Is the experience of human rights monitoring useful to developing a framework to assess the impacts of the SDGs?

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Introduction

My paper addresses the relationship between measuring sustainable development goals (SDGs) and human rights. I come to this topic from studying the relationship between science and human rights and for developing indicators to measure that relationship. The "right to science" is codified in Article 15 of the International Covenant on Economic, Social and Cultural Rights, one of the major human rights treaties of almost global reach.

Before I move to the substance of my contribution, I want to forewarn the reader that this is a rough, first draft of a paper and that the background research is, unfortunately, underdeveloped. Being my first attempt to address the topic of SDGs, I may have missed some major assumption, a trap that I could have avoided with more familiarity with the topic. Yet, I wanted to participate in this virtual conference and thus I decided to write down my thoughts in the form of this paper to contribute to the discussion.

In essence, this paper argues that the finding generated by monitoring the existing SDG indicators should be linked to the human rights discourse. International human rights law mandates that, among other things, governments reform their policy framework to comply with the standards set by treaties. Compliance with these standards entails structural reforms, which

can be beneficial to advancing the SDG agenda. Structural indicators are what permits the linkage between the two discourse.

Human rights indicators

Human rights indicators are primarily compliance indicators meaning that they measure extend to reach governments comply with their treaty obligations. the conceptual framework of human rights indicators was laid down by the OHCHR, which, after extensive consultation with international experts, published in 2012 the document *Human Rights Indicators: A Guide to Measurement and Implementation* (hereinafter "OHCHR Guide").

A key feature of the OHCHR Guide is on that guide is the conceptual distinction between three typologies of indicators: structural, process, and outcome indicators. Structural indicators "help in capturing the acceptance, intent and commitment of the State to undertake measures in keeping with its human rights obligations."[1] Process indicators "help in assessing a State's efforts, through its implementation of policy measures and programmes of action, to transform its human rights commitments into the desired results."[2] Outcome indicators "help in assessing the results of State efforts in furthering the enjoyment of human rights."[3]

Another important feature of the OHCHR Guide is the prescription that indicators "amenable to contextualization and disaggregation by prohibited grounds of discrimination…and by vulnerable or marginalized population group at country level."[4] Disaggregation is defined in terms of "sex, age, region (e.g., urban/rural) or administrative unit, economic wealth (e.g., quintile or decile of income or expenditure), socioeconomic status (e.g., employment status) or educational attainment."[5] Disaggregation permits analyses of discrimination according to categories that typically are socially unacceptable.

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[1] OHCHR Guide, 34.

[2] OHCHR Guide, 36.

[3] OHCHR Guide, 38.

[4] OHCHR Guide, 51.

[5] OHCHR Guide, 68.

Structural indicators

Although the framework adopted by the OHCHR Guide is designed to monitor compliance with human rights treaty provisions, I believe that valuable lessons can be drawn also for those engaged in measuring the realization of SGDs. I want to focus in particular on structural indicators.

In the context of human rights, structural indicators measure the adherence to certain standards. Countries that have agreed to certain human rights standards must ensure that those standards are met. Even in the context of human rights, however, structural standards can be construed more broadly. The OHCHR Guide notes that "[s]tructural indicators also need to look at the State's policy framework and strategies as applicable to that right."[6] In this broader sense, structural indicators are not merely a measure of human rights standards but are intended to cover more broadly policy commitments and strategies. This type of indicators can thus separate policies that contain prohibitions, limitations, exclusions or cause discriminatory effect from policies that enable the realization of certain goals and target, that ensure equality, and guarantee rights and entitlement to certain social goods. I believe that in this sense this is a typology of indicators that can be applied to various contexts, including SDGs.

SDG Indicators

This conference revolves around SDG indicators so I will get into the details of what they are, who they were developed, and the status advancement. However, it is helpful to pinpoint to certain facts to anchor my analysis to my understanding of SDG indicators, not being an expert but rather a newcomer in this field.

Global indicators were developed in accordance to the framework for Sustainable Development Goals set by the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs) and agreed upon at the 48th session of the United Nations Statistical Commission held in March 2017.[7]

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[6] OHCHR Guide, 35.

[7] https://unstats.un.org/sdgs/indicators/indicators-list/.

The framework lists 231 indicators.[8] Indicators are not divided according to the OHCHR typology. An analysis of these indicators shows that some indicators fit the OHCHR definition of structural indicators. These are indicators that address questions of "law" "policies" and "rights." For instance, the word "law" appears thirteen times—seven times in the "goals/targets" column and six times in the "indicators" column, as reported in the Table 1, which appears in the appendix to this paper. Interestingly, of the six instances in which "law" is used in the "indicators" column, four are in the context of discrimination and two in the context of international law protecting oceans. This means that structural indicators are considered relevant in the context of gender equality but not in relation to other issues.

Connecting human rights and SDGs?

