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**REPORT ON INDICATORS FOR MONITORING COMPLIANCE WITH
INTERNATIONAL HUMAN RIGHTS INSTRUMENTS**

Summary

This paper was prepared in response to the request of the seventeenth meeting of the chairpersons of the human rights treaty bodies (see A/60/278) asking the Secretariat to pursue the work it had initiated to provide assistance to the treaty bodies in analysing statistical information in State parties' reports and to prepare a background paper for the next inter-committee meeting on the possible uses of indicators. This document provides an outline of a conceptual and methodological framework for developing indicators for monitoring compliance by States parties with international human rights treaties.

Indicators for monitoring compliance with international human rights instruments: a conceptual and methodological framework

Introduction

1. This background paper has been prepared by the Office of the High Commissioner for Human Rights in response to the request by the chairpersons of the human rights treaty bodies at their seventeenth meeting (A/60/278; see point g, p. 9). The Secretariat had been asked to pursue the work it had initiated to provide assistance to the treaty bodies in analysing statistical information in States parties' reports and to prepare a background paper for the next inter-committee meeting of the treaty bodies in June 2006 on the possible uses of indicators.
2. This paper outlines a conceptual and methodological framework for identifying quantitative indicators for monitoring compliance by States parties with international human rights treaties. Though qualitative and quantitative indicators are both relevant in the work of treaty bodies, this paper focuses on quantitative indicators and statistics in view of the specific request made to the Secretariat. Moreover, in the context of the ongoing reform of the treaty bodies in general, and the reporting procedure in particular, it has been argued that the use of appropriate quantitative indicators for assessing the implementation of human rights - in what is essentially a qualitative and quasi-judicial exercise - could contribute to streamlining the process, enhance its transparency, make it more effective, reduce the reporting burden and above all improve follow-up on the recommendations and concluding observations, both at the committee, as well as the country, levels.
3. Indeed, the demand for appropriate indicators is not only for monitoring the implementation of the human rights instruments by States parties, but indicators are also seen as useful tools in reinforcing accountability, in articulating and advancing claims on the duty-bearers and in formulating requisite public policies and programmes for facilitating the realization of human rights. In this attempt to make the reporting, implementation and monitoring of human rights treaties more effective and efficient, there is an understanding that one needs to move away from using general statistics, the relevance of which to such tasks is often indirect and lacks clarity, to using specific indicators that, while embedded in the relevant human rights normative framework, can be easily applied and interpreted by the potential users.
4. While the importance of quantitative indicators is reflected in the human rights normative framework, as well as in the States parties' reporting obligations,¹ the use of such indicators in the reporting and the follow-up procedure of the treaty bodies have been limited. There are conceptual and methodological considerations that explain this. For quantitative indicators to be effective tools in monitoring the implementation of human rights, it is necessary that they be anchored in a conceptual framework that addresses the concerns and goals of that process. The need for an adequate conceptual basis lies in having a rationale for identifying and designing the relevant indicators and not reducing the exercise to a mere listing of possible alternatives.² It is also important that such indicators are explicitly and precisely defined, based on an acceptable methodology of data collection and presentation, and are or could be available on a regular basis. Moreover, it is equally important that indicators be suitable to the context where they are applied. In the absence of these considerations being met, it may not be feasible or even acceptable to the States parties to use quantitative indicators in their reporting obligations to the

treaty bodies. At the same time, it would be difficult for the committees to demonstrate the relevance and encourage the use of appropriate indicators in the reporting and follow-up process.

5. The preparation of this paper was facilitated by two expert consultations convened by OHCHR in August 2005 and March 2006, respectively. The objective of these consultations was to bring together some experts working on indicators for human rights assessments from academia, international agencies, civil society and human rights treaty bodies, with a view to developing a common understanding on the conceptual and methodological approach to indicators for monitoring compliance with international human rights instruments. In the March consultation the experts agreed on the approach presented in this paper and suggested that it include a list of illustrative indicators on a few human rights in the background paper for the inter-committee meeting of treaty bodies. While noting the need to have further consultations on this work and validating the illustrative indicators through selected piloting in the reporting procedure of the treaty bodies, the experts agreed that it would be useful for the inter-committee meeting to consider this work before deciding on a possible follow-up to this initiative.

6. This paper starts in section I by clarifying the notion of human rights indicators and provides the rationale for using quantitative indicators in monitoring the implementation of human rights treaties. This is followed in sections II and III by a brief outline of the conceptual and methodological framework for identifying indicators, respectively. The annex includes tables listing illustrative indicators for four identified human rights, namely the right to life, the right to judicial review of detention, the right to adequate food and the right to health. The selection of these rights was guided by the concern to include human rights reflected in the two covenants, as well as the desire to cover standards on substantive and procedural rights at the first instance. Based on the conclusions and recommendations of the two expert consultations, the concluding section brings together some issues and observations for the consideration of the inter-committee meeting of treaty bodies that may be relevant for identifying a possible follow-up to this work.

I. HUMAN RIGHTS INDICATORS, NOTION AND RATIONALE

7. In the context of this paper, human rights indicators are specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights.³ Defined in this manner, there could be some indicators that are uniquely human rights indicators because they owe their existence to certain human rights norms or standards and are generally not used in other contexts. This could be the case, for instance, with an indicator like the reported number of extrajudicial, summary or arbitrary executions, or the number of victims of torture by the police and the paramilitary forces, or the number of children who do not have access to primary education because of discrimination exerted by officials. At the same time, there could be a large number of other indicators such as socio-economic statistics (e.g. UNDP's human development indicators) that could meet (at least implicitly) all the definitional requirements of a human rights indicator as laid out here. In all these cases, to the extent that such indicators relate to the human rights standards and are used for human rights assessment, it would be helpful to consider them as human rights indicators.

