

Discussion Paper 2
The United Nations and the Measurement of Human Rights

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I. Introduction

In 1948, the UN General Assembly unveiled the Universal Declaration of Human Rights as “a common standard of achievement for all peoples and all nations.”¹ Fifty years on, the UDHR and its implementing covenants, the ICCPR and ICESCR, continue to serve as the foundational mission-statements of the international human rights movement.² They have since been joined by a range of international human rights treaties. All UN agencies are obliged to operate with these treaties in mind as their “common standard of achievement,” but with no clear and consistent way of assessing how close member states come to attaining this standard, or indeed how effective the UN’s own activities are at promoting actual progress.

When most people think of progress assessment at the UN, they think of the crudest of measures: counting the number of treaty ratifications, the number of conferences held or dollars allocated, with little if any analysis of actual changes on the ground. But standard-setting and measurement have been high on the UN’s agenda in recent years, as exemplified by quantitative, outcome-oriented performance benchmarks like the Millennium Development Goals. Measurement has risen on the agenda of the UN human rights bodies as well. This paper examines recent attempts to address this issue—new efforts to clarify what exactly the UN is working toward when it promotes human rights around the world, and new efforts to establish standardized, transparent measures for assessing how well it is doing in fulfilling its own rights-based mission.

¹ *Universal Declaration of Human Rights*, United Nations General Assembly, 1948, Resolution 217A (III).

² The 1993 *Vienna Declaration and Programme of Action* reaffirms that “the Universal Declaration of Human Rights, which constitutes a common standard of achievement for all peoples and all nations, is the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments.” See *Vienna Declaration of Programme and Action*, World Conference on Human Rights, 1993, A/CONF.157/23.

II. The core UN human rights bodies

The core UN bodies that deal with human rights—OHCHR, the Commission on Human Rights, the treaty bodies, and the specialized agencies with rights-related mandates like UNICEF—have always engaged in measuring global progress on human rights in one way or another. Their ability to evaluate progress has traditionally been stymied, however, by a lack of methodological creativity on the one hand, and an overabundance of political pressure from member states on the other.

The Commission on Human Rights

The Commission on Human Rights is the obvious example of this problem. Although mandated to investigate the alleged human rights abuses of member states at its yearly sessions, Commission has proven incapable of performing its investigative duties in an effective and objective way. Member states only come under investigation in response to specific requests (not on a rotating or yearly basis), and, because the yearly agenda is set by the Commission's 53 member-state representatives, this selection process is intensely political.³ Amnesty has criticized the Commission on the grounds that it has no "transparent and objective criteria for selecting the countries it scrutinizes."⁴ Thus, although it has large amounts of data at its disposal from governmental, non-governmental, and UN sources,⁵ the Commission's political nature has never allowed it to provide broad or truly systematic coverage of human rights in the world.

Moreover, once the Commission has decided upon its agenda and chosen what information it will collect for its yearly sessions, political interests continue to affect what it does with this information. There are no standardized rules for how the Commission should evaluate country situations or what actions it should take based on its conclusions. It can adopt draft resolutions, but this process is discretionary and vulnerable to member

³ Inquiries are usually initiated by member states, although individuals or organizations may submit a complaint via the 1503 procedure. See [Fact Sheet No.7/Rev.1, Complaint Procedures](http://www.unhcr.ch/html/menu6/2/fs7.htm#part2). OHCHR. <<http://www.unhcr.ch/html/menu6/2/fs7.htm#part2>>.

⁴ Amnesty International, "UN Commission on Human Rights: Where Is the Reform Agenda?" press release, 22 April 2004.

⁵ The Commission relies mainly upon government reports, but other UN agencies, Special Rapporteurs and Independent Experts, and NGOs with consultative status can be present at the sessions and submit supplementary material for the Commission's consideration.

states' influence (most notoriously through the motion of "non-action"⁶). It has become a truism that states with poor human rights records seek seats on the Commission precisely in order to block resolutions and shield themselves and their allies from censure.⁷

What the Commission does can hardly be called measurement, if by "measurement" we mean a standard-based, systematic framework for assessment. Whether the Commission's approach could be reformed may now be a moot question, given the Secretary-General's recommendation in his March 2005 reform package, entitled "In Larger Freedom," that it be dissolved.⁸ In its place will be a smaller, standing Human Rights Council, which should serve as a more vigorous global monitoring mechanism.⁹ Exactly how this Council will attempt to be more objective in its approach to assessing countries' human rights performance remains unclear, but undoubtedly it would be aided in its work by systematic data-collection and analysis, allowing facts, not politics, to determine how it evaluates countries' performance.

The Office of the High Commissioner for Human Rights (OHCHR)

The dissolution of the Commission on Human Rights is but one of many proposed reforms to the UN human rights apparatus. The Secretary-General has called for a wide-scale reinvigoration of the Organization's commitment to worldwide human rights promotion, and a strengthened OHCHR is to be at the forefront of this effort.¹⁰ Established in 1993 to encourage the universal ratification and implementation of international human rights treaties, OHCHR is the UN's main authoritative voice on human rights. Externally, the High Commissioner uses her office to raise international awareness of human rights and to promote their observance by governments and other

⁶ *Rules of Procedure*, United Nations Economic and Social Council, 1992, E/5715/Rev.2, Rule 65: Paragraph 2.

⁷ United Nations, *A More Secure World: Our Shared Responsibility. Report of the High-Level Panel on Threats, Challenges, and Change* (New York: UN Department of Public Information, 2004) Para. 283-5. See also Human Rights Watch, "Commission on Human Rights Reform" (briefing presented to the 59th Session of the UN Commission on Human Rights, 27 February 2003).

<<http://www.hrw.org/un/chr59/chrreform.htm>>. To remedy this problem, the High-Level Panel calls for universal membership, whereas Human Rights Watch calls for the institution of membership criteria.

