

The Scope of Human Rights: From Background Concepts to Indicators

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Introduction

This paper sets out to establish the logical and operational connection between human rights *concepts* and human rights *indicators*, the combination of which is essential for human rights *measurement*. The international human rights, policy, and donor community has long sought to establish the full content of human rights that ought to be promoted and protected, while less progress has been made on providing meaningful, valid, and reliable measures of human rights. Advocacy for new standards and greater state participation in the international human rights ‘regime’ (Donnelly 2003; Landman 2005b) as well as the monitoring and alerting of human rights violations has often times occurred in isolation from measurement efforts and secondary academic analysis, both of which seek to provide standardised methods for representing the variation in human rights protection. More recently, some key actors within the human rights NGO sector¹ have not only taken on board the measurement agenda set by political scientists, sociologists, economists, and statisticians, but have surpassed these academic communities in some degree with respect to the measurement of certain human rights (see Landman 2005a).

In order to illustrate the necessary and inexorable link between human rights concepts and human rights indicators, this paper is divided into four sections. The first section describes the scope or ‘domain’ of human rights (Sorell and Landman 2005) that includes both their different *categories* and *dimensions*. The second section explains how social scientific measurement moves through four different levels ranging from general background concepts to specific scores on specific human rights across

¹ For example, the Human Rights Data Analysis Group (HRDAG) at the American Association for the Advancement of Science, many of whom are now based at the Benetech Initiative in Palo Alto (www.martus.org), and Physicians for Human Rights.

specific units of analysis (e.g. a high score on civil rights $CR\uparrow$ in country X in year T). The third section discusses extant measures of human rights, including those that measure rights ‘in principle’ (i.e. *de jure* state commitment), ‘in practice’ (i.e. *de facto* realisation), and as a government ‘policy’ (i.e. inputs, outputs, and outcomes) (see Landman 2004). The fourth and final section discusses the remaining *lacunae* that ought to be addressed in order to move the human rights measurement agenda forward.

1. The Scope of Human Rights

In their contemporary manifestation, human rights are a set of individual and collective rights that have been formally promoted and protected through international and domestic law since the 1948 Universal Declaration of Human Rights. Arguments, theories, protections, and violations of such rights, however, have been in existence for much longer (see e.g. Claude 1976; Foweraker and Landman 1997: 1-45; Freeman 2002b: 14-54; Ishay 2004; Sorell and Landman 2005), but since the Universal Declaration, the evolution of their express legal protection has grown rapidly. Today, the numerous international treaties on human rights promulgated since the Universal Declaration to which an increasingly large number of nation states are a party define the core content of human rights that ought to be protected across categories of civil, political, economic, social, and solidarity rights.²

1.1. Categories of Human Rights

The collection of human rights protected by international law draws on a longer of tradition of rights from philosophy, history, and normative political theory and now

² Attempts to enumerate all the human rights that are protected vary between total of 58 and 64 (see Davidson 1993; Gibson 1996; Green 2001; Donnelly 2003).

includes three sets, or categories of rights that have become useful shortcuts for talking about human rights among scholars and practitioners in the field, and will be used throughout the remainder of this paper. These three categories are: (1) civil and political rights, (2) economic, social, and cultural rights, and (3) solidarity rights. It has been typically understood that individuals and certain groups are bearers of human rights, while the state is the prime organ that can protect and/or violate human rights. The political sociology of human rights argues that historical struggles by oppressed groups have yielded a greater degree of protection for larger sets of individuals and groups whose rights have not always been guaranteed while the state itself, in attempt to construct a national identity and fortify its capacity to govern, has extended various rights protections to increasingly larger sectors of society (Foweraker and Landman 1997). The struggle for human rights and contemporary arguments about their continued promotion and protection have extended beyond exclusive attention on the legal obligations of nation states and have started focussing on how non-state actors, such as guerrilla movements, terrorist organisations, warlords, multi-national corporations, and international financial institutions, may be conceived as responsible for human rights violations and how such entities may carry an obligation for their protection (see Forsythe 2000: 191-214; UN Global Compact Office and OHCHR 2004). These different categories of human rights are considered in turn.

Civil and political rights uphold the sanctity of the individual before the law and guarantee his or her ability to participate freely in civil, economic, and political society. *Civil rights* include such rights as the right to life, liberty, and personal security; the right to equality before the law; the right of protection from arbitrary

arrest; the right to the due process of law; the right to a fair trial; and the right to religious freedom and worship. When protected, civil rights guarantee one's 'personhood' and freedom from state-sanctioned interference or violence. *Political rights* include such rights as the right to speech and expression; the rights to assembly and association; and the right to vote and political participation. Political rights thus guarantee individual rights to involvement in public affairs and the affairs of state. In many ways, both historically and theoretically, civil and political rights have been considered *fundamental* human rights for which all nation states have a duty and responsibility to uphold (see Davidson 1993: 39-45; Donnelly 1998: 18-35; Forsythe 2000: 28-52). They have also been seen as so-called 'negative' rights since they merely require the absence of their violation in order to be upheld.

Social and economic rights include such rights as the right to a family; the right to education; the right to health and well being; the right to work and fair remuneration; the right to form trade unions and free associations; the right to leisure time; and the right to social security. When protected, these rights help promote individual flourishing, social and economic development, and self-esteem. *Cultural rights*, on the other hand, include such rights as the right to the benefits of culture; the right to indigenous land, rituals, and shared cultural practices; and the right to speak one's own language and 'mother tongue' education. Cultural rights are meant to maintain and promote sub-national cultural affiliations and collective identities, and protect minority communities against the incursions of national assimilationist and nation-building projects. In contrast to the first set of rights, this second set of social, economic, and cultural rights is often seen as an aspirational and programmatic set of rights that national governments ought to strive to achieve through progressive

implementation. They have thus been considered less fundamental than the first set of rights and are seen as 'positive' rights whose realisation depends heavily on the fiscal capacity of states (Davidson 1993; Harris 1998: 9; see also Foweraker and Landman 1997: 14-17).

