

# Poverty, Capabilities, and Measurement. The Colombian Attempt to Measure Capabilities through a Proxy Means Test: The SISBEN

## Pobreza, capacidades y medición. El intento de Colombia de medir las capacidades a través de una evaluación indirecta de los medios de vida: el SISBEN

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### ABSTRACT

This paper analyzes two of the problems that the SISBEN as a mean for the selection of the beneficiaries of social and welfare programs in Colombia, has created. The first one is the non-inclusion in the proxy means test used by the SISBEN of one factor which has an important impact on families' ability to create capabilities in order to get out of poverty: the existence of severe or chronic conditions. The second one is the exclusion of the poor working population from most welfare benefits. It is argued that those problems have serious implications in constitutional terms. First, they imply infringements of the right to substantive equality recognized by the Colombian Constitution. Second, they also entail a suspicious limitation of the right of poor people to health care, given that the subsidized health care system only accepts people in the poorest conditions according to the SISBEN's categorization.

### KEYWORDS

Poverty measurement, public spending's focalization on the poorest among the poor, invisible poor, SISBEN

### RESUMEN

Este artículo analiza dos de los problemas que ha creado el uso del SISBEN como medio para seleccionar a los beneficiarios de los programas sociales del Estado. El primer problema es la no inclusión en la encuesta del SISBEN de un factor que tiene un importante impacto en la habilidad de las familias de crear capacidades para salir de la pobreza: las enfermedades crónicas. El segundo es la exclusión de los trabajadores pobres de la mayoría de los programas de bienestar. Se argumenta que esos problemas tienen serias implicaciones desde el punto de vista constitucional. En primer lugar, implican una violación del principio de igualdad material reconocido en la Constitución colombiana. En segundo lugar, significan una limitación sospechosa del derecho a la salud de la gente pobre, pues el régimen subsidiado de salud solamente afilia a aquellos en las situaciones mayores de pobreza de acuerdo con la clasificación del SISBEN.

## **PALABRAS CLAVE**

Medición de la pobreza, focalización, pobres invisibles, SISBEN

## **INTRODUCTION**

Colombia implemented a new system for the measurement of poverty and the selection of the beneficiaries of social programs in 1994, the System for the Selection of Beneficiaries of Social Programs (SISBEN), as an attempt to address some of the challenges that income-based systems bring about. Inspired in Amartya Sen's definition of poverty, the SISBEN's goals are measuring households' capabilities, and identifying the poorest among the poor. Most welfare programs around the country use the system as an eligibility tool. In most cases, only those households classified as extremely poor are entitled to welfare benefits. Thus, social spending is targeted for the poorest among the poor.

In comparison to traditional income-based and need-based systems, the SISBEN has advantages in terms of identification of the plurality of factors that may condition the level of poverty of a household. However, there are still some problems that the SISBEN and the welfare system as a whole must address if their objective is the eradication of poverty.

In the following lines I will explore two of those problems. The first one is the non- inclusion in the proxy means test used by the SISBEN to gather information about households, of one factor which has an important impact on families' ability to create capabilities: the existence of severe or chronic conditions that in a strict sense do not constitute disabilities. The second one is the exclusion of the poor working population from most welfare benefits. The SISBEN categorization, together with the policy of targeting social spending for the poorest among the poor, creates, in practice, an insurmountable obstacle for those who are less poor and attempt to have access to public assistance. Without public support, it is harder for those families to move out of poverty. I will use the health care system to illustrate these problems.

Furthermore, I will argue that those problems have serious implications in constitutional terms. First, they imply infringements of the right to substantive equality recognized by the Colombian Constitution. Second, they also entail a suspicious limitation of the right of poor people to health care. Although the right to health care is subject to progressive realization, the Constitutional Court of Colombia has ruled that a minimum core must be guaranteed in the short term. That minimum core includes universal access to some health care benefits.

This paper is divided into four sections. The first one describes what the SISBEN is and how it works. The second one elaborates on the problems mentioned in the previous paragraphs. The third section explores the constitutional implications of those issues, and provides important arguments useful to lobby for a reform or public impact litigation. The last part presents some conclusions and other problems they could be explored in future research.

