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MEASURING FREEDOM? THE UNDP HUMAN FREEDOM INDEX

Lisa J. Bernt*

In May 1991 the United Nations Development Programme (UNDP) released its second annual Human Development Report, a 202-page document that attempts to measure the growth of "human development" throughout the world. The UNDP defines "human development" as socioeconomic progress, measured by national income, adult literacy, and life expectancy.

The 1991 Report differed from its predecessor in that it included what the UNDP calls a "Human Freedom Index," based on a similar index created by British human rights analyst Charles Humana in the mid-1980s. In developing his index, Humana looked to provisions of three international human rights covenants that he believed best represented the "rules of the game" by which all countries have chosen to play: (1) the Universal Declaration of Human Rights (Universal Declaration); (2) the International Covenant on Civil and Political Rights (Civil Rights Covenant); and (3) the International Covenant on Economic, Social and Cultural Rights (Economic Rights Covenant).

These provisions, Humana composed a country-by-coun-

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1. UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT (1991) [hereinafter 1991 HUMAN DEVELOPMENT REPORT].

2. In 1983, Charles Humana completed a country-by-country survey of human rights based on a questionnaire that included a number of subindices not derived from UN instruments - e.g., explicit questions about divorce, abortion, compulsory military service, and maximum penalties for certain criminal offenses. CHARLES HUMANA, WORLD HUMAN RIGHTS GUIDE 8 (1983). Humana's latest survey, however, is based completely on UN instruments. CHARLES HUMANA, WORLD HUMAN RIGHTS GUIDE viii-x (1986) [hereinafter HUMANA 1986]. The UNDP's Human Freedom Index is based on Humana's most recent index and survey.

3. HUMANA 1986, supra note 2, at 5. Humana acknowledges that reliance on these three treaties results in a "Western liberal bias," favoring already affluent nations. Nevertheless, Humana's index was "not . . . composed to suit countries which, for one reason or another, are unable to honour many of the principles and human rights obligations of the United Nations." Id.


try survey consisting of forty questions regarding government adherence to protection of certain human rights. The UNDP has borrowed Humana's index, with only minimal modification, to produce its Human Freedom Index.

Measuring — even defining — human freedom is obviously difficult. Putting a quantitative value on the actual level of individual freedom State governments permit is even more difficult. The potential problems associated with such a calculation include identifying precisely what is to be measured, choosing methods for data compilation, and establishing impartial procedures for analyzing the data received. Although the UNDP admits that its Human Freedom Index is flawed, it does not discuss the ways in which it will attempt to improve its index for future editions of the Human Development Report. In fact, fewer than five pages of the lengthy document are devoted to the presentation and explanation of the Human Freedom Index, and methodological concerns are barely addressed.

There has been a great deal of criticism of the Human Freedom Index since its release. The most vocal critics have been those from economically developing countries, many of whom have focused on the use of Western, individualist standards for measuring international human rights and freedoms, standards which they argue biases the index in favor of Western industrialized states. Indeed, the same might be said about the documents on which the index is based, particularly the Universal Declaration and the Civil Rights Covenant.

Very few critics, however, have made the more basic objections to the index's methods of collecting and analyzing information. The preparation and presentation of the Human Freedom Index are flawed in a number of ways. First, the UNDP has not explained what "freedom" is and why its measurement is necessary. Second, the UNDP borrowed an already simplistic index of human rights and further pared it down, providing no explanation of where and by whom the data were collected and used.

Part I of this Note describes and compares the Humana index and the UNDP's Human Freedom Index. Part II surveys some of the criticism of the Human Freedom Index since its publication in May 1991, and identifies fundamental problems with the manner in which the Human Freedom Index was prepared and presented. This Note concludes with recommendations for refining and presenting such an index in future years.
I. WHAT IS THE HUMAN FREEDOM INDEX?

In 1990, the UNDP, the United Nations’ main economic development arm,7 unveiled its idea of a human development measurement for the first time. It combined national income with two social indicators: adult literacy and life expectancy, to give a composite measurement of human development — the Human Development Index.8

With some refinements, the UNDP again published the results of its Human Development Index measurement in its 1991 Human Development Report. In 1991, however, the UNDP went a step further by adding the Human Freedom Index. The Human Freedom Index was compiled by looking at eighty-eight countries’ compliance with forty human rights indicators.9

The indicators,10 derived from United Nations’ instruments,11 are listed below.