Solidarity rights, which include rights to public goods such as development and the environment, seek to guarantee that all individuals and groups have the right to share in the benefits of the earth's natural resources, as well as those goods and products that are made through processes of economic growth, expansion, and innovation. Many of these rights are transnational in that they make claims against wealthy nations to redistribute wealth to poor nations, cancel or reduce international debt obligations, pay compensation for past imperial and colonial adventures, reduce environmental degradation, and help promote policies for sustainable development. Of the three sets of rights, this final set is the newest and most progressive and reflects a certain reaction against the worst effects of globalization, as well as the relative effectiveness of 'green' political ideology and social mobilization around concerns for the health of the planet.

1.2. Dimensions of Human Rights

The distinction between these sets of rights follows the historical struggle for them (Marshall 1963; Claude 1976; Barbalet 1988; Davidson 1993), the appearance of the separate international instruments that protect them, the philosophical arguments concerning their status, and the methodological issues surrounding their measurement (see Claude and Jabine 1992; Foweraker and Landman 1997: 46-65; Landman 2004). But significant sections of the human rights community have challenged these

traditional distinctions between ‘generations’ of human rights and have sought to establish the general claim that all rights are indivisible and mutually reinforcing, a sentiment that found formal expression in the 1993 Vienna Declaration and Programme of Action (Boyle 1995; Donnelly 1999). Such a challenge suggests that it is impossible to talk about certain sets of human rights in isolation, since the protection of one right may be highly contingent on the protection of other rights. For example, full protection of the right to vote is largely meaningless in societies that do not have adequate health, education, and social welfare provision, since high rates of illiteracy and poverty may mean the *de facto* disenfranchisement of large sectors of the population. Equally, those interested in combating torture need to examine possible underlying socio-economic, cultural, and organizational reasons for the practice of torture, which themselves may rely on the variable protection of other human rights (see Huggins, Haritos-Fatouros, and Zimbardo 2002).

This human rights challenge also suggests that there is a false dichotomy between negative and positive rights (Shue 1980; Donnelly 2003: 30-33) that tends to privilege civil and political rights over economic and social rights, since the protection of the former appears less dependent on state resources than the latter (Foweraker and Landman 1997: 14-17). One response to this false dichotomy is to claim that ‘all rights are positive’ (Holmes and Sunstein 1999) since the full protection of all categories of human rights ultimately relies on the relative fiscal capacity of states. In this view, the protection of property rights requires a well-funded judiciary, police force, and fire service, as well as a well-developed infrastructure that can relay information, goods, and services in the event that property is under threat in some way. A similar argument can be made about guaranteeing the right to vote. Beyond

prohibiting intimidation and discrimination at the polls, running a free and fair election requires a tremendous amount of financial support, technology, and infrastructure, the need for which has been illustrated dramatically by the highly contested process and result of the 2000 Presidential Election in the United States. And as above, the prevention of torture involves training and education within police and security forces, which entails the need for significant financial resources from the state.

Another response to the traditional division between positive and negative human rights is to view them as having *positive* and *negative* dimensions, the full delineation of which is essential for human rights measurement (Landman 2004: 922-923). By claiming that all rights are positive, we may lose sight of significant negative characteristics of human rights. While it is clearly possible above to see how civil and political rights have positive characteristics (i.e. the provision of well-funded judiciaries, training and education programmes, and well-developed infrastructure), it is equally possible to see how economic and social rights have significant negative characteristics. For example, just like torture by the state is seen as preventable if only the state refrained from torturing, discrimination in public education and healthcare is equally preventable if only the state refrained from so discriminating. In this way, it is equally possible to have a ‘violations approach’ (Chapman 1996) to studying the promotion and protection of economic, social, and cultural rights as it is to studying the promotion and protection of civil and political rights.

Table 1 shows how such a conceptualisation of human rights looks if we are to include their positive and negative dimensions. The table is a 2 X 3 matrix resulting

from three categories of human rights, each with corresponding positive and negative dimensions. Positive dimensions include those actions that states can take to provide resources and policies for improving the protection of human rights while negative dimensions are those actions that states do (or not do) that deliberately violate (or protect) human rights. Certain cells in the matrix have been well covered in the theory and practice of human rights. For example, the negative dimensions of civil and political rights in Cell II are the traditional focus of human rights international standards (e.g. the 1966 International Covenant on Civil and Political Rights), systems (e.g. United Nations, European, Inter-American, and African), and mechanisms for reporting and redress (e.g. Human Rights Committee, European Court of Human Rights; Inter-American Commission and Inter-American Court of Human Rights); monitoring, advocacy, and campaigns from human rights non-governmental organisations (e.g. Amnesty International and Human Rights Watch); and much of the academic scholarship in political science (see Landman 2005a). Equally, the positive dimensions of economic, social, and cultural rights in Cell III have been the traditional focus of human rights international standards (e.g. the 1966 International Covenant on Economic, Social, and Cultural Rights), mechanisms for reporting and redress (e.g. the Committee on Economic, Social, and Cultural Rights), non-governmental organisations working on social justice and minority rights issues (e.g. Minority Rights Group International) and academic scholarship primarily in sociology, developmental economics, and anthropology (Turner 1993; Freeman 2002a, 2002b).