## **1. SYSTEM FOR THE SELECTION OF BENEFICIARIES OF SOCIAL PROGRAMS (SISBEN)**

Poverty has been traditionally measured through absolute and relative systems. Absolute measures rely on the assumption that poverty is a problem of income deprivation. Accordingly, they attempt to establish income thresholds -levels of income or consumption enough for subsistence- below which poverty is located (Iceland, 2006, pp. 21, 28) On the other hand, relative measures define poverty as a "condition of comparative disadvantage, to be assessed against some relative, shifting, or evolving standard of living." In the middle, there are other methodologies that represent variations of absolute and relative measures. On the average, absolute measures are useful to identify changes in people's level of income, while relative measures are better suited for recognizing distributional and equality issues -they capture the equality dimension of poverty (Iceland, 2006, p. 100)

In Colombia, until the early 90s, poverty was

understood as a problem of income deprivation measured through absolute formulas. Data about poverty relied on two traditional systems of measurement: the poverty line, and the basic needs index. Statistics obtained through these methodologies were primary sources of information for policy makers. Moreover, the basic need index was the national government's distributive criteria for allocating the social budget among municipalities.<sup>1</sup>

Each welfare institution carried out the selection of its own beneficiaries. Selection criteria varied from institution to institution. Furthermore, the welfare system -integrated primarily by in-kind benefits- focused on the supply rather than on the demand. The allocation of resources did not depend on each program or institution's number of beneficiaries.

In 1991, Colombia adopted a new Constitution which formally recognizes the right to substantive equality (Art. 13). The Constitutional text also points out that the fair distribution of opportunities and the provision of basic goods and services for the poorest people are some of the main objectives of the State (art. 334). Moreover, the document states that social security, which includes welfare benefits for unemployed people and people out of the labor market, is a compulsory public service and makes the State responsible for its provision directly or through private contractors (Art. 48). Article 350 creates a special category of public expenditure -social expenditure- which must be prioritized over any other public spending.

The Constitutional mandates, the problems that pure income-based and need-based measures of poverty

brought about, and the problems that the former welfare system created in terms of selection of beneficiaries, demanded a new system. That system was implemented in 1994 by the National Planning Department: the System for the Selection of Beneficiaries of Social Programs (SISBEN). It is a multidimensional income poverty index designed to serve as a unified tool for selecting the beneficiaries of welfare programs<sup>2</sup>:

The SISBEN is grounded in the notion of poverty defined by Amartya Sen. According to Sen, poverty is a problem of deprivation of basic capabilities, which are the substantive freedoms people enjoy to lead the kind of life they have reasons to value (Amartya, 1999, p. 87). Those capabilities may vary from the elementary physical ones such as nourishment, adequate clothing and shelter, to more complex social achievement such as taking part in the life of the community. These functionings may vary from community to (Amartya, 1992, p. 110). The notion of capabilities is therefore a variation of relative conceptions of poverty (Iceland, 2006, p. 29).

In Sen's theory, income and commodities have an instrumental role to achieve capabilities, but cannot be the goal of any anti-poverty policy. The relation of low income and lack of capabilities is contingent and conditional to a set of factors which include age, gender, social roles, location, and epidemiological atmosphere (Amartya, 1999, p.87). Although for Sen the main cause of poverty is the lack of capabilities, his approach acknowledges that poverty is a complex problem influenced by several factors (Iceland, 2006, pp. 96-97).<sup>3</sup>

1. -Law 60 of 1993.

2. -The National Planning Department considered that an absolute income-based measurement is problematic because it assumes the automatic transformation of income into health, education, nourishment, housing, and so forth, independently of individual considerations. Concerning the need-based system of measurement, the Department concluded it was problematic because the selection of the "needs" is arbitrary, and does not reflect the changing nature of poverty. Departamento Nacional de Planeación.

3.-There are a number of scholars who also point out the complexity of poverty and the mistake made when it is linked exclusively to income deprivation, or to any other single explanation such as moral attitudes or culture. For instance, Edelman argues that people are poor for a variety of reasons, and that, at least in the United States, the following factors are influential and must be taken into account by policy makers: place, race and class, age, the existence of organizations within communities, personal safety, and security. Peter B. Edelman, *Toward a Comprehensive Antipoverty Strategy: Getting Beyond the Silver Bullet*, 81 Geo. L. J. 1697 (1993). Iceland claims that a variety of economic and social factors determine levels and patterns of poverty in the United States. Therefore, poverty cannot be explained exclusively in terms of personal traits or income deprivation. Economic growth, income inequality, social stratification by race and gender, and changing patterns of family formation influence trends in poverty, at least in the United States.

