“This will be a frank and constructive dialogue” began the chair of the committee that monitors the International Convention on Economic, Social, and Cultural Rights (ICESCR) as he opened the session with Turkey in May 2011. He was speaking to the six representatives from Turkey who sat together behind a raised desk at the front of an elegant room in the Palais Wilson in Geneva, overlooking the lake and the Swiss Alps beyond. One committee member, an independent expert from one of the signatory countries, commended Turkey for its detailed report and for following recent guidelines on report writing. After this beginning, however, he and the rest of the 18-person committee spent most of the nine hours of the hearing peppering the Turkish delegation with questions. Some were quite pointed. Many used the statistics provided in the country report. For example, one member asked: “Why do you have no laws on discrimination against minorities, particularly the Kurdish minority? The Turkish statistical office says that the Kurdish region has a lower proportion of women who work, higher maternal mortality rates, and lower health indicators than the rest of the country.” Many asked for more statistics, disaggregated by gender, race, urban/rural residence, and other possible grounds for discrimination. For example, one expert noted that the report says that two-thirds of households have modern sanitation, but what about special populations, such as the disabled and the elderly? Another expert asked for data on mental health disaggregated by year to see if there has been an increase or a decrease. “Data by themselves we can’t monitor,” he said. “We need the differentiation.”
This dialogue raises a fundamental question about the rise of indicator culture. How does the recent turn to measurement affect the way human rights work in practice? What kinds of indicators are used for human rights monitoring and who is developing them? What are the debates within the human rights field about the use of indicators? How do they change the way rights are conceptualized and monitored? Many human rights lawyers, activists, and academics are working to develop indicators for monitoring human rights performance by states, hoping that they will increase state accountability and the authority and efficiency of the human rights monitoring system. Theoretically, since human rights are based on universal norms articulated in conventions, they are amenable to standardized measurement. The committees (called “treaty bodies”) that check states’ compliance with human rights conventions are tasked with evaluating state performance against these universal standards. However, in other ways human rights analysis and monitoring is deeply incompatible with indicators, particularly composite indicators that assign single numbers or ranks to the aggregate performance of a country.

Indicators offer help with two of the major challenges treaty bodies face: acquiring accurate information on state compliance and translating the broad, often vague terms of the treaty into specific policies, programs, and outcomes that make sense in the particular context and history of a country. Treaty bodies need information on country performance that is reliable, extensive, and applicable to the requirements of the treaty. If governments provide systematic, accurate data on their programs and policies and disaggregated statistics about the conditions of a variety of vulnerable populations, it is easier to assess compliance. However, the treaty body is largely dependent on the country itself and its report for information that allows it to assess state performance. Treaty bodies also look at reports from civil society, called “shadow reports” and hold sessions where national and international NGO representatives can
offer information. They receive reports from UN agencies and other intergovernmental bodies as well as academics and the press. The Committee on the Rights of the Child, for example, receives substantial support from UNICEF and its major international survey, the Multiple Indicator Cluster Survey (MICS). MICS surveys are carried out by UNICEF in conjunction with states in part to assess performance with relation to the terms of the CRC. Nevertheless, there is a continual struggle between the demands for information that a treaty body needs to assess performance and the information that a country is able or willing to share.

Indicators offer an appealing solution. Systematized information disaggregated into categories that are important to human rights monitoring, such as gender, race, poverty, and disability, enable committees to see if there is discrimination that states need to address. Data on the number of cases of torture, trafficking victims, or extrajudicial killings are valuable to assess compliance with civil and political rights. Providing data on a set of pre-established indicators makes the process more streamlined and efficient. It also enhances the authority of the treaty body by reference to facts and scientifically generated knowledge. Moreover, indicators specify the terms of human rights treaties. Treaties are often written in broad terms rather than articulating specific requirements. Developing indicators enables a treaty body to set clearer standards for compliance with a convention.

However, some in the human rights community have resisted the use of indicators. Many civil and political rights are very difficult to count and measure. States that engage in widespread torture or extra-judicial killing rarely keep careful records of this behavior, nor is there global consensus on what torture is. Numbers are not determinative. One tortured person is enough; one extra-judicial killing is a violation. There is no need to count and measure.
The human rights community is deeply ambivalent about the value of indicators for measuring human rights. A recent study of human rights measurement reports significant efforts over the last thirty years by human rights NGOs, political scientists, and UN agencies to develop tools for measuring human rights using events data, survey data, standard-based assessments, and administrative data (Landman and Carvalho 2010). Since the 1970s and 1980s, academics and NGOs have built popular indicators for political and civil rights. Prominent examples include Freedom House, established in 1941 and providing annual measures of “Freedom in the World,” that score countries as Free, Partly Free, and Not Free (www.freedomhouse.org), the Political Terror Scale (www.politicalterrorscale.org), started at Purdue University in the early 1980s and adopted from the “political terror” scale in the 1980 Freedom House Yearbook (Wood and Gibney 2010: 398), and the Cingranelli-Richards Human Rights Data Set (CIRI) (www.humanrightsdata.org, 6/15/11), an NGO initiated in 1994 at the State Univ. of New York/Binghamton (Cingranelli and Richards 2010: 404; see Landman and Carvalho 2010) . The latter two both take narrative annual reports from Amnesty International and the US State Department Country Reports on Human Rights Practices and code them. Both focus on civil and political rights. More recently, Fukuda-Parr, Randolf, and Lawson-Remer have developed the Economic and Social Rights Fulfillment Index to measure economic and social rights. The index combines sub-scores for six core rights (right to health, education, food, housing, social security, decent work) and sums these into an aggregate score, then produces a measure that links performance to state capacity, recognizing that poorer states can do less for their populations. Thus, it provides a rigorous way to monitor state compliance with the core economic and social rights using the rubric of “progressive realization” (Fukuda-Parr 2011: 84; Fukuda-Parr et. al. 2009; Randolf et. al. 2010).
Despite such accomplishments, some think there should be more. In 2005, Michael Ignatieff, a leading human rights scholar, bemoaned the lack of attention to measurement systems for human rights in comparison to burgeoning efforts to measure phenomena such as democracy, governance, corruption, and freedom by organizations such as the World Bank and the UNDP (Ignatieff and Desormeau 2005). He advocated stronger efforts. In 2005, he organized a major conference on human rights measurement at Harvard University that brought together 55 civil society and academic leaders in the human rights field. Activists at the conference recognized that numbers and ranks catch greater attention from the media, publics, and policy makers than do narratives and that they contribute to naming and shaming.

Yet, some participants worried about developing a composite human rights index that would provide oversimplified, imprecise measurements and rank countries in ways that could obscure their differing relations to human rights by using a single score (Carr Center 2005: 27-29). Participants expressed concern about the usefulness of a single number for the broad array of human rights, the difficulty of weighting and combining various human rights given their incommensurability, and the importance of considering the significance of particular circumstances in each country (Holland 2008: 1-2). There have long been criticisms of the difficulties of comparing one kind of violation against another or of merging them and losing the specificity necessary for action against any one kind of violation. Some human rights advocates worry about the lack of accurate, valid, and reliable data, the use of inappropriate proxy measures, and the problem of political resistance to ranking among countries (e.g., Barsh 1993; Landman 2004).
Efforts to promote indicators of human rights compliance confront resistance by states. Many countries are concerned about mechanisms that compare and rank them on the basis of their compliance with human rights. For example, when the UNDP ranked states on the basis of their human rights performance in the 1991 Human Development Report, it came under strong criticism for its methodology and its neglect of cultural difference (Landman 2004: 923; Barsh 1998: 87 – 89.) Since treaty bodies and the UN generally depend on funding by states, they face constraints when they wish to adopt strategies that states strongly oppose. Thus, indicators are increasingly advocated and used in human rights monitoring, but not without opposition.

This chapter argues that using indicators for human rights monitoring faces several obstacles. First, since the treaty body system is made up of separate treaties with committees deeply committed to the full set of obligations of each one, it is difficult to select a small, workable number of indicators and neglect the rest. Second, treaty bodies are largely dependent on countries to build indicators even if they specify the definitions. Third, countries resist comparison and ranking, even though this is the technology that has the widest audience and appeal. Human rights advocates are also reluctant to use the simple, ahistorical, and decontextualized scores produced by composite indicators. Fourth, the treaty bodies are unable to impose penalties or rewards on the basis of country performance on indicators beyond issuing public comments of praise or critique. In practice, treaty bodies are increasingly using indicators to specify the obligations of the treaties and encouraging countries to use statistical data, but primarily counts and ratios. As the rest of this chapter shows, it is unlikely that the type of indicator that has been most successful in garnering public attention – the composite that simplifies, allows ranking, and attaches consequences to performance – will be widely used by countries or treaty bodies in the near future.
**Information and Human Rights Monitoring**

At the center of human rights monitoring is a set of human rights treaties and committees whose task is to examine to what extent countries are complying with the terms of the treaties they have ratified. The system of human rights conventions developed after 1969 is a multilateral treaty regime with expert committees authorized to receive periodic reports from ratifying countries about their performance with relation to the conventions. Monitoring involves both hearing individual complaints sent to the committees for each convention and receiving and commenting on periodic reports filed by countries that have ratified these conventions. Treaty bodies hold hearings to discuss and respond to country reports, issuing concluding comments indicating areas of progress and problems yet to be resolved. During the 1980s and 1990s, treaty bodies developed their jurisprudence and working methods, gradually claiming more power and critical voice with relation to the states parties they were monitoring. Particularly during the post-Cold War period, treaty bodies were able to be slightly more critical of state performance. For example, since 1992 the Human Rights Committee has issued concluding observations that sometimes express the committee’s “concern” or “deep concern” about state actions (eg., Kretzmer 2010: 30).

Treaties cover a wide range of civil, political, social, economic, and cultural rights as well as the special situation of vulnerable groups such as racial minorities, women, children, migrants, and the disabled. The fundamental principles of all the treaties are equality, non-discrimination, and protection of human dignity. A basic tenet of the human rights system is that the set of rights delineated in these conventions are interconnected and must be considered together.
International human rights law is a system of multilateral treaties, in which states commit themselves to the terms of a treaty by ratification. Most treaties are ratified by 150 or more states out of a total of 193 (as of July 2011). The first treaty to come into force was the Convention on Racial Discrimination (CERD) in 1969, whose treaty body was created the same year. The Human Rights Committee to monitor the International Convention on Civil and Political Rights (ICCPR) was formed in 1976, the committee to monitor the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1982, the committees for the Convention against Torture (CAT) and the Convention on Economic, Social, and Cultural Rights (CESCR) in 1987, and committees for the Convention on the Rights of the Child (CRC) in 1990, Migrant Workers’ Rights (MWR) in 2004, and the Convention on Rights of Persons with Disabilities (CRPD) in 2009. As of 2011 there were nine treaties in force with eight committees in operation.

After countries submit their periodic reports, they appear at a treaty body meeting in New York or Geneva to present the report and answer questions from the committee. Committees consist of 10 to 23 members who are individual experts and do not represent their countries of origin, although they are chosen to be geographically representative. Experts are elected for four-year terms and participate in meetings of two or three weeks twice or three times a year. They are chosen on the basis of their expertise in the sphere of the treaty. They receive expense money but little or no salary. Some are academics, some have civil society experience, and some work for governments, often in the foreign service.

States that ratify human rights conventions voluntarily consent to the terms of the treaty, but retain their sovereignty. They have the option of not ratifying some of the terms of the treaty that they do not wish to accept at the time of ratification. Once a country has ratified a
treaty, however, it expected to adopt it into its domestic legal system. This does not always take place. Despite the parallels between national and international law, international law lacks some of the direct enforcement capacity of national law even though it exerts a similar moral and ethical power. The treaty body process is, consequently, a dance between the power and influence of the international legal order and the claims to sovereignty of nation states. Lines of power are ambiguous and the authority of the committee is always subject to question. Sovereign states voluntarily subject themselves to public scrutiny and critique by a small, international group of individuals whose primary commitments are to the treaty itself, yet they sometimes resist this control. Although the exercise is intended to be a “constructive dialogue” and the treaty body does not render enforceable judgments, it does criticize states that have a poor human rights record. Yet the treaty body’s arsenal is largely persuasion and a country’s desire to maintain a good reputation for protecting human rights. Domestic organizations and actors play a critical role in promoting state compliance (Simmons 2009). The tense contestation over authority and control in the treaty body process is a central feature of the process of monitoring state compliance with international human rights law. The hearings themselves, while very important in substance, sometimes become very detailed and tedious.