Included are the right to:

1. travel in one’s own country;12
2. travel outside one’s own country;13
3. peacefully associate and assemble;14

7. The UNDP is the world’s largest multilateral grant organization, coordinating and distributing grant aid of $1.3 billion per year to 152 developing countries. Anatole Kaletsky, U.N. Adds a Human Element to Economics, FINANCIAL TIMES, May 25, 1990, § I, at 6. Major Leader Transcript: National Press Club Luncheon Speaker William Draper, Head of United Nations Development Programme, Federal Information Systems, May 22, 1991, available in LEXIS, Nexis Library, FEDNEW File [hereinafter Draper]. The Human Development Report has been described as “intended to raise the... profile” of the UNDP, which “has been a low key participant in development policy discussions.” Id.

8. UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT (1990) [hereinafter 1990 HUMAN DEVELOPMENT REPORT].

9. The UNDP explained that it measured only 88 countries because not enough information was available from other countries. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 19. Something similar to the Human Freedom Index had been intended for the World Bank’s World Development Report; it was omitted, however, apparently because of objections by representatives of developing countries. David Warsh, As the World Turns: Yesterday’s Polemics to Today’s Pieties; Economic Principles, BOSTON GLOBE, July 7, 1991, at 25.

10. The indicators are from the Humana index. See HUMANA 1986, supra note 2. The UNDP largely adopted these indicators in developing its Human Freedom Index.

11. Humana used certain provisions of the Universal Declaration, the Civil Rights Covenant, and the Economic Rights Covenant merely as a basis for his questionnaire. He has significantly rewritten several treaty provisions to formulate the forty indicators.

12. Derived from article 13(1) of the Universal Declaration, supra note 4 (“Everyone has the right to freedom of movement and residence within the borders of each State.”).

13. Derived from article 13(2) of the Universal Declaration, id. (“Everyone has the right to leave any country, including his own, and to return to his country.”).

14. Derived from article 21 of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 178, 6 I.L.M. at 374 (“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”).
4. teach ideas and receive information;\textsuperscript{15}  
5. monitor human rights violations;\textsuperscript{16} and  
6. publish and educate in one's ethnic language.\textsuperscript{17}  

Also included are the freedom from:  
7. serfdom, slavery, forced or child labor;\textsuperscript{18}  
8. extrajudicial killings or "disappearances";\textsuperscript{19}  
9. torture or coercion by the state;\textsuperscript{20}  
10. compulsory work permits or conscription of labor;\textsuperscript{21}  
11. capital punishment by the state;\textsuperscript{22}  
12. court sentences of corporal punishment;\textsuperscript{23}  
13. indefinite detention without charge;\textsuperscript{24}  
14. compulsory membership in state organizations or parties.\textsuperscript{25}  

\textsuperscript{15} Derived from article 19 of the Civil Rights Covenant, \emph{id.} ("(1) Everyone shall have the right to hold opinions without interference. (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.").  

\textsuperscript{16} Derived from article 19 of the Universal Declaration, \emph{supra} note 4 ("Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.").  

\textsuperscript{17} Derived from article 27 of the Civil Rights Covenant, \emph{supra} note 5, 999 U.N.T.S. at 179, 6 I.L.M. at 375-76 ("In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.").  

\textsuperscript{18} Derived from article 10(3) of the Economic Rights Covenant, \emph{supra} note 6, 993 U.N.T.S. at 7, 6 I.L.M. at 363 ("Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.").  

\textsuperscript{19} Derived from article 6(1) of the Civil Rights Covenant, \emph{supra} note 5, 999 U.N.T.S. at 174, 6 I.L.M. at 370 ("Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.").  

\textsuperscript{20} Derived from article 5 of the Universal Declaration, \emph{supra} note 4 ("No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.").  

\textsuperscript{21} Derived from article 23(1) of the Universal Declaration, \emph{id.} ("Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.").  

\textsuperscript{22} Derived from article 6(6) of the Civil Rights Covenant, \emph{supra} note 5, 999 U.N.T.S. at 175, 6 I.L.M. at 370 ("Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.").  

\textsuperscript{23} Derived from article 7 of the Civil Rights Covenant, \emph{id.}, 999 U.N.T.S. at 175, 6 I.L.M. at 370-71 ("No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.").  

\textsuperscript{24} Derived from article 9(1) of the Civil Rights Covenant, \emph{id.}, 999 U.N.T.S. at 175, 6 I.L.M. at 371 ("Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.").  

\textsuperscript{25} Derived from article 20(2) of the Universal Declaration, \emph{supra} note 4 ("No one may be compelled to belong to an association.").
15. compulsory religion or state ideology in schools; 26
16. deliberate state policies to control artistic works; 27
17. political censorship of press; 28 and
18. censorship of mail or telephone-tapping. 29

It includes freedom for or rights to:

19. peaceful political opposition; 30
20. multi-party elections by secret and universal ballot; 31
21. political and legal equality for women; 32
22. social and economic equality for women; 33
23. social and economic equality for ethnic minorities; 34
24. independent newspapers; 35
25. independent book publishing; 36
26. independent radio and television networks; 37
27. independence of all courts; 38 and
28. independent trade unions. 39

26. Derived from article 18 of the Universal Declaration, id. (“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”).

27. Derived from article 19 of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 178, 6 I.L.M. at 374. The relevant text of article 19 is quoted supra note 15.