⁸ Kofi Annan, "In Larger Freedom: Towards Development, Security, and Human Rights for All," Report of the Secretary-General of the UN for decision by heads of state and government, 2005, Document A/59/2005, Para. 183. <<http://www.un.org/largerfreedom/>>.

⁹ Kofi Annan, "In Larger Freedom," Para. 183.

¹⁰ Kofi Annan, "In Larger Freedom," Para. 142.

duty-bearers. Internally, OHCHR acts as an umbrella agency, providing support to the other UN bodies—the Commission on Human Rights, the treaty bodies, field offices, Special Rapporteurs, Representatives, and Working Groups—that are responsible for monitoring country situations.¹¹ It also acts as an advisor to the Security Council on issues of human rights. As part of the Secretariat, OHCHR also has responsibilities for internal oversight: it is mandated to promote the primacy of human rights in the work of all UN agencies. Its oversight role was emphasized in Kofi Annan’s 1997 “Program for Reform,” which acknowledged that human rights standards were “integral” to all the UN’s activities, and that OHCHR should play a leading role in mainstreaming an Organization-wide awareness of them.¹²

So OHCHR could be said to have two orientations: one outward (overseeing the progress of member states in meeting their treaty obligations) and one inward (overseeing the UN’s own progress in promoting human rights norms). Since the early 1990s there has been much talk in the Office about developing coherent strategies for measuring both internal and external progress.¹³ Actual forward motion so far has been sporadic and inconclusive. Indeed, the Office’s signature measurement tool is still no more than a tally of the number of countries that have signed and ratified UN human rights treaties—which, as Oona Hathaway has shown, does not infallibly correlate with the increasing implementation of those norms.¹⁴ In light of the Secretary-General’s reform package and his call for increased staff and funding, however, OHCHR has the opportunity to take on the measurement question more seriously than it has been able to do so far. Indeed, if OHCHR is to fulfill its mandate and allocate its increased resources effectively among all its field offices and activities worldwide, the development of a centralized system of human rights measurement will be imperative.¹⁵ A measurement system that evaluates human rights situations both across countries and over time would enable OHCHR (and, though it, other UN agencies) to evaluate and prioritize human rights concerns in the

¹¹ See Mission Statement, 2004. OHCHR. <<http://www.ohchr.org/english/about/mission.htm>>.

¹² “Renewing the United Nations: A Programme for Reform,” United Nations Secretary General’s Report A/51/950, 14 July 1997, Para. 78-9.

¹³ Craig G. Mokhiber, deputy director of OHCHR New York, communication of 25 February 2005.

¹⁴ Oona Hathaway, “Do Human Rights Treaties Make a Difference?” *Yale Law Journal* 111:8, June 2002.

¹⁵ Kofi Annan, “In Larger Freedom,” Para. 142.

countries where it operates, to give knowledgeable and statistically-grounded advice to the Security Council, to direct member states' attention toward pressing human rights needs, and to assess progress toward meeting those needs.

The treaty bodies

To date, the need for a centralized approach to human rights measurement has been most vigorously pursued from within the treaty bodies. Treaty bodies oversee states' progress in implementing their obligations under particular human rights treaties.

The UN Treaty Bodies

- The Human Rights Committee (HRC) monitors implementation of the International Covenant on Civil and Political Rights (ICCPR)
- The Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)
- The Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination
- The Committee on the Elimination of Discrimination Against Women (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women
- The Committee against Torture (CAT) monitors implementation of the Convention against Torture
- The Committee on the Rights of the Child (CRC) monitors implementation of the Convention on the Rights of the Child
- The Committee on Migrant Workers (CMW) monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

States must submit reports periodically (usually every 4 or 5 years) for the treaty bodies' consideration, detailing the steps they have taken to comply with treaty norms.¹⁶ The treaty bodies then read the reports and issue comments and recommendations.

Treaty bodies (in contrast with the Commission on Human Rights) consist of a small number of elected experts who are not state representatives and are theoretically autonomous from the states of their nationality. Nevertheless, political concerns have

¹⁶ In addition to these periodic reports, state-to-state complaints can force a country onto the agenda. This mechanism has apparently never been used. The Committee against Torture and the Committee for the Elimination of Discrimination against Women can initiate inquiries themselves. Also, four of the treaty bodies (HRC, CERD, CAT and CEDAW) can receive petitions from individuals who claim that their rights under the treaties have been violated. These treaty bodies can then initiate investigations, regardless of whether the state concerned is up for a periodic review or not (provided the states being investigated have recognized their competence to do so).

constrained the treaty bodies' effectiveness. Countries frequently submit reports late, and some fail to submit reports at all; there are no automatic sanctions for tardiness or non-reporting.¹⁷ Even when submitted on time and in good faith, country reports do not necessarily enable assessors to observe progress over time, or to compare progress across rights. Currently, each treaty body has its own set of reporting requirements. At one extreme are the exhaustively detailed CESCR Guidelines. At the other extreme are the exceptionally vague CAT Guidelines, which do little more than instruct states to "provide information" on any new laws passed, official institutions established, case law developed, complaints lodged and remedies available concerning torture.¹⁸ There are no specific statistical requirements, allowing states to submit purely narrative accounts of their progress on eradicating torture if they choose to do so.¹⁹

The CAT Guidelines may be an extreme example, but they are not anomalous. Most treaty body guidelines focus on *structural* and *process-level* indicators (which ask what law and institutions are in place, and what resources and efforts the government in question has expended, in order to eliminate torture and prosecute offenders), and not on *outcomes* (which would ask how widespread torture continues to be, in fact).²⁰ There are several reasons for this tendency. First, pragmatically speaking, it is often easier to measure structure and process than outcome, especially when trying to capture something like torture where the phenomenon itself is complex and hidden from view. Getting accurate outcome-level data about human rights may strain not only states' willingness to participate in a frank human rights dialogue, but also their statistical capacity; the

¹⁷ If no report is submitted, the treaty bodies have no primary text on which to comment and (with the exception of CERD and HRC) normally will not schedule a review at all. Ineke Boerefijn, "Towards a Strong System of Supervision: The Human Rights Committee's Role in Reforming the Reporting Procedure under Article 40 of the Covenant on Civil and Political Rights," *Human Rights Quarterly* 17:4 (November 1995) 791 and n. 5. See also "United Nations: Proposals to Strengthen the Human Rights Treaty Bodies," Amnesty International Report IOR 40/018/2003, September 2003. <<http://web.amnesty.org/library/Index/ENGIOR400182003?open&of=ENG-393>>.