Information is the heart of the process. Ratifying countries are required to report their compliance with the terms of the treaty to the treaty body on a regular basis every four or five years. They satisfy this obligation through a country report that runs to one hundred pages or more. The treaty body assesses the country’s compliance with the treaty and issues a statement concerning areas where a country is doing well and areas that need further effort. In David Kretzmer’s study of the development of the Human Rights Committee, he argues that one of its main accomplishments is creating accurate records of state parties’ compliance with the ICCPR
Yet, the treaty body is largely dependent on the country to provide information about its performance. Most treaty bodies invite reports and participation from NGOs and receive some information from other UN agencies. They also rely on the knowledge of committee members, theoretically chosen on the basis of their expertise in the treaty. Since experts are selected to be geographically representative, some come from the same region as the reporting country and have regional knowledge. By and large, the details of a country’s compliance with its legal obligations such as providing access to food, housing, health, or protection from torture come from the country itself. The committees see their task as evaluating compliance with legal standards based on the data presented, not on checking the quality of the data itself. The treaty body looks for problems that require state attention, usually focusing on vulnerable and marginal populations, while most countries endeavor to provide the most favorable account of their performance they can.

These are opposing goals, often leading to distrust (see Rosga and Satterthwaite 2009). In order to hold countries accountable, the treaty body needs reliable and extensive information. To avoid scrutiny and criticism, a country needs to withhold damaging information. Thus, acquiring accurate and relevant information is at the heart of the struggle over human rights monitoring. The treaty body cannot compel countries to provide accurate and relevant information, but they can undermine a country’s reputation as a human rights-respecting nation. In order to win that reputation, a country has to make some effort to provide information. In this delicate dance, the production and analysis of information takes center stage. It is hardly surprising that indicators appeal to at least some treaty body members. Indicators offer a possible solution to the need for accurate information in order to make judgments in this highly contested space. Indicators promise to enhance control through a technology of information.
Over the last thirty years, as the human rights legal system has matured, treaty bodies have constantly grappled with this problem of knowledge. Since the early 1990s, human rights scholars and treaty body members have advocated greater reliance on indicators, primarily in the area of social, economic, and cultural rights rather than civil and political rights. Many of the treaty bodies routinely request statistical information, disaggregated into relevant categories such as gender for the convention on women (CEDAW) and age for the convention on the rights of the child (CRC). The committee monitoring the International Covenant on Economic, Social, and Cultural Rights (ICESCR) asked for indicators in 12 of its 21 General Comments written between 1989 and 2009. Health, food, education, and social security are phenomena long subject to measurement, so it makes sense that indicators moved into human rights along this path. Committees working on discrimination against the rights of subgroups such as racial minorities, women, and children have also advocated using indicators. The Convention on the Rights of the Child (CRC) General Comment 5 asks for indicators, for example (Scheinin 2005: 13). Most of these indicators are simple ratios such as maternal mortality or rates of school enrollment disaggregated by gender and ethnicity rather than a composite human rights index. The Human Rights Committee that monitors the Convention on Civil and Political Rights (ICCPR) has been far less active in developing indicators and even in recent meetings, rarely refers to them. Of the 31 General Comments on ICCPR, for example, only two ask for statistics in state party reporting (Scheinin 2005: 14). In its concluding observations, CERD has often said that the number of complaints does not necessarily reflect the absence of a problem of ethnic discrimination (Scheinin 2005: 14). Since 2005, the OHCHR has worked with experts to create a more simplified and elaborate composite set of what are referred to as “illustrative indicators” (UN International Human Rights Instruments 2006, 2008). Recommendations to use
these indicators appear in the 2009 harmonized reporting guidelines for CESC and in the 2010 guidelines for the Human Rights Committee and the committee for the Convention on the Rights of People with Disabilities. Most of the treaties’ reporting guidelines advocate the use of disaggregated statistics.

Not only do indicators improve accountability by providing more systematic and relevant information, but they also allow treaty bodies to attach more specific obligations to the often vague terms of the treaties. Indicators operationalize the treaties by translating its general terms into specific requirements. For example, CESC articulates a right to adequate food, but does not specify how much food, of what kind, or how it is to be distributed and by whom. It defines rights to food, clothing, and housing this way:

Article 11: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of the right, recognizing to this effect the essential importance of international cooperation based on free consent.”

The CESC committee has issued a series of General Comments to specify further the meaning of these obligations, which serve as the basis for creating indicators for each human right. For example, General Comment 12 on the right to food (1999) takes steps to define the right:

“The most appropriate ways and means of implementing the right to adequate food will inevitably vary significantly from one State party to another. Every State will have a margin of discretion in choosing its own approaches, but the Covenant clearly requires that each State party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food. This will
require the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks. It should also identify the resources available to meet the objectives and the most cost-effective way of using them.” (p. 6).

Scholars working to develop indicators for these rights suggest using proxies to measure their implementation, such as daily per capita supply of calories and other nutritional rates for the right to food, literacy rates and educational attainment broken down by gender for the right to education, and under-five mortality rates and the number of doctors per capita for the right to health (Landman 2004: 925). While civil and political rights are harder to measure, Landman suggests proxies such as investment in prison and police reform, processing of cases, and funding of the judiciary to assess state commitment to civil and political rights (2004: 926). Obviously, such proxy measurements provide far greater specificity to the treaty obligations but focus on a few measures while neglecting many other dimensions of the right. The OHCHR project on indicators takes this approach farther, proposing a variety of specific measures for each right. For example, outcome measures for the right to food include: “Prevalence of underweight and stunting children under five years of age,” “Number of recorded deaths and incidence of food poisoning related to adulterated food,” and “Average household expenditure on food for the bottom three deciles of population or targeted population” (UN Docs, OHCHR 2008: 24).

Indicators also translate the general terms of the treaty into appropriate expectations given the specific histories, conditions, and resources of each country. Countries differ greatly in their resources and institutional capacity to protect and promote human rights. Treaty body experts do not expect Sudan to provide the same level of education to its people as Switzerland,
for example, but they do ask both countries to work on improving their educational systems and to avoid discrimination against particular populations such as women, the rural poor, or ethnic minorities. Regardless of a country’s wealth, it has an obligation not to torture its members or to discriminate against racial minorities in its laws. Using indicators to translate the broad expectations of human rights treaties into specific state obligations facilitates monitoring. Indicators can be used to specify programs, policies, and outcomes that make sense for a particular country given its level of development and history, whether for badly treated minorities or inequalities in the position of women. Experts seek indicators on the condition of the Roma in Eastern Europe, for example, whether or not they appear in the country report. Finally, by using apparently objective, scientifically produced statistical data, treaty bodies can enhance their authority in rendering judgments about human rights compliance (see Rosga and Satterthwaite 2009: 289-293). Judgments are typically expressed through concluding comments, which provide the committee’s assessment of each country’s level of compliance with the terms of the treaty. Quantitative measures facilitate assessment of country effort and comparisons over time. They strengthen the authority of the treaty body, but at the cost of antagonizing countries.

Indicators as a technology of knowledge production do not fit easily into human rights monitoring. In many ways, treaty body monitoring is a tantalizing but difficult site for indicator use. Although treaty bodies use indicators to control more powerful states, states resist this control. They fail to provide indicators or offer ones that are not adequately disaggregated. Indicators provide a technology of power but not one divorced from other relations of power. Governance by indicators is more difficult when a weaker party mobilizes them to control a stronger party than when a stronger party uses them to control a weaker one. It is less effective when the monitor cannot itself connect the data to the indicator to produce charts and ranks.
Human rights monitoring by treaty bodies is a situation in which the monitor is less powerful than the subject of scrutiny and dependent on the governed for the information it requires. The monitor seeks to hold the country accountable, but does not have the power to enforce compliance or withhold resources. Instead, treaty bodies must rely on persuasion and threats to a country’s reputation.

The power of the treaty body *vis a vis* any state varies with the state’s vulnerability to international pressures such as aid and trade and domestic pressures within a country that might use a treaty body’s report to mobilize opinion. The international setting can provide a space for NGOs to challenge their governments, and may exert pressure on some states, particularly those with active civil society, but the treaty body’s ability to exert power over states is highly indirect and contingent. As Beth Simmons shows, countries with partially democratic transitional regimes are more vulnerable to domestic human rights mobilization than either stable autocracies or stable democracies (2009: 153). Without reliable information about a country’s performance with relation to its treaty obligations, however, the committee can do little. Consequently, most of the discussion during the treaty body hearings consists of requests for further information, which the government delegation duly provides at least to some extent. Some questions are not answered and much of the requested data, disaggregated by race, gender, age, disability, and other criteria necessary to highlight the situation of vulnerable groups, is not even available.

Moreover, as the overview of successful indicators in the second chapter shows, those produced by a single institution tend to be more coherent and usable than those produced by a collection of actors or institutions. The treaty bodies cannot easily produce uniform indicators for all treaties since each one prizes its autonomy and is committed to the particular terms of its treaty. An effort by the High Commissioner of Human Rights to create a unified, standing
treaty body in 2006 met strong resistance from the individual treaty bodies and was replaced by an effort to streamline reporting procedures (UN Secretariat 2006; Riedel 2011: 589). Although they have since worked to harmonize their working methods, they have not instituted a universal system of indicators nor have all agreed to require them in their reporting guidelines (UN Working Group on the Harmonization of Working Methods of the Treaty Bodies 2006; UN Secretary General 2009). Some of the treaty bodies are far more enthusiastic about indicators than others. The Committee on Economic, Social, and Cultural Rights has taken the lead on indicator development and promotion, while the Committee on Torture and the Human Rights Committee have been far less interested. Martin Scheinin’s examination of indicator and benchmark references in general comments and concluding observations of the six major human rights treaties shows that three of the treaty bodies, CESCR, CEDAW, and CRC, have been far more active in the use of indicators than the other three, HRC, CAT, and CERD (Scheinin 2005: 8). Moreover, indicators sponsored by a powerful institution that uses them to impose consequences have greater influence. The US State Department Trafficking in Persons rankings, for example, expresses a single, coherent perspective promoted by one institution and imposes sanctions on states that rank poorly. In contrast, the treaty bodies have no resources to offer or withhold from monitored countries.

Thus, establishing indicators for human rights monitoring is attractive but hard. Despite indicators’ appeal in holding governments accountable and articulating the universal standards of human rights treaties, it has proved difficult to generate a uniform set of human rights indicators. Moreover, given the lack of political and coercive power of the treaty bodies, powerful actors sometimes fail to use requested indicators. The rest of this chapter examines the process of
Creating human rights indicators and their dissemination to countries and treaty bodies. First, however, it is important to disaggregate indicators into their distinct types.

**Three Orders of Indicators**

As discussed in chapter 1, indicators can be roughly divided into three orders, in a framework building on Michael Power’s distinction between first and second order numbers (1999). As numerical representations, indicators range from simple counts of events or people to ratios to composites with greater interpretive depth and theoretical elaboration. First order numbers are counts, as in population censuses or counts of unemployed workers or racial minorities. They are interpreted to the extent that they are organized into categories. Racial categories, for example, are classifications based on socially defined collections of individual traits. They vary in different contexts. Through the process of classification, naming, and counting, the categories become fixed and often naturalized. Bowker and Star show how widespread such classificatory systems are, and how often they are ignored or naturalized rather than understood as systems of ordering that shape the way people understand their worlds (1999). Yet, these systems are creations of particular actors who develop cultural categories by which others order their worlds.

Second order numbers are ratios or percentages, such as maternal mortality, years of expected schooling per person, GDP per capita, or incidents of intimate partner violence per woman in a relationship over 12 months. These are essentially counts described in relation to other counts. However, they incorporate more interpretive work than do simple tabulations and make possible comparisons across countries. While it is hard to do a meaningful comparison of
the raw number of maternal deaths among countries, it easy to compare rates of maternal death per birth. Ratios depend on the categorizations already created for first order numbers.

Third order numbers are composites made up of multiple data sources blended together and weighted to produce a single number or rank. They use different sources of data on the same thing and data on different characteristics merged into a single index or number. For example, the Human Development Index combines health, education, and income into a single score. The Doing Business Index relies on ten distinct measurements. The World Bank Global Governance indicators combine six aggregate indicator-sets that reflect different dimensions of “good governance”: control of corruption, rule of law, voice and accountability, government effectiveness, political stability and absence of violence, and quality of regulation. Composite indicators define a concept, such as rule of law, and join multiple measures which are sometimes of quite different things. It then merges them into a single score, tier, or rank.

Clearly, there is a tradeoff: the simpler the end product, the more easily it is understood and digested and the greater its impact but the less well it reflects various facets of what it claims to measure. First or second order indicators are closer to the phenomena they claim to measure and require less interpretive work. GDP per capita, for example, depends on developing a concept of gross domestic product and an interpretive framework that emphasizes average income rather than variations in income per person. Composite indicators define more complicated concepts such as “human rights performance,” “human development,” or “freedom.” They make significant theoretical claims based on substantial interpretive work. When a composite indicator attaches a concept such as “rule of law” to a series of measurements, it defines which concepts are relevant, how they are weighted in relation to each other, and what data sets should serve to measure these concepts. In other words, the indicator incorporates a
theory about the rule of law. If composites are then presented in an ordinal or ranking system, the indicator defines a scale of variation and locates particular countries or organizations on that scale. Composites offer a good deal of information packaged together in a convenient way. They permit broad comparisons using scores, tiers, or ranks. When they are arranged in a ranked hierarchy, composite indicators are a zero/sum game in which one country’s advance produces another’s decline.