28. Derived from article 19 of the Universal Declaration, supra note 4. The full text of article 19 is quoted supra note 16.

29. Derived from article 12 of the Universal Declaration, id. (“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”).

30. Derived from article 25 of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 179, 6 I.L.M. at 375 (“Every citizen shall have the right and the opportunity . . . (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”).

31. Derived from article 25 of the Civil Rights Covenant, id.

32. Derived in part from article 2 of the Universal Declaration, supra note 4 (“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”).

33. Derived from article 23(2) of the Universal Declaration, id. (“Everyone, without any discrimination, has the right to equal pay for equal work.”). This was not part of the UNDP’s Human Freedom Index. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 20.

34. Derived from article 23(2) of the Universal Declaration, supra note 4.

35. Derived from article 19 of the Universal Declaration, id. The text of article 19 is quoted in full supra note 16.

36. Derived from article 19 of the Universal Declaration, id.

37. Derived from article 19 of the Universal Declaration, id.

38. Derived from article 10 of the Universal Declaration, id. (“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”).

39. Derived from article 8 of the Economic Rights Covenant, supra note 6, 993 U.N.T.S. at 6, 6 I.L.M. at 362 (“The States Parties to the present Covenant undertake to ensure (a) The right of everyone to form trade unions and join the trade union of his own choice, subject only to the
The legal rights included are:

29. to a nationality;  
30. to be considered innocent until proved guilty;  
31. to free legal aid when necessary and counsel of one's own choice;  
32. to open civilian trials;  
33. to be brought promptly before a judge or court;  
34. to freedom from police searches of home without a warrant; and  
35. to freedom from arbitrary seizure of personal property.

Other indicators are personal rights:

36. to interracial, interreligious, or civil marriage;  
37. to sex equality during marriage and divorce proceedings;  
38. to practice any religion;  
39. to use contraceptive devices; and

rules of the organisation concerned, for the promotion and protection of his economic and social interests.

40. Derived from article 15 of the Universal Declaration, supra note 4 (“(1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”).

41. Derived from article 11(1) of the Universal Declaration, id. (“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”).

42. Derived from 14(3)(d) of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 177, 6 I.L.M. at 372-73 (“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: . . . (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it . . . .”).

43. Derived from article 10 of the Universal Declaration, supra note 4. The text of article 10 is quoted in full supra note 38.

44. Derived in part from article 9(3) of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 175, 6 I.L.M. at 371 (“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”).

45. Derived from article 17(1) of the Civil Rights Covenant, id., 999 U.N.T.S. at 177, 6 I.L.M. at 373 (“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”).

46. Derived from article 17 of the Universal Declaration, supra note 4 (“(1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.”).

47. Derived from article 16(1) of the Universal Declaration, id. (“Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”).

48. Derived from article 16(1) of the Universal Declaration, id.

49. Derived from article 18(1) of the Civil Rights Covenant, supra note 5, 999 U.N.T.S. at 178, 6 I.L.M. at 374 (“Everyone shall have the right of freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”).

50. Derived from article 15(1)(b) of the Economic Covenant, supra note 6, 993 U.N.T.S. at 9, 6 I.L.M. at 365 (“The States Parties to the present Covenant recognize the right of everyone: . . . (b) To enjoy the benefits of scientific progress and its applications . . . .”). This indicator
40. to practice homosexuality between consenting adults.\footnote{Derived from article 12 of the Universal Declaration, \textit{supra} note 4. The full text of article 12 is quoted \textit{supra} note 29.}

\textbf{A. Charles Humana's Index and the UNDP Human Freedom Index Compared}

The Human Freedom Index is a modified version of Charles Humana's index, last published in 1986, using data accurate as of January 1, 1986.\footnote{HUMANA 1986, \textit{supra} note 4, at xviii.} Humana used the forty indicators listed above, and completed his survey with data from the United Nations, the World Bank, and a number of nongovernmental organizations.\footnote{Humana utilized data from the following organizations: the United Nations (Demographic Yearbooks, General Assembly Resolutions, Human Rights International Instruments, Population Policy Compendium, Statistical Yearbooks); the World Bank (Annual Report 1985, World Bank Atlas, World Development Reports); Amnesty International; the Anti-Slavery Society; the U.S. Central Intelligence Agency; the Economist Publications; Europa Year Book; Far Eastern Economic Review; International Economic Appraisal Services; International Institute for Strategic Studies; Minority Rights Group; Statesman's Yearbook; the \textit{U.S.} Department of State, Country Reports on Human Rights Practices; and the World in Figures. \textit{Id.} at vi, xvii.} He also used data from legal, press, and information attachés at cooperative embassies.\footnote{Id. at vi. Humana acknowledged that while some embassies offered candid, objective responses to the questionnaire, "the great majority of embassies either declined to give information or offered descriptions of paradise." \textit{Id.} Humana's other sources include unnamed "correspondents in countries intent on suppressing the truth and coercing their subjects." \textit{Id.}}