The SISBEN has two main objectives: The first one is to measure households' capabilities, the second one is to identify the poorest households in each locality, for purposes of targeting social spending. Thus, the SISBEN is a measurement system and an eligibility tool. The system employs a proxy means test, a test that takes household characteristics as proxies of welfare. To avoid direct questions about income, the system uses a survey that contains questions related to objective variables, linked to standards of living, through which it is theoretically possible to measure families' capabilities (Iceland, 2006, p. 82).<sup>4</sup>

The test, in the form of a survey, is administered to potentially eligible households by each municipality. The survey contains questions about the following factors:<sup>5</sup>

- Housing conditions: Type of tenancy, number of basic appliances, materials used to build the house, location and general conditions of the house.
- Access to utility services: Access to sewage system, water supply system, period of time the house has access to water, waste collection, and other utilities.
- Human capital endowments and economic risk: education level of household members over the age of 12, education level of the household head, occupation of household members, number of members employed and affiliated to the social security system.

- Unemployment, and demographic and dependency factors: Number of people per room, number of children under 6 years old, and persons with physical or mental disabilities.

After a household fills out the survey (The survey is conducted by social workers), it receives a score which ranks it in different levels of poverty. Each question of the survey is assigned a score. The scores of each question are added to get a total score that ranges between 0-100 points. The system classifies families according to those scores in six levels of poverty, level 1 being the poorest.

Almost 81 welfare programs rely on those scores to select their beneficiaries. Some of those programs are: the subsidized health care system, housing subsidies, public basic education, communitarian childcare, nutritional subsidies for young students, sanitation subsidies, communitarian breakfasts, nutrition programs for the elderly, and vocational training programs. The majority of national targeted social programs restrict eligibility to levels 1 and 2.<sup>6</sup>

## 2. THE IMPACT OF THE SISBEN ON THE DESERVING AND UNDESERVING

Categorization into deserving and undeserving groups is one of the main challenges of any antipoverty strategy. Categorization criteria have changed throughout history, determined by the way in which the tension between allocation of scarce

4.-Proxy means tests are an attempt to solve the problems that direct tests of means entail: (i) Applicants have an incentive to understate their welfare level so as to qualify for program benefits. (ii) The verification of the information provided by the applicants is usually difficult –particularly in developing countries- because of the absence of reliable record. (iii) Income is not a complete accurate measure of welfare. Margaret E. Grosh & Judy L. Baker, *Proxy Means Tests for Targeting Social Programs. Simulations and Speculation*, Living Standard Measurement Study Working Paper 118, 1-2, [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1995/07/01/000009265\\_3961219105617/Rendered/PDF/multi\\_page.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1995/07/01/000009265_3961219105617/Rendered/PDF/multi_page.pdf). This article is cited by the National Planning Department as the theoretical foundation for the implementation of the SISBEN.

5.-Vélez, Castaño and Deutsch explain in the following way how the variables to be measured were chosen: "A household welfare index of qualitative and quantitative socioeconomic variables was derived using the statistical algorithm of Qualitative Principal Components or PRINQUAL (...), working with the CASEN survey of 25,000 households. The final subset of variables selected by the algorithm was determined as most efficient in predicting household welfare differences and poverty". Carlos Eduardo Vélez, Elkin Castaño, & Ruthanne Deutsch, *An Economic Interpretation of Colombia's SISBEN: A Composite Welfare Index Derived from the Optimal Scaling Algorithm*, 4 (1998), <http://wwwt.iadb.org/sds/doc/776eng.pdf>

6. -Supra note 5 10

resources, the role of the State, and the claims of the poor have been solved at each particular historical moment (Iceland, 2006, pp. 96-97)

The SISBEN introduced particular criteria for categorizing the deserving and undeserving poor in Colombia. Pursuant to the rules of the system, only those who get the lowest scores in a proxy means test are entitled to receive public assistance.<sup>7</sup> In terms of the poverty line measure and the basic needs index, the population that is deserving -usually members of households in levels 1 and 2- is the one in situation of indigence.<sup>8</sup>

The SISBEN effect in terms of the definition of the deserving and undeserving is problematic for at least two reasons. First, the system leaves out of the proxy means test one aspect that significantly affects the way households can distribute their income in order to build capabilities: the existence of physical and mental conditions which may demand expensive medical treatment, but that are not disabilities in a strict sense. Second, as a consequence of the targeting goal, the working poor -particularly those in the informal labor market- are excluded from most public benefits.

