



CONCEPTUALIZING INDICATORS FOR HUMAN RIGHTS



Human rights can never be fully measured in statistics; the qualitative aspects are too essential. The conclusion, however, is not that the human rights community should avoid using quantitative facts, but rather learn how to use them. The challenge is to develop a know-how on how to plan such fact-finding, to assemble the data, to organize them meaningfully and to present and disseminate them properly—in order that high standards of relevance and reliability be met.

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Human rights are articulated as provisions in various human rights instruments. Their normative content is constantly elaborated and interpreted by authoritative human rights mechanisms, such as the international human rights system and its jurisprudence.² Moreover, while treaty bodies monitor the realization of the multiple human rights set out in their treaties, the other human rights mechanisms, such as

special procedures, may focus just on the promotion and protection of specific human rights. This complex and evolving nature of human rights standards makes it necessary to have a well-structured, yet sufficiently flexible framework to identify indicators that would assist in measuring and implementing human rights. In building this framework, this chapter addresses the following:

LEARNING OBJECTIVES

1

What are the main issues to be addressed in human rights measurement?

2

What is the conceptual framework for identifying indicators: the notion of attributes, and structural, process and outcome indicators, indicators for cross-cutting human rights norms?

3

Some specific issues in conceptualizing indicators—interdependence and indivisibility of rights; measuring the obligation to respect, protect and fulfil

4

Importance of context-specific indicators

1. Council of Europe Commissioner for Human Rights (2006 -2012) in his address at the Montreux Conference on “Statistics, Development and Human Rights”, September 2000.
2. It includes the general comments and recommendations of the various treaty-monitoring committees and the work of the special procedures of the Human Rights Council (see chap. I).

A. Issues to address in human rights measurement

There are several issues to consider in order to identify indicators for use in human rights assessments:

- ▶ What do we need to measure?
- ▶ How do we go about selecting potential indicators of what we want to measure?
- ▶ How many indicators are required to assess the implementation of a human right?

▶ Will the identified indicators be used to rank countries according to their human rights performance?

The approach to conceptualizing the indicators depends on how these issues are addressed and on the assumptions that are made.

WHAT DO WE NEED TO MEASURE?

The primary purpose is to measure the enjoyment of rights by rights holders; in other words, capturing a few outcomes that could be related to the state of realization of human rights. At the same time, it is also to assess the progress made by the duty bearer in meeting its human rights obligations. The aim is not to identify a fully comprehensive list of indicators for all human rights standards or all treaty provisions. That may, in fact, be next to impossible, given the nature and the scope of human rights standards and the treaty provisions, and the diversity of contexts to which they could potentially be applied. Human rights assessment will always have a strong qualitative character, which could benefit

from the application of a few selected quantitative indicators.

Furthermore, since the building blocks of all human rights treaties are standards on specific rights and cross-cutting human rights norms, it would appear logical to start by identifying and developing indicators for a specific human right and the cross-cutting norms that apply to it. Once these indicators have been identified, the next step of bringing them together in conformity with the various provisions of a treaty, for the purpose of monitoring its implementation, is easy.

HOW DO WE GO ABOUT SELECTING POTENTIAL INDICATORS OF WHAT WE WANT TO MEASURE?

There has to be a structured approach with a set of well-defined criteria that can be consistently applied to identify and develop indicators for different human rights. Such an approach has to be conceptually coherent, capable of supporting the identification of contextually relevant and methodologically feasible indicators (for the methodological aspects of the framework, see chap. III).

It is important to have a solid conceptual basis for the indicators and not to reduce the exercise to a random listing of options. More specifically, an adequate conceptual framework is expected to reveal the link between the means and policy instruments

on the one hand, and the desired outcomes on the other. Some knowledge of this relationship between outcomes and their determinants is particularly important to identify indicators that will help in furthering the implementation of human rights, versus the limited objective of identifying indicators merely to quantify their state of realization. For instance, specific information on the number of arbitrary detentions in a particular country, while reflecting the incidence or the magnitude of the human rights violation, does not reveal anything about why the right to liberty is not being respected, protected or promoted. That requires indicators that quantify information on these other aspects of the issue.

HOW MANY INDICATORS ARE REQUIRED TO ASSESS THE IMPLEMENTATION OF A HUMAN RIGHT?

The natural inclination may be to limit the number of indicators to monitor the implementation of a specific right. However, their number will depend on the context and on the objective of the exercise. For instance, in a national or subnational context of monitoring entitlements to civil, cultural, economic, political and social rights, it may be necessary to monitor an extended set of indicators to comprehensively capture all aspects of those rights and the progress in the corresponding obligations. This could be the case for monitoring the right to information in the many countries where it is guaranteed, or the right to education and the right to work in India, where recent legislation provides for circumscribed legal guarantees for

these rights. This could also be the case when a special procedure mechanism at the international level or at the national level (e.g., Brazil) has the mandate to monitor a specific right or a human rights issue. At the same time, depending on the human rights concerns in a country, a State party or treaty body may wish to focus on only a few or a subset of indicators identified for a human rights standard. Nevertheless, it is important to have a comprehensive set of indicators on human rights standards, with the actual choice of indicators made by the users in the light of their objective and their national context.

WILL THE IDENTIFIED INDICATORS BE USED TO RANK COUNTRIES ACCORDING TO THEIR HUMAN RIGHTS PERFORMANCE?