Outside these two areas of human rights that have received wide attention and debate, there have been varying degrees of attention paid to the positive and negative

dimensions of human rights depicted in the remaining cells. For the positive dimensions of civil and political rights in Cell I, the work on ‘good governance’ (Weiss 2000) has sought to examine the ways in which investment in judiciaries, prisons, and police forces can improve the foundations of governance and so deliver better economic prosperity (World Bank 1992; Knack and Keefer 1995; Clague, Keefer, Knack, and Olson 1996, 1997; USAID 1998a, 1998b; de Soto 2000), while those interested in the administration of justice see such positive aspects of civil and political rights as essential to addressing problems of the ‘(un)rule’ of law (e.g. Méndez, O’Donnell, and Pinheiro 1999). For the negative dimensions of economic, social, and cultural rights in Cell IV, there has been much focus on general patterns of gender, ethnic, racial, linguistic, and religious discrimination, but perhaps less attention on how these practices may constitute violations to economic, social, and cultural rights (Chapman 1996). Since the debt crisis in the 1980s, there has been an increase in social mobilization and attention (e.g. Charter 99 issued by the One World Trust) around the transnational issues of debt relief, developmental assistance and distribution of global income, and ‘post-colonial’ reparations for past practices made most vocally at the 2001 World Conference Against Racism (Cell V). Since the 1970s, groups have been mobilizing for transnational solutions to the global environmental problems and have focussed on the negative dimensions of ‘offending’ states such as the United States (Cell VI), but there has been less of a focus on the rights issues associated with such solutions. Finally, from a human rights perspective, the work on globalization and trade has focussed on the ‘violation’ represented by unfair trade agreements hammered out in the World Trade Organisation (e.g. Compa and Diamond 1996; Francioni 2001), which is seen to be disproportionately influenced by the United States and the European Union (Steinberg 2005), as well as

unsavoury manufacturing and production techniques used by multinational corporations.

Table 1.1. Positive and negative dimensions of human rights categories

		Dimensions	
		'Positive' (i.e. provision of resources and outcomes of policies)	'Negative' (i.e. practices that deliberately violate)
Categories of human rights	Civil and political	I Investment in judiciaries, prisons, police forces, and elections	II Torture, extra-judicial killings, disappearance, arbitrary detention, unfair trials, electoral intimidation, disenfranchisement
	Economic, social, and cultural	III Progressive realisation Investment in health, education, and welfare	IV Ethnic, racial, gender, or linguistic discrimination in health, education, and welfare
	Solidarity	V Compensation for past wrongs Debt relief Overseas development and technical assistance	VI Environmental degradation CO ₂ emissions Unfair trade

2. From Concepts to Indicators

The various examples outlined in the previous section show how human rights measurement can benefit from such a conceptual delineation, since it disaggregates the concept of human rights into different categories across different dimensions and facilitates the process of operationalizing human rights for systematic analysis. As we shall see, the different dimensions and categories provide the content for developing 'events-based', 'standards-based', 'survey based' and other measures of human rights (see Section 3). But what are the operational steps that allow us to move from these conceptual distinctions of human rights to the provision of valid, meaningful, and reliable measures? At an abstract methodological level, the process of measurement

converts well-defined and well-specified concepts into meaningful quantitative measures or qualitative categories, and has four main steps (Adcock and Collier 2001, also Zeller and Carmines 1980). The first level concerns the *background concept* that is to be measured (i.e. human rights), which is the broad constellation of meanings and understandings associated with the concept. The scope of human rights outlined above summarises what comprises such a broad constellation of meanings and understandings in the field of human rights. The second level develops the *systemised concept*, which specifies further the concept that is to be measured, such as a specific right (e.g. the right not to be tortured) or a group of rights (e.g. civil rights). The third level *operationalizes the systematised concept* into meaningful, valid, and reliable indicators, such as events-based, standards-based, survey-based, or other measures (see next section). The final level provides *scores on indicators* for the units of analysis being used (e.g. individuals, groups, countries, regions, etc.). Figure 1 depicts these four levels graphically.

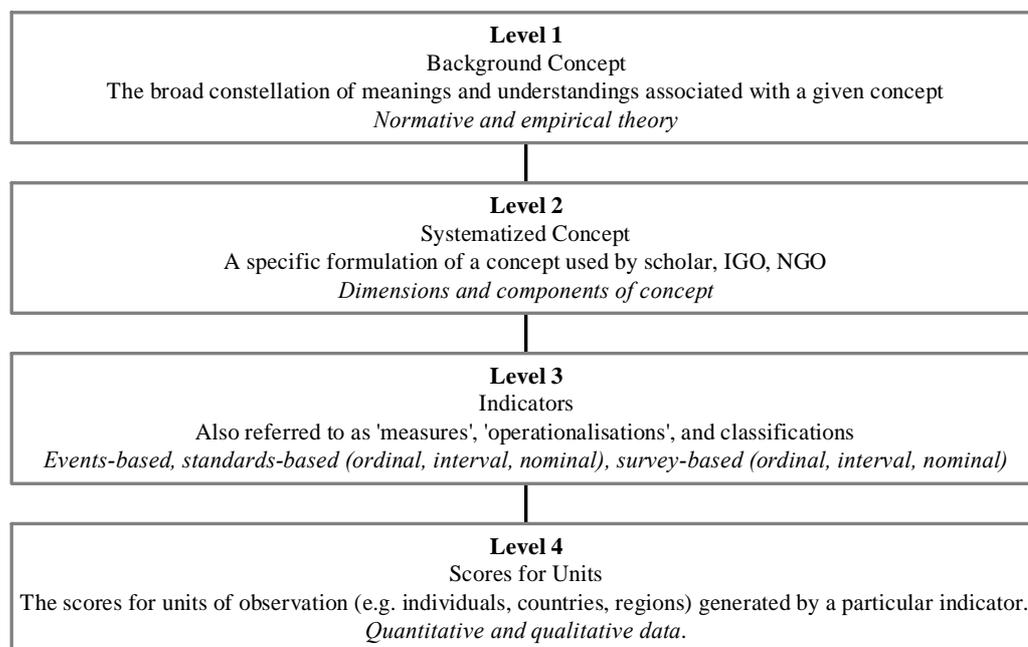


Figure 1. Levels of measurement
Sources: Zeller and Carmines 1980; Adcock and Collier 2001

Consider a concrete example. The *background concept* to be measured is human rights, the scope of which has been *systematically* outlined above across its different categories (civil, political, economic, social, cultural, and solidarity) and dimensions (positive and negative). The international community of human rights scholars and practitioners have spent the years in the lead up to and the years since the 1948 Universal Declaration of Human Rights ‘constructing’ (Donnelly 1999) and ‘justifying’ (Sorell and Landman 2005) human rights in conceptual and legal terms. While there have not been agreed philosophical foundations for the existence of human rights (Mendus 1995; Landman 2004; 2005a), the extant international law of human rights provides a general consensus on the core content of those human rights that ought to be protected (Landman and Häusermann 2003). Such a core content comprises Steps 1 and 2 in the levels of measurement.