For each question numbered one through six and fourteen through forty, a country could score a possible three points: three points if there had been "unqualified respect" for the particular right or freedom; two points if there had been occasional violations or infringements; one point if there had been frequent violations of the particular right or freedom; and no points if there had been a "constant pattern of violation" of the right or freedom.\footnote{Id. at 3-4. For example, Japan scored three points for Question 3, the freedom to peacefully associate and assemble. For Question 9, the right to be free from torture or coercion by the state, Japan scored only two points. It did not receive all three points for this indicator because of reported cases of physical abuse and coercion during police interrogation, and reported complaints about abuses of psychiatric patients. For Question 22, social and economic equality for women, Japan scored only one point. It lost two points in part because women's pay in Japan averages two-thirds that of men. For Question 11, freedom from capital punishment by the state, Japan scored zero points because it imposes the death penalty for thirteen categories of crime. Japan's total score on the Humana index was 143 points, 88\% of a possible 162 points. \textit{Id.} at 149-51.}

In Humana's index, questions seven through thirteen count three times as heavily as the rest because, as Humana explained, violation of these particular rights is tantamount to "intimidation of, or direct at-
tack on, the individual," which he deemed a more serious violation than the denial of political and social rights. Therefore, the best possible score on the Humana scale is 162 points.

The UNDP simply borrowed Charles Humana's index and survey results to prepare its Human Freedom Index, apparently without doing a survey or any other research of its own. The UNDP made only two changes in the Humana results, both of which have further abridged an already simplistic measurement. First, it distinguished only between "freedoms guaranteed," which scored one point, and "freedoms violated," which scored no points — an all-or-nothing approach. Therefore, those countries scoring either one point or two points on the Humana scale, because of some or substantial violations, scored no points on the UNDP's Human Freedom Index. For example, on the Humana scale, the United States scored only two out of three points for Question thirty-one — relating to free legal aid and counsel of one's choice — because a public defender is usually appointed by a court. On the Human Freedom Index, the United States scored no points for this indicator. Second, the UNDP weighted the relative seriousness of all forty indicators equally.

The index is weighted heavily toward compliance with the Civil Rights Covenant. Fourteen indicators are derived from provisions of the Civil Rights Covenant; whereas only three indicators are derived from the Economic Rights Covenant. Given the heavy weight accorded political and civil rights, and the relatively little weight accorded economic, social, and cultural rights, it is not surprising that all but one of the eighteen "high freedom ranking" countries are highly industrialized European or North American States. Sweden and Denmark topped the "high freedom" list, each scoring thirty-eight of forty possible points. On the other end of the scale, none of the thirty-eight countries in the "low freedom ranking" category were industrialized Western countries. Iraq occupied last place in the freedom ranking, scoring zero points. In comparison, the United States ranked thirteenth, scoring thirty-three points.

56. Id. at 3.
57. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 98.
58. Id.
59. Costa Rica was the only developing country scoring in the "high freedom" group, tying Greece for the eighteenth spot. Id. at 20.
60. The complete results of the 1991 Human Freedom Index ranking are reproduced in the Appendix to this Note.
B. Political and Economic Significance of the Human Freedom Index

The UNDP distributes more than a billion dollars in grant aid to economically developing countries each year. Given this fact, there is much concern over whether the Human Freedom Index will be used in deciding how funds will be allocated. Precisely how the Index will be used is unclear.

The 1991 Human Development Report stressed the organization's belief that there is a correlation between high levels of freedom and high levels of human development. The UNDP says the Human Freedom Index is a supplemental improvement to the Human Development Report, which after more refinement will be "used to interpret reality and make key policy decisions." UNDP representatives have said that the organization is using the Index as a way to stir up a debate on such human rights issues.

UNDP Administrator William Draper asserted that aid allocations will not be conditioned on the results of the Human Freedom Index. Nevertheless, at least some donor countries have reportedly indicated that they will consider political freedom in making future aid distributions.

The 1991 Human Development Report said the new freedom index would "encourage more systematic research and studies on human freedom, which today are very scarce." As it has been less than a year since the 1991 Index was presented, not long enough to complete any comprehensive research, only time will tell if the Human Freedom Index will actually spur such studies.