There is no intention of using this work to support an index to rank countries according to their human rights performance. Owing to the complexity of human rights, such a tool is neither easy to conceptualize, nor necessarily desirable from the point of promoting and monitoring the realization of human rights. Given that many human rights standards are multifaceted, interrelated and interdependent, it is methodologically difficult to segregate them into meaningful indices for constructing universally acceptable composite measurements for use in cross-country comparisons. More importantly, human rights are absolute standards that all societies have to strive towards; this aim cannot be diluted by creating relative performance benchmarks based on cross-country comparisons.

The identified indicators, while facilitating human rights implementation and monitoring, are meant to support primarily comparisons over time in the realization and enjoyment of human rights standards within the unique context of each country and its population groups (e.g., ethnic groups). This, however, does not rule out that identified indicators can be used to undertake some comparison across countries, but such use is bound to be confined to comparing performance on a few specific human rights standards at a time, such as the right to education or the right to life or aspects of these rights (e.g., literacy rates, reported disappearances), and not the entire gamut of human rights.

B. The conceptual framework

The adopted framework, while addressing the common misconceptions and concerns about the use of indicators in human rights assessments (highlighted in chap. I), builds a common approach to identifying and developing indicators for promoting and monitoring civil, cultural, economic, political and social rights. To ensure that it is workable, the framework focuses on using information and data sets, qualitative as well as quantitative, that are commonly available and based on standardized data-generating mechanisms, which most State parties would find acceptable and administratively feasible to compile and

follow (see chap. III for details). The framework involves a two-part approach that includes identifying the attributes of a human right, followed by a cluster of indicators that unpack specific aspects of implementing the standard associated with that right.

1 *Anchoring indicators in human rights standards – importance of attributes*

The enumeration of human right standards in treaties and their further elaboration by the treaty-

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monitoring bodies and other human rights mechanisms and instruments may remain quite general and many human rights appear to overlap. So human rights treaty provisions are not particularly helpful in the identification of appropriate indicator(s). As a starting point, it is therefore important that the narrative on the legal standard of a human right is transcribed into a limited number of characteristics or attributes of that right. By identifying the attributes of a right, the process of selecting and developing suitable indicators or clusters of indicators is facilitated as one arrives at a categorization that is clear, concrete and, perhaps, more “tangible”. Indeed, the notion of attributes of a right helps in making the content of a right concrete and makes explicit the link between identified indicators of a right on the one hand and the normative standards of that right on the other.

There are three considerations that guide the identification of the attributes of a human right. These are:

- To the extent feasible, the attributes should be based on an exhaustive reading of the standard, starting with the provisions in the core international human rights treaties, so that no part of the standard is overlooked either in the choice of the attributes of a particular human right or in identifying the indicators for that right;
- To the extent feasible, the attributes of the human right should collectively reflect the essence of its normative content, be few in number and their articulation should help the subsequent identification of the relevant indicators; and
- To the extent feasible, the attributes’ scope should not overlap. In other words, the selected attributes should be mutually exclusive.

For those human rights for which illustrative indicators have been identified (see chap. IV), on average

about four attributes are able to capture reasonably the essence of their normative content. Thus, for the right to life, taking into account primarily article 3 of the Universal Declaration of Human Rights, article 6 of the International Covenant on Civil and Political Rights and general comment No. 6 (1982) on the right to life of the Human Rights Committee, four attributes, namely “arbitrary deprivation of life”, “disappearances of individuals”, “health and nutrition” and “death penalty”, were identified. In addition, articles 10 to 12 of the International Covenant on Economic, Social and Cultural Rights, articles 5 (b) and 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, articles 1 to 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 6 of the Convention on the Rights of the Child, article 9 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and article 10 of the Convention on the Rights of Persons with Disabilities also informed the selection of these attributes. Similarly, for the right to health, five attributes, namely “sexual and reproductive health”, “child mortality and health care”, “natural and occupational environment”, “prevention, treatment and control of diseases”, and “accessibility to health facilities and essential medicines”, were identified. They were based primarily on a reading of article 25 of the Universal Declaration, article 12 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights, general recommendation No. 24 (1999) of the Committee on the Elimination of Discrimination against Women, and general

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comments Nos. 3 (2003) and 4 (2003) of the Committee on the Rights of the Child. Article 6 (1) of the International Covenant on Civil and Political Rights, article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, articles 12 and 14 (2) (b) of the Convention on the Elimination of All Forms of Discrimination against Women, article 24 of the Convention on the Rights of the Child, articles 28 and 43 (1) (e) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and article 25 of the Convention on the Rights of Persons with Disabilities were also useful in identifying these attributes.

The use of such attributes in the identification of indicators demonstrates the mutually supportive role of interpretive practices and the application of indicators. Treaty body practice, and in particular general comments/recommendations, has been instrumental in the selection of attributes. Identifying indicators for each attribute will, then, assist the treaty body in assessing compliance with and further developing the interpretation of the treaty provision.

It is sometimes suggested, for instance in the case of most economic, social and cultural rights, that a generic approach should be adopted to the identification of attributes or indicators based on the notions of *adequacy*, *accessibility*, *availability*, *adaptability*, *acceptability* and *quality* that are defined in the

general comments adopted by the Committee on Economic, Social and Cultural Rights.³ These are the principles that are expected to guide the duty bearer in facilitating and providing relevant “goods and services” to the rights holders, in the course of meeting its human rights obligations. They do not in themselves replace the relevant treaty provisions. They also have to be interpreted specifically for each human right. For instance, “accessibility” (i.e., physical accessibility, affordability and non-discrimination) will generally be more pertinent than merely the “availability” of goods and services in measuring the realization of economic, social and cultural rights.⁴ Similarly, the definition of “adequacy” for the right to adequate food or the right to adequate housing has to be based on the respective standards. Just as it is not easy or appropriate to follow this generic approach consistently across economic, social and cultural rights, it is not feasible for the identification of attributes of most civil and political rights either. These principles, however, have a role to play in the selection of the indicators for different attributes of a right (see chap. IV, sect. C).