These problems are particularly serious in matters of health care. In the first case, the classification restricts the access of those families to the subsidized health care system, and threatens the life of those members that suffer from serious diseases. In the second case, the implementation of the SISBEN means, as a practical matter, the absolute exclusion of the "less poor" from the health care system. In the following sections I will elaborate on these two issues.

## **2.1 Absence of Indicators of Medical Conditions**

Consider the following example proposed by Amartya Sen:

"Consider two persons 1 and 2 - person 1 has an income level somewhat lower than that of 2. But 2 has a kidney problem and needs to use a dialysis machine which costs him a lot, and he has also a much more impoverished life than person 1. Who is the poorer of the two -person 1 because his income is lower, or person 2 because his capability set is more restricted" (Amartya, 1992, p.107).

The SISBEN survey focuses on four indicators of poverty: (i) Housing conditions, (ii) access to utility services, (iii) human capital endowments and economic risk, and (iv) unemployment, demographic and dependency factors.<sup>9</sup> The system only considers as dependency factors the age of the members of the household and the existence of disabilities. Severe medical conditions such as cancer, HIV/AIDS, and kidney disease, which may demand expensive and long-term treatments and therefore have a significant impact on households' ability to distribute their income and build capabilities, are not considered in the survey. As a result, the system may lead to erroneous classifications.

The concept of disability included in the survey does not describe the situation described above. Initially, the term "disability" was defined by the National Planning Department as any condition that makes a person unable to work. An evaluation conducted by the Department in 2000 suggested the extension of the concept to any physical situation which impedes or limits people's ability to undertake daily activities. Those situations may be the result of any sensorial, physical or mental deficiency or limitation.<sup>10</sup> Although the concept adopted in 2001 is broader than the one initially embraced, it fails to take into account those individuals who suffer from chronic or severe diseases and are unable to perform daily activities.

The jurisprudence of the Constitutional Court of Colombia provides some evidence of my claim. In

7.-The homeless, another group that is deserving under Colombian law, are not identified through the SISBEN because they lack a shelter where they can be tested. They are identified through other systems, and are beneficiaries of a different set of in-kind benefits.

8. - Supra note 2 87. See also supra note 5 10

9. - Supra note 2 86

10. - Supra note 2 104

2001, pursuant to an evaluation conducted by the National Planning Department, the SISBEN was redesigned. The evaluation elaborated by some experts suggested the elimination of a number of questions from the survey given their potential for malleability. When the reformed survey was conducted between 2004 and 2005, many people who used to be classified in levels 1 or 2 were ranked in superior levels. The subsidized health care system only targets individuals whose households are ranked in levels 1 and 2. Therefore, when those persons were reclassified in a superior level, they lost access to the subsidized health care system. The lost of health insurance impacted particularly those family units with members who suffered from a catastrophic or severe illness. Medical treatments were suspended because patients' families could not afford them.

As a result, a wave of law suits reached the courts. Under the Colombian Constitution, the right to health is a fundamental right when the survival or the dignity of individuals is at stake (art. 49). Moreover, the Constitution creates a special writ of protection - the *tutela* action- which entitles any person whose fundamental rights have been infringed by a public authority or some non-State agents to seek immediate relief before any court (art. 86). Petitioners do not require an attorney. Furthermore, the cases must be adjudicated in a shorter period of time. The Constitutional Court, the supreme judicial authority in constitutional matters, can review the decisions adopted in *tutela* cases. Patients affected by the reclassification, particularly those who suffered from serious illnesses, sued the public health care system. The Court selected a number of those cases.

The Court acknowledged that the reclassification did not take into account unequal effect that catastrophic conditions may have on poor households. Because most of those families could not afford private medical treatment for their members, the Court indicated that the reclassification exposed those members who suffer from severe diseases to the

imminent risk of dead. Finally, the Court pointed out that if those families were forced to allocate their scarce resources to pay for medical treatment, it would jeopardize the survival of the whole family. Following this rationale, the Court ordered the reclassifications of patients who required kidney surgery, treatment for HIV/AIDS, surgery and medical treatment for alleviating uterus leiomyoma, and permanent treatment for progressive congenital glaucoma with poliomyelitis sequels, among other diseases.<sup>11</sup>

The Court's opinions do not provide complete evidence of the problem. However, they provide an indicator of the disproportional effect catastrophic diseases may have on poor households. Besides the health care problem, they limit families' possibility of distributing their resources in a manner that maximizes their capabilities and moves them out of poverty in the long term.