Quantitative and qualitative indicators

8. Indicators can be quantitative or qualitative. The first category views indicators narrowly as an equivalent of “statistics” and the latter, a broader “topical” usage, covering any information relevant to the observance or enjoyment of a specific right. In this paper the term “quantitative indicator” is used to designate any kind of indicators that are or can be expressed in quantitative form, such as numbers, percentages or indices.⁴ Some commonly used quantitative indicators are enrolment rates for the school-age group of children, indicators on ratification of treaties, proportion of seats held by women in national parliament and reported number of enforced or involuntary disappearances. One also finds a widespread use of “checklists” or a set of questions as indicators, which sometimes seek to complement or elaborate numerical information on the realization of human rights. In the agencies of the United Nations system and in the human rights community, many experts have often favoured such an interpretation of the word indicator. These two main usages of the word “indicator” in the human rights community, do not reflect two opposed approaches. Given the complexity of assessing compliance with human rights standards, all relevant qualitative and quantitative information is potentially useful.⁵ Quantitative indicators can facilitate qualitative evaluations by measuring the magnitude of certain events. Reciprocally, qualitative information can complement the interpretation of quantitative indicators. Indeed, the choice of a particular kind of indicator in any assessment depends, in the first instance, on the requirements and the needs of the user. This paper essentially looks at quantitative indicators that by virtue of their definition, presentation and on account of their data-generating methodologies are particularly suitable for supporting the assessment of States parties’ compliance with international human rights treaties.

Indicators in the international legal framework

9. The human rights monitoring mechanisms refer to a wide range of indicators (qualitative and quantitative) that are reflected in the human rights normative framework comprising the various international instruments, their elaborations through general comments, reporting guidelines and concluding observations. While some quantitative indicators are explicitly quoted in the human rights treaties, the general comments adopted by the treaty bodies specify the type and role of these indicators.⁶

10. Quantitative indicators are explicitly quoted in provisions of international human rights treaties. In the International Covenant on Economic, Social and Cultural Rights, for instance, article 12 states that to achieve the full realization of the right to health “the steps to be taken by the States parties shall include those necessary for the provision for the reduction of the stillbirth-rate and of infant mortality”.⁷ Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), on the right to education contains a provision for “the reduction of female student drop-out rates” and article 14 of the ICCPR requires that in the case of criminal charges everyone has the right to be tried “without undue delay”. Such references to quantitative indicators, in this case essentially to officially compiled statistics, contribute to the definition of the content of the concerned human right and help to reinforce its operational aspects.

11. The importance of indicators is also highlighted in general comments adopted by the treaty bodies as well as in their concluding observations on State parties’ reports. For instance,

the Human Rights Committee (HRC) called for statistics on the number and handling of complaints for victims of maltreatment to support its normative assessment of the realization of the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.⁸ In relation to the right to participate in the conduct of public affairs, the same committee asked for statistical information on the percentage of women in publicly elected office, including the legislature, as well as in high-ranking civil service positions and the judiciary.⁹ The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have been quite systematic on their request for statistics and disaggregated data relevant to the assessment of the compliance with human rights standards.¹⁰ While the Committee against Torture appears, at first sight, to be less involved in indicators and statistics, it has been seeking evidences on patterns of gross human rights violations in countries concerned with the “refoulement” of individuals.¹¹

From indicators to benchmarks

12. Benchmarks are indicators that are constrained by normative or empirical considerations to have a predetermined value. While the normative considerations may be based on international standards or political and social aspirations of the people, the empirical considerations are primarily related to issues of feasibility and resources. For instance, consider the indicator proportion of one-year-olds immunized against vaccine-preventable diseases; using a benchmark on this indicator may require fixing a specific value to the indicator, say, raising it to 90 per cent, or improving the existing coverage by 10 percentage points, so that the efforts of the implementing agency could be focused on attaining that value in the reference period. In the context of the compliance assessment of State parties, the use of a benchmark, as against an indicator, contributes to enhancing the accountability of the State parties by making them commit to a certain performance standard on the issue under assessment. The Committee on Economic, Social and Cultural Rights, in particular, has called for the setting of benchmarks to accelerate the implementation process.¹² In the use of indicators for monitoring the implementation of human rights, the first step should be to have a general agreement on the choice of indicators. This should be followed by setting performance benchmarks on those selected indicators.¹³

II. THE CONCEPTUAL FRAMEWORK

13. In outlining a conceptual framework for human rights indicators there are a number of interrelated aspects to be addressed. First, there is a need to anchor indicators identified for a human right in the normative content of that right, as enumerated in the relevant articles of the treaties and related general comments of the committees. Secondly, it is necessary to reflect cross-cutting human rights norms or principles (such as non-discrimination and equality, indivisibility, accountability, participation and empowerment) in the choice of indicators. Thirdly, the primary focus of human rights assessment (and its value-added) is in measuring the effort that the duty-holder makes in meeting his/her obligations - irrespective of whether it is directed at promoting a right or protecting it. At the same time, it is essential to get a measure of the “intent or acceptance of” human rights standards by the State party, as well as the

consolidation of its efforts, as reflected in appropriate “outcome” indicators. While such a focus recognizes an implicit linkage between the intent of a State party, its efforts in meeting those commitments and the consolidated outcomes of those efforts, the linkage may not always translate into a direct causal relationship between indicators for the said three stages in the implementation of a human right. This is because human rights are indivisible and interdependent such that outcomes and the efforts behind the outcomes associated with the realization of one right may, in fact, depend on the promotion and protection of other rights. Moreover, such a focus in measuring the implementation of human rights supports a common approach to assessing and monitoring civil and political rights, as well as economic, social and cultural rights.¹⁴ Finally, the adopted framework should be able to reflect the obligation of the duty-holder to *respect, protect and fulfil* human rights. Each of these aspects is discussed here.

Indicators for substantive human rights

Identifying attributes

14. As a starting point, for each human right there is a need to translate the narrative on the legal standard of the right into a limited number of characteristic attributes that facilitate the identification of appropriate indicators for monitoring the implementation of the right. Such a step is prompted first by the analytic convenience of having a structured approach to read the normative content of the right. Often, one finds that the enumeration of the right in the relevant articles and their elaboration in the concerned general comments are quite general and even overlapping, not quite amenable to the process of identifying indicators. By identifying the major attributes of a right, the process of selecting suitable indicators or clusters of indicators is facilitated. Secondly, in identifying the attributes the intention is to take a step closer to operationalizing the human rights standards. Thus, in articulating the attributes one arrives at a categorization with a terminology that is clear and, perhaps, more “tangible” in facilitating the selection of indicators. Finally, to the extent feasible, for all substantive rights, the attributes have to be based on an exhaustive reading of the legal standard of the right and identified in a mutually exclusive manner.