Is the framework developed by the United Nations Human Rights Council to monitor states' compliance with human rights useful in developing a framework to assess the impacts of the SDGs? If the proepsective was to develop indicators, my argument would be that the OHCHR typology with three classes of indicators (structural, process, and outcome) with disagreggation of data per gender and other classifications of vulnerability is a desirable approach to measuring SGDs goals and targets. If we could back in time, I would suggest rewriting several indicators. Let consider the following:

> **Goal 1. End poverty in all its forms everywhere**
>
> Goal/target
> 1.b Create sound policy frameworks at the national, regional and
> international levels, based on pro-poor and gender-sensitive
> development strategies, to support accelerated investment in
> poverty eradication actions
>
> Indicator
> 1.b.1 Pro-poor public social spending

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[8] Global indicator framework adopted by the General Assembly (A/RES/71/313), annual refinements contained in E/CN.3/2018/2 (Annex II), E/CN.3/2019/2 (Annex II), and 2020 Comprehensive Review changes (Annex II) and annual refinements (Annex III) contained in E/CN.3/2020/2.

The goal/target calls for having a certain *policy framework*; the indicator measures only *social spending*. Allocation of funds may or may not be a measure of how supporting a policy framework of the poor. Spending may reflect broader budget priorities or the reality of a bad economy rather than bad policy. Also spending does not say much about how "sensitive to gender" is a "development strategy." Only disaggregated data can. I am afraid the indicator may turn out to be of limited use to determine the need to reform the policy framework.

Similar considerations apply to the following:

Goal 5. Achieve gender equality and empower all women and girls

Goal/target
5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

Indicator
5.c.1 Proportion of countries with systems to track and make public allocations for gender equality and women's empowerment

Although imperfect, indicators have already been "engineered" so discussing how they should be developed is not to the topic of today's conversation. Rather, I will focus on two-prong approach aimed at advancing the SDGs agenda by connecting it to the human rights discourse.

The first prong entails the reverse engineering of the indicators followed by a linkage to the human rights discourse. The first prong is reverse engineering. This entails extracting all structural indicators among the existing SDGs indicators and, beginning from underperforming indicators, identify ways in which poor performance is the result of inadequate policy frameworks. This targeted approach would be beneficial as it would help better *understand the need for structural reform*. Structural reform can certain involve reshaping current policy frameworks or adopting new ones. Reform should be directed towards removing legal barriers or creating legal entitlements. Of course, not all structural reforms entail legal reform. Some structural barriers can be overcome with budget reform, cultural reform, economic reforms, to

name some. Yet, the reverse engineering will isolate instances in which meaning legal reform could make a difference in terms of SDG goals and targets.

The second prong focuses on linking the findings of the reverse engineering to the human rights discourse as a strategy to *pursue structural reform*. Human rights law revolves around certain legal obligations that countries that are parties to human rights treaties voluntarily agree to undertake. Human rights law imposes a duty to reform areas of policies where human rights standards are not met. This means that policy areas that underperforming as SDG indicators can be assessed in terms of human right standards and, if the analysis shows that underperformance overlaps with substandard human rights, an argument can be made that reform is needed as a matter of duty under human rights law. Whether the human rights discourse is politically more compelling that the SGD discourse (likely not), it triggers the power of legal obligations, which can be useful instruments to achieve the SDG goals and targets. International human rights law includes various mechanisms to enforce treaty obligations, which include treaty bodies reporting, treaty body individual communications, and domestic litigation. Also, the human rights discourse is an effective tool for broad advocacy efforts, including lobbying.

Linkages to the human rights discourse also presents potential drawbacks. Politically, not all governments welcome the framing of SDG issues as human rights issues. Consequently, in some instances, the human rights framework may be a source of distraction and detraction for the SDG agenda. Second, human rights obligations are constrained by the scope of the treaty and therefore only require a government to do what the treaty oblige them to do. No more, no less. The objectives the treaty may or may not coincide with the SDGs goals and targets. If they do not, then structural change driven by human rights standards is insufficient. Third, human rights obligations are directed almost exclusively at governments. Corporations, non-profits, the civil society, and individuals is not at the forefront of the human rights discourse even though their role in advancing the SDGs goals and targets may be critical. Let's think, for instance, at the impact of drug pricing, which is mostly left to pharmaceutical companies, on the prevalence of certain disease.

Tentative conclusions

The background research for this paper is unfortunately underdeveloped and its conclusions can only be tentative. The overall message is that, notwithstanding the limitations of the tools developed to monitor human rights compliance, the SDG movement could benefit from linking its goals and targets to the human rights discourse. The body of knowledge and practices developed by human rights scholars and advocates may prove to be useful in analyzing the findings of the SDGs indicators monitoring and in designing initiatives aimed at addressing underperforming indicators. More specifically, isolating structural indicators and linking them to human rights standards could generate ideas and strategies on how to reform policy framework to remove structural barriers to the realization of SGDs goals and targets. Further, the principle of nondiscrimination is at the core of international human rights law and therefore structural barriers to gender equality and other forms of discrimination are likely to be in violation of treaty obligations. Needless to say, if these barriers are removed by bringing policy in compliance to human rights standards, SDGs goals and targets are likely easier to achieve.

Table 1. "Law" and the SDGs indicators

Goals/targets	5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws 10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard 14.5 By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information 14.c Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of "The future we want" 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all 16.b Promote and enforce non-discriminatory laws and policies for sustainable development
Indicators	5.6.2 Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education 5.a.2 Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control 10.3.1 Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law 14.c.1 Number of countries making progress in ratifying, accepting and implementing through legal, policy and institutional frameworks, ocean-related instruments that implement international law, as reflected in the United Nations Convention on the Law of the Sea, for the conservation and sustainable use of the oceans and their resources 16.b.1 Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law