An example of the use of different orders of indicators comes from the New Zealand country report to the CESCR committee, 17/1/2011. The report discusses family violence in two ways:

“292. In the calendar year 2006, the Police recorded 38,369 family violence related incidents, and 32,675 family violence related offences, making up a total of 71,044 family violence-related occurrences. In 2005, 29 of the 61 murders were recorded as domestic violence-related, and in 2006, 16 of the 49 murders.

293. Women and children are far more likely to be victims of family violence. For example, 92 percent of the applicants for protection orders were female. In 2005, there were 7,924 children involved in the 4,545 applications for protection orders. Women’s Refuge provided services and programmes to 12,161 children in the year 2005/06. Most of these children will have witnessed violence, and some will have been subjected to violence directly.”

Clearly, most of this data is simple counts, making meaningful cross-national comparisons or time comparisons impossible. On the other hand, there is one ratio, the percentage of requests for
protection orders that came from women, which does permit comparison both with male victimization and with other countries.

Treaty bodies use first and second order numbers—counts and ratios—widely, but rarely employ composites. There are sometimes references to the HDI by countries or treaty bodies. The reporting guidelines for CESCRO asks countries to provide “Statistical data on the enjoyment of each Covenant right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis over the past five years.” (UN Committee on Economic, Social, and Cultural Rights 2009: Annex to 2008 Guidelines E/C.12/2008/2, 24 March 2009, 3). The 2009 harmonized reporting guidelines for ICCPR, CRC, CEDAW, CAT, CERD as well as the guidelines for CRDP and MRW use similar language to request statistics from countries in their periodic reports (UN Secretary General 2009: HRI/GEN/2/Rev.6).

There are features of indicators, particularly composite indicators, which run counter to human rights thinking. Indicators use universalistic categories that allow commensuration, permit comparison and ranking, focus on discrete actions instead of a holistic analysis, and ignore context and history. They emphasize some criteria for measuring rights to the neglect of others. Indicators can only describe things that are measurable. Some things are easier to count than others, for example maternal mortality versus health. Composite indicators are particularly challenging, since they define a complex concept in simple terms and focus on a few issues to the neglect of many others. None are viewed in context. They are based on universal features rather than tied to the circumstances of a particular country. Ironically, it is the composite indicators that rely on technologies of simplification and ranking that are the most powerful and influential, yet this is the technology that most treaty body members and countries reject.
In practice, the human rights system is torn between reliance on two forms of information: decentralized, complex and contextual information and highly focused, standardized, and quantitative information. On one side is the human rights system’s strong commitment to a holistic perspective on human rights and its insistence on the inextricable connections between civil and political rights and social, economic, and cultural rights. Issues of inequality and discrimination are understood as the result of larger social structures. Treaty bodies consider states one at a time, probing state performance in light of a state’s economic condition, political and legal structure, population characteristics, and history. They resist ranking and comparing states, while states themselves do not want such comparisons made. As central actors in a system of law, the treaty bodies delineate the legal duties of ratifying states and assess to what extent state performance fulfills these duties. Most treaty bodies have issued general comments or recommendations that seek to clarify and specify the more abstract obligations of the treaties. They seek to make broad obligations, such as providing adequate housing, more specific. A composite human rights indicator offers a general picture of state performance but sacrifices the specificity necessary for legal action against perpetrators (Landman 2004: 923). On the other side, there are clearly ways that the increased use of indicators is attractive to those seeking to improve state accountability and enhance human rights compliance.

The tradeoff between a simple, commensurable indicator and a comprehensive, contextualized picture of human rights performance is a major sticking point. Any single indicator of human rights compliance will inevitably neglect issues that human rights proponents view as important. An overall measure cannot adequately reflect state performance on actions as diverse as providing universal primary education and avoiding torture. Data is too often
unavailable or unreliable. Despite these tensions, there have been continual efforts to develop human rights indicators, even though it is difficult to develop a scheme that is systematic and universal at the same time as it is holistic and individualized. In general, those that endeavor to represent the holistic and contextual nature of human rights have been very complicated and difficult to use while those that are simple and accessible neglect an unacceptable range of specific violations and contextual factors.

**The Cost of Human Rights Monitoring**

Human rights monitoring by treaty bodies confronts serious challenges of time and resources. The process is slow and expensive. Treaty body meetings are costly, given the need to translate long documents into several languages and provide expensive simultaneous translation. They require extensive time spent reading reports and preparing queries. States also bear a growing burden of preparing reports and participating in meetings as the number of treaties grows and the expectations of information increase. Finding a way to streamline the presentation and analysis of data would clearly be beneficial for both states parties and treaty bodies. Since the system began, problems of cost and efficiency have increased. The first treaty body began its work in 1970, most were formed after 1980, the first meeting of chairpersons of human rights treaty bodies was in 1984, and the chairpersons have held an annual meeting since 1994. The problem worsened in the 2000s with the emergence of new conventions and optional protocols.

As early as the 1980s, systemic problems in the monitoring process were emerging. In the 1980s, the Secretary General appointed an independent expert, Philip Alston, to explore ways
of enhancing the long-term effectiveness of treaty bodies. Alston produced a series of reports during the late 1980s and early 1990s and sent a final one to the Commission on Human Rights in 1997. This report documents a series of problems: reports are overdue or never filed, committees are falling behind in hearing them, ratification of the human rights conventions is still not universal, and additional resources for follow-up and extended meeting times are unavailable. Alston’s report describes a backlog of reports so large that countries that report may wait up to three years to have their report heard. During the 1990s, the problem only got worse (1996: 12-13). He concluded that the treaty body system in its present form is “unsustainable” (Alston 1996 (E/CN.4/1997/74: 28). A subsequent report also highlighted problems of lack of ratification by many countries, large numbers of reservations by those who did ratify, and overdue or missing reports (Bayefsky 2001).

These problems have inspired a series of reform proposals. Alston’s report included several suggestions including providing more assistance to states in preparing reports, submitting consolidated reports for more than one treaty body, and consolidating the treaty bodies (Alston 1996 (E/CN.4/1997/74: 26-28). The Secretary General’s second reform report in 2002 called on treaty bodies to develop a more coordinated approach and to allow each state to produce a single report for the full range of human rights treaties it has signed. In his 2005 report, In Larger Freedom, the Secretary General emphasized the need to strengthen the monitoring, implementation, and visibility of the treaty body system and called for harmonized guidelines on reporting so that the treaty bodies can function as a unified system (UN Secretary General 2005: 38). In 2006, the High Commissioner of Human Rights proposed a more radical solution: creating a unified standing treaty body instead of the then seven separate treaty bodies (HRI/MC/2006/2). At that point, the problem of overdue reports and the backlog of unheard
reports was worse than in the late 1990s. As of February 2006, only 8 of the 194 states that had ratified one or more treaties were up to date with their reports, and the remaining 186 states owed 1,442 reports (HRI/MC/2006/2: 7). However, if these reports were presented as required, the treaty bodies would not be able to hear them for years. The High Commissioner noted that the treaty body system faced several problems: an inconsistency in working methods and reporting guidelines among the committees, a lack of visibility of the treaty body process, a lack of authority of the committees, a lack of information on which to assess compliance, an absence of follow-up, the need for greater efficiency in processing reports, and increasing costs of the system in the face of limited resources. After detailing these difficulties, the High Commissioner of Human Rights proposed the creation of a single, unified treaty body. However, this proposal encountered strong resistance by treaty bodies and has been dropped.

More recent studies indicate that problems continue. In 2010, a report by the Open Society Justice Initiative pointed out the low levels of compliance with treaty body recommendations and individual complaints (Baluarte and DeVos 2010). An initiative on treaty body reform by the High Commissioner of Human Rights in 2009 addressed problems of fragmentation, overlap, inconsistent procedures among treaty bodies, a lack of visibility of treaty body actions, and weak implementation systems, among others. The 2009 Report of the UN High Commissioner for Human Rights on the Implementation of Economic, Social, and Cultural Rights concluded that it is important to develop tools to assess the measures states adopt to implement rights and their results and progress over time (UN Office of the High Commissioner of Human Rights 2009: paragraph 34). The report sought ways to make the collective treaty monitoring process more coherent, coordinated, and effective, more streamlined and focused.
Although many of these difficulties could be resolved by increasing resources for the treaty body system such as more meeting time and additional rapporteurs or staff to engage in follow-up, a lack of resources continued to plague the system in the 2010s. By the early 2010s, efforts at treaty body reform focused on harmonization among the treaty bodies and working toward submitting the same report to more than one treaty body. However, problems of too many overdue reports, too long a backlog of reports delivered but not deliberated, too many individual communications to handle quickly, and an overall lack of resources for staff support, follow-up, and handling of petitions remained. There is continuing talk of reform, even as some of the force of human rights reporting and implementation has shifted to the new system of Uniform Periodic Review, or UPR, before the Human Rights Council.

At the same time, the burden on ratifying countries of preparing periodic reports has increased with the addition of two new treaties, more ratifications, and more extensive requests for information from treaty bodies. Reporting guidelines for each treaty delineate a wide range of issues that reports need to address. Treaty bodies continue to offer careful, thoughtful analysis of individual country reports, preparing sets of questions in advance on each country report targeted to the particular situation of that country and its human rights issues. As countries provide follow-up reports, there is a tendency to concentrate on recognized problems and seek improvement in them, to ask about specific policies that need to be reformed based on past reports, and to ask for quantitative information on particular dimensions of government performance. The general approach of treaty bodies is to gather information specific to a country and its government, evaluated against the rather broad standards articulated in the treaty and the somewhat more specific issues raised in general comments. As a form of knowledge production and judgment, the treaty body process assesses the actions of states in light of their specific
histories, situations, capacity and resources, and past efforts. They consider state actions through a lens of recognized state practices successful in promoting human rights.

Indicators offer another solution to some of these persistent problems of overload, underreporting, and the cost of a particularized monitoring system. An indicator-based process could increase efficiency and speed of processing and minimize the burden on states of preparing reports. It would streamline the process. Instead of producing long narrative texts, countries could simply indicate how they perform on the treaty’s indicators and monitor their own performance. The treaty body committees could read a short text bristling with indicators that would assess state performance along a series of agreed indicators that would allow them to evaluate how the country had performed in comparison to its last report. In the initial report on the OHCHR human rights indicators submitted to the treaty body chairs in 2006, the authors argued that quantitative indicators could help to streamline the process, enhance its transparency, make it more effective, reduce the reporting burden, improve follow-up to the committee’s recommendations and general comments, and increase accountability (UN International Human Rights Instruments 2006: 2). A member of the Human Rights Committee noted in 2011 that the OHCHR is continuing to push the use of indicators as a way to streamline the process, make it more uniform, and reduce its cost, although countries are not so interested in streamlining the process and are willing to wait for hearings.

Similar processes, using grades and test scores, facilitate making decisions about which students to admit to selective schools, while techniques of ranking schools on the basis of reputation, student/teacher ratios, and other criteria, make it easier for students to decide where to apply (see Espeland and Sauder 2007). Introducing indicators into the human rights monitoring process would decrease the focus on the specific violations of a particular country
and diminish the role of judicial discretion in determining which violations warranted attention. It would place greater emphasis on universal standards for all countries. Country representatives might not even need to appear, but could simply send in their rankings on the treaty’s indicators.

However, there would be significant losses as well. Countries would be treated as similar, or perhaps categorized into tiers for separate evaluation based on measurable characteristics such as size and wealth. Their particular histories, ethnic composition, legal system, dependence on foreign investment, and a whole host of other specificities, would be irrelevant. Flexibility would be lost. Judgment would be displaced from the treaty body members and their questions and concluding comments to the experts who created the indicators. Decisions about what is or is not important to consider would be made in abstract and general terms rather than in terms of specific performance of a particular country confronting a set of eighteen different people in the treaty body chamber. Thus, this process displaces the power to judge away from public discussion within a treaty body to an expert group that designs the indicator. The gain in efficiency comes at the price of public debate. It produces a more top-down process with less public consultation. The treaty body would take the role of an auditor, certifying that data was collected and presented, rather than judging performance itself (see Rosga and Satterthwaite 2009: 279-281). An indicator-based audit process emphasizes universal standards and commensurability instead of discretion and the craft of responding to particular circumstances. Thus, it appears more fair and even-handed, but by ignoring differences in capacities and circumstances, it risks applying equal standards to unequal countries. These are difficult questions. Yet, the pressures on the treaty body system will continue to increase the appeal of a system based more extensively on indicators.
The rest of this chapter traces the project of developing indicators for human rights

treaties. Although it focuses on the process initiated by the treaty bodies in 2005 when they
asked OHCHR to develop human rights indicators, the genealogy of this effort stretches back to
the 1980s. During this period, treaty bodies and human rights activists worked on indicators for
the right to education, adequate housing, water, food, health, and development (Welling 2008:
938 and interviews), but the OHCHR initiative was the first to attempt to establish a general
framework for human rights indicators applicable to many rights (Malhotra and Fasel 2005).