15. Consider the case of the right to life (annex, table 1), following this approach and taking into account primarily article 6 of the ICCPR and general comment No. 6 of the Human Rights Committee on the right to life (1982). Four attributes of the right to life, namely “arbitrary deprivation of life”; “disappearances of individuals”; “health and nutrition” and “death penalty” were identified. Similarly, in the case of the right to food (table 3), based on article 11 of ICESCR and general comment No. 12 of the Committee on Economic, Social and Cultural Rights on the right to adequate food (1999), “nutrition”; “food safety and consumer protection”; “food availability”; and “food accessibility” were identified as the relevant attributes.¹⁵ Attributes, in case of the right to judicial review of detention, were primarily based on ICCPR, article 9, and general comment No. 8 of the Human Rights Committee on the right to liberty and security of persons (1982). For the right to health, the attributes were based on ICESCR, article 12, and general comment No. 14 of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health (2000); general recommendation No. 24 (article 12 of CEDAW on women and health, 1999) of the Committee on the Elimination of Discrimination against Women; general comments No. 3 on HIV/AIDS and the rights of the

child (2003) and No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child, (2003) of the Committee on the Rights of the Child.¹⁶ In addition, relevant articles from the Universal Declaration of Human Rights and all conventions, based on the chart of congruence in the substantive provisions of the seven core international human rights treaties, were also used for reading the normative content of these four rights.¹⁷

Configuring indicators for human rights attributes

16. In the second stage, a configuration of structural, process and outcome indicators is identified for the selected attributes of a human right. A key concern in proposing such a configuration of indicators is to bring to the fore an assessment of steps taken by the State parties in addressing its obligations - from intent to efforts, and on to outcomes of those efforts.

17. *Structural indicators* reflect the ratification/adoption of legal instruments and existence of basic institutional mechanisms deemed necessary for facilitating realization of the human right concerned. They capture the intent or acceptance of human rights standards by the State in undertaking measures for the realization of the human right concerned. Structural indicators have to focus foremost on the nature of domestic law as relevant to the concerned right - whether it incorporates the international standards - and the institutional mechanisms that promote and protect the standards. Structural indicators also need to look at the policy framework and indicated strategies of the State as relevant to the right. Some of the structural indicators may be common to all human rights and there may be others that are more relevant to specific human rights or even to a particular attribute of a human right.

18. *Process indicators* relate State policy instruments to milestones that become outcome indicators, which in turn can be more directly related to the realization of human rights. State policy instruments refer to all such measures including public programmes and specific interventions that a State is willing to take in order to give effect to its intent/acceptance of human rights standards to attain outcomes identified with the realization of a given human right. By defining the process indicators in terms of a concrete cause-and-effect relationship, the accountability of the State to its obligations can be better assessed. At the same time, these indicators help in directly monitoring the progressive fulfilment of the right or the process of protecting the right, as the case may be for the realization of the right concerned. Process indicators are more sensitive to changes than outcome indicators. Hence they are better at capturing progressive realization of the right or in reflecting the efforts of the State parties in protecting the rights.

19. *Outcome indicators* capture attainments, individual and collective, that reflect the status of realization of human rights in a given context. It is not only a more direct measure of the realization of a human right but it also reflects the importance of the indicator in assessing the enjoyment of the right. Since it consolidates over time the impact of various underlying processes (that can be captured by one or more process indicators), an outcome indicator is often a slow-moving indicator, less sensitive to capturing momentary changes than a process indicator. For example, life expectancy or mortality indicators could be a function of the immunization of a population, education or public health awareness of the population, as well as availability and accessibility of individuals to adequate nutrition.

20. In using the framework of structural, process and outcome indicators, the objective is to consistently and comprehensively cover indicators that can reflect the intent and outcome aspect of the realization of human rights. In the final analysis, it may not matter if an indicator is identified as a process or outcome indicator so long as it captures relevant aspect(s) of an attribute of a right or the right in general. Working with such a configuration of indicators simplifies the selection of indicators; it encourages the use of contextually relevant information; it facilitates a more comprehensive coverage of the different attributes or aspects of the realization of the right; and, perhaps, it also minimizes the overall number of indicators required to monitor the realization of the concerned right in any context. Secondly, though there is no one-to-one correspondence between the three categories of indicators and States' obligations to respect, protect and fulfil human rights, an appropriate combination of structural, process and outcome indicators, particularly the process indicators could help in assessing the implementation of the three obligations.¹⁸ Thirdly, process and outcome indicators may not be mutually exclusive. It is possible that a process indicator for one human right can be an outcome indicator in the context of another right. For instance, the proportion of the population below a minimum level of dietary energy consumption may be an outcome indicator for the right to adequate food and a process indicator for the right to life. The guiding concern being that for each right, or rather an attribute of a right, it is important to identify at least one outcome indicator that can be closely related to the realization/enjoyment of that right/attribute. In other words, the selected outcome indicator should sufficiently reflect its importance in the realization of that right. The process indicators are identified in a manner that they reflect the effort of the duty-holders in meeting or making progress in attaining the identified outcome. Having said this, there is an attempt in the illustrated list of indicators to use a consistent approach to differentiate process indicators from outcome indicators. Fourthly, the selection of all indicators has to be primarily guided by the empirical evidence on the use of those indicators. If identified indicators do not fare well on the criteria of empirical relevance, they will not be useful as monitoring tools.

Indicators for cross-cutting norms

21. The indicators that capture the cross-cutting human rights norms or principles do not necessarily relate exclusively to the realization of any specific human right. But they are meant to capture the extent to which the process to implement and realize human rights is, for instance, participatory, inclusionary, empowering, non-discriminatory, accountable or, where required, supported by international cooperation. While some of these cross-cutting norms could guide the process of identifying indicators itself, some could be reflected in the choice of data and its disaggregation in defining an indicator and some others could be reflected in the choice of indicators on specific human rights standards, such as the right to take part in public affairs, or rights related to personal liberty, security and remedy. In reflecting the human rights norms on 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, age, disability, ethnicity, religion, language, social, economic, regional or political status of people. Thus, for instance, if the indicator on the proportion of accused persons seeking and receiving legal aid is broken down by ethnic groups, it would be possible to capture some aspect of discrimination faced by ethnic groups or minorities in accessing justice in a given country.