63. Id.

64. "'The index is a very preliminary attempt at shedding some light on human freedom,' said UNDP assistant administrator Krishan Singh... 'There need to be a lot more analyses and, frankly, it was included to provoke a debate.'" S. Sivam, Malaysia: Mahathir says UNDP Report is "Racist," Inter Press Service, May 28, 1991, available in LEXIS, Nexis Library, INPRES File.


67. 1991 Human Development Report, supra note 1, at 19; see also Kaletsky, supra note 7, who implies that the UNDP is more concerned with its image than with spurring substantive debate.
II. CRITICISM OF THE HUMAN FREEDOM INDEX

The Humana index and the UNDP Human Freedom Index are based on selected provisions of three instruments, the Universal Declaration, the Civil Rights Covenant, and the Economic Rights Covenant, but both indices particularly stress those rights found in the Universal Declaration and the Civil Rights Covenant.\(^68\) Economically developing countries’ objections to the Humana and UNDP indices are, therefore, similar to their complaints against the Universal Declaration and the Civil Rights Covenant: the two instruments were written from a Western perspective, with a Western approach toward human rights that is often incompatible with the economic, social, and cultural realities of non-Western countries.\(^69\)

Malaysian Prime Minister Mahathir Mohamad, for example, has said that the Human Freedom Index reflects a racial bias of some Europeans against Asians. He also cited the case of a European country which ranked high in the Human Freedom Index and which, he said, permits sexual freedom for children at age twelve.\(^70\) The Prime Minister added, “[I]f this is what is meant by human freedom, then we don’t want it.”\(^71\) Shen Jueren, China’s Deputy Minister of Foreign Trade, also criticized the Human Freedom Index, insisting that ideological content should not be part of the UNDP’s developmental activities. The UNDP should instead “concentrate on the promotion of the economic revitalization and growth in developing countries.”\(^72\)

The Group of 77, a group representing 128 economically developing countries, lambasted the Human Freedom Index for favoring Western values and Western industrialized nations. More fundamentally, it also criticized any UNDP involvement with human rights questions. Malaysian Ambassador Razali Ismail, a former chair of the group, supported the Group of 77’s position, insisting that the index include what he believes to be “fundamental intrinsic human freedoms” — freedom from hunger, disease, and illiteracy.\(^73\) Ismail argued that “the business of the UNDP is — pure and simple —

\(^{68}\) The reasons for this are discussed in Part II(B), infra.


\(^{70}\) Sivam, supra note 64.

\(^{71}\) Id.


development." The UNDP, according to Ismail, should not "miss the woods for the trees and go onto a messianic foray into areas which it has neither responsibility for nor expertise in."74 He added:

The UNDP is neither an appendage of Western societal mores and values nor is it, despite financial contributions, a vehicle of donor countries to apply conditionalities on so-called human rights issues. . . . If the UNDP cannot have a more balanced index on human freedom, one free from biases and prejudices, it is not worthwhile for the UNDP to have a human freedom index.75

One news correspondent, summarizing the criticism of developing countries, stated that they have "strenuously criticized the human-freedom index, calling it inaccurate, a waste of money, interference in their internal affairs and irrelevant to their development needs."76

Not all of the criticism of the Human Freedom Index has come from economically developing countries. One U.S. commentator complained that the index should explicitly measure economic freedom, scoring countries on the rights, for example, to enter commercial contracts freely and freedom from seizure of property without a compelling government need.77 He also expressed his belief that grants should be conditioned on high index scores.78

The UNDP admits that the Human Freedom Index needs refining and updating: and concedes that its data is outdated and incomplete: [U]pdating the Humana index poses tremendous difficulties. Yes, we know that significant changes have taken place in many countries between 1985 and today that affect — in most instances, positively — human freedom. But there exists no systematic study that would have recorded all those changes. A new, comprehensive human freedom index is overdue.79

74. Id.

75. Qian Wenrong, UNDP-Prepared Human Freedom Index Repudiated, Xinhua General Overseas News Service, June 12, 1991, available in LEXIS, Nexis Library, XINHUA File. Malaysia ranked 55th among 88 countries on the Human Freedom Index. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 20. The main reason for such a low ranking — 9 out of a possible 40 points — is Malaysia's Internal Security Act, under which an individual can be arrested, and held for 60 days of police questioning, then for two years detention without trial, renewable indefinitely on the orders of the Home Minister. Political Scene, Business International Country Report, June 21, 1991, available in LEXIS, Report Library, BUSINT File. According to Malaysia's Deputy Home Minister, there are currently more than 100 prisoners detained under the Internal Security Act. Id.