The matrix representing the intersection between the categories and dimensions of human rights is a systematic way of organising the first step to measurement. Consider the right not to be tortured, which is a systematised concept of human rights that has been identified most notably in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT). The systematised concept is susceptible to operationalization at Level 3. But given the two dimensions of human rights, the right not to be tortured can be measured at Level 3 both *positively* (i.e. resources a state is investing in procedures, policies, reforms, and training for the prevention of torture) and *negatively* (formal commitment to international standards on torture and actual incidence of torture). At Level 4, the right not to be tortured is measured for a unit (e.g. Brazil) at a particular time (e.g. 1985), across its positive dimension (e.g. % GDP

spent on torture reform, number of police in receipt of torture training, cases of reprimand for torture) and its negative dimension (e.g. incidence of torture revealed through events counting, a scale of torture, or survey estimations on popular experiences of torture). In this way, the right not to be tortured *may have several indicators that measure its core content across its two dimensions.*

3. Extant Measures

The burgeoning literature on human rights measurement (Claude and Jabine 1992; Green 2001; Landman 2004) comprises Levels 3 and 4 in the measurement schema outlined above. Extant approaches have measured human rights *in principle* (i.e. as they are laid out in national and international legal documents), *in practice* (i.e. as they are enjoyed by individuals and groups in nation states), and as outcomes of government *policy* that has a direct bearing on human rights protection. As will be shown below, measurement of human rights can take the form of coding country participation in regional and international human rights regimes, coding national constitutions according to their rights provisions, qualitative reporting of rights violations, survey data on perceptions of rights conditions, quantitative summaries of rights violations, abstract scales of rights protection based on normative standards, and individual and aggregate measures that map the outcomes of government policies that have consequences for the enjoyment of rights.

3.1. Rights in Principle

International and domestic law enshrines norms and principles of human rights, which can be coded using protocols that reward a country for having certain rights provisions in place. van Maarseveen and van der Tang (1978) set an important precedent by coding constitutions for 157 countries across a multitude of institutional

and rights dimensions for the period 1788-1975. Chapter 6 of their study compares the degree to which national constitutions contain those rights mentioned in the UN Declaration for Human Rights by examining their frequency distributions across different historical epochs before and after 1948. Their study is broadly descriptive in nature, but their data allow for global patterns and processes of change in the formal protection of rights at the domestic level to be mapped, while secondary and more advanced statistical analysis could be conducted on the patterns within the data while exploring possible relationships with other indicators. For example, Foweraker and Landman (1997: 51-52) use an 'institutional procedural index' to code rights in principle for Brazil, Chile, Mexico, and Spain using the various national constitutions and constitutional amendments during the years of political liberalization and democratic transition. In similar fashion, Poe and Keith (2004) code national constitutions to measure their ability to suspend rights protection during states of emergency. At the global level, Keith (1999), Landman (2001, 2005b), and Hathaway (2002) code the regional and international human rights regimes by scoring countries for signing and ratifying major human rights instruments. Rather than code individual rights provisions, these authors code the degree to which countries are parties to human rights treaties over time.

Coding rights in principle, either at the national or international level is important since it translates qualitative legal information into quantitative information that can be used to track the formal commitment of countries to rights protection against which their actual practices can be compared. Foweraker and Landman (1997: 62-65) use regression techniques to gauge the relative 'gap' between rights in principle and rights in practice in Brazil, Chile, Mexico, and Spain (see also Duvall and Shamir 1980: 162-163; Arat 1991). Their analysis demonstrates that during the process of

political liberalization, authoritarian states can deny rights that they proclaim are protected (a negative gap), protect rights they proclaim are protected (a zero gap), or protect rights that they proclaim are not protected (a positive gap). Poe and Keith (2004) use their state of emergency variable to examine the relationship between the law and practice of human rights while controlling for the independent effects of democracy, wealth, and warfare. Using the notions of principle and practice for global analysis shows that regimes frequently make formal commitments to human rights treaties, but continue to violate human rights. This difference is captured by weak positive or even negative correlation and regression co-efficients between ratification and rights variables (Keith 1999; Landman 2001; Hathaway 2002; see also Krasner 1999: 122). Carrying out such analyses, however, requires measurement of rights in practice to which the discussion now turns.

3.2. Rights in Practice

Rights in practice are those rights actually enjoyed and exercised by groups and individuals regardless of the formal commitment made by a government. While there ought to be a correspondence between formal rights commitments found in national constitutions and international human rights instruments and those enjoyed on the ground, it is often the case that individuals and groups do not enjoy the full protection of their rights (a negative gap in the terminology used above). Ideally, there ought to be in place a legal appeals procedure, mechanisms for seeking domestic and international remedies, and a subsequent 'correction' in national practices to uphold the rights to which regimes have made formal commitments. In the absence of such systems or in the face of weak systems, the role of many human rights practitioners is to provide meaningful and accurate information on the degree to which human rights are being violated. Indeed, greater concerns over humans rights since World War II

has led to an explosion in the number of domestic and international human rights NGOs collecting information on violations. Such NGOs have been given greater status in international governmental organizations, and their activities include setting standards, providing information, lobbying, and giving direct assistance to those suffering abuse of their rights (Forsythe 2000: 163-190; Welch 2001: 1-6; Landman and Abraham 2003).