## **2.2 The Less Poor's Exclusion from the Health Care System**

The Colombian health care system is divided into two sub-systems: the contributive regime and the subsidized regime (Law 100 of 1993). The former is directed to formal workers. Employers and employees are compelled to pay a monthly premium which affords the employees' health insurance, and helps fund the subsidized health care regime. The subsidized regime focuses on the unemployed poor, but only those classified in SISBEN levels 1 and 2 can have access to it.

Unemployed individuals ranked in SISBEN levels 3 to 6 are not eligible for public health insurance. They can apply to the contributive regime as long as they can afford the monthly payment. Since they are not formal employees, they have to afford the whole premium, whereas in the case of formal workers, the employer is responsible for nearly 60% of the premium. In addition, according to the welfare legislation, in the case of non-formal workers who seek affiliation to the

11.-See for instance Constitutional Court of Colombia (CCC), decision T-121/2005, Feb. 17, 2005; decision T- 343/2005, Apr. 6, 2005; decision T-837/2006, Oct. 12, 2006; decision T-1070/2006, Dic. 7, 2006.

contributive regime, the system presumes they have an income at least equal to the minimum wage. The premium under the contributive regime is equivalent to nearly one fifth of the minimum wage. As a practical matter, the unemployed poor and the informal workers would never have access to the health care system.

Consider the following example: In a female-headed household with two children at school age, the mother works as a street vendor, and has a monthly income of US\$100 -the monthly minimum wage in Colombia is around US\$200. Because the woman does not have a formal employment, she is not affiliated to the contributive health care system. The family lives in a rented room in a multi-family tenancy unit that is in relatively good condition. Given the good conditions of the shelter, the income the mother is earning, and the fact that the kids are attending primary school, the household was classified in SISBEN level 4. The family members do not have access to the subsidized health care system. One of the kids suffers from asthma, so the mother wants to apply to the contributive health system, although she lacks a formal employment. The clerk who receives her application tells her that there is a presumption of minimum wages for informal workers who seek to join the system. Moreover, given that she lacks a formal employment she has to afford the whole cost of the premium. Therefore, if she wants to affiliate her household to the contributive system, she has to pay nearly \$30. Her expenses do not allow her to add this cost to her monthly budget.

There are no demographical characterizations available of the people ranked in SISBEN levels 3 to 6. However, there are reasons to believe that they are the working poor, people who struggle to make a living in both the formal and informal labor market, and who may earn an income around or slightly below the minimum wage, but that is not enough to afford decent housing, clothing, nourishment, and so forth. Because they are not the poorest among the poor, they do not receive much public assistance, nor much support for building capabilities which enable them to move out of poverty in the long term.

This group is somewhat similar to that described by Katherine Newman as the invisible poor in the context of the United States: "[w]orking poor whose earnings are so meager that despite their best efforts, they cannot afford decent housing, diets, health care, or child care." (Newman, K, 2009, P.40), Newman had already noticed that for the invisible poor, the hardship of poverty can be even worse because they lack access to government support that cushion those who are out of the labor force: subsidized housing, medical care, and food stamps. In the Colombian experience, the exclusion from the health care system of the working poor, whether unemployed or employed in the informal sector, is illustrative of the phenomenon described by Newman.

### 3. CONSTITUTIONAL ISSUES

The Constitution of Colombia recognizes the right to formal and substantial equality (art. 13). Furthermore, the Bill of Rights includes a list of economic, social and cultural rights (ESCR) that must be respected, protected, and enforced by both public and private entities (arts. 42 to 77). Provisions which refer to the goals and structure of the State emphasize the importance of a fair distribution of opportunities, a fair order in terms of social justice, and the social nature of the State (Preamble, arts. 1 and 4). In summary, the Constitution establishes a legal framework that encourages State's intervention in social and economic life, in order to achieve social and economic justice.

The right to equality under the Colombian constitutional framework guarantees not only equal protection of the law -formal equality, but also the equal treatment of those in the same situation, and the different treatment of those in different situations - substantive equality. There is a significant amount of case law in which the Constitutional Court has protected both dimensions of the right to equality, even in cases of economic inequality (Bernal, C, 2007).

Furthermore, pursuant to the Constitution and the

International Covenant on ESCR<sup>12</sup>, ESCR are fundamental rights. Although those rights are prima facie subject to progressive realization, they must be universally protected in at least two situations: (i) When other fundamental rights, such as the right to life and the right to dignity are at stake. (ii) Regarding the minimum core of obligations that the United Nations Committee on ESCR has defined, and whose observations are constitutional criteria of interpretation pursuant to article 93 of the Constitution. Although the minimum core varies from right to right, the obligation of no discrimination cuts across all ESCR.