Having identified the attributes, the next step is to have a consistent approach to selecting and developing indicators for the normative standards and the obligations related to those attributes. This step requires considering different types of indicators to help capture the different facets of human rights implementation.

3. See, for instance, its general comments on the rights to food, housing, health and education.
4. It will usually be more important to know if targeted persons or rights holders have effective access to food than if the food is available nationwide. Likewise, knowing the proportion of people who have regular access to a medical doctor will be more relevant than knowing the total number of doctors in a country. Nevertheless, data on indicators reflecting availability are often more easily compiled and may be of critical importance in assessing the realization of certain rights, such as the right to food and in particular issues of national food security and self-sufficiency.

Box 4 **Salient features of the conceptual framework**

The conceptual framework adopted to identify indicators for promoting and monitoring the implementation of human rights:

- Anchors indicators identified for a human right in the normative content of that right, as described primarily in the relevant articles of the treaties and general comments of the committees;
- Focuses on measuring the commitments of duty bearers, primarily the State, to their human rights obligations and the efforts they undertake to meet those obligations. The framework also measures the results of the duty bearer's efforts in ensuring the realization and enjoyment of human rights by rights holders. As a result, the framework uses a cluster of indicators to measure the different facets of the duty bearer's obligations, including the obligations of conduct and result, that underpin the implementation of human rights standards;
- Places all human rights on an equal footing, thereby emphasizing the interdependence and indivisibility of civil, cultural, economic, political and social rights;
- Reflects duty bearers' obligations to respect, protect and fulfil human rights, by focusing on indicators that capture human entitlements, acts of commission or omission, and mechanisms of accountability and redress—legal as well as administrative;
- Recognizes and reflects the cross-cutting human rights norms, such as non-discrimination, equality, participation, accountability, the rule of law, due process, good governance and remedy (at the national and international levels), in the choice of indicators and in the assessments; and
- Facilitates, for the universal human rights standards, the identification of contextually meaningful indicators. As a result, the framework neither seeks to prepare a common list of indicators to be applied across all countries irrespective of their social, political and economic development, nor to make a case for building a global measure for cross-country comparisons of the realization of human rights.

2 ***Measuring human rights commitments-efforts-results***

The realization of human rights requires continuous efforts on the part of the duty bearer, primarily the State, to respect, protect and fulfil them, and for rights holders to stake their claims. In monitoring the

implementation of human rights it is important, therefore, to assess, at a given point in time, the identified outcomes that correspond to their realization. It is equally important to assess whether the processes underpinning those outcomes conform, over time, to the relevant human rights standards. This necessity to monitor outcomes as well as underlying processes is, perhaps, not always equally recognized for

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civil and political rights and economic, social and cultural rights.

For economic, social and cultural rights, it is easier to accept. In many instances, particularly in developing countries, these rights can be realized only progressively because of resource constraints. In such cases, it is logical to monitor this progress. However, even civil and political rights, once ratified and guaranteed by the State, can in principle be immediately enjoyed and have to be protected. It has been accepted that the realization of civil and political rights requires both resources and time, for instance to set up the requisite judicial and executive institutions and to develop policy, regulatory and enforcement frameworks to protect these rights. In other words, in monitoring the realization of civil and political rights, it is equally important to assess the conduct of the process that supports their protection. Thus, any approach to developing indicators as useful tools for furthering human rights implementation will have to address the importance of quantifying human rights outcomes, as well as the processes underlying those outcomes.

Furthermore, the case is often made for measuring the acceptance and the commitment of State parties to human rights treaties to meeting

their human rights obligations. Thus, with a view to measuring that acceptance, intent or commitment, the efforts required to make that commitment a reality, and the results of those efforts in terms of the increased enjoyment of human rights over time, the framework uses a configuration of indicators that have been categorized as *structural*, *process* and *outcome* indicators. Each category, through its information sets, brings to the fore an assessment of the steps taken by the State parties to meet their obligations, be it that of respecting, protecting or fulfilling a human right. The said configuration of indicators not only simplifies the process of selecting and developing indicators for human rights, but also encourages the use of contextually relevant, available and potentially quantifiable information for populating the chosen indicators.

Structural indicators

Once a State has ratified a human rights treaty, there is a need to assess its commitment to implementing the standards it has accepted. Structural indicators help in such an assessment. They reflect the ratification and adoption of legal instruments and the existence as well as the creation of basic institutional mechanisms deemed necessary for the promotion and protection of human rights.

Box 5 Structural indicators

Structural indicators help in capturing the acceptance, intent and commitment of the State to undertake measures in keeping with its human rights obligations. Some common structural indicators are:

- International human rights treaties, relevant to the right to adequate housing, ratified by the State;
- Time frame and coverage of national policy on vocational and technical education; and
- Date of entry into force and coverage of formal procedure governing the inspection of police cells, detention centres and prisons by independent inspection entities.