¹⁸ See *General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted by States Parties under Article 19, Paragraph 1, of the Convention*, United Nations Committee Against Torture, revised 1998, Document C/14/Rev.1.

¹⁹ See, for example, "Third Periodic Reports of States Parties Due in 1998: Addendum," Libyan Arab Jamahiriya State Party to the Convention Against Torture, 1999, State Party Report CAT/C/44/Add.3. <[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.44.Add.3.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CAT.C.44.Add.3.En?OpenDocument)>.

²⁰ For a more complete discussion of structural, process, and outcome indicators, please see Andrew Hines's paper.

resulting data may be spotty and unreliable, as well as more difficult for external monitors to verify.²¹ Second, information about a country's structure and process—laws passed, percentage of budget allocated—puts the focus squarely on governmental conduct and accountability, which is what treaty bodies are primarily concerned with. By emphasizing structure and process-level data over outcome-level data, treaty bodies hope to equalize for differences in states' starting-points and correct for adverse circumstances over which present governments have little control

Of course, it is not enough to measure structure and process alone. Citing laws and training programs can give the illusion of progress without the situation on the ground changing at all. Budget allocations in particular are a notoriously misleading proxy measure for governmental commitment to rights, especially in countries where bureaucratic corruption is rife.²² Clearly, some indication of the *de facto* situation is a necessary component in any assessment of how well states are doing in adhering to their treaty obligations. But treaty bodies should not measure only outcomes either.²³ The concept of human rights implies a framework of claims and corresponding obligations; rights are always relational. Thus, to be conceptually sound—and useful—a system of rights-based measurement must incorporate indicators for both enforceability (structure and process) and actual rates of enjoyment (outcome). As Craig Mokhiber of OHCHR has noted,

simply measuring status, or degree of realization, is not sufficient. There is a need to ensure the existence of an express right, and to monitor and measure effectiveness of institutions and mechanisms of redress and enforcement as well.²⁴

²¹ The facts about actual compliance are easier for states to fudge, and Special Rapporteurs and independent observers are often practically unable to gather the relevant information. By contrast, claims about input are comparatively quite straightforward easy to verify even from Geneva. Kyrgyzstan either passed a law against the use of torture, or it did not; there is little room for the government to obfuscate and the information is publicly available to corroborate or disprove the government's claims.

²² I owe this point to Andrew Hines and Robert Rotberg.

²³ Sakiko Fukuda-Parr, director of UNDP's Human Development Report Office from 1995 to 2004, communication of 17 February 2005. If we measure output only, we will end up with a state-of-the-world report. This is neither logistically feasible, nor conceptually precise enough to be useful for research, advocacy, or policy change.

²⁴ Craig G. Mokhiber, "Toward a Measure of Dignity: Indicators for Rights-Based Development," *The Statistical Journal of the United Nations Economic Commission for Europe* 18 (2001) 159.

Reports that call for a mixture of structural, process, and outcome-level information can provide a more illuminating picture of the human rights situation people are actually experiencing—which is, after all, the ultimate concern of human rights—and can give clearer indications of who is accountable when rights are not realizable and how national policies should be redirected in the future. The trick is to get the right balance.

Of all the treaty body guidelines, those of the Committee on Economic, Social, and Cultural Rights (CESCR) come the closest to achieving this balance of input and outcome.²⁵ The CESCR Guidelines require states to describe their progress by addressing each article of the ICESCR in order. For most articles, the Guidelines ask for specific outcome-level statistics which are then disaggregated by social group, sex, geographical location and other criteria, and further supplemented with information about the rates of change over the past five and ten years. To this outcome-level analysis, countries must add a layer of structural- and process-level information: they must explain any internal deviations from the national average or deterioration over time, as well as what protective institutions are in place and what measures the government has taken to remedy these inequalities.

²⁵ UN, “Revised general guidelines regarding the form and contents of reports to be submitted by states parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights,” E/C.12/1991/1, 17 June 1991. CESCR was well ahead of the curve in developing indicators for assessing countries’ progress. See the progress report of Danilo Türk (Special Rapporteur), “The New International Economic Order and the Promotion of Human Rights: Realization of Economic, Social and Cultural Rights” progress report prepared for the UN Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, 1990, Document E/CN.4/Sub.2/1990/19. Para. 57-63.