The SISBEN's failure to consider the despair impact that chronic and severe medical conditions have on households' distribution of income, and thus on their ability to turn income and other factors into capabilities, infringes upon the right of poor people to substantive equality. If (i) the differentiation criterion established by the government in the SISBEN is the absence of a certain level of capabilities, and (ii) chronic and severe diseases have a significant impact on people's ability to build capabilities, the exclusion of the before mentioned factor leads to inconsistent classifications. Those inconsistent categorizations, in turn, imply substantive unequal treatment. In addition, given the connection between SISBEN scores and access to public benefits, those inconsistent classifications are discriminations in terms of access to the welfare system, particularly to the health care system.

On the other hand, the exclusion of the working poor

from the health care system infringes upon their right to substantive equality, and the minimum core of their right to health care. First, the legislative branch and the Constitutional Court have acknowledged that, given the limitation of resources, classification on the basis of capabilities is a reasonable policy. However, as a practical matter, the working poor end up bearing a disproportional weight in comparison with other sectors of the population. Disproportional effects on specific sectors of the citizenry are violations of the right to equal treatment. Second, pursuant to article 49 and Observation 14 of the Committee on ESCR, access to at least a minimum of health services is part of the minimum core of the right to health.<sup>13</sup> Thus, in practice, the working poor are absolutely excluded from the health care system, and, therefore, the minimum core of their right to heal is also infringed by the policy.

## CONCLUSION

The SISBEN is a measurement and a classification system grounded in a relative notion of poverty. Despite its advantages in terms of recognition of a plurality of factors that may lead to poverty, I have attempted in this paper to prove that it fails to give a fair account of the despair impact that chronic and severe diseases may have on households' income allocation and construction of capabilities. Moreover, I have argued that the system's categorization of the deserving and undeserving on the basis of indigence and poverty tends to replicate the problems of those who have been named the invisible poor in the United States.

12.-The ESCR explicitly recognized in the Constitution are: The right to have a family (article 42), special rights of the child (article 44), special rights of adolescents (article 45), special rights of the elderly (article 46), the rights of the physically or mentally disabled persons (article 47), the right to social security including the right to have a retirement pension (article 48), the right to health care (article 49), the right to adequate housing (article 51), the right to recreation and leisure (article 52), the right to work and to labor safeguards (article 53), the right to bargain collectively (article 55), the right to strike (article 56), the right to private property but with ecological and social responsibility (article 58), the right to intellectual property (article 61), and the right to education (article 67). Const. Col. Article 94 states: "The enunciation of the rights and guarantees contained in the Constitution and in international agreements in effect should not be understood as a negation of others which, being inherent to the human being, are not expressly mentioned in them." Const. Col. A translated version of the constitution is available at [http://confinder.richmond.edu/admin/docs/colombia\\_const2.pdf](http://confinder.richmond.edu/admin/docs/colombia_const2.pdf)

Article 93 of the Constitution incorporates the Human Rights treaties ratified by Colombia to the constitutional system.

13.-For description of the cases in which the right to health care is see Alicia Ely Yamin & Oscar Parra Vera, *The role of courts in defining health policy: The case of the Colombian Constitutional Court*, in [http://www.law.harvard.edu/programs/hrp/documents/Yamin\\_Parra\\_working\\_paper.pdf](http://www.law.harvard.edu/programs/hrp/documents/Yamin_Parra_working_paper.pdf)



I have argued that under the Colombian Constitutional framework, those problems challenge the right to substantive equality, and the minimum core of the right to health care. Those arguments must guide a reform of the system, and can be used for purposes of public impact litigation.

In order to conduct a reform of the system that furthers equality and fair distribution of opportunities, two additional issues may be considered. The first one is the correspondence between the criteria the SISBEN is using to identify the deserving poor, and the goals that the welfare programs embraces. It seems that while the SISBEN is categorizing the poor according to their level of capabilities, the welfare programs are focusing on alleviating the hardships of poverty and guaranteeing the survival of poor people -particularly indigent people. The second issue is the inclusion of indicators of gender inequality and social roles in the SISBEN. A large number of households in Colombia are headed by women. Many of those women require childcare in order to have access to the labor market. The impact of that need is not considered by the survey in order to measure households' capabilities (Amartya, 1992. pp. 87-88) These issues are worthy of further research.

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