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Structural indicators have to focus first and foremost on the nature of domestic law in relation to a specific right—i.e., whether it incorporates the required international standards—and the institutional mechanisms that promote and protect those standards. Structural indicators also need to look at the State’s policy framework and strategies as applicable to that right. These are particularly important for furthering the implementation of human rights. A national policy statement on a subject is expected to outline the Government’s objectives, policy framework, strategy and/or concrete plan of action to address issues under that subject. While providing an indication of the commitment of the Government to addressing the subject, it could also provide relevant benchmarks for holding the Government accountable for its acts of commission or omission concerning that subject. Moreover, a policy statement is a means of translating the human rights obligations of a State party into an implementable programme of action that helps in the realization of human rights. It is therefore important that, in identifying structural indicators for different rights, an attempt is made to highlight the need to have specific policy statements on issues of direct relevance to the implementation of those human rights.

Some structural indicators may be common to most human rights while others are relevant to specific human rights or only to a particular attribute of a human right. Thus, structural indicators like “the proportion of international human rights instruments ratified by the State (from a list of selected human rights treaties, protocols, conventions of the International Labour Organization (ILO), etc.)”, “existence of a domestic bill of rights in the constitution or other forms of superior law”, “type of accreditation of national human rights institution (NHRI) according to the rules of procedure of the International

Coordinating Committee of National Institutions”,⁵ and “number of non-governmental organizations and personnel (employees and volunteers) formally involved in the protection of human rights at domestic level” are relevant for monitoring the implementation of all human rights and, hence, could be reflected in the tables of illustrative indicators for those rights or in the preamble to those tables. On the other hand, indicators like “time frame and coverage of national policy for persons with disabilities” or “date of entry into force of code of conduct for law enforcement officials, including rules of conduct for the interrogation of arrested, detained and imprisoned persons” are specific to a particular human right or to some attributes of a right (see chap. IV, tables 1 to 14).

Several structural indicators are explicitly reflected in the treaty provisions, as they clearly spell out the normative commitment. This is true, for instance, of the indicator “time frame and coverage of the plan of action adopted by the State party to implement the principle of compulsory primary education free of charge for all” (International Covenant on Economic, Social and Cultural Rights, art. 14) or the various structural indicators relating to norms on access to due process of law. The recommendations adopted by human rights mechanisms, including the treaty bodies, special procedures mandate holders and in the context of the universal periodic review, also contain explicit references to structural indicators (e.g., the adoption of specific laws, provisions or programmes and the establishment of national institutions and mechanisms), as well as to outcome and process indicators.

5. The accreditation procedure is more specifically conducted by the Sub-Committee on Accreditation (see also indicator 5 and its metadata in annex I).

Process indicators

Process indicators measure duty bearers' ongoing efforts to transform their human rights commitments into the desired results. Unlike with structural indicators, this involves indicators that continuously assess the policies and specific measures taken by the duty bearer to implement its commitments on the ground.

State policy measures refer to all such steps, including public programmes for development and governance, budget allocations and specific regulatory or redress interventions, that a State is willing to take to give effect to its intent or commitments to attain outcomes associated with the realization of a given human right. Thus, a process indicator links

State policy measures with milestones that over time could consolidate and result in the desired human rights outcomes. By defining the process indicators in terms of an implicit "cause and effect relationship" and as a "monitored intermediate" between commitment and results, the accountability of the State for its human rights obligations can be better assessed. At the same time, these indicators help in directly monitoring the progressive fulfilment of a right or the process of protecting a right, as the case may be. Process indicators are more sensitive to changes than outcome indicators; hence, they are better at capturing the progressive realization of a right or at reflecting the ongoing efforts of the State parties in protecting it.

Box 6 Process indicators

Process indicators help in assessing a State's efforts, through its implementation of policy measures and programmes of action, to transform its human rights commitments into the desired results. Some common process indicators are:

- Indicators based on budget allocations;
- Coverage of targeted population groups under public programmes;
- Human rights complaints received and the proportion redressed;
- Incentive and awareness measures extended by the duty bearer to address specific human rights issues; and
- Indicators reflecting functioning of specific institutions (e.g., NHRI, legal system).

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There are two considerations that are important in the selection and formulation of process indicators. The *first* is to ensure that a process indicator links, preferably through a conceptual or an empirical relationship, a structural indicator to its corresponding outcome indicator. Thus, for instance, a process indicator of the right to health—“proportion of school-children educated on health and nutrition issues”—is chosen so that it can be related to the corresponding structural indicator, namely “time frame and coverage of national policy on child health and nutrition”, as well as to the outcome indicator—“proportion of underweight children under five years of age”. Similarly, for the right not to be subjected to torture, the indicator “proportion of custodial staff formally investigated for physical and non-physical abuse or crime on detained or imprisoned persons” relates the structural indicator “date of entry into force of code of conduct for law enforcement officials, including rules of conduct for the interrogation of arrested, detained and imprisoned persons” with the outcome indicator “reported cases of torture or cruel, inhuman or degrading treatment”.⁶

The *second* consideration in giving shape to a process indicator is to bring out explicitly some measure of the effort being made by the duty bearer in meeting its obligation. Thus, indicators like “proportion of law enforcement officials and custodial staff formally investigated for physical and non-physical abuse or crime” or “proportion and frequency of enterprises inspected for conformity with labour standards” combined with “proportion of those investigations resulting in administrative action or prosecution”, or

“proportion of victims of sexual and other violence with access to appropriate medical, psychosocial and legal services”, “proportion of targeted population covered under public nutrition supplement programmes”, or “proportion of population that received access to improved sanitation in the reporting period” are included in the category of process indicators. At times, this means reformulating a commonly available indicator (in the last example an MDG indicator), or requiring some additional estimation on the basic information of the indicator.