In other instances, the norm of effective remedies and procedural guarantees could be addressed as a “procedural right” that has a bearing on the realization of a specific “substantive right”, hence is defined in reference to that substantive right. Also, compliance with the norm on non-discrimination in the context of the right to education, as a substantive right, could be captured using an indicator like the proportion of the girls in school-age groups enrolled in school to the proportion of the boys in the same age group enrolled in school. More important, in reflecting the norm on non-discrimination and equality, the emphasis is on indicators that capture the nature of access, and not just availability, to such goods and services that allow an individual to realize his/her rights. Similarly, in the case of the human rights norm of participation the attempt could be to reflect whether the vulnerable and marginalized segments of the population in a country have had a voice in the selection of indicators included in the reporting procedure of the State, or the extent to which they have participated in identifying measures that are being taken by the duty-holder in meeting its obligations.

22. At a more aggregate level, one could consider indicators such as the Gini coefficient, which reflects the distribution of household consumption expenditure/income to assess whether the development process in a country is encouraging participation, inclusion and equality in the distribution of returns from development. Indicators on work participation rates and educational attainment of the population, in general, and of specific groups, in particular (for instance, women, minorities and other social groups) could help in providing an assessment of the extent to which the norms on empowerment are being respected and promoted by the duty-bearer. In reflecting the role of international cooperation in the implementation of human rights, particularly for some economic and social rights, indicators on the contribution of donors, as well as the share of aid/technical cooperation in the efforts of the recipient country to implement the concerned right have to be included. Finally, the first steps in the implementation of the cross-cutting norm on accountability are already being taken as one translates the normative content of a right into quantitative indicators. Indeed, the availability of information sensitive to human rights and its collection and dissemination through independent mechanisms using transparent procedures demonstrates the existence of accountability and reinforces it. Moreover, as noted earlier, by identifying a process indicator as a measure that links State effort to a specific “policy action - milestone relationship”, the framework takes an important step in enhancing State accountability in implementing human rights. Ultimately, the reflection of cross-cutting human rights norms in the list of illustrative indicators is to be seen in terms of the configuration of suggested indicators and the totality of the framework, and not necessarily in terms of individual indicators for each of these norms.

III. METHODOLOGICAL FRAMEWORK

23. To be useful in monitoring the implementation of human rights treaties, quantitative indicators have to be explicitly and precisely defined, based on an acceptable methodology of data collection, processing and dissemination, and have to be available on a regular basis. The main methodological issue relates to data sources and generating mechanisms, criteria for selection of indicators and the amenability of the framework to support contextually relevant indicators.

Sources and data-generating mechanisms

Socio-economic and other administrative statistics

24. Socio-economic statistics (for short) refers to quantitative information compiled and disseminated by the State through its administrative records and statistical surveys, usually in collaboration with national statistical agencies and under the guidance of international and specialized organizations. In the context of the treaty-body system, this category of indicators is of primary importance given the commitment of States, as parties to international human rights instruments, to report on their compliance. Socio-economic statistics enlighten issues not only related to economic, social and cultural rights, but also to civil and political rights, such as issues of the administration of justice and the rule of law (e.g. executions carried out under death penalty statutes; prison populations; and incidence of violent crimes). The use of a standardized methodology in the collection of information, be it through census operations, household surveys or through civil registration systems, and usually with reasonable reliability and validity, makes indicators based on such a methodology vital for the efforts to bring about greater transparency, credibility and accountability in human rights monitoring. However, in the context of human rights assessment, in general and monitoring undertaken by treaty bodies, in particular, it is in most instances essential to make use of information collected by non-governmental sources to supplement socio-economic statistics.

Events-based data on human rights violations

25. Events-based data (for short) consists mainly of data on alleged or reported cases of human rights violations, identified victims and perpetrators. Indicators, such as the alleged incidence of arbitrary deprivations of life, enforced or involuntary disappearances, arbitrary detention and torture, are usually reported by NGOs and are also processed in a standardized manner by United Nations special procedures. In general, such data may underestimate the incidence of violations and may even prevent valid comparisons over time or across regions, yet it may provide relevant indications to the treaty bodies in undertaking their assessment of the human rights situation in a given country. Though recent attempts have shown that this method can also be applied for monitoring the protection of economic, social and cultural rights, it has been mainly and most effectively used only for monitoring the violation of civil and political rights. Moreover, the information that is compiled through the use of events-based data methods often supplements the information captured through socio-economic statistics. In many other instances, particularly when there is a systematic denial or deprivation of human rights, event-based data is a substitute for the socio-economic statistics. It is necessary, therefore, to identify and use indicators based on these methods of information collection in a complementary manner.¹⁹

Criteria for the selection of quantitative indicators

26. The foremost consideration in adopting a methodology for identifying and building human rights indicators, or for that matter any set of indicators, as addressed in the discussion on the conceptual framework, is its relevance and effectiveness in addressing the objective(s) for which the indicators are to be used. Most other methodological requirements follow

from this consideration. In the context of the work undertaken by the treaty bodies in monitoring the implementation of human rights, quantitative indicators should ideally be:

- Relevant, valid and reliable;
- Simple, timely and few in number;
- Based on objective information²⁰ and data-generating mechanisms;²¹
- Suitable for temporal and spatial comparison and following relevant international statistical standards; and
- Amenable to disaggregation in terms of sex, age and other vulnerable or marginalized population segments.

One other consideration, namely the opportunity cost of the compilation of relevant information on an indicator could be useful in selecting indicators for use in human rights assessments.