76. Paul Lewis, U.N. Index on Freedom Enrages Third World, N.Y. TIMES, June 23, 1991, § 1, at 11; see also Warsh, supra note 9, for a similar analysis.


78. Id.

79. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 21. The UNDP did, however, indicate in the Human Freedom Index (without changing the final tallies) those countries in which there had been post-1985 moves toward greater freedom — i.e., in which multiparty elections were held. Id. at 20; see Appendix.
Nevertheless, the UNDP defends the Human Freedom Index as a catalyst for debate, and a step in the right direction until a current, comprehensive survey can be done. In the 1991 Human Development Report the UNDP did not answer accusations that the Human Freedom Index is biased in favor of industrialized countries. UNDP Administrator Draper said that the index was fair because the same indicators were used to measure all of the countries surveyed:

I think it's fair to the developing countries, because we measured the developing countries and the developed countries by the same set of items, and I think that it does seem to go together. Freedom seems to go with human development, and . . . [that] might go as a big surprise to some people in the developing world because freedom is just not a natural thing to them. Draper's response does not adequately address the criticisms of developing countries. A mere assertion of consistency in application does not answer a more pervasive concern that the criteria chosen were biased in the first place.

A. Structural Criticism

The UNDP asserted in the 1991 Human Development Report that "there seems to be a high correlation between human development and human freedom." The UNDP acknowledged, however, that the causal link between the two is "far from clear." It suggested that "[i]n some cases . . . political freedom seems to have unleashed the creative energies of the people — and led to ever higher levels of income and human progress."

Assuming, however, that such a correlation exists and that it is desirable to measure freedom, the UNDP still must explain why it is necessary to assign each country a single number. According to one commentator, "No measure of freedom could hope to capture perfectly the nuances of liberty in a simple numerical figure." In the five-page presentation of the Human Freedom Index, there is no explanation of why each country scored as it did on the forty indicators. Furthermore, there is no breakdown of the total scores — i.e., how

80. See supra note 64 and accompanying text.
81. Draper, supra note 7.
82. 1991 HUMAN DEVELOPMENT REPORT, supra note 1, at 21.
83. Id. Kenneth Bollen agrees that when "political rights and liberties" are strong, "there is the potential to bring about greater social and economic rights." However, he acknowledges that "the influence of political rights and liberties on social and economic rights is . . . ambiguous." Bollen, supra note 61, at 567.
84. Id.
85. Gacek, supra note 77.
each country scored on each of the forty indicators. In contrast, Humana broke down the total scores he computed in 1986, and provided a sentence or two to accompany each indicator. Nonetheless, Humana's meager text omits critical information. For example, he provided a general list of sources he used for his 1986 survey, but there is no information as to the specific sources used for each question answered. Unfortunately, the UNDP follows Humana's lead and omits information regarding specific sources.

The Human Freedom Index also fails to distinguish between the degrees of adherence to the rights measured in the index. Because of the Human Freedom Index's all-or-nothing scoring system (one point for freedom guaranteed; no points for freedom violated), the UNDP denied all eighty-eight countries measured any points for Question twenty-one — political and legal equality for women. Humana at least distinguished, albeit in an oversimplified manner, the differences between countries who guarantee some, most, or no rights. The Index ignored any gradations.

If aid, or any other action, is to be conditioned on some measurement of human freedom, it is not unreasonable to expect donor countries to inform themselves about the relative degrees of potential recipients' adherence to certain rights. Donors will be, or should be, interested in the nuances not shown in the Human Freedom Index. At a minimum, the UNDP should provide more than a simple sum total score, or even a score per question, especially if the goal of this index is to provide useful information regarding adherence to human rights. In the interest of full and accurate disclosure, each indicator deserves more than a number and a couple lines of text. Furthermore, the UNDP needs to explain exactly how this type of bare measurement of human freedom is meaningful, and why it is necessary.

B. Political and Civil Rights Versus Economic and Social Rights

Humana's index is heavily weighted toward compliance with provisions of the Civil Rights Covenant and the Universal Declaration, rather than with provisions of the Economic Rights Covenant. Humana selected what he perceived to be the most measurable rights from the three documents. Humana defended his selection by asserting that provisions of the Economic Rights Covenant are more difficult to measure. Nevertheless, this provides a distorted picture of the enforcement of human rights. One result is that the index measures,

86. See Humana 1986, supra note 2, at viii.
87. See infra Part II(C) for a more thorough discussion of potential measurement problems.
for example, the right to travel in and outside one's own country, but not the right to health care.