From the CESCR Reporting Guidelines

Article 12 of the International Covenant on Economic, Social, and Cultural Rights (the right to the “highest possible standard of physical and mental health”)

1. Please supply information on the physical and mental health of your population, in respect of both the aggregate and the different groups within your society. How has the health situation changed over time with regard to these groups?
2. Please indicate whether your country has a national health policy. [. .]
3. Please indicate what percentage of your GNP as well as of your national and/or regional budget(s) is spent on health. What percentage of those resources is allocated to primary health care? How does this compare with 5 years ago and 10 years ago?
4. Please provide, where available, indicators as defined by the WHO, relating to the following issues:
 - (a) Infant mortality rate
 - (b) Population access to safe water
 - (c) Population access to adequate excreta disposal facilities
 - (d) Infants immunized against diphtheria, tetanus, measles, tuberculosis, [etc.]
 - (e) Life expectancy
 - (f) Proportion of the population having access to trained personnel for the treatment of common diseases and injuries, with regular supply of 20 essential drugs, within one hour's walk or travel; [and so on. These statistics are then to be disaggregated on the basis of sex, urban/rural residence, socio-economic and ethnic groups, and geographical area.]
5. Can it be discerned from the breakdowns of the indicators employed in paragraph 4, or by other means, that there are any groups in your country whose health situation is significantly worse than that of the majority of the population? [. .] Please indicate what measures are considered necessary by your Government [and what measures have already been taken] to improve the physical and mental health situation of such vulnerable and disadvantaged groups or in such worse-off areas.

Since the CESCR Guidelines were issued in 1991, a number of experts' groups and inter-sectoral committees (on the rights to housing,²⁶ health,²⁷ and education,²⁸ among others) have been convened to develop rights-based indicators that, like

²⁶ See especially the report of the Expert Group Meeting on Housing Rights Monitoring, jointly convened by OHCHR and UN-HABITAT, Geneva, 26-28 November 2003. <http://www.unhcr.org/programmes/housingrights/expert_group_meeting.asp>.

²⁷ See especially the “Consultation on Indicators for the Right to Health,” World Health Organization draft meeting report for the workshop on Health and Human Rights, Geneva, 15 May 2003. Internet: <<http://www.who.int/hhr/activities/en/indicator%20reportFINALnopart1st.pdf>>. See also Paul Hunt, UN Special Rapporteur on the Right to Health, “A Background Note,” in above document. Also “Lessons Learned from Rights-Based Approaches to Health,” conference at Emory University Institute of Human Rights, Atlanta, GA, 14-5 April 2005.

²⁸ See especially Katarina Tomaševski, “Annual Report of the Special Rapporteur on the Right to Education,” report submitted pursuant to Commission on Human Rights res. 2001/29 to the ECOSOC Commission on Human Rights, 2002, Document E/CN.4/2002/60. <http://www.right-to-education.org/content/unreports/unreport7prt1.html#_A_Creating_rights-based>.

CESCR's, can be disaggregated and reflect a balance of structural, process, outcome indicators. Some of these have been quite successful at what Nancy Thede has called "problematizing" the rights they are trying to capture: that is,

specifying and disaggregating the relevant dimensions of each human rights concept [being measured] [. . .] to be certain that the information we are collecting tells us not just "something about that right" but "something significant about that right."²⁹

The challenge facing these committees is to create indicators that have conceptual clarity—that capture the essential elements of the rights in question. They also must go beyond the traditional socio-economic "housing," "health," and "education" statistics to incorporate more thoroughly what Mary Robinson has called "the 'rights element'"—a sense of equity across groups and progress over time, and a sense of where the responsibility for equity and progress lies.³⁰ As indicators are developed and refined, they are adopted for use by treaty bodies, Special Rapporteurs and others involved in rights monitoring and data collection.³¹

Debates on measurement within the UN human rights apparatus

It is no coincidence that the Committee on Economic, Social and Cultural Rights has the most sophisticated reporting guidelines of any treaty body. As Andrew Hines's paper discusses, economic and social rights have long been considered easily amenable to quantification, while civil and political rights evade quantitative assessment. Since the early 1990s—and especially after the World Summits highlighted the issue—several UN agencies (like UNICEF, UNESCO, and WHO),³² Special Rapporteurs (like Paul Hunt on

²⁹ Nancy Thede, "Human Rights and Statistics: Some Reflections on the No-Man's Land between Concept and Indicator" in *Statistical Journal of the United Nations Economic Commission for Europe* 18 (2001) 266.

³⁰ Mary Robinson, United Nations High Commissioner for Human Rights, quoted at the Montreux Conference on "Statistics, Development and Human Rights," Montreux, September 2000.

³¹ See for example "The Right to the Highest Attainable Standard of Health," CESCR General Comment 14, 2000, Document E/C.12/2000/4 para. 57-8.

³² Increasingly in recent years, UNICEF has dedicated significant funds to developing statistics not only for research purposes but also as a public outreach tool. Its annual publication, *The State of the World's Children*—which serves as both a public impact-assessment report and a major platform for fundraising—incorporates prominent statistical appendices. UNICEF's website also now showcases a user-friendly statistical database that allows for comparisons across time and country. See *State of the World's Children Statistical Tables*, UNICEF. <<http://www.unicef.org/sowc05/english/statistics.html>>. WHO also incorporates extensive statistical annexes in its annual *World Health Report*, and it supports an online

the Right to Health), and inter-agency working groups like the ones mentioned above have been developing increasingly sophisticated statistical systems of rights-based measurement in their respective spheres of expertise. Their work in this area reveals a growing awareness within the UN system that rights-based measurement is essential for

- taking stock of the UN's own priorities in member states,
- providing guidance to governments on how they can identify domestic human rights problems and redirect their national policies accordingly,
- assessing the UN agencies' own effectiveness and communicating that effectiveness to member states, and
- drawing member states' attention to issues of human rights and encouraging the flow of funds there.

But this flurry of measurement activity has taken place almost exclusively in the realm of economic and social rights. Civil-political rights monitoring, in contrast, has been exemplified for decades by anecdotal, violation-based or events-based approaches to reporting,³³ which do not allow for reliable cross-country or regional comparisons. More importantly, they cannot give a clear picture of progress within a country over time. And because these reporting systems remain unhelpful in determining whether a country situation is getting better or worse, they are also unhelpful in arguing for changes to national policies or the UN's own country policies, for mobilizing informed diplomatic pressure, and for allocating UN funds. Some UN representatives working on civil and political rights blanch at the thought of strategically prioritizing rights issues, preferring instead to condemn all rights violations as though they were of equal severity. While there is ethical merit to this stance, the result has been this: as UN indicators for socio-economic rights have proliferated, indicators for civil and political rights have lagged behind.