The increase in the salience of human rights as an issue combined with organizations dedicated to documenting human rights violations means that there is greater availability of comprehensive information on actual practices of states and the conditions under which individuals live. But this information necessarily will be lumpy and incomplete, since reporting of human rights violations is fraught with difficulties, including fear within victims, power of the offenders, comprehensive evidence, quality of communications technology, among others. In recognising this problem, Bollen (1992: 198) argues that there are six levels of information on human rights violations: (1) an *ideal* level with *all* characteristics of *all* violations (either reported or unreported), followed by (2) recorded violations, (3) known and accessible violations, (4) locally reported violations (nation-state), (5) internationally reported violations, and (6) the most biased coverage of violations, which may include only those reported in US. Indeed, the early behaviourist attempts to measure political violence used the *New York Times Index* only for its source of information (e.g. Taylor and Hudson 1972; Taylor and Jodice 1983), while new approaches on dissent and repression use multiple newswire sources that are machine coded (e.g. Francisco 2004).³

³ The time-series daily and sub-daily protest and repression data for a selection of countries can be found at: <http://lark.cc.ku.edu/~ronfran/data/index.html>

Other work in this area seeks to obtain lower levels of information in much greater detail. For example, the *Torture Reporting Handbook* (Giffard 2000) and *Reporting Killings as Human Rights Violations* (Thompson and Giffard 2002) are manuals that define specific rights, outline the legal protections against their violation, and provide ways in which testimony and evidence from victims can be collected.⁴ The Human Rights Information and Documentation System (HURIDOCS), founded in 1982, provides standards for human rights violations reporting, and now represents a vast network of human rights groups (Dueck 1992: 127).⁵ While such increased information at all levels is helpful for systematic human rights research, there remains a trade-off or tension between micro levels of information gathering and the ability to make systematic comparative inferences about human rights. In order for equivalent measures to 'travel' for comparative analysis, there will necessarily be some loss of information, while the comparability of measures allows for stronger generalizations about human rights violations to be drawn.⁶

These issues about levels of information and the commensurability for cross-national analysis delineate the three types of data available for measuring human rights in practice: (1) *events-based*, (2) *standards-based*, and (3) *survey-based*. Events-based data chart the reported acts of violation committed against groups and individuals. Events-based data answer the important questions of what happened, when it happened, and who was involved, and then report descriptive and numerical summaries of the events. Counting such events and violations involves identifying the

⁴ Both these manuals are published by the Human Rights Centre at the University of Essex. For an online copy of the *Torture Reporting Handbook*, go to www.essex.ac.uk/torturehandbook.

⁵ For up to date information on the activities of and groups involved with HURIDOCS, see www.huridocs.org.

⁶ For a treatment of this trade-off between levels of abstraction and the scope of countries under comparison, see Landman (2000, 2002, 2003).

various acts of commission and omission that constitute or lead to human rights violations, such as extra-judicial killings, arbitrary arrest or torture. Such data tend to be disaggregated to the level of the violation itself, which may have related data units such as the perpetrator, the victim, and the witness (Ball, Spierer, and Spierer 2000). Standards-based data establish how often and to what degree violations occur, and then translate such judgements into quantitative scales that are designed to achieve commensurability. Such measures are thus one level removed from event counting and violation reporting, and merely apply an ordinal scale to qualitative information. Finally, survey-based data use random samples of country populations to ask a series of standard questions on the perception of rights protection. Such measures track individual level perceptions or rights violations.⁷

These different types of data map overall human rights practices within a country in different ways. The HURIDOCs project, handbooks such as those on torture (Giffard 2000) and unlawful killings (Thompson and Giffard 2002), and the work of nationally based human rights commissions collect events-based data, which can provide time-series and continuous indicators on human rights violations. Standards-based scales such as the 'political terror scale' (e.g. Poe and Tate 1994), the 'index of political freedom' (Freedom House), the torture scale (Hathaway 2002), 'the minorities at risk' project (Gurr 1993), and the 'state failure project' (Esty et al. 1998) use available information on human rights practices of states to generate global indices. Finally, general survey-based data on rights can be found in such studies as the

⁷ It is equally possible to interview random samples of populations to probe the degree to which individuals have actually experienced human rights violations. Such a method is fraught with difficulties since individuals may not respond to such questions owing to fear, intimidation and the possibility of recrimination. In contrast, the individual level data collected by truth commissions, human rights commissions, and NGOs rely on 'convenience samples' of those individuals willing to come forward and volunteer information regarding violations that have occurred to them or those that they have witnessed.

Eurobarometer (and now *World Barometer*) series and the *World Values Survey* (Inglehart 1977, 1990, 1997, 1998). Governments themselves have begun conducting mass public opinion surveys on individual perceptions of human rights. For example, the Home Office in the United Kingdom commissioned a citizenship survey, which contains a series of questions on the Human Rights Act of 1998 and general questions about rights and duties of UK citizens.⁸ Finally, NGOs such as Physicians for Human Rights have begun using household surveys of ‘at risk’ populations (e.g. internally displaced people in Afghanistan and women in Sierra Leone) to capture the degree to which particular groups suffer disproportionate human rights violations (Physicians for Human Rights 2002a, 2002b, 2002c, 2003).

Figures 6, 7, and 8 provide examples of the three different types of data depicting rights in practice. Figure 6 is an example of events-based data on political killings collected and analysed by the Commission for Truth and Reconciliation in Peru (Ball, Asher, Sulmont, and Manrique 2003). Figure 7 shows the abstract measures of civil and political rights from Freedom House, personal integrity rights, and torture in the world between 1976 and 2000. Freedom House has a standard checklist it uses to code civil and political rights based on press reports and country sources about state practices and then derives a scale that ranges from 1 (full protection) to 7 (full violation).⁹ The personal integrity rights measures are abstract scales that range from

⁸ The results of the Home Office survey will be available on www.homeoffice.gov.uk.