The idea of using indicators was largely speculative in the 1980s and early 1990s, but by the late
1990s, Paul Hunt, as Special Rapporteur on the Right to Health, had developed specific
indicators for the right to health. He encouraged the CESC committee to develop a series of
general comments defining these rights more carefully that then could become the basis for
articulating specific indicators. His efforts contributed to the emergence of a shared template for
human rights indicators.

Since the mid-2000s, there is growing interest in creating standardized international
indicators for all states (Welling 2008: 937). If states were tasked to produce standardized data,
it would help them to examine their own practices. With greater transparency and public
awareness of rights, there would be more public pressure on states to reform government
behavior (Welling 2008: 947). Standardizing the information provided by states parties would
increase efficiency in comparing data submissions among countries with similar levels of
development, between country and civil society data, and within the same country over time. If
indicators made state-to-state comparisons easier, states would be pressured to conform to
human rights norms and to produce better data. Standardized data sets would make all of these
comparisons more straightforward, simplifying the work of the treaty body and making it more
streamlined. Operationalizing the standards of the treaties exposes more clearly levels of compliance and reveals areas of deficiency. Thus, it improves implementation and compliance. Clearly, these benefits all would ameliorate the difficulties treaty bodies currently face.

Indicators promise to increase the quality of data, to shift the analysis of data to the countries rather than the treaty bodies, to develop greater national participation, and to show that the monitoring process is objective and scientific (Welling 2008: 940-2). These are some of the reasons leaders among treaty body members and the OHCHR, at the request of the chairs of the treaty bodies, embarked on an ambitious plan to develop a set of indicators for human rights.

The Genealogy of Human Rights Indicators

In order to understand the political dimensions of apparently objective measurements such as human rights indicators, it is necessary to do genealogy of their creation. The genealogical approach asks how the indicator has developed over time, which actors and institutions promoted and financed it, and how and when its features became settled. The broad terms of a standard must be converted into a series of measurable and named phenomena. Unless the indicator producer has funds to collect new data, it is necessary to locate existing data to serve a proxy for the concept that is being measured. There is a powerful tendency to build on existing frameworks, templates, and categories of measurement. Each system of measurement follows a distinct path of development, including a set of institutional sponsors, experts, and ways of gathering and categorizing data. Each has its own underlying view of the nature and causes of the phenomenon, its approaches to change, and its definitions of improvement. To do a genealogy of a measurement, therefore, it is essential to trace this trajectory, to consider the
proponents, the organizations behind it, their interests, goals, and cultural assumptions, and their intended audience. As Bruno Latour argues for science more generally, the creation of scientific knowledge is a social process shaped by networks of scholars, forms of support, citation practices, and institutional structures (1987).

Over time, indicators become settled and less open to change. Indicator frameworks, templates, and measurements generally begin with open discussion among alternative measurement strategies and forms of data, but over time become more established and certain. This process often takes two or three decades. As the indicator crystallizes and becomes naturalized, flexible categories and proxies become fixed and unchangeable. Contestation about its underlying framework, use of data, and categories of analysis becomes more difficult. At this point, critics often succeed only in adding a variable or an option to an established variable. Examples of radical reshaping of a mode of measuring a social phenomenon are relatively rare, although the shift from GDP per capita to human development is one case.

Measurements generally build on previous models and approaches, refining or expanding them or correcting recognized problems. Thus, the shape of any measurement system depends on the templates available to its developers and assessments of previous experience with them. This is a fundamentally pragmatic process in which previous experience is used to redefine present practice. It occurs within communities of expertise that have developed and assessed approaches to quantitative knowledge in general. Some issues seem settled and are not open to debate, while others require continuing efforts at refinement. Some of these debates concern classifications and measurement while others focus on what is to be measured and by whom. While this is generally understood as the difference between technical issues and political ones, both have political dimensions as well as concerns with technical accuracy and adequacy. In
practice, the technical and the political dimensions of indicator production are so interconnected that they cannot be separated. The development of survey data or indicators, for example, depends on experts and those with past experience. In the case of measuring violence against women, for example, countries that have carried out surveys of the phenomenon become models for other countries. Countries that have carried out their own surveys tend to be wealthy, industrialized ones. For example, a 2006 report on violence against women commissioned by the UN Secretary General notes that there have been dedicated national surveys in Canada, Australia, Finland, France, Germany, New Zealand, Sweden, and the US (2006: 57). However, violence against women is not generally part of official statistical data collection in most countries.

New efforts to measure phenomena tend to build on past experience. Countries that have carried out such surveys create the models for the next set of surveys. Those with experience become the experts who can direct the formation of the next set of indicators. Does this matter? Any process of indicator production foregrounds those variables and measurements that are viewed as significant and diagnostic and neglects others. It requires data sets that are either preexisting or must be forged through surveys or selection of administrative data. Yet, data collection efforts designed for one set of countries work differently in others with different systems of kinship, economic development, religious practices, and gender ideologies. For example, a survey of acts of violence developed in Europe may list threats with guns but not acid throwing or the refusal to return dowry at divorce.

Expert group meetings are the mechanism through which expertise based on education and experience is applied to new projects. The expert group meeting, or EGM, is a common technique for developing and refining measurement systems and indicators. Before the meeting,
the secretariat and the participants will prepare papers describing relevant research. The EGM is typically organized around a paper or table which summarizes previous work on measurement in the field, whether human rights violations or violence against women. This essay is often written by a researcher with an academic position. It surveys past work on the problem and offers suggestions for how to develop a survey or indicator. For example, in a 2007 EGM to develop measures of violence against women, the background paper was drafted by a sociology professor in the UK. After summarizing existing work, it proposed a series of variables that should be measured. The series of EGMs that worked on the OHCHR indicators discussed drafts of tables prepared by the OHCHR secretariat. EGMs typically consist of academics, representatives of governments with special expertise, such as members of statistical bureaus, members of human rights treaty bodies, representatives of UN specialized agencies such as UNIFEM or UNICEF and UN staff who organize the meeting and produce the final report. In the case of the OHCHR human rights indicators, many of the participants were human rights lawyers.

The creation of indicators for human rights compliance by UN treaty bodies followed a similar process (see Goonesekere 2004; UN Docs, International Human Rights Instruments 2006; Turku Expert Group meeting 2005). In each case, the first step is an expert report that looks at existing survey research, distills a set of questions and measurements and measurement strategies, and proposes a set of standards. The second step is a set of meetings over two or three years that brings together academic experts with representatives from UN agencies, governments, and NGOs to discuss the report and to offer individual country studies. The overarching framework is already set, but the indicator is now being groomed to travel. The third step is to settle on a set of items and pilot test them. The fourth involves some assessment about whether the data seems to fit into other forms of knowledge about these countries and how
it compares with other, similar indicators about these places (Kaufmann and Kraay 2007). If it seems quite divergent, there may be an effort to weight or adjust the findings. An indicator is based on substantial previous research and surveys and relies on past experiences with measurement techniques and research methods. Questions of reliability, ease of administration, and costs of data collection are very important. The goal is to produce a set of universal categories that are simple, easy and inexpensive to administer and quantify.

In the field of human rights indicators, it is possible to identify three phases of indicator development, each of which built on the earlier ones. During the first phase, in the 1980s, advocates developed a framework for human rights monitoring based on the framework of respect/protect/fulfill and national benchmarks and indicators. This idea was particularly popular in the CESCR, whose mandate is to encourage “progressive realization” of human rights. Benchmarks made it possible to measure accomplishment over time. The second phase, in the early 1990s, explored the possibilities of using indicators and statistical data (counts and ratios) for increasing human rights accountability. At the same time, countries were asked to provide statistics and to establish their own benchmarks for performance. In 1993, the Vienna Declaration and Programme of Action that concluded the World Conference on Human Rights advocated the development of indicators. “To strengthen the enjoyment of economic, social and cultural rights, additional approaches should be examined, such as a system of indicators to measure progress in the realization of the rights set forth in the International Covenant on Economic, Social and Cultural Rights (Hunt 2006a: 7).”

Yet it was only in the mid-2000s that efforts to create indicators really took off. This third phase included the OHCHR initiative to develop universal, standardized indicators for twelve human rights, linking civil and political with economic, social, and cultural rights. At the
same time, composite indicators were growing in importance in the development field, such as
the Human Development Index in 1990 and the Millennium Development Goals, in 2000. The
rest of this chapter describes this thirty-year incremental process of indicator construction.

The Development of the Respect/Protect/Fulfill Framework

As the treaty body system was being established in the 1980s, efforts to systematize the
reporting process focused on developing a framework for evaluating human rights compliance.
A framework structures knowledge. Once a new framework has been proposed, there is a long,
slow process of gathering support and consensus around that framework. In the 1980s, human
rights lawyers developed a framework for evaluating human rights compliance using the
concepts of respect, protect, and fulfill. In 1984, Van Hoof advocated four levels of state
obligations: To respect, which means that the state should not act in any way that would
directly encroach on recognized rights of freedoms an obligation of non-interference; to protect,
which goes further and forces states to take steps through legislation or otherwise which prevent
or prohibit others from violating recognized rights and freedoms, to ensure, which requires more
far reaching measures by the government which has to actively create conditions aimed at
achievement of a certain result in the form of more effective realization of recognized rights and
freedoms, and to promote, which is also designed to achieve a certain result but for more or less
vaguely formulated goals, and only progressively or in the long term (Van Hoof 1984: 106).
He joined with a subcommittee of the International Lawyers’ Association that included several
prominent human rights lawyers concerned about social and economic rights, including Asbjøren
Eide and Philip Alston, to use this four-part framework for the right to food.
Asbjoern Eide subsequently advocated a three-level typology of states’ duties, defined as duty to respect, the duty to protect, and the duty to facilitate or fulfill human rights. States were obligated to respect the human rights of their citizens, protect these rights against the activities of third parties, and fulfill their obligations to citizens to enjoy these rights and promote them. An edited collection elaborated this framework with relation to the right to food (Shue 1984: 85; Tomasevski 1984; Alston and Tomaševski 1984). With reference to the right to food, respect means non-interference with existing access to adequate food. States have a duty to refrain from measures that prevent access. Protect is the duty to ensure that enterprises and individuals do not deprive individuals of right to food. Fulfill refers to a positive duty to facilitate and provide, to actively promote and to strengthen people’s “access to and utilization of resources and means to ensure their livelihood, including food security.” (Narula 2006: 707-8, citing UN ECOSOC Sub-Committee E/CN.4/Sib/2/1987/23, paras 112-114 and quote from CESCR General comment 12, para 15). Applied to the right to health in General Comment 14 (2000), the framework defines the right as follows: “33. The right to health, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfill. In turn, the obligation to fulfill contains obligations to facilitate, provide and promote. The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health. The obligation to protect requires States to take measures that prevent third parties from interfering with article 12 guarantees. Finally, the obligation to fulfill requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health” (E/C.12/2000/4). Hunt notes that this framework is particularly useful to sharpen legal analysis of the right to health, including sexual and reproductive health, in national political and legal systems (Hunt 2004: 35).
One of the major objectives of the respect/protect/fulfill framework was joining social and economic rights and civil and political rights. The framework combines the negative duties of states not to interfere or discriminate with positive duties to provide. It clearly comes out of the legal tradition and was developed to delineate the variety of legal obligations of states. It was often referred to at the world Human Rights conference in Vienna 1993. It is still the dominant framework in human rights analysis, appearing for example in a new proposal for sexual and reproductive health (Roseman 2011) and as protect/respect/remedy for business and human rights (UN Human Rights Council 2011). It appears frequently in country reports and human rights documents and is used widely by UNFPA, UNICEF, WHO, and OHCHR.