This lopsidedness is troubling in light of the 1997 Program for Reform, which observes that all rights are interdependent and integral to the UN's work. OHCHR

statistical database called WHOSIS, which allows users to compare health indicators across countries and time. See [Core Health Indicators from the WHR](http://www3.who.int/whosis/core/core_select.cfm) World Health Organization Statistical Information System. <http://www3.who.int/whosis/core/core_select.cfm>.

³³ This is true not only in the UN system but among CSOs as well. One prevalent example is HURIDOCS, the Human Rights Information and Documentation System, established in 1982 to guide NGOs and other organizations involved in monitoring human rights violations.

organized a workshop in 1999 at which it unveiled a rough set of civil and political rights indicators, but the initiative failed to maintain its momentum and was set aside.³⁴ In 2002, the Secretary-General's "Agenda for Further Change" called for a harmonization of the treaty bodies' reporting guidelines, perhaps consolidating them so that countries need only submit a single, comprehensive report on their human rights records.³⁵ The Secretary-General reaffirmed the importance of this project in his recent report on UN reform, "In Larger Freedom."³⁶ Harmonization would acknowledge the interrelatedness and indivisibility of all rights, whether economic/social or civil/political, and would suggest that a single rights-monitoring measurement system, using both qualitative and quantitative indicators, could accommodate them both. Discussions about how to implement this proposal are ongoing—leading most recently (in March 2005) to an OHCHR conference on indicators at the University of Turku, Finland. If harmonization is to be successful, much work remains to be done on "problematizing" civil and political rights and choosing meaningful structural, process, and outcome-level indicators to track their progress; but there is currently an unprecedented level of receptivity to this challenge in the UN, and representatives of many different agencies appear ready to work together on the subject.

III. Measurement and the development paradigm

Meanwhile, running alongside the dialogue on *rights-based* indicators described above has been a parallel discussion on measurement—this one framed in terms of *development*. This discussion has produced fruitful thinking on how statistical indicators can be used to measure human wellbeing. While development and rights are measured in

³⁴ Craig Mokhiber, communication of 25 February 2005. See "Report to the Workshop on Civil and Political Rights Indicators," Workshop on Civil and Political Rights Indicators organized by the OHCHR, Geneva, 27-29 September 1999, available on request from OHCHR. The following year, OHCHR also participated in a conference entitled "Statistics, Development and Human Rights," (Montreux, Switzerland, 4-8 September 2000), which was organized jointly by the Swiss Federal Statistical Office and the Swiss Agency for Development and Cooperation within the International Association for Official Statistics (IAOS).

³⁵ Kofi Annan, "Strengthening the United Nations: An Agenda for Further Change," Report of the Secretary General of the United Nations, 2002, Document A/57/387. <[http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/4636334EE32718D1C1256F5C005D37C7/\\$file/A-57-387.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/4636334EE32718D1C1256F5C005D37C7/$file/A-57-387.pdf)>.

³⁶ Kofi Annan, "In Larger Freedom," Para. 147.

different ways and involve different indicators, the discussion in the development world has increasing salience for the measurement of human rights.

United Nations Development Program (UNDP)

UNDP has been a particularly active participant in the UN's measurement revolution. In 1989, UNDP created the Human Development Index (HDI), which evaluates countries' development progress not by looking at economic growth alone, but by considering people-centered factors like literacy, life expectancy, and per capita income. The HDI showed that it was possible, using proxy indicators, to obtain a technically rigorous and conceptually meaningful measure of the admittedly amorphous concept of human wellbeing. Today, HDI and its successors (the Human Poverty Indices, the Gender Development Index, and the Gender Empowerment Index) are published yearly in UNDP's *Human Development Report*, where they act as the "front door" to a large collection of disaggregated data on country conditions, providing policymakers and the general public with an easily digestible handle on the more nuanced information that follows.³⁷ The *Report* has been quite successful both in attracting international media attention and in prompting national policy reform.³⁸

Human rights and development have long been separate worlds within the UN,³⁹ but UNDP's work on measurement was seen as having human rights applications very early on. The Human Development Report Office experimented with building an index of human freedom (HFI) in 1991⁴⁰ and an index of political freedom (PFI) in 1992,⁴¹ both

³⁷ Sakiko Fukuda-Parr, "Indicators of Human Development and Human Rights—Overlaps, Differences . . . and What about the Human Development Index?" in *Statistical Journal of the United Nations Economic Commission for Europe* 18 (2001) 247.

³⁸ Sakiko Fukuda-Parr and A. K. Shiva Kumar, eds., *Readings in Human Development: Concepts, Measures and Policies for a Development Paradigm* (New Delhi: Human Development Report Office, Oxford University Press, 2003).

³⁹ Despite the fact that the 1986 UN Declaration on the Right to Development, the OHCHR's mandate, and the 1993 Vienna Declaration all proclaim the interdependence of human rights and development, the two worlds were separate on the ground until quite recently. See Craig G. Mokhiber, "Toward a Measure of Dignity: Indicators for Rights-Based Development" in *The Statistical Journal of the United Nations Economic Commission for Europe* 18 (2001) 155.