27. It is worthwhile to note that, although disaggregated data is essential for addressing human rights concerns, it is not practical or feasible always to undertake disaggregation of data at the desired level. Disaggregation by sex, age, regions or administrative units may, for instance, be less difficult than by ethnicity, as the identification of ethnic groups often involves objective (e.g. language) and subjective (e.g. self-identity) criteria that may evolve over time. The production of any statistical data also has implications for the right to privacy, data protection and confidentiality issues, and will, therefore, require appropriate legal and institutional standards.²²

Contextual relevance of indicators

28. 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 differ in terms of their social, economic and political attainments. They differ in the level of realization of human rights. These differences are invariably reflected in terms of differences in development priorities. Therefore, it may not be possible to always have a universal set of indicators to assess the realization of human rights. Having said that, 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. But even in the latter case, 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 kinds of indicators are needed. The approach outlined in the preceding section permits such a balance between a core set of human rights indicators that may be universally relevant and, at the same time, it presents a framework that encourages a more detailed and focused assessment on certain attributes of the relevant human right, depending on the requirements of a particular situation.

IV. ILLUSTRATIVE INDICATORS

29. The annex presents four tables of illustrative indicators on the right to life, right to judicial review of detention, right to adequate food and right to health. It also highlights some additional considerations that have been addressed in identifying specific indicators on the four rights.

30. The list of illustrative indicators has to be seen in the context of some background information that each State party to the international treaties is expected to provide as a part of the general reporting guidelines of the treaty bodies.²³ This background information, reflected through appropriate indicators, is expected to cover population and general demographic trends; the social and economic situation; the civil and political situation; and general information on the administration of justice and the rule of law. In addition, information on certain structural indicators such as the proportion of international human rights instruments ratified by the State (from a list of selected human rights treaties, protocols, ILO conventions, 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 by the rules of procedure of the International Coordinating Committee of National Institutions; and number of civil society organizations and personnel (employees and volunteers) formally involved in the protection of human rights at domestic level is relevant for monitoring the implementation of all rights.

31. In general, for all indicators it is essential to seek disaggregated data on the human rights situation of vulnerable and marginalized population groups vis-à-vis the rest of the population. A second consideration related to the principle of indivisibility of human rights makes it necessary to look at indicators in their totality across all rights and not merely in terms of sectoral frameworks anchored in the normative content of the specific human rights. This is notwithstanding the fact that in the course of identifying indicators, for instance, for the right to life, it may be necessary to identify indicators on the health attribute of that right within the confines of its normative content and not in light of the normative content of the right to health. At the same time, some aspects related to the right of an individual to control one's health and body may have to be elaborated in indicators on the right not to be tortured and not in the context of the right to health, for analytical convenience and overall manageability of the number of indicators. Ultimately, at the level of a convention or in the context of general human rights assessment, one may need to rationalize the list of indicators in view of the need to respect the principle of indivisibility and interdependence. Finally, in certain instances, as in the case of the right to health, it may not be possible to have outcome indicators exclusively dependent on efforts within the framework of State obligations under the right to health. Instead, it could be related to the framework, for instance, on the right to education or the right to adequate housing. On the other hand, it may still be worthwhile to include such indicators because of their importance to the realization of that right and to facilitate priority-setting and effort targeting.

32. There are some other observations that are worth noting. First, the framework outlined highlights the role of the primary duty-holder in the implementation of the concerned right. It also identifies, through suitable structural and process indicators, the role of civil society

organizations and international cooperation in furthering the implementation of human rights. Secondly, besides indicators that reflect the scope and recourse to judicial remedy, the framework identifies indicators on potential role of non-judicial (administrative) and quasi-judicial (e.g. national human rights institutions) actors in implementing human rights. The indicators on recourse to judicial remedy in terms of access to courts are separately identified. Finally, an important structural indicator relates to State policy and strategy on a given right or its attribute. A policy statement of the State on a given issue outlines its position on that issue and, in a sense, binds the State to undertake measures outlined in its policy document/framework. Indeed, a policy statement and the corresponding strategy is a step in translating normative standards into an operative framework of public policies and programmes. It helps in making the State accountable. It presents an important means and starting point for making a right justiciable.

V. CONCLUSIONS

33. This background paper has tried to summarize the main elements of a conceptual and methodological framework on indicators for monitoring the compliance of State parties with international human rights instruments. More centrally, the paper presents lists of illustrative indicators for four identified human rights and an approach to indicators on cross-cutting human rights norms with a view to operationalizing the framework. The framework presented in the paper supports a basket of indicators by specific right and allows a State to present a kind of “performance profile” that reflects its context, efforts and outcomes. The State may have made progress in some areas, but may have problems in other areas. The background paper affirms the need and scope for use of appropriate indicators for monitoring compliance of State parties with international human rights instruments. It also brings out the role of indicators in supporting priority-setting and in furthering the implementation of human rights standards and principles. It seeks to encourage a common understanding on the use of indicators in human rights assessment. It attempts to provide a framework which is simple, transparent and accessible to the potential users, as well as sensitive of the capacity constraints on data availability and reporting burden at the national level. Finally, it makes progress in demonstrating that a common approach to assess and monitor the civil and political rights and the economic, social and cultural rights is feasible as well as desirable.

34. In terms of the follow-up to this work, first, there is a need for developing “information sheets” on the indicators listed in the tables in order to support a systematic and transparent selection process. Information sheets could provide relevant background information on the definition of the indicator, its data sources (e.g. administrative records, statistical survey, testimonies/complaints of victims), its related (if any) international statistical standards, levels of disaggregation, and a general assessment of its availability. This should consider, as a starting point, information already available at national level and in international organizations, and related databases, such as the Millennium Development Goals (MDG) database. The development of these information sheets should be carried out in close collaboration with national and international organizations, to benefit from their sectoral and statistical expertise.

35. Secondly, the illustrative indicators presented in the tables need further validation through consultations and piloting at the level of State parties as well as in the treaty bodies before they could be used in the reporting procedure of the treaty bodies.

36. Finally, having demonstrated, through concrete illustrations for four human rights, the operationalization of the conceptual and methodological framework for indicators, it may be desirable to extend the present work to develop lists of illustrative indicators for other human rights.

Notes

¹ See Compilation of Guidelines on the Form and Content of Reports to be submitted by States Parties to the International Human Rights treaties (HRI/GEN/2/Rev.2 and HRI/MC/2006/3).