By the early 1990s, there was growing interest in human rights indicators. A major conference on indicators was part of the preparation for the 1993 Vienna conference on Human Rights. It was inspired by a 1990 recommendation of the first Special Rapporteur on economic, social, and cultural rights, Danilo Turk, an international law professor from Slovenia, to develop indicators for economic, social, and cultural rights. The conference sought to develop “appropriate indicators to measure achievements in the progressive realization of economic, social, and cultural rights…” (UN Secretariat to the World Conference 1993: 6). The conference identified several useful roles for indicators: to measure progressive realization, to develop a method of determining difficulties or problems encountered by states, and to “assist with the development of “core contents” of economic, social, and cultural rights” (para 10, p. 8). Indicators could also assist in revealing the extent to which rights were and were not enjoyed in practice and “in providing a means to measure and compare performance of individual countries” (para 10 p. 8). Some thought indicators should not just focus on development but on the obligations of states to protect, respect, and fulfill human rights, on human rights violations
and compensation of victims (para15, p. 9). Some also hoped that indicators could address the lack of clarity of human rights concepts and build bridges between human rights-based indicators and development-based indicators (p. 9 para 16). Human rights indicators differ from development ones in their emphasis on disaggregation to reveal discrimination against disadvantaged and vulnerable groups (argued by Katerina Tomasevski in Chapman 2007b: 126; see also Chapman 2007a: 159). Many felt a “pressing need” to develop core indicators in economic, social, and cultural rights field “which would help to operationalize existing human rights standards.” (p. 29, para 133). Some hoped to capture “real life” with only four or five indicators while others worried about what issues would be left out and feared that this would mean rewriting the covenant at a lower level. “Extreme caution was expressed concerning the search for magic indicators as well as quantitative fetishism.” (Para 140. p. 30). Statistics were juxtaposed to judgment with the worry that their use would exclude judgment.

Clearly, the conference grappled with the key tradeoff in indicator production: the simpler and shorter the indicator, the more usable it is but the less it shows difference, exclusion, and context. Moreover, the fewer and more manageable the indicators, the fewer dimensions of a right are included. A recurring issue was how narrowly to define the problem and to what extent larger social forces are relevant. At the conference, one participant would suggest a narrow measure and others would object that it was not broad enough and did not take into account structural factors or discrimination. The seminar concluded that there needed to be more conceptual work first to identify and clarify the content of various rights and obligations (UN Secretariat to World Conference 1993). Twenty years later, despite considerable work on clarifying rights and developing indicators, the fundamental tradeoff between narrow and a holistic view of rights is far from settled.
Ironically, the goal of the conference was to increase the visibility of social, economic, and cultural rights, yet the very strategies that have proved effective in gathering public attention through indicators were rejected. The dilemma is common in indicator production: building a composite indicator which renders an idea simple and allows comparison draws attention to an issue but abstracts the idea in a way that many find unacceptable. At the same time, it permits ranking, which many countries find intolerable. For example, the conference report notes that “Considerable concern was expressed about UNDP’s Human Development Index and its Human Freedom Index which were seen as arbitrary in the criteria upon which they are based and largely inconsistent with the indivisibility and interdependence of rights under human rights law” (UN Secretariat to the World Conference 1993: 36, paragraph 174). In a 2010 discussion of indicators for early child development at the CRC committee, experts voiced a similar concern about using superficial measurements such as the HDI. It is these composite indicators that catch public attention and enter into widespread public use, while more complex and obscure indicators often languish on the desks of their creators.

The more basic question the conference confronted is how indicators affect judgment in quasi-judicial processes such as treaty body monitoring. Do indicators facilitate rendering judgments? Or does the use of indicators squeeze out judgment, displacing it to the moment of creating the indicator? As the creator of indicators sets up standards and criteria, she implicitly makes judgments about a framework, categories, and proxies. Using pre-established indicators circumscribes the criteria of judgment. Once established, they are hard to override. The process is similar to that of creating a scored test that automatically provides a student’s grade in contrast to making a judgment about a student’s grade that takes into account ability and effort as well as performance on the test. However, a common standard and grading system is essential to
comparing students across classes, institutions, and countries. Similarly, classification systems such as indicators serve as boundary objects that travel across borders among communities of practice and provide consistent information even as they are tailored to the information systems of each community (Bowker and Star 1999: 16). The indicators enable comparison across countries and treaties but diminish the space for individualized assessment. By using indicators, the judge loses some control but gains systematized information without which judgment is impossible.

During the 1980s and early 1990s, treaty bodies started to encourage states to create indicators and benchmarks for themselves. Indicators provide measurements, benchmarks set standards. Instead of developing standardized, universal indicators and common benchmarks, this approach charges countries with the task. They set their own goals and provide measurements that indicate to what extent they have achieved them. This approach to monitoring offers states some autonomy and allows them to link their reporting with indicators already established in domestic data collection efforts. This was the strategy of the CESC committee in its first General Comment in 1989, reiterated in virtually all the General Comments since 1999.

In General Comment 1 (1989). Here, CESC states, with reference to reporting guidelines:

“6. A fifth objective is to provide a basis on which the State party itself, as well as the Committee, can effectively evaluate the extent to which progress has been made towards the realization of the obligations contained in the Covenant. For this purpose, it may be useful for States to identify specific benchmarks or goals against which their performance in a given area can be assessed. Thus, for example, it is generally agreed that it is important to set specific goals with respect to the reduction of infant mortality, the extent of vaccination of children, the intake of calories per person, the number of persons per
health-care provider, etc. In many of these areas, global benchmarks are of limited use, whereas national or other more specific benchmarks can provide an extremely valuable indication of progress.”

Similar language is repeated in general comments 10 on human rights institutions (1998) and 12, on the right to adequate food (1999) (Scheinin 2005). Subsequently, virtually all CESCR General Comments between 1998 and 2009 on topics such as the right to health, education, food, and social security asked countries to set benchmarks for themselves. The CRC similarly asks countries to develop indicators to monitor the implementation of treaty rights, while CEDAW, CERD, and the Human Rights Committee ask states to use statistics but not necessarily as part of their human rights obligations (Rosga and Satterthwaite 2009: FN79, pp. 275-6).

While some human rights lawyers and activists feel that the possibility of public critique deters countries from setting overly low benchmarks, others worry that this is risk that must be tackled. In 2000, the CESCR General Comments began to add the process of “scoping” to national benchmarking. General Comment 14 on the Right to Health was the first to describe this process, inspired by treaty body member Eibe Riedel, in collaboration with member Paul Hunt. Scoping describes a process of negotiation between the country and the committee over the benchmark itself. Riedel envisages this as a process that takes place perhaps two years before a country reports as a way of establishing its benchmarks. General Comment 14 states:

“58. Having identified appropriate right to health indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator. During the periodic reporting procedure the Committee will engage in a process of scoping with the State party. Scoping involves the joint consideration by the State party and the Committee of
the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. In the following five years, the State party will use these national benchmarks to help monitor its implementation of article 12. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and the reasons for any difficulties that may have been encountered.” P. 16.

This requirement appears in most of the General Comments through 19, in 2008. In an interview in 2011, Eibe Riedel described carrying out such scoping negotiations with country teams before the treaty body hearing. Several countries are interested in the process, he said. However, Audrey Chapman argues that despite the value of this approach, the committee lacks the expertise and the time to engage in such a scoping process in its current review time frame (2007b:161). Some treaty body experts told me that they are concerned that countries will set benchmarks too low or that establishing appropriate benchmarks is beyond the knowledge of the committee. In practice, relatively few countries set benchmarks for themselves. A survey of all country reports for the six major treaties from 2007 to 2011 found few mentions. In these 365 reports, benchmarks were mentioned only 75 times, or .2 per report. In other words, about one in five reports even used the word. CRC reports were most likely to include benchmarks: one third of the reports that mentioned benchmarks were reports to the CRC. Indicators were mentioned far more often. In the 365 country reports indicators appeared 1428 times, on average 3.9 times per report.

In the late 1990s, human rights monitoring began to shift from country-created indicators and benchmarks to a more standardized system. In 1998, a newly elected member of the CESCR, Paul Hunt, organized a day of discussion on the right to education where he advocated
standardized indicators (Scheinin 2005: 9; see also report to the CESCR in 1998 (E/C.12/1998/11: State obligations, indicators, benchmarks and the right to education). Hunt is a human rights law professor from New Zealand working in the UK. He wanted to create universal indicators for assessing and comparing countries and their performance over time, based on treaty obligations rather than the specific local conditions of countries. In this model, first expressed in General Comment 14 (2000) on the right to health, the international community creates indicators and states parties set appropriate benchmarks. States are encouraged to seek the help of WHO in developing benchmarks, according to GC 14. General Comment 15 on the right to water (2002) takes a similar approach (p.9) Instead of the bottom-up strategy of asking countries to set their own indicators and benchmarks, Hunt advocated a top-down approach of creating standard indicators within the international community. Although this approach is primarily intended to assess country progress over time, it also allows comparison across countries. It represents a step toward internationalism beyond national benchmarking.

In 2000, at the annual meeting of the human rights treaty body chairpersons, the need for indicators, especially for civil and political rights, emerged clearly. The report noted the “lack of clear, objective and measurable criteria for assessing compliance with international human rights standards” (UN International Human Rights Instruments 2000: 6). It noted that conceptualizing human rights indicators was of great interest to a wide variety of institutions, particularly development agencies, including the UNDP. An expert seminar on indicators for civil and political rights, held in September 1999, included special rapporteurs to the Human Rights Commission and treaty body members from CEDAW, CERD, and CAT. The report concludes with a recommendation that OHCHR organize a 2001 workshop to identify progressive
developmental benchmarks and indicators related to the right to education (UN International Human Rights Instruments 2000: 9). The 2001 meeting of the treaty body chairpersons reiterated the call for developing indicators and asked the OHCHR to take the lead, particularly in developing indicators for civil and political rights (UN Human Rights Treaty Bodies 2001: paragraph b3).

The Creation of the OHCHR Indicators

Thus, by 2000 there were increasing demands for indicator development by the treaty bodies as well as growing pressures on the efficiency of the treaty body system. Although the 1993 conference called for a series of expert seminars to develop indicators and benchmarks for human rights, little was done until an initial meeting in Turku, Finland in 2005. This conference, co-sponsored by the OHCHR and Abo Akademi University and supported by the Finnish Ministry for Foreign Affairs, was a seminar in the Nordic Network for Human Rights Research program. It was attended by a cosmopolitan group of human rights law professors and academics largely from Europe and North America, many of whom had already worked together. The background paper was written by Malhotra and Fasel (2005). The OHCHR subsequently created an informal expert group on indicators (Chapman 2007b: 121-2) to develop standardized indicators. The expert group incorporated many of the same people who attended the Turku meeting, although there were some changes in membership. The group met six times between 2005 and 2009. The OHCHR secretariat saw the expert group consultations as the first stage in a validation process of the indicators, peer reviewing its proposals on the concept, methodology, and choice of illustrative indicators and its subsequent validation process with countries (UN
International Human Rights Instruments 2008: 15). I attended one meeting, in 2009, where the experts tweaked the indicators that the OHCHR professional staff had drafted. There was another meeting on the guidelines in 2010.

The goal of the OHCHR project was to “build a structured, common and consistent approach for elaborating indicators across all rights, covering the different human rights treaties” (UN International Human Rights Instruments 2008: 7). The project produced one-page diagrams for twelve human rights and two cross-cutting ones, non-discrimination and violence against women. There was a strong commitment to restricting the list of indicators to a single page, even if this required a very small font and dense writing. Each right was described by a matrix of boxes and metrics in a format reminiscent of development planning and reporting practices (see Rottenburg 2009). Meta-data sheets were prepared to provide more information on each indicator. The designers wanted countries to evaluate their own progress over time but did not seek to rank them against each other. The OHCHR described its goals as streamlining the treaty body process, making it more transparent and effective, reducing the reporting burden, and reinforcing state accountability (UN OHCHR 2006a, Report on Indicators for Monitoring Compliance with International Human Rights Instruments (HRI/MC/2006/7 Paras. 2 and 3). An OHCHR professional described the set of indicators as a tool box for countries to use in reporting along with the reporting guidelines. They can pick and choose which indicators to present from among those available to them or may develop their own country-specific indicators, such as right to health indicators focusing on the diseases that are a problem in that country. The major goal is to specify the link between policies and results. Thus, this approach is quite different from a system such as the US State Department Trafficking in Persons Report.
in which an organization establishes standards, gathers data, and ranks or scores countries according to that set of standards.

The leadership of this project came largely from human rights law professors from Finland, Denmark, Ireland, and Germany as well as an American political scientist and ethicist, while the OHCHR professional staffers were a development economist from India and an economist and statistician from Switzerland, one of whom said he knew little about human rights but worked on development. The leaders had all served on the CESCR committee or the Human Rights Committee and some had also been appointed as Special Rapporteurs. Paul Hunt and Eibe Ridel, for a time vice-chair of CESCR, played a critical role. Hunt attended the initial meeting, Riedel was at most of them.