⁴⁰ See UNDP, *Human Development Report 1991* (New York: Oxford University Press, 1991). The Human Freedom Index proposed ranking countries according to their performance in civil and political

qualitative, composite indices that allowed for country rankings. Their debuts in the *Human Development Report* incited a political furor, and, not being technically sound enough to withstand the opposition, they were abandoned.⁴² Despite this early setback, there has been continuing talk about the interdependence of human rights and development. While the development perspective is focused on levels of attainment and not rights *per se*—that is, it focuses on outcome and not on process or structure—both development and rights, as Amartya Sen has written, are essentially concerned with expanding individuals' options in life.⁴³ Yet the compatibility of human rights and human development remained a rhetorical acknowledgement, not a practical reality, until the 1997 Program for Reform forced the issue of mainstreaming onto the development agenda—leading to the introduction of the Common Country Assessment.

The Common Country Assessments (CCAs)

One of the major initiatives of the Program for Reform has been the UN Development Assistance Framework (UNDAF), which conceives of the activities of all UN agencies present in a given country as interdependent components of a single, holistic development approach. Each country's UNDAF is based on a Common Country Assessment (CCA), a report that takes stock of the national development situation,

rights. It relied on Charles Humana's *World Human Rights Guide* as its primary data source. Given the capriciousness of Humana's prioritization of rights and his coding methodology, the HFI elicited an unsurprising political furor. <http://hdr.undp.org/reports/global/1991/en/pdf/hdr_1991_ch1.pdf>.

⁴¹ See UNDP, *Human Development Report 1992* (New York: Oxford University Press, 1992). The Political Freedom Index consisted of 5 categories: personal security, rule of law, freedom of expression, political participation, and equality of opportunity. Each category corresponded to its own checklist of indicator-questions (Are there arrests without a warrant? Is freedom of expression a constitutionally protected right? Are free elections a recent introduction or a longstanding tradition? Is there freedom of association and assembly?). A panel of experts answered these questions for each country on a scale from 1 to 10, and then came out with a composite rating between 1 and 100. 75% and up was considered "high freedom," 50-75% was "reasonable," and under 50% was "modest to low." Countries received percentages as scores. In an attempt to avoid the outrage that the HFI caused the previous year, no rankings were given. <http://hdr.undp.org/reports/global/1992/en/pdf/hdr_1992_ch2.pdf>.

⁴² Sakiko Fukuda-Parr, communication of 17 February 2005. UNDP "then left the task to academic institutions because of the controversy over the precise method or the mandate for constructing such a political freedom index" See UNDP, *Human Development Report 1995* (New York: Oxford University Press, 1995).

⁴³ Amartya Sen, "Human Rights and Human Development," in the *Human Development Report 2000* (New York: Oxford University Press). <<http://hdr.undp.org/reports/global/2000/en/>>.

identifies challenges, and sets appropriate goals and timeframes for improvement.⁴⁴ As per the Program for Reform's mainstreaming requirement, human rights considerations are to be integrated into these reports. When the CCA guidelines were first being drafted in 1999, the question arose: how can we incorporate a *rights* perspective into a *development* assessment and planning tool? To answer this question, the UN Development Group established a Working Group on Common Country Assessment Indicators, of which OHCHR and UNDP were members. The Working Group's earliest proposed guidelines consisted mainly of traditional, economic/social outcome-level metrics, with a discrete cluster of human rights indicators (which dealt almost exclusively with treaty ratifications) tacked on separately.

This arrangement was eventually discarded in favor of a more unified approach, whereby all the indicator clusters were revised and supplemented to reflect a rights perspective.⁴⁵ As the CCA guidelines now stand, country teams are advised to collect qualitative and quantitative data (from UN, CSO, and governmental sources) not just on national levels of attainment in health, poverty, education and so on, but also on the existence of disadvantaged groups within the country, their access to resources, and other rights considerations.⁴⁶ They must also identify the actors or institutions responsible for delivering on human rights (not just the state) and take note of mechanisms for accountability and redress. The Guidelines point to human rights treaties, the conclusions of the World Summits, and the Millennium Development Goals as the international standards within which national needs and priorities are to be assessed. National benchmarks for improvement are therefore to be context-specific, but also consistent with universal human rights standards.

The CCA indicators are far from perfect, and some development professionals complain that the rights perspective can make the reports shrill, predictable, and one-

⁴⁴ Craig G. Mokhiber, "Toward a Measure of Dignity: Indicators for Rights-Based Development," 155. See also UN, *Common Country Assessment and United Nations Development Framework: Guidelines for UN Country Teams* (Geneva: July 2004) 6. <<http://www.undp.or.id/mdg/documents/Guidance%20for%20CCA%20and%20UNDAF.pdf>>.

⁴⁵ Craig G. Mokhiber, "Toward a Measure of Dignity: Indicators for Rights-Based Development," 157.

⁴⁶ UN, *Common Country Assessment and United Nations Development Framework: Guidelines for UN Country Teams*, 34. <<http://www.undp.or.id/mdg/documents/Guidance%20for%20CCA%20and%20UNDAF.pdf>>.

dimensional, obscuring the relative severity of needs and making strategic planning difficult.⁴⁷ Moreover, on the ground, assessments can be chaotic; national data-gathering capacities are often not up to the task, and UN country teams are left to do a lot of improvising. Nevertheless, the CCAs represent a significant rhetorical step forward in bringing rights to bear on development metrics. The CCAs represent a preliminary attempt to ask from a *rights* perspective the central *development* question: “Where are we now in Zambia? Where do we want to be, and how do we track our progress on the way there?” When generated in a participatory and context-specific way,⁴⁸ rights-based indicators can help to answer this question. Ideally, they can serve as a policy tool for governments as well as for the UN country teams.