² See the conclusions of Turku Expert Meeting on Human Rights Indicators, held in Turku, Finland, 10-13 March 2005, available at <http://www.abo.fi/instut/imr/indicators/index.htm>.

³ This definition follows a formulation used by Special Rapporteur Paul Hunt in his various reports to the Commission on Human Rights. For instance, see A/58/427, section II.

⁴ The three expressions, namely quantitative, statistical or numerical indicators, are often used interchangeably.

⁵ Human rights indicators could also be categorized as objective or subjective indicators. This distinction is not necessarily based on the consideration of using, or not using, reliable or replicable methods of data collection for defining the indicators. Instead, it is ideally seen in terms of the information content of the indicators concerned. Thus, objects, facts or events that can, in principle, be directly observed or verified (for example, weight of children and number of reported violent deaths) are categorized as objective indicators. Indicators based on perceptions, opinions, assessment or judgements expressed by individuals are categorized as subjective indicators.

⁶ Reports prepared by the special procedures of the Commission on Human Rights have also referred to or made use of quantitative indicators. Works of some Special Rapporteurs are referred to in this paper.

⁷ In its general comment No. 14 on the right to the highest attainable standard of health (2000), the Committee on Economic, Social and Cultural Rights noted that the stillbirth rate was no longer commonly used, infant and under-five mortality rates were being measured instead.

⁸ HRC, general comment No. 20 on the prohibition of torture or cruel, inhuman or degrading treatment or punishment (1992).

⁹ HRC, general comment No. 28 on the equality of rights between men and women (2000).

¹⁰ For instance: CESCR, general comments No. 13 on the right to education (1999), No. 14 on the right to the highest attainable standard of health (2000); CEDAW, general recommendations No. 9 on statistical data concerning the situation of women (1989), No. 12 on violence against women (1989); CERD, general recommendation XXVII on the discrimination against Roma (2000); CRC, general comment No. 2, which highlighted, *inter alia*, the role of national human rights institutions in ensuring that statistics are appropriately disaggregated in order to determine what must be done to realize children's rights (2002) and general comment No. 3 on HIV/AIDS and the rights of the child (2003).

¹¹ CAT, general comment No. 1 (1996) on the implementation of article 3 of the Convention in the context of article 22 (Refoulement and communications).

¹² In its first general comment on the reporting by States parties (1989), the Committee on Economic, Social and Cultural Rights already called for the setting of benchmarks with respect to quantitative indicators, such as the extent of vaccination of children and the intake of calories per person. See also general comment No. 14 on the right to highest attainable standard of health (2000), paras. 57-58.

¹³ See general comment No. 14 on the right to health and Eibe Riedel's "IBSA" framework proposing a four-step procedure covering indicators, benchmarks, scoping and assessment.

¹⁴ The Expert Consultation organized by OHCHR, in Geneva, 29 August 2005, agreed that a common approach to assess and monitor civil and political rights and economic, social and cultural rights was feasible as well as desirable and that such an approach could be built around the use of structural-process-outcome indicators.

¹⁵ It may be argued, for instance, in case of most economic, social and cultural rights to adopt a generic approach to the identification of attributes based on the notion of "adequacy", "accessibility"; "availability"; "adaptability" and "quality". While such an approach may not be feasible for most civil and political rights, even in case of the economic, social and cultural rights it may not be easy to follow consistently.

¹⁶ The Special Rapporteur on the right to health's work has been useful in elaborating the indicators on the right to health.

¹⁷ See the treaty body document HRI/2004/3, para. 20.

¹⁸ This is particularly so if one is using socio-economic and other administrative data (see para. 24) for inferring the implementation of the three kinds of obligations. For instance, though an outcome indicator may reveal the overall failure of the State party in meeting the three obligations, it may not be able to distinguish which of the three obligations are indeed violated. For example this could be the case with high mortality rate. In case of the process indicators it may be easier to identify the specific obligations that are being violated. However, if we consider events-based data on human rights violations (see para. 25) given the nature and methodology for collection of relevant information, it may be the easiest way to derive indicators that capture specifically the violations to respect, protect or fulfil.

¹⁹ There are at least two other data-generating mechanisms, namely household perception and opinion surveys, and data based on expert judgements that have been widely used in human rights assessments. However, both these methods have limitations (such as lack of objectivity and consistency in the data generated over time) that make them less useful in the compliance assessment of State parties with international human rights instruments.

²⁰ See note 5.

²¹ Indicators should be produced and disseminated in an independent, impartial and transparent manner and based on sound methodology, procedures and expertise.

²² See, for instance, the 10 Fundamental Principles of Official Statistics (<http://unstats.un.org/unsd/goodprac/bpabout.asp>).

²³ See note 1 for further details.

Annex

Table 1

List of illustrative indicators on the right to life (ICCPR, art. 6) (* MDG indicators)