The meeting I attended in April 2009 included members of treaty bodies, a representative from the National Human Rights Institutions in Uganda, scholars working on indicators, and UN agency representatives from statistical offices. Almost all the experts were European or American. The focus of this meeting was fine-tuning the indicators on violence against women and non-discrimination. Only small changes were made: the framework was clearly settled and the group was tasked only with tinkering with the details. Larger questions of framework and structure were not open for debate. Several experts, including the chair, worried that the indicators were too numerous and needed to be simplified, but these concerns wrought no change in the product. A few thought that the structure/process/outcome framework was difficult to use, but to no avail. Some found the requirement that all the indicators for one human right fit on the same page overly constraining. This restriction sometimes produced a fairly unreadable congestion of words. Some of the experts told me that they were concerned that these indicators were too complicated, that the treaty bodies would not use them and that they
will gather dust on a shelf. Other experts resisted any effort to simplify the indicators. Some argued that they were useful because they laid out a series of steps that countries should follow in order to improve their human rights situation in making structural changes and following designated processes. However, some of the process and outcome indicators overlap and are ambiguously slotted into one or the other category.

Many of the treaty body representatives appeared lukewarm. Although the project was designed to support treaty body monitoring, at this meeting when the treaty body representatives were asked about the support of their committees, they denied that they were representing their treaty bodies. The CRC representative said that his committee was developing their own indicators, on early child development. Many of the participants were academics and lawyers but few were government representatives or statisticians from national statistical offices. Insofar as there was discussion of the availability of data, it was assumed that national human rights institutions would pressure national statistical offices to gather relevant data. Although a representative of the UN Statistical Division was invited, he did not attend this meeting.

Indeed, at times it seemed that the human rights indicator project was a technology in search of an audience, a tool kit without a clientele. The major users, the treaty bodies, seemed rather lukewarm consumers of this new technology, both on the basis of their participation at the meeting and the responses from the committees to the presentation of the overall project. The OHCHR seems to be one of the most enthusiastic supporters. A member of the Human Rights Committee told me that the OHCHR is very supportive of indicators and working hard to promote them, partly for cost-saving purposes. Another audience is development economists who wish to promote rights-based development and show connections between development and human rights. The illustrative indicators demonstrate a theory of human-rights based
development and show the technical means for promoting it. Although the OHCHR has been told that Guatemala, Ecuador, and the UK are using these indicators in their country reports, the reports available from these countries in June 2011 did not yet refer to the OHCHR indicators. Indicators are engines for drawing attention to an issue or problem, but they need to be big, bold, and scientific to succeed.

**The Structure/Process/Outcome Framework**

At the first meeting of the Human Rights Indicators EGM in August 2005, the group decided to use a new, measurement-friendly framework for human rights monitoring. The germ of the new framework appeared at the 1993 conference which viewed indicators at three levels: “(a) at the level of inputs or (legal) conditions; (b) at the level of throughputs or activities, together with (a), also referred to as process indicators, (c) at the level of outputs or outcomes, also referred to as impact indicators, which measure the actual results.” (UN Secretariat for the World Conference 1993: 14 para 47). The new structure/process/outcome framework was advocated at the 2005 Turku meeting by the OHCHR staffers, Rajeev Malhotra and Nicolas Fasel (2005). Audrey Chapman, who served as rapporteur for the 1993 conference and was also a core member of the expert group on human rights indicators, described the process of indicator creation in the 2005 EGM as follows: They first identified a small number of attributes for each human right to be measured, then selected indicators for structural, process, and outcome measures (Chapman 2007a: 122). At the second meeting, in March 2006, the group developed illustrative indicators for four human rights using this approach: the right to life, the right to judicial review of detention (the right to liberty), the right to adequate food, and the right to health (UN International Human Rights Instruments 2006: 17-21). Two were civil/political
rights and two economic, social, and cultural rights. Eibe Riedel told me that they began from a basic point of consensus, the Universal Declaration of Human Rights, in selecting rights for indicator development. They also wanted to integrate the rights in the two major human rights treaties, the ICCPR and the ICESCR.

In four subsequent meetings, the expert group developed indicators for eight more human rights, half civil/political and half economic/social/culture, as well as two cross-cutting rights, violence against women and non-discrimination. In addition to the first four, the other eight human rights were: the right not to be tortured, to participate in public affairs, to education, to adequate housing, to social security, to work, to freedom of opinion and expression, and to a fair trial (UN International Human Rights Instruments 2008: 26-33). Each indicator page includes nominal information, such as whether or not a treaty has been ratified, counts such as the number of people on death row, and ratios, such as the proportion of law enforcement officers formally investigated for physical and non-physical abuse or crime (including torture and disproportionate use of force) in the reporting period. Once the indicator sheets were more or less finalized, the OHCHR team worked on developing guidelines for their use, called meta-data sheets. These defined more carefully each indicator, its rationale, method of computation, source, periodicity, and disaggregation (see UN International Human Rights Instruments 2008: 34-48). The project of producing meta-data sheets, about one page per indicator, for the 500 or so indicators was ongoing in 2011 and was expected to reach completion in 2012.

The final report to the treaty body chairs describes the process of creating the indicators and the new framework (UN HRI 2008: 19-20):

“42. There are several features of the conceptual and methodological framework that has been adopted to elaborate indicators for different human rights. First of all, it follows a
common approach to identify indicators for promoting and monitoring civil and political rights, and economic, social and cultural rights, thereby strengthening the notion of the indivisibility and interdependence of human rights. Secondly, the framework comprehensively translates the narrative on the normative content of human rights (starting with the related provisions of international human rights instruments and general comments by treaty bodies) into a few characteristic attributes and a configuration of structural, process and outcome indicators. The identified indicators bring to the fore an assessment of steps taken by the State party in addressing its obligations - from commitment to international human rights standards (structural indicators) to efforts being undertaken by the primary duty-bearer, the State, to meet the obligations that flow from the standards (process indicators) and on to the results of those efforts from the perspective of rights-holders (outcome indicators).

43. Thirdly, the framework facilitates an identification of contextually meaningful indicators for universally accepted human rights standards. It seeks neither 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 on the realization of human rights. Rather it enables the potential users to make an informed choice on the type and level of indicator disaggregation that best reflects their contextual requirements for implementing human rights or just some of the attributes of a right, while recognizing the full scope of obligations on the relevant human right standards. Indeed, the framework allows a balance between the use of a core set of human rights indicators that may be universally relevant and at the same time retain the flexibility of a more detailed and focused
assessment on certain attributes of the relevant human rights, depending on the requirements of a particular situation.

44. Fourthly, the framework focuses on two categories of indicators and data-generating mechanisms: (a) indicators that are or can be compiled by official statistical systems using statistical surveys and administrative records; and (b) indicators or standardized information more generally compiled by non-governmental sources and human rights organizations focusing on alleged violations reported by victims, witnesses or NGOs. The intention being to explore and exhaust the use of commonly available information, particularly from objective data sets, for tracking human rights implementation. Finally, the framework focuses primarily on quantitative and some qualitative indicators, to support a transparent assessment of the implementation of human rights. Efforts have been made to keep the identified indicators simple, based on standardized methodology for data collection and, to the extent feasible, with an emphasis on disaggregation of information by prohibited grounds of discrimination and by vulnerable or marginalized population groups, who have to be the target for public support in furthering the realization of human rights.”

The new template was drawn largely from the public health field. It was first proposed for human rights by Paul Hunt in 2003 in his capacity as Special Rapporteur on the Right to Health as a way of conceptualizing the right to health (Hunt 2003b). He defined the concepts as follows:
54. “Structural indicators address whether or not key structures and mechanisms that are necessary for, or conducive to, the realization of right to health, are in place.” This includes treaties, laws and policies and basic institutional mechanisms including regulatory agencies.

55. “Process indicators measure programmes, activities and interventions. They measure, as it were, State effort.” “Such process indicators can help to predict health outcomes.”


Structural indicators typically get yes/no answers while process and outcome indicators can be used with benchmarks or targets to measure change over time, although all could have yes/no answers or serve as benchmarks. He acknowledged in this report that although it is sometimes possible to link structural and process indicators with outcomes, often there are multiple factors determining outcomes.

Hunt developed the approach further in his 2006 report (Hunt 2006a) as well as in several publications in prominent medical journals including one in the *The Lancet* (Backman, Hunt et. al. 2008; Hunt 2006b. He continued to use the respect/protect/fulfill framework as well. He says he is using structure/process/outcome because “in the health literature, these categories and labels appear to be widely understood — for example, they are the terms routinely used by the WHO Department of Essential Drugs and Medicines Policy” (Hunt 2006a: 7). He views his right to health indicators as a way to professionalize health rights advocacy (Hunt et. al. 2008). This framework has a long history in public health. It is found in various WHO documents from
the 1990s onwards, usually in relation to measurement and evaluation or the creation of indicators to evaluate specific health issues. For example, in Hunt’s first mention of the structure/process/outcome framework (in his 2003 interim report to the General Assembly A/58/427), he cites a 1999 WHO manual called “Indicators for monitoring national drug policies.” Hunt says “The Special Rapporteur suggests that, to begin with, special attention is devoted to the following categories of right to health indicators: structural indicators, process indicators and outcome indicators. While there is no unanimity in the health literature, these categories and labels appear to be widely understood — for example, they are the terms routinely used by the WHO Department of Essential Drugs and Medicines Policy.” (p. 7, para 15). The genealogy of this framework in public health reaches back at least until the 1950s, when a similar approach was used to measure the quality of medical care and rank hospitals in New York City (Makover 1951). Sofia Gruskin, a public health and human rights scholar at Harvard, traces the use of the structure/process/outcome framework in health research to a document published in 1966 by the United States Public Health Service (Gruskin and Ferguson 2009). The article (Donabedian 1966) outlines the need for better methods for measuring the quality of medical care in the U.S. Outcomes were measures such as survival rates, processes were “good” medical care defined as appropriate, complete, and technically competent, and structure “the settings in which it takes place and the instrumentalities of which it is the product ” such as administrative structures and facilities, qualifications of medical personnel, fiscal policy (Donabedian 1966: 170). Clearly, these terms are hard to pin down and can hold multiple meanings in different contexts. Donabedian cautions that the relationships between structure, process, and outcome are difficult to quantify.
As this framework migrated to the field of human rights, its terms shifted subtly in meaning. Structures now refer to laws passed instead of the system by which care is delivered, processes to government programs, activities and interventions rather than the mechanisms through which interventions have an impact, while the outcomes are roughly comparable measures of impacts (Gruskin and Ferguson 2009: 716). But both the public health and human rights uses of the template share an assumption of means and ends: if certain conditions are fulfilled and certain processes are carried out, certain results will follow. Although the creators claim that process indicators have a cause and effect relationship (US International Human Rights Instruments 2008: 11), the template presumes but does not prove a cause and effect relationship (see further Rosga and Satterthwaite 2009: 296–7).

Human rights indicators, like public health indicators, need measures that are readily countable. What is countable is often a matter of art, of course, of figuring out how to count something and then persuading others to accept this counting procedure. As Bruno Latour shows for the thermometer, people had to be persuaded that heat was measurable and then come to accept that the thermometer’s numbers provided information about the amount of heat (1987). The structure/process/outcome framework focuses on measuring and counting state activities and policies more than outcomes. Given the difficulties of gathering or finding existing data on the outcomes of human rights interventions, it makes sense that these indicators focus on programs and activities. State action is far more easily measured than outcomes. It is easier to count the number of human rights trainings than the knowledge of human rights in the general population, for example. State responsibility is also the central focus of human rights monitoring.

It is a central argument of this book that the frameworks, or templates, by which information is organized have a powerful if implicit role in structuring knowledge. Templates,
such as respect/protect/fulfill, carry embedded theories which are not necessarily made explicit. For example, this framework presumes that the role of the state is as much to avoid impinging on rights and to prevent others from doing so as to create the conditions for their fulfillment. It incorporates ideas of negative rights along with positive rights and imagines states as responsible for both restraint and provision of rights. This template does important cultural work in bringing the two dimensions of human rights together. In contrast, the new structure/process/outcome template incorporates assumptions about development and social change, suggesting that the creation of certain state institutions and laws and the implementation of particular state policies will produce an increased enjoyment of human rights by the general public as well as particular vulnerable populations. Like current development thinking, it emphasizes the role of institutions in improving the living conditions of populations. It breaks from social science understandings in which structure refers to social structures and process to the means by which change takes place. Although the tables require all indicators to be disaggregated by gender, race, ethnicity, etc. in accordance with a human rights concern with discrimination, many of them are not available in disaggregated format.