Yet Humana does not directly explain why measuring compliance with the covenant provisions he chose is easier than measuring others. He concludes that his choice was "unavoidable" because the Economic Rights Covenant is concerned with broader social and economic questions, and in most instances the guarantees are in the form of "recognising the right of" or "taking steps towards" the future implementation of the particular article. . . . Since promises and aspirations cannot be measured, and in practice the country will be reporting on its own progress, the questionnaire could make only limited use of the articles of the [Economic Rights Covenant].

Humana implies that his goal is to measure States' intentions to comply with certain provisions of the human rights documents. It is easier to measure intentions to comply with political and civil rights provisions because generally governments have greater ability to directly affect such results. For example, a government is generally better able to ensure universal suffrage than universal health care. Because it is generally easier to measure a State's intentions to comply with Universal Declaration and Civil Rights Covenant provisions, rather than those in the Economic Rights Covenant, the former provisions form the basis of Humana's study.

The UNDP does not include Humana's explanation of why his index focuses so much more heavily on the Universal Declaration and the Civil Rights Covenant than on the Economic Rights Covenant, and it fails to answer why a measure of freedom should include only those human rights provisions that lend themselves easily to measurement of States' intentions. If the purpose of the Human Freedom Index is to measure quality of life — i.e., results, not simply States' intentions — then why should it matter, for example, if health care is inadequate, that the government was willing but unable to improve the situation?

The UNDP might answer that the purpose of the Human Development Report is to provide a measurement of quality of life, or human development. That is why it includes measurements of poverty, malnutrition, and medical care. The purpose of the Human

88. Humana 1986, supra note 2, at 5. He continues: "An appraisement of a country's attitude towards the 'broader social and economic' issues of this covenant, however, may be gained from the percentages of gross national product spent in three important areas, military, education and health." Id. Some would disagree that political and civil rights are easier to measure than economic and social rights. See, e.g., Robert J. Goldstein, The Limitations of Using Quantitative Data in Studying Human Rights Abuses, 8 Hum. Rts. Q. 607, 611 (1986).
Freedom Index, on the other hand, is to provide a measurement of certain human rights the UNDP believes to be correlated to human development. In short, the Human Freedom Index is merely a component of the larger Human Development Report.

It is not apparent whether the UNDP intends the Human Freedom Index to evolve only as part of the larger Human Development Report. The discussion accompanying the Human Freedom Index does not make such a disclaimer. If the Human Freedom Index is to be used independently, perhaps as a criterion for determining eligibility for development aid, such a disclaimer is necessary.

Furthermore, if the UNDP's intention is truly to measure only adherence to formal political and civil rights that can be protected directly by a State's government, then it is unclear why the UNDP included indicators that survey compliance with social and economic rights in the Human Freedom Index. Questions twenty-two (social and economic equality for women) and twenty-three (social and economic equality for minorities), for example, do not measure formal political and civil rights, but social and economic rights and opportunities. If the purpose of the UNDP is to measure political and civil rights, these indicators do not belong in the Human Freedom Index. If, on the other hand, the UNDP's definition of "freedom" includes economic, social, and cultural rights, then it has failed to articulate why the index is so heavily weighted in favor of political and civil rights.

C. Methodological Concerns

Assuming that the UNDP has convincingly explained why the Human Freedom Index is necessary and valuable, and why the forty survey questions used were the most appropriate for the task, questions and concerns remain regarding the methodology used to prepare the Human index, and therefore the UNDP index. Kenneth Bollen identifies a number of methodological challenges to the data collection and analysis, and points to several factors that can affect the results of a freedom index. The information relied upon may well be limited...

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89. Derived from article 23(2) of the Universal Declaration, supra note 4. The text of article 23(2) is quoted supra note 33.

90. Derived from article 23(2) of the Universal Declaration, id.

91. See, e.g., Bollen, supra note 61, at 578-89; Goldstein, supra note 88, at 609-26.

92. Bollen, supra note 61, at 573-76. Kenneth Bollen has analyzed a number of other sources of human freedom measurements that have been used during the past four decades. Some of these sources focus primarily or exclusively on indicators such as those used in the Human and UNDP indices. Some use other indicators including openness of the nominating process in elections; selection process for the legislative body and the executive; effectiveness of the legislative...
and distorted because of these factors. For instance, not all human rights violations are recorded, particularly with regard to some of the most egregious abuses such as secret trials or "disappearances." Those that are recorded are often contained only in government records that are restricted in circulation. Of those that are circulated, only a subset are reported internationally.93

Another potential challenge to accurate measurement is the method of processing and interpreting of the data. An interpreter might be influenced — consciously or not — by his or her political orientation, the relation of the country rated to his or her home country, and the interpreter’s political, social, economic, and personal stake in the rating.94

Michael Stohl and associates cite additional measurement concerns.95 First, the quality and quantity of information regarding human rights violations are often "inconsistent across nations, over time, and vis-à-vis different rights."96 In addition:

Government secrecy and intimidation obstruct the flow of information from many countries and can impede efforts to corroborate allegations; this fact alone makes it impossible to establish a reliable and consistent basis for comparison. Furthermore, prisoners are subjected to widely differing forms of harassment, ill-treatment and punishment, taking place in diverse contexts and affecting the victims and their families in different ways; this fact would render any statistical or other generalized comparison meaningless as a real measure of the impact of human rights abuses.97

Second, it is not always easy to spot human rights abuses, especially in a state with an efficient repressive apparatus. In such a state, repression can radiate an "afterlife" that is effective even after the observable use of coercion by State agents.