Outcome indicators

Outcome indicators capture individual and collective attainments that reflect the state of enjoyment of human rights in a given context. An outcome indicator consolidates over time the impact of various underlying processes (that can be captured by one or more process indicators); it is often a slow moving indicator, less sensitive to capturing momentary changes than a process indicator.⁷ For example, life expectancy or mortality indicators could be a function of immunization of the population, public health awareness of the population, accessibility to adequate nutrition or a reduction in physical violence and crime. Similarly, outcomes related to reported cases of torture or cruel, inhuman or degrading treatment can ordinarily be related to processes that seek to train law enforcement officials in undertaking investigations, measures for improved accountability of their conduct and the conditions of detention.

6. Also, it is desirable for the process indicator to be measured in terms of the physical and other tangible improvement that it generates rather than in terms of the resources that go into the process concerned. This is because experience across countries and across regions within the same country reveals that there is no monotonic relationship between public expenditure and the physical outcome that such expenditure generates. The physical outcome is a function of resources and other institutional and non-institutional factors that vary from place to place and thereby make it difficult to interpret indicators on public expenditure. For instance, it is possible that a lower per capita public expenditure produces better outcomes in one region than in another region in the same country.
7. There is some similarity in process and outcome indicators which comes from the fact that any process can be measured either in terms of the inputs going into a process or in terms of the immediate outputs that the process generates. Thus, a process indicator on the coverage of immunization among children can be measured in terms of the public resources or expenditure going into the immunization programme (which is the input variant) or in terms of the proportion of children covered under the programme (which is an output variant). In terms of the definition outlined in this note, both these indicators are process indicators. They contribute to lowering child mortality, which is an outcome indicator as it captures the consolidated impact of the immunization programme over a period of time and it can be more directly related to the enjoyment of the right-to-health attribute on “child mortality and health care”.

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It is sometimes helpful to view the process and outcome indicators as flow and stock variables, respectively. A “flow” indicator allows monitoring of changes over a period of time, for instance, the production, import or export of food grains, or the number of reported entries in and releases from arbitrary deprivation of liberty during a reference period.

A “stock” indicator measures the consolidated result of changes at one point in time, for instance, per capita availability of food grains, anthropometric measures for schoolchildren or the number of persons reported to be arbitrarily deprived of their liberty at the end of the reference period.

Box 7 Outcome indicators

Outcome indicators help in assessing the results of State efforts in furthering the enjoyment of human rights. Some common examples are:

- Proportion of labour force participating in social security scheme(s);
- Reported cases of miscarriage of justice and proportion of victims who received compensation within a reasonable time; and
- Educational attainments (e.g., youth and adult literacy rates) by targeted population group.

It is important to note that process and outcome indicators are not always mutually exclusive. A process indicator for one human right can be an outcome indicator in the context of another.⁸ The guiding consideration is to ensure that for each attribute of a right at least one outcome indicator that can be closely related to the enjoyment of that right or attribute is identified. The process indicators are identified so that they reflect the effort of the duty bearers in meeting or making progress in attaining the identified outcome. Ultimately, a consistent approach helps in differentiating process indicators from outcome indicators, so

that the implementation of human rights can be adequately captured in all its different facets.

3 Indicators for cross-cutting human rights norms or principles

The indicators that capture the cross-cutting human rights norms or principles cannot be associated exclusively with the realization of a specific human right, but are meant to capture the extent to which the process of implementing and realizing human rights respects, protects and promotes, for instance, non-

8. For instance, the proportion of people covered by health insurance can be categorized as a process indicator for the right to health and as an outcome indicator for the right to social security (see chap. IV).