	Arbitrary deprivation of life	Disappearances of individuals	Health and nutrition	Death penalty
Structural indicators	<ul style="list-style-type: none"> International human rights instruments, relevant to the right to life, ratified by the State Period of application and coverage of a domestic bill of rights including the right to life in the Constitution or other forms of superior law Period of application and coverage of domestic laws relevant to the implementation of the right to life 			
		<ul style="list-style-type: none"> Period of application and coverage of habeas corpus provision in the Constitution 	<ul style="list-style-type: none"> Period of application and coverage of stated national policy statement on health and nutrition 	<ul style="list-style-type: none"> Number of sub-national administrative entities that have abolished death penalty
Process indicators	<ul style="list-style-type: none"> Number of complaints on the right to life received, investigated and adjudicated by the national human rights institution/human rights ombudsperson/specialized institution and other administrative mechanisms (created to protect interests of specific population groups including minorities, ethnic groups, migrants, refugees, etc.) in the specified period 			
	<ul style="list-style-type: none"> Number of communications transmitted by Special Rapporteur on extrajudicial, summary or arbitrary executions and proportion of communications responded substantively by Government Proportion of police/paramilitary personnel trained in international standards on arrest and detention Proportion of perpetrators of the reported cases of arbitrary deprivation of life pursued/arrested/adjudicated/convicted/serving sentence 	<ul style="list-style-type: none"> Number of communications transmitted by Working Group on Enforced or Involuntary Disappearances and proportion clarified by the Government Average time spent in police custody by detainee before being brought before a judge Number of habeas corpus and similar petitions filed in courts Proportion of perpetrators of the alleged cases of disappearances pursued/arrested/adjudicated/convicted/serving sentence 	<ul style="list-style-type: none"> Proportion of population below minimum level of dietary energy consumption* Proportion of vulnerable population covered under public programmes for nutrition supplement Proportion of population with sustainable access to an improved water source* Proportion of population with access to improved sanitation* Proportion of one-year-olds immunized against vaccine-preventable diseases (e.g. measles*) Proportion of disease cases detected and cured (e.g. tuberculosis*) 	<ul style="list-style-type: none"> Number of convicts on death row Average time spent by convict on death row Proportion of convicts exercising the right to have their sentence reviewed by higher court Proportion of accused facing capital punishment receiving free legal aid Number of cases of expulsion or imminent expulsion of persons to a country where they may face death penalty
Outcome indicators	<ul style="list-style-type: none"> Incidence of homicides and life-threatening crimes reported per 100,000 population Incidence of custodial death Reported cases of arbitrary deprivation of life (e.g. as reported to the Special Rapporteur on extrajudicial, summary or arbitrary executions) 	<ul style="list-style-type: none"> Reported cases of disappearances (e.g. as reported to the Working Group on Enforced or Involuntary Disappearances) Proportion of disappearance cases clarified, by status of person at the date of clarification (at liberty/ in detention/dead) 	<ul style="list-style-type: none"> Infant/under-five mortality rate* Life expectancy at birth/age one Death rates associated with diseases (e.g. HIV/AIDS/malaria/tuberculosis)* 	<ul style="list-style-type: none"> Executions under death penalty in the reporting period Proportion of death sentences commuted

Table 2

List of illustrative indicators on the right to judicial review of detention (right to liberty, ICCPR, art. 9)

	Arrest and detention based on criminal charges	Administrative deprivation of liberty	Effective review by court
Structural indicators	<ul style="list-style-type: none"> • International human rights instruments, relevant to the right to review of detention by court, ratified by the State • Period of application and coverage of the right to review detention by court in supreme law/Constitution/bill of rights • Period of application and coverage of domestic laws relevant to the implementation of the right to review detention by court • Legal time limits for an arrested/detained person before being informed on the reasons of the arrest/detention; before being brought to or having the case reviewed by the authority exercising judicial power; and for the duration of the trial of a person in detention 		
Process indicators	<ul style="list-style-type: none"> • Number of complaints on the right to review detention by court received, investigated and adjudicated by the national human rights institution/human rights ombudsperson/specialized institution and other administrative mechanisms (created to protect the interests of specific population groups) in the specified period • Number of urgent appeals transmitted by the Working Group on Arbitrary Detention and proportion of communications responded to by Government 		
	<ul style="list-style-type: none"> • Number of arrests/entries into detention (pre- and pending trial)^a on the basis of a court order/due to action taken directly by executive authorities • Number of releases from pre- and trial detentions in exchange for bail/due to non-filing of charges 	<ul style="list-style-type: none"> • Number of arrests/entries into detention under national administrative provisions (e.g. security, immigration control, mental illness, educational purposes, drug addiction) • Number of releases from administrative detentions 	<ul style="list-style-type: none"> • Number of cases where the time for arrested/detained persons before being informed of the reasons of arrest, before receiving notice of the charge (in a legal sense) or before being informed of the reasons of administrative detention exceeded the respective legally stipulated time limit • Number of cases where pre- and trial detention exceeded the legal/court stipulated time limit • Number of habeas corpus and similar applications filed in courts • Proportion of bail applications accepted by the court • Proportion of arrested/detained persons provided with counsellor access/legal aid • Proportion of cases subjected to review by a higher court or appellate body • Number and proportion of arrests and detentions declared unlawful by national courts
Outcome indicators	<ul style="list-style-type: none"> • Incidence of detentions on the basis of a court order/due to action by executive authorities • Reported cases of arbitrary detentions, including post-trial detentions (e.g. as reported to the Working Group on Arbitrary Detention) 		<ul style="list-style-type: none"> • Number of releases/victims compensated after detentions declared unlawful by judicial authority

^a “‘Arrest’ means the act of apprehending a person for the alleged commission of an offence or by the action of an authority. ‘Detained person’ means any person deprived of personal liberty except as a result of conviction for an offence. ‘Imprisoned person’ means any person deprived of personal liberty as a result of conviction for an offence” (see Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly resolution 43/173 of 9 December 1988).

Table 3

**List of illustrative indicators on the right to adequate food (ICESCR, art. 11)
(* MDG indicators; ** or incidence of hunger/number of meals eaten in a day)**