Other development benchmarking initiatives: the MDGs

The CCAs need to be understood in the context of a recent Organization-wide interest in better measurement methodologies. There is a definite desire to move away from stereotypically structural and process-level assessments (like counting treaty ratifications and budget allocations) toward the evaluation of outcomes, using statistics to identify standards of success and to track progress. One particularly high-profile standard-setting initiative is the Millennium Development Goals (MDGs), derived from the 2000 Millennium Declaration. The MDGs set out eight development goals to be achieved by 2015.⁴⁹ There is nothing novel in the goals themselves. Each goal, however, is broken down into concrete targets, and these targets are associated with a set of

⁴⁷ This is a long-standing bone of contention between rights and development: development folks argue that harping on the inviolability of human rights is unhelpful in formulating plans for action, while rights folks argue that development folks are too willing to sacrifice individual rights in the name of general poverty reduction. Craig G. Mokhiber, “Toward a Measure of Dignity: Indicators for Rights-Based Development” in *The Statistical Journal of the United Nations Economic Commission for Europe* 18 (2001) 155 and *n.* 4.

⁴⁸ The 2004 CCA Guidelines are intended to suggest (rather than prescribe) indicators, which country teams can supplement with country-specific qualitative and quantitative data. CCAs are to be completed by the UN Country Team in cooperation with other UN representatives present in the country, the local government, NGOs, academic institutions, IFIs, and the private sector.

⁴⁹ *United Nations Millennium Declaration*, General Assembly of the United Nations, 2000, G.A. Res 55/2.

quantitative indicators that establish benchmarks for achievement (as illustrated in the chart below).⁵⁰

<p><u>From the Millennium Development Goals</u></p> <p>Goal #1: Eradicate extreme poverty and hunger</p> <p>Targets</p> <ul style="list-style-type: none">• Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day• Halve, between 1990 and 2015, the proportion of people who suffer from hunger <p>Indicators</p> <ul style="list-style-type: none">• Proportion of population living below \$1 (PPP) per day• Poverty headcount ratio (percentage of population below the national poverty line)• Poverty gap ratio (percentage of population below the national poverty line)• Poverty gap ratio (incidence times depth of poverty)• Share of the poorest quintile in national consumption• Prevalence of underweight children under 5 years of age• Proportion of population below minimum level of dietary energy consumption

It is worth noting that, of all the rights and aspirations set forth in the Millennium Declaration, only those pertaining to the social/economic and development sphere (to reduce poverty, to improve health care) were included in the MDGs. Other aims of the Millennium Declaration—to increase respect for the UDHR, to strengthen democracy and respect for minority rights, to encourage “more inclusive political processes,” and to promote media freedom—were left out of the MDGs, presumably because they did not lend themselves so easily to evaluation by precise indicators and benchmarks for success.⁵¹ Again, this reveals the usual assumption that economic and social rights are more “measurable” than civil and political rights. It is not clear, however, that it is all that straightforward to measure even economic/social issues like “poverty” or “hunger.” Indeed, the conventional methods of measuring poverty have been the subject of energetic debate in recent years; some critics argue that the dollar-per-day standard fails

⁵⁰ United Nations Development Group, *Indicators for Monitoring the Millennium Development Goals: Definitions, Rationale, Concepts, and Sources* (New York: United Nations, 2003).

<<http://millenniumindicators.un.org/unsd/mispa/Metadajain30.pdf>>. See also the United Nations Statistics Division’s collection of MDG indicators: Millennium Indicators Database. 2005. UN Statistics Division. <http://millenniumindicators.un.org/unsd/mi/mi_goals.asp>.

⁵¹ UN General Assembly, *Millennium Declaration*, 18 September 2000 (A/RES/ 55/2), Section V.

to capture what is really important about human deprivation.⁵² Measuring civil and political rights is complicated, to be sure, but not inordinately more so than measuring a complex socio-economic phenomenon like poverty. The MDGs' failure to set standards for civil and political rights along with economic and social rights reflects a lack of creativity, and contributes to the continuing disparity between the two interrelated spheres of rights protection.

The Global Compact

Despite the MDGs' failings, they do represent the UN's growing interest in setting Organization-wide standards and charting progress toward them. It is perhaps no coincidence that the MDGs emerged just as the UN began thinking seriously about how to engage the private sector on rights issues. The Global Compact, which was adopted in 2000 as well, aims to encourage businesses to set human rights compliance goals for themselves and to report on their progress. The Global Compact asks partner corporations to submit yearly Communications on Progress, focusing on the Compact's stated goals in four areas—human rights, labor, environment, and anti-corruption—and describing the steps the corporations have taken to achieve them.⁵³

⁵² Thomas W. Pogge and Sanjay G. Reddy, "Unknown: The Extent, Distribution, and Trend of Global Income Poverty," version 3.4, 26 July 2003. <www.socialanalysis.org>.

⁵³ John Ruggie, UN Assistant Secretary-General from 1997 to 2001, communication of 10 February 2005. The Global Compact Office suggests that businesses make use of the Global Reporting Initiative (GRI, a template of indicators which companies can tailor to meet their needs), in formulating their annual progress reports.

The UN Global Compact Principles

Human Rights

Principle 1. The support and respect of the protection of international human rights;
Principle 2. The refusal to participate or condone human rights abuses.

Labor

Principle 3. The support of freedom of association and the recognition of the right to collective bargaining;
Principle 4. The abolition of compulsory labor;
Principle 5. The abolition of child labor;
Principle 6. The elimination of discrimination in employment and occupation.

Environment

Principle 7. The implementation of a precautionary and effective program to environmental issues;
Principle 8. Initiatives that demonstrate environmental responsibility;
Principle 9. The promotion of the diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10. The promotion and adoption of initiatives to counter all forms of corruption, including extortion and bribery.