The new template is sometimes set alongside the old one or slotted into it, as if it were simply another version of the same thing. Although the creators say there is no one-to-one correspondence between the two frameworks, except that the new one can help to assess compliance with the old one (US International Human Rights Instruments 2006: 8), users of the new system sometimes fit the new template into the old one. This eases the transition to a new framework, despite the differences in meaning and underlying theory of social change. For example, one participant at the 2005 Turku conference noted that the new template was roughly comparable to the established categories of respect/protect/fulfill, with structural features related
to respect, process ones to protect, and outcome ones to fulfill. A recent effort to develop indicators for early child development presented the two frameworks as equivalent, so that respect = structure, protect = process, and fulfill = outcome. Yet, these two frameworks are conceptually quite different in their underlying theoretical orientation to human rights monitoring and the responsibilities of the state.

This example highlights the hegemony of the framework itself in transformations of the concepts of measurement. There has been a shift from a more human rights-centric model of respect/protect/fulfill to a more developmental/public health model of structure/process/outcome. The change was driven in good part by the demands of measurement: the need to use concepts that can be counted. The shift in frameworks provides space for change under the façade of sameness. The equation of the two is part of the process of scientific knowledge development, in that the new one is introduced within the framework of the old one and made commensurable and therefore understandable. Changing to a framework compatible with economics and public health provides a structure for folding human rights into other modes of thought: it is a way of incorporating human rights into discourses of public health and development. The new framework facilitates human rights mainstreaming into health and development, perhaps rendering it less distinctive as a mode of thought. Instead of a set of legal standards, of right or wrong, it becomes another consideration for planning and policy development in which the challenge is to balance competing objectives (see Koskenniemi 2010). This move to measurement could increase the focus on human rights but it could also domesticate and tame them so that they become a consideration in development projects, not a trump card to play against a negotiated administrative decision, as Koskenniemi suggests (2010).
One of the most important contributions of the OHCHR human rights indicators is fostering the translation of human rights concepts into terms and formats that are accessible to development economists. The 2008 report talks about promoting rights-based development and many of the tables include MDG indicators. The structure/process/outcome framework is familiar to economists. Thus, the indicator project is closely connected to the effort to do human rights-mainstreaming and to bring the technologies and objectives of development and human rights closer together. There are currently significant efforts to introduce human rights into development planning at the World Bank, for example, lead by one of the core members of this project with funding from the Nordic Trust Fund (McInerney-Lankford and Sano 2010).

While there are clearly overlaps between development and human rights promotion, there are also significant differences (see Alston and Robinson 2005; Alston 2005; Chapman 2007a; McInerney-Lankford and Sano 2010: 27-44; Fukukda-Parr 2011). Development focuses on improving averages while human rights assessment focuses on the situation of the marginalized and vulnerable. Rosga and Satterthwaite argue that rights-based monitoring of development projects differs from monitoring compliance with human rights treaties in that the former assesses to what extent a development project has enhanced human rights while the latter assesses to what extent a state has complied with its duties under the legal standard of the treaty (Rosga and Satterthwaite 2009: 300). Martin Scheinin, a human rights law professor who served on the Human Rights Committee and chaired the OHCHR expert group, points out that the treaty body process is a legal one, in which an established set of facts is the basis for an assessment of performance in terms of the normative grid of the legal obligations of the treaty. He argues that this is a complex process and cannot be reduced to the direct use of empirical data through qualitative and quantitative indicators but requires knowledge of applicable treaty provisions and
practices of interpretation of the treaty (Scheinin 2005: 2). By translating human rights into indicators of development, the OHCHR project blurs the distinction between monitoring human rights compliance and promoting rights-based development.

**The Indicator Tables**

The indicator tables rely extensively on the documentation styles of development report writing, with a series of boxes and processes, as well as human rights jurisprudence. Each right is presented in a matrix that occupies a single page. The right is presented as series of specific obligations defined as structural, process, and outcomes. The underlying presumption is that government action in the structural and process fields will contribute to the outcomes, which measure the enjoyment of the right. The cost of specificity, of course, is the neglect of some issues. There is considerable interpretation in the choice of issues, but it is guided by treaty jurisprudence in general comments and concluding observations, academic discussion of the meaning of each right, and what is measurable with available data.

The table on the right to health provides a good illustration of the approach (see Table 1). The right is divided into five attributes, each a particular issue in the field: 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. Although the chart format requires structural, process, and outcome variables for each attribute, the structural variables on all the charts run across them as do some of the process and outcome indicators. In contrast to Hunt’s earlier efforts to produce indicators for this right (2006a), this format requires outcome measures for each attribute, even though some can be measured far more readily than others. Hunt listed a long series of attributes on the left side
and used the columns to specify structure, process, and outcome. The OHCHR tables lose some flexibility by placing the attributes along the top as columns and the structure/process/outcome categories down the side as rows.

The entire chart includes 11 structural indicators, 32 process indicators, and ten outcome indicators, a total of 53. The goal of the project is to produce an explanation for each indicator in all 14 charts, perhaps 700 in total. One of the challenges of the format, which emerged clearly in the expert group meeting I attended, is determining which indicators are structural, which process, and which outcome. There were debates at the meeting about whether government policies were structural or process factors. For example, the right to health table includes “Time frame and coverage of national policy on sexual and reproductive health” as structural along with national policies on child health and nutrition, physical and mental health, persons with disabilities, and medicines. Structural variables are primarily legal, including ratification of relevant conventions and domestic laws, but in the right to health case, included also the number of NGOs per capita involved in the promotion of the right to health.

Indicators must refer to countable phenomena, including yes/no responses to treaty ratification. For process and outcome indicators, there was an effort to use measures that might be available to countries, either from international data collection or national or civil society statistics. Some are development indicators, many drawn from the set of MDG indicators, which are relatively available. Some of the measures use MDG data or other data likely to be available, such as the outcome measures for sexual and reproductive health: “Proportion of live births with low birth-weight,” and “Maternal mortality ratio.” However, many of them seem difficult to collect. For example, a process indicator is “Proportion of reported cases of genital mutilation, rape and other violence restricting women’s sexual and reproductive freedom
responded to effectively by the government.” Despite the appearance of objectivity, there are clearly interpretive demands in many of the indicators, as in this reference to an “effective” response by the government.

Although in theory process indicators refer to government actions that lead to results, in practice there is often no clear causal relationship between the process and the outcome measures. In some cases, the process and outcome measures seem logically connected. For example, under the attribute child mortality and health care, process indicators include nutrition education for children, medical checkups, breastfeeding patterns, public nutrition programs, and immunization rates while outcome variables are under-five mortality rates and proportion of underweight children. In other cases, the connections between process and outcome are less clear. For example, for the attribute of sexual and reproductive health, process indicators include use of skilled birth attendants, antenatal care coverage, proportion using contraceptives, unmet need for family planning, rate of medical terminations of pregnancy per births, and proportion of effective responses to FGC and rape, as cited above. Outcomes are proportion of live births with low birth-weight, perinatal mortality rate, and maternal mortality ratio. Again, not all the process measures directly connect to the outcome measures. Nor is it easy to distinguish between those that measure conduct (process) and those that measure results (outcomes). Some process measures could stand as outcomes. The authors of this approach note that the process indicator for one right can be an outcome indicator for another (UN International Human Rights Instruments 2006: 8). In this case, many of the process indicators could be seen as an aspect of a right to health regardless of their effects on mortality rates or underweight children.

Moreover, because of the focus on measurable inputs and outputs, more systemic features are not included. For example, there is no discussion of government policies toward population
size overall. There is an assumption that the interventions and institutions that will contribute to the enjoyment of the right to health come from states and involve the provision of state services. There is, in other words, an implicit assumption that improvement depends on state action and that states have the resources and the capacity to provide health care services, nutrition programs, breastfeeding training, etc. It presumes the model of an industrialized society. It pays little attention to the need for broader social change or shifts in patterns of social inequality. Although running along the bottom of the table is the statement that all indicators should be disaggregated by prohibited grounds of discrimination, there is no attention to the particular situation of vulnerable populations or patterns of discrimination in the indicator matrix. The measurement focus of the tables makes it difficult to take a broader perspective on the nature of class, racial, or regional inequalities in a society that might account for variations in the extent to which a population enjoys these rights.

Clearly, the tables are designed to specify state obligations that would contribute to the enjoyment of the right. As a tool for monitoring state compliance with human rights treaty obligations, this approach makes sense. Yet, the demands of measurement and the availability of data restrict the theoretical model of social change embedded in the table to a development one. Rather than addressing forms of inequality produced by racism, urban/rural difference, patriarchal kinship systems, dependence on international investment, or social norms on gender, the tables articulate a model of social change in which increasing state services to the population at large will benefit the entire population. This is a model of development, not human rights. Indeed, as a template it follows some of the protocols of development reporting, with its demands for segregating information into boxes and specifying accomplishments by particular time frames (Rottenburg 2009). Rottenburg’s analysis of the documentary production
demanded by development planning reveals similar structures of information organization and presentation.

The Institutional Basis of the OHCHR Indicators

The organization of this project is quite different from that behind many of the well known indicators such as HDI or the World Bank global governance indicators. Its institutional basis is weaker and its ability to force its categories and practices on those that are governed far less than either of the two examples above which are backed by the aid and lending practices of the UNDP and the World Bank. Creating the indicators requires negotiation among all the treaty bodies, which are resolutely independent and have proven unwilling to merge into a shared standing body. Members become committed to the articles in their convention. The indicators are not grounded in a single discipline but join the expertise of development economists and human rights lawyers. One of the OHCHR professional staff argues that this is a bottom up process, quite different from those that are top down, where an organization creates an indicator and measures countries and lists and ranks them. This one is more negotiated with the countries. He told me that he spends considerable time working with countries, perhaps a government official in the national statistical office or finance ministry, but most often the national commission on human rights. They approach him, decide which indicators to focus on, and have a meeting to discuss and develop their approach to indicators. Latin American countries are particularly interested. The OHCHR held workshops in Uganda and New Delhi in 2007, Nepal, Columbia and Azerbaijan in 2008, and Kenya and Ecuador in 2009 and held meetings about the indicators with the Council of Europe in 2009, and Brazil, the UK, and Mexico in 2010. The
OHCHR staff person holds workshops and provides technical assistance at the request of countries. Thus, unlike many other indicators, its creation was a collaborative, negotiated, multi-country project rather than a centralized and coordinated one. Their use is a matter of choice by the countries that are being governed. Despite the interest by some proponents in a set of standardized, universal indicators, in the end the indicators are no more unified than the treaty bodies themselves.

Following the creation of these indicators, the OHCHR staff engaged in the second stage of its validation exercise, holding several regional and sub-regional, and national meetings with stakeholders. The meetings were intended to assess whether the indicators reflected understandings of these human rights in different parts of the world. They were also intended to disseminate knowledge about the indicators and persuade countries to use them. The Delhi meeting was attended by representatives from national human rights institutions, policymakers, statistical agencies and some civil society representatives from 12 countries in the region (Sharma et. al. 2007: 4). The general approach, followed in Delhi as well as in other meetings, was to ask participants to come up with attributes and indicators for a particular human right (Sharma et.al. 2007; 11-15). After a session of brainstorming, they were then presented with the tables of attributes and indicators developed by the OHCHR, but not before. The OHCHR staff note “a striking consistency” between the attributes and indicators identified by the participants and the OHCHR, which the participants “endorsed.” The OHCHR staff took this experience as validation of the framework and illustrative indicators ((UN International Human Rights Instruments 2008: 16).

Thus, the purpose was to inform and engage the stakeholders rather than to collaborate in constructing the indicators, although the team did refine the framework and indicators in
response to this feedback. The organizers argued that the indicators were a simply a tool kit that could be selectively used to adapt to a particular context so did not need substantial revision. The meetings served to validate the approach and the choice of indicators rather than to reformulate them to adapt them more closely to the region. The template and the terms of the indicators were already settled and the goal was largely to make the indicators known and encourage their use.

**Indicator Uptake**

These indicators have two primary consumers: treaty bodies and countries preparing their reports for treaty bodies. However, the uptake has been slow. Many treaty body members have legal or diplomatic backgrounds and are not necessarily comfortable with statistical data analysis. The leaders of the project and OHCHR staff made presentations to several of the treaty bodies. Evaluations of the responses differ, although most agree that CESCR was the most enthusiastic, followed by the CEDAW (February 2010) committee. Someone who attended both presentations said that the overall response was quite lukewarm for both committees, however. CAT was not particularly interested. CERD and CRC were accepting of the approach. I observed the presentation of a different indicator model to CRC in June 2010 in which about one third of the experts asked questions, but the rest seemed disengaged. Those that expressed interest were people with advanced training in the social sciences and government bureaucrats familiar with statistical data. At the HRC presentation (July 2009), an expert objected that this would lead to ranking, a concern shared by others. The committee split between those who were enthusiastic about the project and those who opposed it on the grounds that the indicators might lead to country ranking, even though the OHCHR presenters claimed it
would not, according to observers. A press report from the UN Office in Geneva describes the mixed response of the committee (UN Office in Geneva 2009):

“A Committee Expert said that although it had been a challenge to come up with structural, process and outcome indicators on violence against women, that had been all the more difficult for indicators on non-discrimination. This was only a tool and could never be the last word on a State’s obligation and could only assist the qualitative assessment of the Committee. Those indicators now needed to be tested and made more user-friendly. If the Committee would in the future choose to only discuss a few issues with each country instead of all, this framework would be very helpful.