⁹ The checklist for political liberties includes: Chief authority recently elected by a meaningful process; legislature recently elected by a meaningful process; fair election laws, campaigning opportunity, polling and tabulation; fair reflection of voter preference in the distribution of power; multiple political parties; recent shifts in power through elections; significant opposition vote; free of military or foreign control; major groups or groups allowed reasonable self-determination; decentralized political power; informal consensus, de facto opposition power. The checklist for civil liberties includes: media and literature are free of political censorship; open public discussion; freedom of assembly and demonstration; freedom of political or quasi-political organization; non-discriminatory rule of law in politically relevant cases; free from unjustified political terror or imprisonment; free trade unions, peasant organizations, or equivalent; free businesses or co-operatives; free professional or other private organizations; free religious institutions; personal social rights; socio-economic rights. See. Gastil

1 (full protection) to 5 (full violation) for state practice that include torture, political imprisonment, unlawful killing, and disappearance. Information for these scales comes from the US State Department and Amnesty International country reports (Poe and Tate 1994). In similar fashion, Hathaway (2002) measures torture on a 1 to 5 scale using information from the US State Department. Finally, Figure 8 summarises the results of household surveys on sexual violence in Sierra Leone during the worst years of the armed conflict.

Graph 2

Perú 1980–2000: Estimates of the total number of victims of internal armed conflict, by region and responsible party (confidence level: 95%)

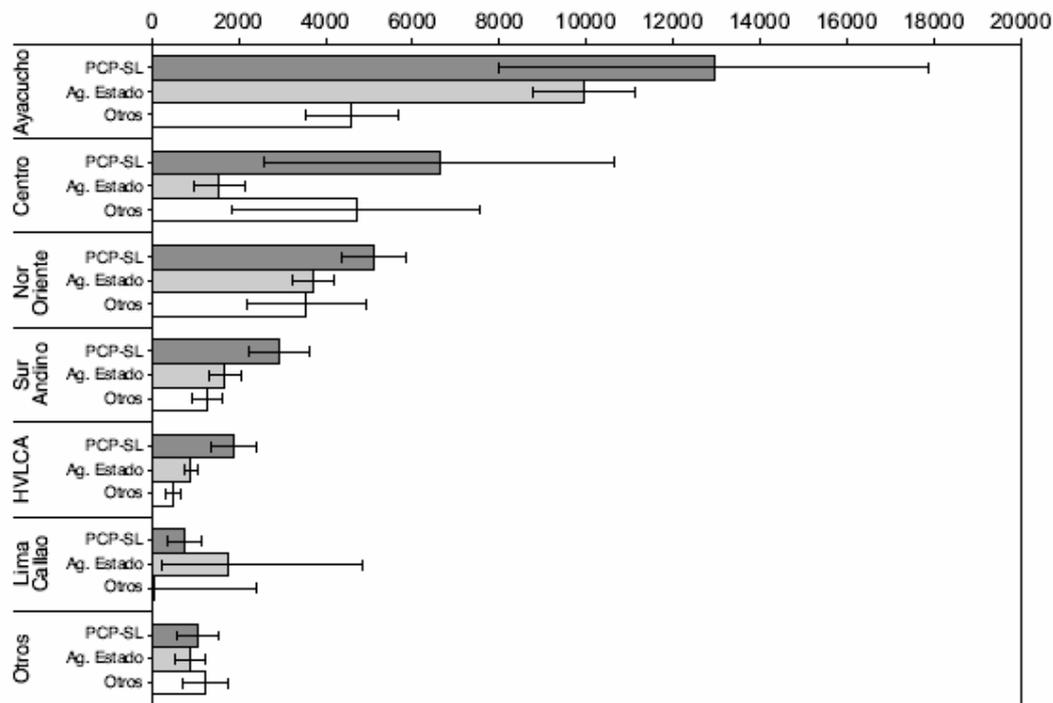


Figure 6. Events data from the Peruvian Truth and Reconciliation Commission
Source: Ball, Asher, Sulmont, and Manrique 2003.

(1987, 1990); Freedom House (1990); and www.freedomhouse.org/research/freeworld/2000/methodology.htm.

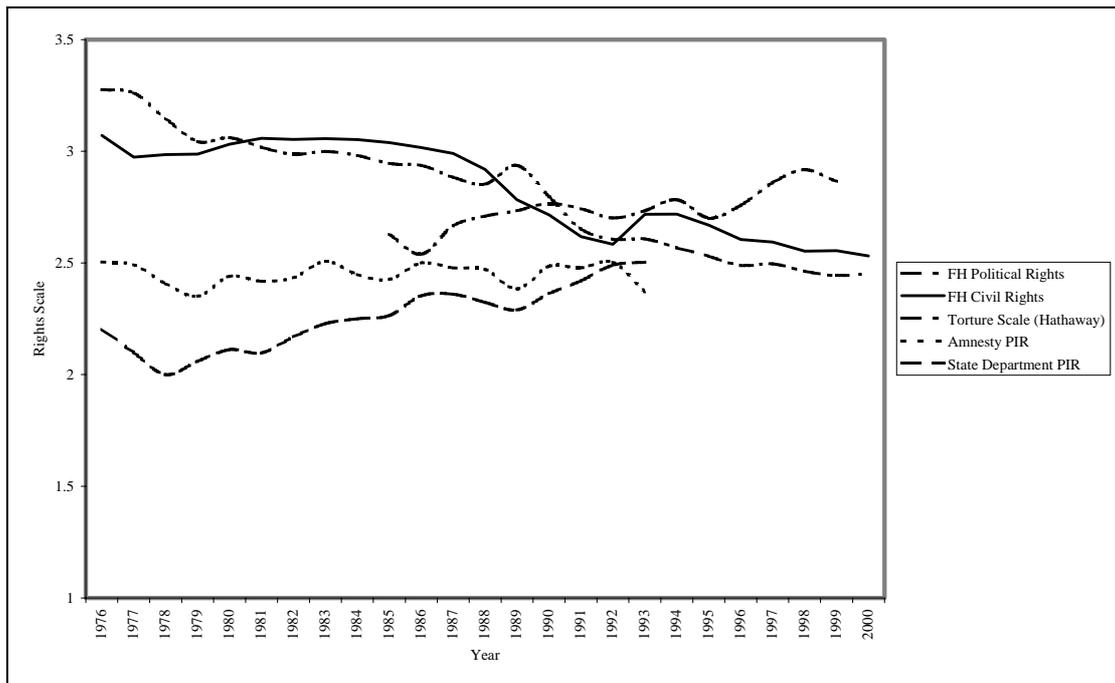


Figure 7. Standards-based measures for the world 1976-2000
Source: Landman (2005c).