While it may not have articulated it this way from the outset, the UN Global Compact Office is now self-consciously adhering to a business model of progress-assessment.⁵⁴ This has informed the way the Office expects businesses to report on their performance, and it has also begun to influence the way the Office thinks about its own self-assessment. In 2004 it hired McKinsey & Co. consulting firm to conduct an internal effectiveness review.⁵⁵ In the same year, after lobbying from the NGO community, the Office agreed that the UN itself should adhere to the Global Compact's standards for corporate social responsibility in its own activities, for instance when giving out large contracts.⁵⁶ In so doing, it made the necessary conceptual leap from external monitoring to internal performance measurement. For all the Global Compact's flaws, it has revealed a real need for standardized, rigorous, outcome-focused measurement. Whether this will have repercussions on the way the rest of the Organization thinks about measurement remains to be seen.

⁵⁴ Antony Bugg-Levine, communication of 14 February 2005. Also John Ruggie, communication of 10 February 2005.

⁵⁵ McKinsey & Company, *Assessing the Global Compact's Impact*, 11 May 2004.

⁵⁶ Letter to Louise Fréchette, Deputy Secretary-General, from Jeremy Hobbs (Oxfam International), Irene Khan (Amnesty International), Michael Posner (Lawyers Committee for Human Rights), and Kenneth Roth (Human Rights Watch), 7 April 2003.

IV. Conclusion

It has long been clear that tallying up treaty ratifications and Human Rights Commission resolutions is a woefully insufficient way to measure the state of human rights in the world. The UN must develop more sophisticated and consistent rights-based indicators for use in both its external monitoring and its internal assessments. OHCHR, as the part of the Secretariat responsible for overseeing human rights throughout the UN, is the ideal candidate to take the lead on developing such indicators. It will not be working in a vacuum, however. The major UN human rights bodies have been engaged, in fits and starts, in conversations on measurement for more than a decade, and there are already innumerable human rights indicators in use—developed by CSOs, research institutes, international financial institutions, donor governments, and the various agencies of the UN itself.

In 1990, the Special Rapporteur on Economic, Social and Cultural Rights observed that, in the absence of guidance on rights-based indicators coming from OHCHR, the task has been taken up in bits and pieces by various agencies as needed, leading to a cacophony of indicators with no real coordination among them and very probably definitional contradictions and duplications of efforts.⁵⁷ Fifteen years later, his description is still accurate. This lack of coordination is especially troublesome given the objectives of the 1997 Program for Reform, which emphasizes that all UN activities should be seen as one unified, coordinated effort with human rights at the center. The “mainstreaming” that the Program for Reform envisages will be impossible unless UN agencies have a standardized way to measure how well they are doing in upholding and strengthening human rights.

This will almost certainly include further refining the CCA indicators and harmonizing treaty bodies’ reporting guidelines. It should also include more ambitious

⁵⁷ Progress report of Danilo Türk, Special Rapporteur, “The New International Economic Order and the Promotion of Human Rights: Realization of Economic, Social and Cultural Rights,” 6 July 1990, E/CN.4/Sub.2/1990/19. Para. 57-63 and 99-102.
<[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.1990.19.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.Sub.2.1990.19.En?Opendocument)>.

measurement projects based upon these initiatives, such as the compilation of a comprehensive set of rights-based indicators to be made available to the entire Organization for research and self-assessment purposes. It may even include a global human rights report. In fact, this last possibility was one of the recommendations of the High-Level Panel on UN reform in its report of December 2004. UN bodies collect a huge amount of rights-related data each year (gathered from Special Rapporteurs and working groups, UN country teams, local CSOs, government officials, national statistics institutes, and national human rights commissions), yet at present that data does not go into a central, rights-related repository where it can be easily accessed.⁵⁸ The High-Level Panel has suggested that OHCHR act as the focal point for all this information, compiling it and producing “an annual report on the situation of human rights worldwide.”⁵⁹

This presents OHCHR with an invaluable opportunity to further the mainstreaming agenda and to call more effectively for the implementation of human rights worldwide. As the author of an annual report, OHCHR could encourage the progressive development of common definitions and data-gathering standards throughout the Organization. Certainly, compiling such a report would oblige OHCHR to draw on many disparate data sources—qualitative and quantitative, governmental and non-governmental—and to accommodate the inevitable variations in funding and capability of these sources.⁶⁰ This is a daunting task, but by no means an impossible one. WHO’s pilot project on domestic violence, as Andrew Hines shows, has been quite successful so far in training local NGOs in eight developing countries to conduct opinion surveys on domestic violence to produce results that are comparable across countries.

⁵⁸ Granted, the United Nations Statistics Division maintains extensive statistical databases of UN data on various subjects. It is searchable, but it is organized by data-source and not by theme (i.e., by right) or by country, making any rights-specific or country-specific inquiry time-consuming and difficult. Meanwhile, the OHCHR online library offers searchable access to human rights-related reports and resolutions, but nowhere is data compiled to enable readers to draw comparisons among countries or to see progress within a country on a given right over time. The information is there, but not organized in such a way as to be easily accessible.

⁵⁹ United Nations, *A More Secure World: Our Shared Responsibility. Report of the High-Level Panel on Threats, Challenges, and Change*, Para. 288.

⁶⁰ See WHO, *Multi-Country Study on Women’s Health and Domestic Violence against Women*, August 2002, WHO/FCH/GWH/02.2. <<http://www.who.int/gender/violence/multicountry/en/>>.

This is, moreover, a vitally important task, not only for the sake of the UN itself—for such information would help to guide country policies, to advise the Security Council, and to ensure that UN agencies are not working at cross-purposes—but also for the sake of statistical capacity-building in UN member states. Just as the Minimum National Social Data Sets have^Ydone, a set of OHCHR-authored human rights indicators for which national human rights commissions or statistical bureaux had to collect data could help enormously in empowering local human rights defenders to collect the data they need to call for change at home. The global human rights movement suffers from the lack of a truly systematic framework for human rights measurement. The UN—having the mandate of 191 member states and the authority to interpret the world’s primary human rights norms—is in a uniquely appropriate position to provide such a framework.

Comment [AJC1]: More examples of indicator sets so people know where to find them