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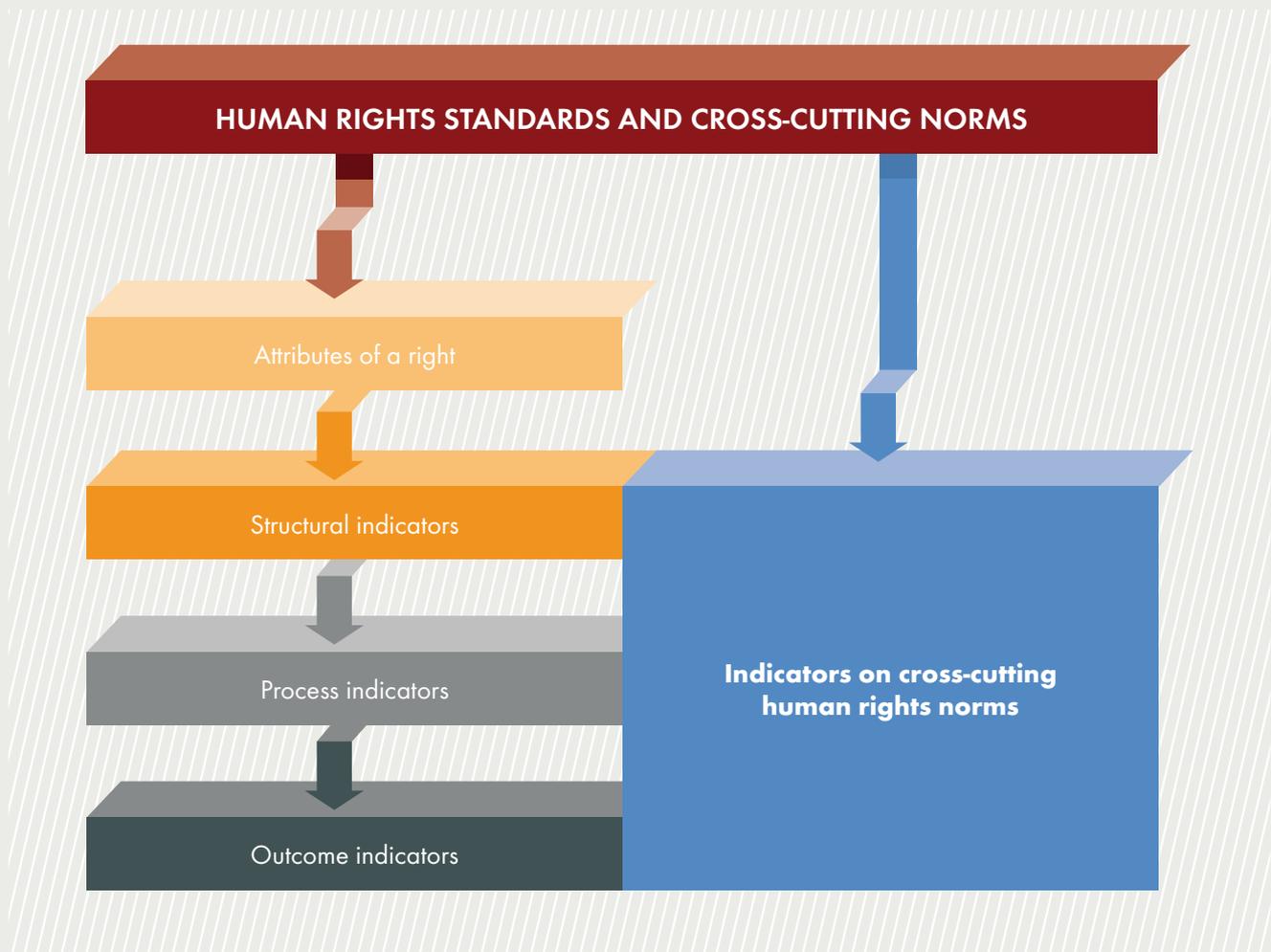
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discrimination and equality, participation, access to remedy and accountability.⁹ There is neither an easy nor a single way of reflecting these transversal norms and principles explicitly in the selection of indicators.

To capture the norm of *non-discrimination and equality* in the selection of structural, process and outcome indicators, a starting point is to seek disaggregated data by prohibited grounds of

discrimination, such as sex, disability, ethnicity, religion, language, social or regional affiliation. For instance, primary education should be available free of charge for all. If the indicator on the proportion of children enrolled in primary schools is broken down by ethnic group or minority for a country, it may reveal disparities between the different population groups and perhaps also discrimination faced by some groups or minorities

Fig. V The conceptual framework



9. The list of cross-cutting norms is neither sacrosanct nor complete. See chap. I, sect. A, for details.

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in accessing education and enjoying their right to education in that country. The situation could then be subjected to a further qualitative analysis to arrive at a more definite assessment of discrimination. In certain instances, indicators like “proportion of employees (e.g., migrant workers) who report discrimination and abuse at work” or especially “proportion of employers choosing the candidate of the majority ethnic group between two applicants with exactly the same profile and qualification except for their ethnic background” allow a more direct assessment of discrimination faced by certain population groups in a society.¹⁰ Also, in reflecting the cross-cutting norm of non-discrimination and equality the emphasis has to be on indicators that capture the “accessibility” to, and not just the “availability” of, such goods and services that allow an individual to enjoy her/his rights.

A cross-cutting norm may also be addressed as a “procedural right” that has a bearing on the realization of a specific “substantive right”; hence, it is defined in reference to that right.¹¹ Thus, compliance with the norm of “access to remedy” in the context of freedom from torture or cruel, inhuman or degrading treatment or punishment could be captured using an indicator like the “proportion of victims of sexual or other violence with access to appropriate medical, psychosocial and legal services”. Similarly, compliance with the norm of non-discrimination in the context of the right to education, as a substantive right, could be captured using an indicator like the proportion of school-age girls actually enrolled in school to the proportion of boys in the same age group enrolled in school.

For the human rights principle of *participation*, the aim is to reflect whether segments of the population in a country have been participating in the adoption of measures that the duty bearer is implementing and that concern its obligations (e.g., proportion of targeted populations reporting satisfaction with how involved they feel in decision-making affecting their enjoyment of the right to adequate housing, or access of targeted populations to channel(s) of participation in decision-making or implementation of programmes by the State in fulfilling its human rights obligations), or the extent to which they have been consulted in the selection of indicators included in the country’s reporting procedure (see chap. V). At a more aggregate level, changes in the magnitude of indicators, like the Gini coefficient,¹² that reflect the distribution of household consumption expenditure or income to assess whether the development process in a country is encouraging participation, inclusion and equality in the distribution of returns, could be used as *proxy indicators*.¹³ Indicators on work participation and educational attainment of the population, in general, and of specific groups, in particular (for instance, women and minorities), could also be useful in this context (see further discussion in chaps. IV and V on specific examples of indicators to capture cross-cutting norms as well as the right to participate in public affairs).

Finally, the first steps in the implementation of the principle of *accountability* are already being taken as one translates the normative content of a right into relevant and reliable quantitative and qualitative indicators. Indeed, the availability of information sensitive to human rights, and its collection and dissemination through independent mechanisms using transparent

10. See chap. IV, table 13 on non-discrimination and equality and box 23.

11. Substantive rights have a relatively clear content and may also have a “level/progressive” component in their realization, such as the right to education or the right to participate in public affairs. The procedural rights like the right not to be discriminated against or the right to remedy are critical to the process of realizing substantive rights and may be easier to define in the specific context of substantive rights.