FIGURE 2:
Occurance of Sexual Assaults Among Respondents and Other Human Rights Abuses Among Household Members

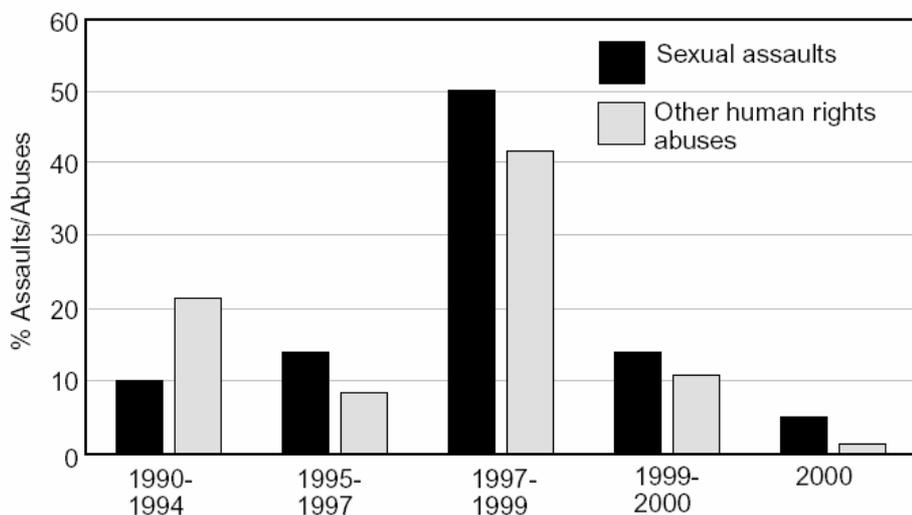


Figure 8. Household survey data on sexual abuse in Sierra Leone
Source: Physicians for Human Rights 2002b

While these three examples of human rights measures focus on civil and political rights, Section 1 in this paper argued that it is possible to extend the methodological

discussion to include the measurement of economic, social, and cultural rights. Indeed, if the denial of economic, social, and cultural rights is the product of particular government *practices*, then it seems equally possible to use qualitative information to summarize such practices into ordinal scales similar to those used for civil and political rights violations. Overt, institutionalised, or implicit discrimination against individuals or groups that prevents their access to education or adequate health constitutes a practice that violates a right. In theory, such a violation can be reported and coded using events-based, standards-based, and/or survey-based data. The minorities at risk project codes the degree to which 224 different minority and communal groups experience discrimination using such ordinal scales (see Gurr 1993, and also Foweraker and Krznaric 2001).

Despite their development and increasingly wider use these three types of data (events-based, standards-based, and survey-based) are fraught with methodological problems. Events-based data are prone to either under-reporting of events that did occur or over-reporting of events that did not occur, creating problems of selection bias and misrepresentative data. It is impossible to document every last human rights violation and those organisations collecting such information tend to concentrate on conflict-stricken societies during discrete periods of time and thus cross-country comparisons using such measures is problematic. In contrast, standards-based data establish comparability by raising the level of abstraction, but have a tendency to truncate the variation of human rights protection across different countries. In other words, their use of a simple limited scale may group together certain countries that actually show a great difference in their protection of human rights. While these scales present a general picture of the human rights situation and are useful for

drawing comparative inferences, they necessarily sacrifice the kind of specificity for pursuing direct legal action against perpetrators. Finally, survey data, especially those used across different political contexts are prone to cultural biases, where the meaning of standardised questions on rights protection are differently understood in different countries. In this way, the debate about the universality of human rights affects the method of measuring rights through surveys, since it is not obvious that human rights are understood to mean the same thing across the world.¹⁰ It is important therefore that those measuring human rights in practice *recognise the limits of their data*.

3.3. Government Policies and Outcomes

In addition to rights in principle and rights in practice, it is possible to provide more indirect measures of human rights using aggregate statistics on the outcomes of government policies. In her contribution to a 2001 conference on human rights impact assessment, Parr (2002) makes the useful distinction between human rights conduct and developmental outcomes that may have a bearing on human rights. She stresses the fact that certain dimensions of conduct and outcomes are simply not prone to quantifiable measurement (see Radstaake and Bronkhurst 2002: 31-32). In the language of this present paper, her distinction fits well with the difference between rights in *practice* (conduct) and government *policy* (outcomes). In contrast, however, this article argues that practices and outcomes are more readily quantifiable than Parr (2002) assumes. The discussion in the preceding section demonstrated that human

¹⁰ Anthropologists, sociologists, and political scientists who adopt culturalist perspectives have long grappled with these issues. On the one hand, the sceptics argue that there are limits to cross-cultural and transnational understandings of human rights and any attempt to measure them using a survey instrument will necessarily fail (see MacIntyre 1971). On the other hand, there are those who argue that cross-cultural measurement of human rights is possible since there are 'homeomorphic equivalents' of rights that can be probed using social scientific methods (see Renteln 1990). Indeed, in political science, comparative scholars have long been measuring popular attitudes toward government, political institutions, and the degree to which citizens can participate effectively in governmental processes (see Almond and Verba 1963, 1989; Inglehart 1977, 1990, 1997, 1998). In many cases, they identify 'functional equivalents' across different governmental institutions in order to allow for cross-cultural comparison (see Dogan and Pelassy 1990; Landman 2000, 2003).

rights scholars have long been measuring rights in practice, albeit with a greater emphasis on civil and political rights. Qualitative information on the degree to which certain categories of rights have been violated is either summarised quantitatively (events data), translated into comparable quantitative ordinal scales (standards-based data), or acquired through individual level data collection techniques (survey-based data).