It would be possible to rank countries in their implementation of a specific right, several Experts noted. That could then be compared to other rankings as done by Freedom House or Transparency International. Was such a ranking envisaged? Experts noted that such a ranking by the United Nations was especially sensitive. This data could be used to allocate World Bank funds, which was problematic. Experts also feared that such indicators would be abused to get rid of human rights treaty bodies. Moreover, if taken seriously, the project would eat up a big portion of the budget and would that be useful?

An Expert said that the concept of human rights indicators was not a new concept. However, they had been so far been used for rather economic, social and cultural rights. The system could be abused, for example, by countries saying that they had made progress in a field such as for example in the field of enforced disappearance. Enforced disappearances should not be possible altogether and countries should not be able to be
proud of reducing their number (rather than eliminating them entirely). Moreover, often proportions were not that important, but simply the fact that a country had gotten ridden of a certain legal provision which was contrary to the Convention. The Expert noted that he was against all kind of ranking so that countries could not compete against each other in a bad way. Human rights indicators were tools, but the Human Rights Committee should be very careful in their application. However, there were some issues such as violence against women where the Committee could benefit from the statistical information. The sociological context of an issue was important in that regard. An Expert further cautioned that countries would prioritize those rights for which indicators had been chosen.

Concluding the briefing, Mr. Scheinin and Mr. Fasel said that there was no intention of comparing countries, although technically it could be done. Countries should rather use those indicators as benchmarks. As to costs, the indicators should not be more expensive than producing other statistical information. It was true that they could be used to other means, as for the attribution of development aid, but that was beyond the scope of the human rights treaty bodies anyway.”

There was clearly some ambivalence in the Human Rights Committee at this meeting.  

The OHCHR indicators are beginning to appear in the Reporting Guidelines for the treaty bodies. They are mentioned in the CESC and CRPD guidelines for 2009 (UN Committee on Economic, Social, and Cultural Rights 2009: 3) and the ICCPR guidelines for 2010 (HRC reporting Guidelines 2010 – 20 Nov 2010, CCPR/C/2009/1: 4). However, I heard
no discussion of these indicators at the part of the CESCR hearings I visited in May 2011 and was told by an expert that indicators did not come up at all at the HRC meeting in March 2011. A survey of country reports shows a substantial amount of discussion of indicators, varying significantly by region and by treaty (see Appendix charts). An examination of all country reports to the six major treaty bodies between 2007 and 2011 for the frequency of using the word “indicator” not in a title or table shows that there are frequent references to indicators, but primarily first and second order indicators describing socioeconomic conditions rather than references to the framework as a whole. On average, these 365 country reports included 4.6 references to indicators, but this varied greatly by treaty. CESCR reports included an average of 9.2 indicators in each report, closely followed by CRC at 8.7 and CEDAW at 7.2. However, the use of indicators by the civil/political rights treaties was far lower, with 2.5 for CCPR and 0.4 for CAT. Surprisingly, CERD reports had a similarly low rate of 2.5. There are clearly differences in treaty body interest in statistics and in their encouragement to use them. CCPR and CAT focus more strongly on legal issues and are less concerned with the number of violations than with their existence at all. At the same time, there are also variations in availability of relevant statistics. CRC is supported by UNICEF and its MICS surveys, intended in part to provide data relevant to CRC reporting. The social and economic data relevant to the rights in CESCR and CEDAW are often provided for developing countries by DHS surveys as well as other development-focused or public health surveys. Countries with more resources are better able to generate national data, either by census, survey, or administrative records. However, a cross-tabulation of frequency of indicator use and HDI revealed no relationship. In fact, the lowest reference to indicators of any region is Europe, which has highly developed domestic statistics but chooses not to include them in reports. Instead, it appears that developing countries, perhaps
eager to show how sophisticated their quantitative knowledge is, are most likely to use indicators (see Appendix).

Data by region support this argument. The highest average reference to indicators comes from Latin American countries and the Middle East, which included an average of 6 indicators per report between 2007-2011, followed by the Pacific, including Australia and New Zealand at 4.7, Eastern Europe at 4.6, Asia at 4.2, Africa at 4.0 and Europe, at a surprisingly low 2.6. This regional variation again suggests the importance of internationally generated indicators rather than national ones and the use of development-related indicators. Most of the indicators cited referred to social and economic factors.

Considering the treaty bodies separately, even stronger regional variations appear. For 2008-2011, CESC country reports varied from 14.8 indicator mentions in Latin America, 12.2 in Eastern Europe, 6 in the Pacific, 5.3 in the Middle East, 4.8 in Asia, 4.5 in Europe and 3.8 in Africa. In contrast, the CCPR country reports for the same time period ranged from 6 in the Pacific to 4.2 in Africa, 2.8 in the Middle East, 2.1 in Latin America, 2 in Asia, 1.9 in Eastern Europe, and 1.7 in Europe. Latin America and Eastern Europe are most likely to use indicators for CRC and Eastern Europe and the Middle East for CEDAW. An examination of the relationship between these variations by region and the DHS and MICS surveys suggests that the use of indicators is higher among countries that have participated in these international survey regimes.

This survey of country reports indicated virtually no references to the structure/process/outcome framework and very few references to benchmarks. Despite the interest in promoting benchmarking as a strategy since the late 1980s, it has rarely been adopted in country reports. The use of indicators in these reports may have been encouraged by the
OHCHR initiative, but at least in the short run, the OHCHR indicators have not provided the hoped-for streamlining or standardization of the monitoring process. It is likely that uptake is slow and can only develop over time. However, treaty bodies are also deeply committed to an intensive, particularized process which uses statistics as useful data but does not readily give way to a standardized assessment on the basis of agreed-upon indicators. Countries, of course, are eager to show themselves in the best light and worry about ranking. The simplification, individualistic bias, focus on a few issues, and indifference to context and history render a more powerful, composite indicator regime antithetical to the thinking of human rights treaty body experts, despite its potential contribution to efficiency and cost savings.

Even though the uptake of the new framework by the treaty bodies and country reports is slow, however, the structure/process/outcome template has disseminated widely. It was used in a general way in an effort to produce indicators for the right to development and is the basis for developing a new set of indicators for the right to water. A project to develop indicators for the right to development used this framework, although it referred to criteria rather than indicators because of countries’ resistance to the term indicator, according to the some of the experts who developed the framework, Maria Green and Susan Randolf (UN Working Group on the right to development 2010). Rajeev Malhotra, one of the OHCHR professionals who produced the OHCHR indicators, also authored a paper for the High Level Task Force on the implementation of the right to development in 8 March 2010 ( /HRC/12/WG.2/TV/CRP.7/Add.1). A project to produce indicators for early child development to support CRC reporting sponsored by academics at the University of British Columbia used this framework. An expert group developing indicators for indigenous peoples turned to this framework as well (UN ILO, OHCHR, SPFII 2010). An NGO of indigenous Latin American women produced a set of
indicators for indigenous people at the Permanent Forum in 2009 using this template. Moreover, there has been recent enthusiasm for these indicators in Europe, Guatemala, Ecuador, and Mexico.

It seems likely that the framework is popular because it is amenable to measurement and compatible with thinking in two major international fields doing data gathering and assessment: development economics and public health. Both are distinct academic disciplines and are supported at the international level by large bureaucracies that produce comparable data and have been involved in generating indicators and measurements for a long time: WHO, UNDP, and the World Bank. Development economics has pioneered two very influential indicator projects, the HDI promoted by UNDP and the MDGs by the UN. The field of public health has developed key indicators such as maternal mortality and life expectancy. Finally, and perhaps most important, the OHCHR indicators incorporate a theory of development and human rights that is widely accepted in developed countries and some developing ones that institutional factors such as rule of law, good governance, state responsibility promote general well-being of a population.

Are these good indicators? From the perspective of presenting simplified data that will enable the public to master complex ideas, the answer is no. What makes indicators successful is their capacity to synthesize complex situations and present simplified accounts based on numerical data. They depend on a clear theory embedded in the indicator. These indicators lack a theory beyond the presumption that passing certain laws and enacting particular government programs will lead to specific impacts. The proponents refuse to rank and compare. The refusal to simplify and score represents a moral high ground but does not produce the most powerful indicator regime. There is a continuum between simplification and uptake, so that by
retaining such a complicated structure and so many indicators, uptake is inhibited. What makes indicators useful and popular is the simplification and decontextualization and comparison that these human rights activists and academics are trying to avoid. While avoiding these pitfalls, the indicator project has produced tables that are not very effective in streamlining monitoring or bringing issues to public attention.

On the other hand, these indicators are more collaborative, multi-national, and multi-disciplinary than more simplified indicators. They were born from a more negotiative process than many others and resist simplification, highly targeted goals, and superficial assessments of complex situations. Ironically, it is their effort to be more true to the nature of human rights thinking that has made them less accessible as indicators that produce knowledge of human rights performance. Perhaps as public disillusion with composite indicators builds, more complex metrics such as these will gain in popularity. It depends what happens to indicator culture: whether public faith in its claims to make a complex world knowable through technical rationality, a pragmatic approach to measurement, and the magic of numbers grows along with enthusiasm for evidence-based governance and skepticism about political debate. If so, the human rights indicators may yet grow in popularity and power.

Conclusions

This chapter has explored the regulatory use of indicators for monitoring compliance with human rights standards through a genealogy of a particular indicator initiative. The genealogy shows that the creation of an indicator requires a long period of experimentation and development and draws on models from related fields, such as public health and development. Unlike other indicators, this process was international and collaborative. It built on the expertise
of a small group of human rights lawyers, academics, development economists, and treaty body experts. The disciplinary signatures of human rights law and development economics shaped the indicator regime. The creation of the indicators depended on introducing a new framework into the human rights field, drawn from public health but also long familiar to development economics. The new framework was designed to highlight objectively measurable phenomena, to emphasize cause and effect relationships (US International Human Rights Instruments 2008: 11), and to “help demystify the notion of human rights and take the human rights discourse beyond the confines of legal and justice sector discussions (US International Human Rights Instruments 2008: 7).” The stated goal of the creators was to facilitate mainstreaming human rights in policy making and development implementation. (2008: 7). Clearly, a major goal was to translate human rights into terms compatible with development rather than only law and justice. This shift was engineered in part by adding the structure/process/outcome template to the more legalistic respect/protect/fulfill framework.

Indicators promised to streamline the process of human rights regulation, increase accountability, deal with a need for accurate data disaggregated to expose discrimination, and develop specific dimensions of human rights obligations. Despite the promise that indicators will fill both the need for accurate data and the need to specify treaty obligations, however, the indicators that were generated by this process are complicated and difficult to use. Indeed, at the national validation exercises, there was “initial skepticism that was expressed by some of the participants at the beginning of the workshop regarding the apparent complexity of the conceptual framework adopted for the work on human rights indicators (US International Human Rights Instruments 2008: 16).” As the authors acknowledge, these consultations underlined the
need to simplify the conceptual framework or at least improve its communication and accessibility ((US International Human Rights Instruments 2008: 17).

Several factors contributed to this complexity: worries about neglecting some issues by focusing on others, about ranking of countries, of oversimplification, and of standardization. In addition, because treaty body experts are committed to their particular treaty and to preserving a holistic, country-specific approach, the support for standardized indicators has been muted. Despite the benefits of indicators in terms of efficiency of data processing, access to more reliable information, and ability to assess changes over time, the human rights community has been generally resisted quantification and ranking countries. Ranking is not only too simplified, but it is also politically unpalatable. Ironically, naming and shaming is a crucial element of the power of human rights, so it is perhaps understandable that countries resist it and treaty body members are cautious. The compromise was to produce a large number of indicators and view them as a tool kit, a set of possible indicators among which countries can pick and choose. Ironically, this fragmented approach undermines the power of the indicator itself.

The human rights monitoring system operates at the boundary between universal standards and particular specificity. The goal is to apply the same standards to all, yet to recognize differences in history, context, political systems and resources among countries. The challenge of the monitoring process is to translate the universal standards from treaties for the situation of particular states in order to assess compliance. Ironically, it is the weakness of the institutional base for this indicator initiative, the absence of coercive consequences behind it, and the human rights commitment to a holistic, systemic analysis of injustice, that undermines the ability of the human rights community to develop and deploy the most powerful form of
indicators. The shape of the indicators themselves reflects the dance of control between treaty bodies and states that defines the human rights monitoring process.