12. See glossary of statistical terms.

13. Ibid.

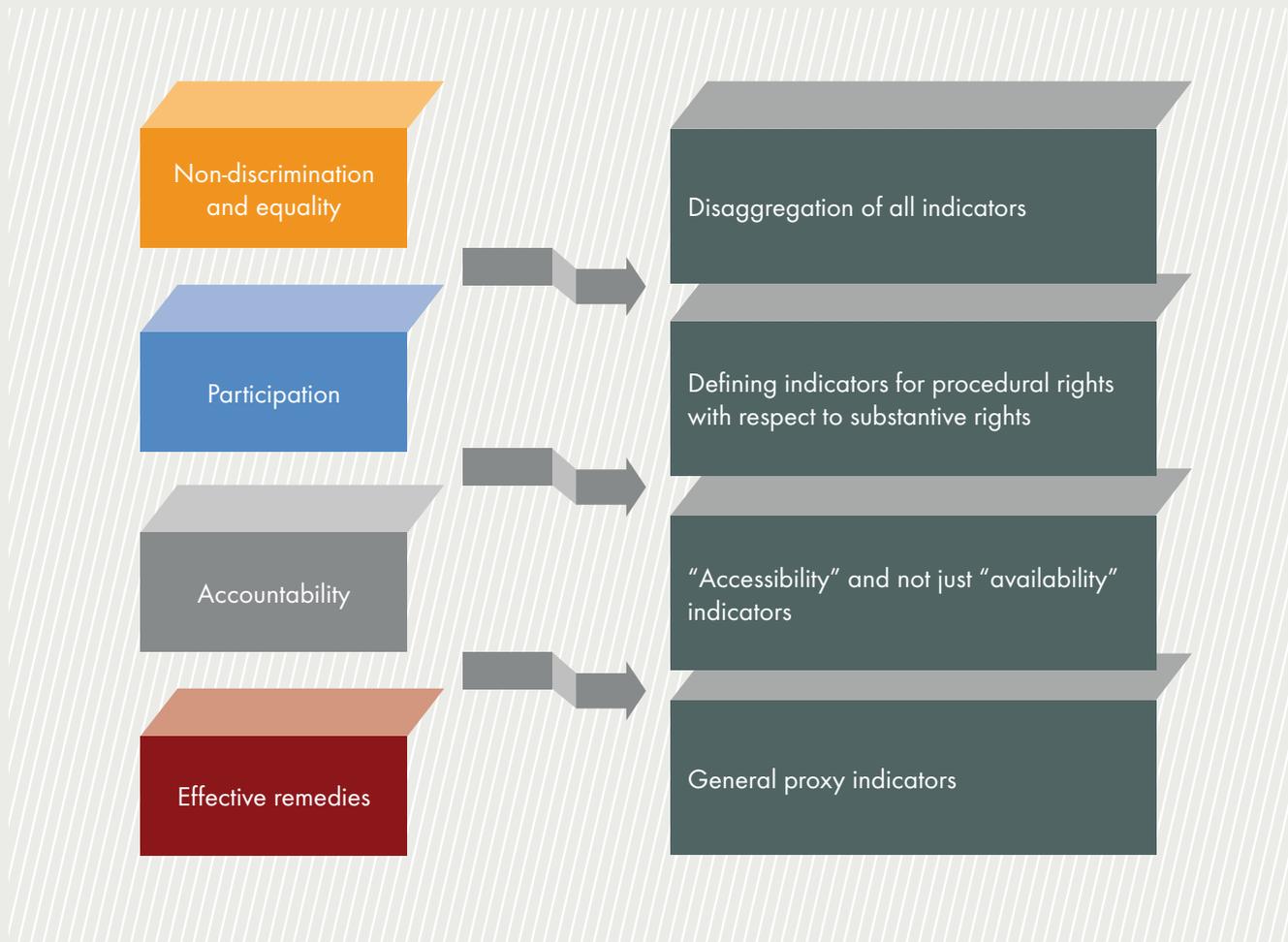
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procedures, reinforces accountability. Moreover, the suggested process indicators, by definition, seek to promote accountability of the duty bearers in discharging their human rights obligations. In addition, specific indicators on the functioning of accountability mechanisms at the

national (NHRI) and the international levels (e.g., special procedures of the Human Rights Council) for monitoring the implementation of human rights obligations by the duty bearer are also included in the framework.

Fig. VI Indicators on cross-cutting human rights norms



C. Some considerations in conceptualizing the indicators

1 **Strengthening the interdependence and indivisibility of human rights**

By emphasizing the need to measure commitments-efforts-results and the use of uniform categories of indicator clusters for both sets of human rights, civil and political rights, as well as economic, social and cultural rights, the adopted framework bridges the artificial divide between them and reinforces the importance of their interdependence and indivisibility (see chap. I, sect. D 5).

2 **Measuring obligations to respect, protect and fulfil**

By using the configuration of structural-process-outcome indicators in undertaking human rights assessments, the framework supports the selection and development of indicators that reflect the obligations to respect, protect and fulfil. While there is no automatic correspondence between the three obligations and the structural, process and outcome indicators, the different kinds of obligations can be covered by the three categories of indicators.