Traditionally, development studies and development economics have often relied on quantitative indicators of the outcomes of government policies, including gross domestic product, gross domestic product per capita, income inequality, expenditure on health, education, and welfare, among many others.¹¹ Indeed, the UNDP's human development index (HDI) combines per capita income (standard of living) with literacy rates (knowledge), and life expectancy at birth (longevity) (UNDP 1999: 127-137). While not providing a direct measure of rights protection *per se*, such measures can elucidate the degree to which governments support activities that have an impact on human rights. It is also possible to combine the HDI with standards-based measures of human rights to get a better picture of the interaction between human development and human rights. Figure 9 is a scatter plot between the HDI and a 'factor score' created through principal component extraction from the two versions of the Political Terror Scale, the two Freedom House scales, and the torture measure. The assumption behind using factor analysis is that each of the five measures is measuring common human rights phenomena. The curvilinear cubic functional form in the figure provides the best overall fit for the relationship between human development and human rights (i.e. has the highest R^2), but using the UNDP's cut-off

¹¹ The World Bank has over 500 separate indicators for the whole world for the period 1960 to the present, go to www.worldbank.org for information to its on-line world development indicators (WDI) database.

implementing these obligations. For example, literacy rates and gender breakdown of educational attainment are seen as proxy measures of the right to education; daily per capita supply of calories and other nutritional rates are seen as proxy measures of the right to food; and under-five mortality rates and the numbers of doctors per capita are seen as proxy measures of the right to health (OHCHR 2002).

To date, development indicators have primarily been applied to economic and social rights, but as Section 1 of this paper has shown, aggregate statistics can equally be used to measure the positive dimensions of civil and political rights. Following the work of the United States Agency for International Development (USAID 1998a, 1998b), new efforts propose the use of development indicators as potential proxy measures for civil and political rights (e.g. investment in prison and police reform, the processing of cases, and the funding of judiciaries). The extension of such indicators for measuring cultural rights is also possible. The social and spatial mobility of ethnic and cultural minority populations, as well as spending on bi-lingual education can approximate the degree to which countries adopting policies to upholding their cultural rights obligations. In short, aggregate measures of provision can depict the degree to which governments are committed to putting in place the kinds of resources needed to have a 'rights-protective regime' in place (Donnelly 1999).

4. Lacunae and Conclusions

This paper demonstrated the necessary and inexorable links between human rights concepts and human rights indicators. It showed that the background concept of human rights has been systematised by the international legal and human rights community such that there is now a known core content of human rights susceptible to social scientific operationalisation using a variety of indicators across their

different categories and dimensions. These include the positive and negative dimensions of civil, political, economic, social, cultural, and solidarity rights. Efforts to operationalise these different dimensions and categories of human rights have included measures of rights in principle, rights in practice, and proxy measures of government policies and outcomes. To date, the most efforts have concentrated on measuring rights in practice and include events-based, standards-based, and survey-based forms of measurement.

It seems clear, however, that we still know more about *what* to measure conceptually and legally than *how* to measure it. Tremendous progress in human rights measurement has been achieved but there are serious and significant lacunae in the field that need to be addressed that include both the *content of rights that remain unmeasured* and an *over-reliance on certain forms of measurement*. First, efforts in measurement have predominantly concentrated on the *negative* dimensions of civil, political rights and some cultural rights (i.e. minority rights discrimination) and the *positive* dimensions of economic and social rights. There is thus a dearth of measures for the positive dimensions of civil and political rights and the negative dimensions of economic and social rights. In the terms laid in this paper, we need measures for the provision of resources that support the protection of civil and political rights and we need measures for the violation of economic and social rights. Second, there is less agreement on the content of solidarity rights and at best there have been some proxy measures offered for them, such as the distribution of global income and trade dependency.

Third, there has been an over-reliance on standards-based ordinal measures of human rights with an emphasis on aggregation into single indices. Such measures maintain a reasonably high level of abstraction suitable for large cross-national comparisons, but have problems of validity, reliability, and variance truncation. Such measures need to be improved by a greater attention to primary sources in an effort to increase their validity, and greater disaggregation into separate measures of particular human rights. If standards-based ordinal scales are to be used and greater use is made of primary source material then such measures should provide more gradation in their ordinal categories in order to reduce the worst forms of variance truncation. It seems paramount, however, that such an effort needs to be complemented by other forms of data, including events-based, survey-based, and indicators of government policies and outcomes.

A fascinating example of such a combined measurement strategy has been achieved by the Commission for Reception, Truth, and Reconciliation in East Timor (CAVR), which has been documenting human rights abuses carried out during the Indonesian occupation between 25 April 1974 and 25 October 1999. The CAVR has collected three forms of data: (1) individual testimonies that are coded using the 'who did what to whom' data model outlined above, (2) a graveyard census of all names of all individuals who died during the period of occupation, and (3) a household mortality survey. The CAVR has then matched the information by name while maintaining the violation as the basic unit of analysis and are making projections about the total number of people killed during the occupation using 'multiple systems estimation' techniques used in Guatemala and Peru (Ball, Spierer, and Spierer 2000; Ball, Asher, Sulmont, and Manrique 2003; Landman 2005d). While such efforts concentrate on

single countries that have undergone period in which egregious human rights abuses have been committed (a form of selection bias), the lessons from their experiences in combining different forms of human rights data from different primary sources inform our larger quest for improving and making more scientific the process of human rights measurement.

Note on the author

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