerned;
- the precise calibration of public systems (of law, and also of public policies) so that they respond better to these factors (which involves in-depth thinking about the vertical and horizontal coherence to be achieved);
- methods of implementation in order to give priority not to the absolute application of the rule but to the fullest possible expression by its actors of the characteristics of the situation on the basis of their experience; and,
- the method of evaluation of the results in order to be able to review the policy and better adapt it to objectives.

Working on all these fronts and coordinating them requires informed and full discussion in the country in question. This is the “third party” in Diagram 1. For each actor and for the international organization, the need for discussion is the surest way of avoiding

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16. Sen, *supra* note 9.

instrumentalization, of finding out about the whole range of points of view and experiences, of clearly defining conflicts (of values and interests) and the problems to be resolved, and of reaching genuine agreement on the indicators best suited to local situations, whether in terms of their formulation, their refinement or their use. While guidelines on the common target are needed to ensure coherence, centralized steering and an identical battery of indicators need to be removed and replaced by local autonomy and, for the same standard, different indicators in different countries. In the mediated and ethical approach, it is less the indicator that matters than the process that gives it meaning and life at local level. This has to be supplemented by appropriate debating systems, on which urgent thought, going far beyond the scope of this article, is needed.

### III. CONCLUSION

A summary comparison of the two cases examined enables some final thoughts by way of conclusion. These relate to the different relationships between policy and evaluation to which an international organization may give priority depending on the political stance that it has or that surrounds it. Without being overly succinct, giving priority to the OMC in the social field would seem to be leading the European Commission to see itself as a political body that is being forced to coordinate national governments that are felt to be reluctant to make progress. This stance is costly and not very efficient as it makes it necessary to embark on a strategic game for which the Commission lacks the necessary weapons. A vicious circle is created and may well accentuate the adverse consequences of an instrumental approach. In contrast, and again in a rather schematic way, the OECD, in the example examined, is acting and intends to act politically on the basis of the legitimacy that the quality of its scientific works has given it. It is using the necessary resources. The assurance that this provides enables it to take an open and often audacious attitude to future questions. It would seem that the OECD has understood up to a point (which has yet to be assessed) the strategic advantages of long and wide-ranging consultation in making progress toward common knowledge. Neither the Commission nor the OECD are, however, initiators or guardians of fundamental standards at a worldwide level. By developing an indicator-based approach, the ILO plans to evaluate member countries' levels of achievement of the fundamental standards that are its *raison d'être*. Such a *raison d'être* makes it necessary—and this is an opportunity—for the ILO to find an original

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method. This article has attempted to show what needs to be taken into account in the formulation and implementation of an approach of this type, as well as various method traps. Here as elsewhere best practices cannot be imported. They should be formulated from what exists.