It has been suggested that instead of identifying and developing structural-process-outcome indicators for each human rights attribute, it may be desirable to identify indicators under the three State obligations to respect, protect and fulfil for each human rights attribute. There are at least two reasons for choosing the former in the framework. *First*, this categorization builds on tools and classifications that are already widely used in the development policy context and are likely to be more familiar to policymakers

and implementers, human rights and development practitioners, who are part of the target audiences for this work. In fact, the use of structural, process and outcome indicators in promoting and monitoring the implementation of human rights helps in operationalizing, and perhaps also demystifying, the notion of human rights among those who are not familiar with the human rights discourse but are expected to mainstream rights in their work. The proposed configuration helps in extending the reach of the human rights discourse beyond the confines of legal and justice sector discussions.

Second, it may not always be possible to identify an indicator that reflects uniquely one of the three types of obligations. Often, an indicator based on the commonly available administrative and statistical data may end up reflecting more than one kind of obligation, which may not be very desirable if the intention is to build a structured, common and consistent approach to developing indicators across all human rights.¹⁴ Having said this, in the selection of indicators for a human right, an attempt should be made to include structural, process and outcome indicators, particularly process indicators, that make it easier to assess the implementation of the said obligations. In certain instances, it is possible that certain attributes of a right are mostly related to one or the other type of obligation. For instance, the attributes “use of force by law enforcement officials outside detention”, “conditions of detention”, and “community and domestic violence” for the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment are respectively linked mainly to the obligations to respect, fulfil and protect.

14. Without further investigations, it will be difficult to assign a high mortality rate or a lack of access to effective remedies to a single obligation to respect, protect or fulfil rights.

Box 8 Validation of the conceptual framework

In the course of the work undertaken to identify human rights indicators and prepare the resource material presented in this *Guide*, OHCHR made use of a standard module to raise the awareness of different stakeholders and validate the work at national and regional levels. The stakeholders included human rights institutions, policymakers and agencies responsible for reporting on the implementation of human rights treaties, statistical agencies with a mandate to collect data and representatives from civil society. The module contained exercises to sequentially build the conceptual and methodological blocks of the framework. It also sought to validate the framework and illustrated lists of indicators identified for selected human rights by demonstrating that:

- Using appropriate indicators helps in making communication concrete and effective; facilitates monitoring, follow-up and recording information;
- Human rights indicators are not entirely unknown or new indicators. Most of the commonly known indicators or administrative data could be reconfigured and linked to the relevant standards and the obligations that flow from those standards to make their human rights content explicit;
- Human rights standards and the corresponding obligations are not alien concepts, they reflect local values and, in most instances, local concerns as well and relate easily to development and good governance;
- Stakeholders can easily identify several key attributes or aspects of standards on specific human rights and several corresponding indicators for monitoring them without any formal knowledge of human rights instruments; and
- Human rights indicators are instrumental in meeting local development and good governance goals and also reinforce human rights advocacy by emphasizing the intrinsic importance of human rights in human well-being.

The participatory methodology adopted for the workshop sessions helped overcome the initial scepticism that was expressed by many participants at the start of the workshop on the apparent complexity of the human rights framework, its legalistic language, or even on its relevance to addressing development and good governance. Participants appreciated the working sessions during which they were requested, based on their work experience and knowledge of their countries, to identify first the main content or characteristic attributes of the rights considered, followed by some relevant indicators on the attributes of the rights, to capture human rights commitments and efforts of State parties, as well as outcomes flowing from those efforts.

The result of this exercise was a striking consistency between the attributes and indicators identified by the participants and the tables prepared by OHCHR. This helped validate the OHCHR framework and the list of illustrative indicators. It also helped build a certain sense of familiarity with and ownership of indicators for potential use in promoting and monitoring human rights at country level. National and regional workshops took place with participants from Asia, Africa and Latin America.

Source: OHCHR reports on national and regional workshops. Available from <http://www2.ohchr.org/english/issues/indicators/index.htm> (accessed 30 May 2012).

D. Importance of context-specific indicators

For indicators to be useful in monitoring the implementation of human rights, they should be explicitly and precisely defined, based on an acceptable methodology of data collection and presentation and available on a regular basis. Otherwise, it may not be feasible or even acceptable to the State parties to use quantitative indicators in their reporting obligations to the treaty bodies, which would find it difficult to demonstrate the relevance and encourage the use of indicators in the reporting and follow-up process.

The contextual relevance of indicators is a key consideration in the acceptability and use of indicators among potential users engaged in monitoring the implementation of human rights. Countries and regions within countries have different social, economic and political attainments. They differ in the level of realization of human rights. These differences are invariably reflected in their specific development priorities. Therefore, it may not be possible to always have a universal set of indicators to assess the realization of human rights. For example, depending on the social, cultural or religious profile of a population in two different countries, the disaggregation of information by prohibited grounds of discrimination may have to be customized. Nevertheless, it is also true that certain human rights indicators, for example

those capturing the realization of some civil and political rights, may well be relevant across all countries and their regions. Others that capture the realization of economic or social rights, such as the right to education or housing, may have to be customized to be of relevance in different countries. Even so, it would be relevant to monitor the core content of the rights universally. Thus, in designing a set of human rights indicators, like any other set of indicators, there is a need to strike a balance between universally relevant indicators and contextually specific indicators, as both are needed. The adopted framework permits such a balance between a core set of human rights indicators that may be universally relevant and, at the same time, it encourages a more detailed and focused assessment of certain attributes of the relevant human right, depending on the requirements of a particular situation.

Ultimately, the objective of using the conceptual framework is to encourage a practical, transparent and structured approach for a comprehensive translation of the human rights standards into concrete, well-defined, contextually meaningful indicators that help in the promotion and implementation of human rights.