	Nutrition	Food safety and consumer protection	Food availability	Food accessibility
Structural indicators	<ul style="list-style-type: none"> • International human rights instruments, relevant to the right to adequate food, ratified by the State • Period of application and coverage of the right to adequate food in supreme law/Constitution/bill of rights • Period of application and coverage of domestic laws relevant to the implementation of the right to adequate food • Number of registered civil society organizations involved in the promotion and protection of the right to adequate food 			
	<ul style="list-style-type: none"> • Period of application and coverage of national policy statement on nutrition and nutrition adequacy norms 	<ul style="list-style-type: none"> • Period of application and coverage of national policy statement on food safety and consumer protection • Number of registered NGOs working in the area of food safety and consumer protection 	<ul style="list-style-type: none"> • Period of application and coverage of national policy statement on agricultural production and food availability • Period of application and coverage of national policy statement on drought, crop failure and disaster management 	
Process indicators	<ul style="list-style-type: none"> • Number of complaints on the right to adequate food received, investigated and adjudicated by the national human rights institution/human rights ombudsperson/specialized institution and other administrative mechanisms (created to protect the interests of specific population groups) in the specified period • Net official development assistance for food security received/provided as proportion of public expenditure on food security/gross national income 			
	<ul style="list-style-type: none"> • Proportion of population below minimum level of dietary energy consumption/proportion of undernourished population* • Proportion of vulnerable population (e.g. children, pregnant women, aged persons) covered under public nutrition supplement programmes • Coverage of targeted population under public programmes on nutrition education and awareness • Proportion of population with sustainable access to an improved water source* 	<ul style="list-style-type: none"> • The disposal rate/average time to adjudicate a case registered in a consumer court • Share of public social sector budget spent on food safety and consumer protection advocacy, education, research and implementation of the law and regulations • Proportion of food-producing and distributing establishments inspected for food quality standards and/or frequency of inspections • Number of cases filed/decided under food safety and consumer protection law 	<ul style="list-style-type: none"> • Proportion of female-headed households/other vulnerable groups with legal title to agriculture land • Arable irrigated land per person • Proportion of farmers availing extension services • Share of public budget spent on strengthening domestic agricultural production (e.g. agri-extension, irrigation, credit, marketing) • Per capita availability sourced through domestic production, import and food aid • Cereal import dependency ratio 	<ul style="list-style-type: none"> • Share of household consumption of major food items for vulnerable population met through publicly assisted programmes • Unemployment rate/average wage rate of vulnerable segments of labour force • Incidence of poverty in the country • Work participation rates by gender and other vulnerable groups • Estimate of access of women and girl child to adequate food within household
Outcome indicators	<ul style="list-style-type: none"> • Proportion of underweight children below age five* • Proportion of adults with body mass index (BMI) <18.5 	<ul style="list-style-type: none"> • Number of recorded deaths/incidence of food poisoning related to adulterated food 	<ul style="list-style-type: none"> • Per capita availability of major food items of local consumption 	<ul style="list-style-type: none"> • Proportion of population below minimum level of dietary energy consumption/proportion of undernourished population)* ** • Average household expenditure on food for the bottom three deciles of population/vulnerable groups

Table 4

List of illustrative indicators on the right to enjoyment of the highest attainable standard of physical and mental health (ICESCR, art. 12) (* MDG indicators)

	Reproductive health	Child mortality and health care	Natural and occupational environment	Prevention, treatment and control of diseases	Accessibility to health facilities and essential medicines
Structural indicators	<ul style="list-style-type: none"> • International human rights instruments, relevant to the right to health, ratified by the State • Period of application and coverage of the right to health in supreme law/Constitution/bill of rights • Period of application and coverage of domestic laws relevant to the implementation of the right to health • Number of registered civil society organizations involved in the promotion and protection of the right to health • Estimated proportion of births, deaths and marriages recorded through vital registration system 				
	<ul style="list-style-type: none"> • Period of application and coverage of national policy on maternal and reproductive health • Whether there is a law on abortion and foetal sex-determination 	<ul style="list-style-type: none"> • Period of application and coverage of national policy on child health and nutrition 	<ul style="list-style-type: none"> • Period of application and coverage of national health policy • Period of application and coverage of national policy for mentally challenged and disabled • Period of application and coverage of national drug policy, including on generic drugs 		
Process indicators	<ul style="list-style-type: none"> • Number of complaints concerning the right to health, received, investigated and adjudicated by the national human rights institution/human rights ombudsperson/specialized institution and other administrative mechanisms (created to protect the interest of specific population groups) in the specified period • Net official development assistance for health sector received/provided as proportion of public expenditure on health/gross national income (GNI) 				
	<ul style="list-style-type: none"> • Proportion of births attended by skilled health personnel* • Proportion of women receiving pre- and post-natal care • Percentage of women of child-bearing age using contraception or whose partner is using contraception (CPR) • Medical terminations of pregnancy as a proportion of live births • Total and adolescent fertility rates • Reported cases of genital mutilation, rape and other violence restricting women's sexual and reproductive freedom 	<ul style="list-style-type: none"> • Proportion of school-going children educated on health issues • Proportion of children having regular medical check-up • Proportion of children covered under nutrition supplement programmes • Proportion of one-year-olds immunized against vaccine-preventable diseases (e.g. measles*) 	<ul style="list-style-type: none"> • Proportion of population with sustainable access to an improved water source* • Proportion of population with access to improved sanitation* • Proportion of population using solid fuels* • Number of cases of deterioration of water sources brought to justice • Proportion of population living/working in hazardous conditions 	<ul style="list-style-type: none"> • Proportion of population covered under awareness-raising programmes on transmission of diseases (e.g. HIV/AIDS*) • Proportion of population (above age one) immunized against vaccine-preventable diseases • Proportion of population applying effective preventive measures (e.g. against HIV/AIDS, malaria*) 	<ul style="list-style-type: none"> • Per capita government expenditure on primary health care • Density of medical and paramedical personnel, hospital beds • Proportion of population with access to affordable essential drugs on a sustainable basis* • Proportion of people covered by health insurance • Proportion of people covered under indigenous/alternative systems of health care

Table 4 (continued)

	Reproductive health	Child mortality and health care	Natural and occupational environment	Prevention, treatment and control of diseases	Accessibility to health facilities and essential medicines
				<ul style="list-style-type: none"> • Proportion of disease cases detected and cured (e.g. tuberculosis*) • Incidence of substance abuse (e.g. drug, alcohol, chemical and psychoactive substance) 	<ul style="list-style-type: none"> • Proportion of disabled and mentally challenged persons accessing public/social institutional services • Share of public expenditure on essential medicines met through international aid
Outcome indicators	<ul style="list-style-type: none"> • Proportion of live births with low birth-weight • Perinatal mortality rate • Maternal mortality ratio* 	<ul style="list-style-type: none"> • Infant and under-five mortality rates* • Proportion of underweight children under five years of age* 	<ul style="list-style-type: none"> • Incidence of deaths/diseases/injuries caused by unsafe natural and occupational environment 	<ul style="list-style-type: none"> • Prevalence and death rates associated with communicable and non-communicable diseases (e.g. HIV/AIDS, malaria, tuberculosis*) • Prevalence of disability/proportion of mentally challenged persons • Life expectancy at birth/age one/health-adjusted life expectancy • Suicide rates 	