The threat remains implicit because a general learning process has taken place. In essence, the behavioral terror process has become a part of the political structure, and, as structure, it is no longer observable as a behavioral event. Thus, in many instances, the most effective use of coercion is manifest by a relative absence of behavioral events, a fact which

body: freedom of group opposition to the government; freedom of religion; freedom of emigration; the openness of the election system; the degree to which the political leadership is elitist; government censorship; the percentage of the population experiencing discrimination in the political system and the severity of such discrimination; restrictions on the organization of political parties; and arrests, exiles, and executions of political opponents. Id.

93. Id. at 578-80.
94. Id. at 583.
96. Id. at 594.
97. Id. (quoting AMNESTY INTERNATIONAL, Report 4 (1984)).
obviously complicates the collection of information.\textsuperscript{98}

Given all the potential measurement problems identified, the UNDP and Charles Humana need to specify how the results of the survey were prepared, i.e., what sources were used, how sources differed from country to country, and how data was tabulated and compared. Unfortunately, Humana provides only general information as to the sources used for his 1986 study;\textsuperscript{99} he is not specific as to how they were used. He, and therefore the UNDP, provide no information that would help answer these questions, making any meaningful methodological critique impossible.

**CONCLUSION**

The UNDP's Human Freedom Index is flawed in a number of ways. First, and most fundamentally, the data are incomplete and to a large extent too old to be useful. Second, freedom is defined in the Index as almost synonymous with civil and political rights, rather than economic, social, and cultural rights with no explanation as to why this is so.

Furthermore, if the UNDP intends to publish the Human Freedom Index annually, and apparently it intends to do so, then as a preliminary matter it needs to provide details about how and by whom the data were collected and interpreted; how and by whom the scores were tabulated; and what sources were used for which parts of the survey.

Finally, the UNDP needs to describe its index more accurately. Instead of publicizing it as a "Human Freedom Index" and presenting only the total scores of the countries surveyed, the UNDP should admit that it is, in its present form, merely a crude measurement of a selected group of political and civil rights provisions from two human rights covenants, and not a conclusive measurement of the complexities of human freedom.

\textsuperscript{98} Id. at 595.

\textsuperscript{99} See sources listed supra note 53.
APPENDIX


Human Freedom Index Rankings

Country Total of Freedoms, 1985

+ Indicates Post-1985 "Move Towards Greater Freedom (Multiparty Elections Held)"

High Freedom Ranking (31-40)

38 Sweden
38 Denmark
37 Netherlands
36 Finland
36 New Zealand
36 Austria
35 Norway
35 France
35 Federal Republic of Germany
35 Belgium
34 Canada
34 Switzerland
33 United States of America
33 Australia
32 Japan
32 United Kingdom
31 Greece
31 Costa Rica

Medium Freedom Ranking (11-30)

30 Portugal
30 Papua New Guinea
29 Italy
29 Venezuela
27 Ireland
26 Spain
26 Hong Kong
26 Botswana
25 Trinidad and Tobago
+ 25 Argentina
25 Jamaica
24 Ecuador
23 Senegal
+ 21 Panama
21 Dominican Republic
19 Israel
+ 18 Brazil
18 Bolivia
16 Peru
15 Mexico
<table>
<thead>
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<th>Rank</th>
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<td>Colombia</td>
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<tr>
<td>14</td>
<td>Thailand</td>
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<td>14</td>
<td>India</td>
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<tr>
<td>14</td>
<td>Sierra Leone</td>
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<tr>
<td>13</td>
<td>Nigeria</td>
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<tr>
<td>+</td>
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<td>11</td>
<td>Sri Lanka</td>
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<td>11</td>
<td>Tunisia</td>
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<td>11</td>
<td>Egypt</td>
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<tr>
<td>11</td>
<td>Ghana</td>
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<td></td>
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<tr>
<td>+ 10</td>
<td>Poland</td>
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<tr>
<td>+ 10</td>
<td>Paraguay</td>
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<tr>
<td>+ 10</td>
<td>Philippines</td>
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<td>Libyan Arab Jamahiriya</td>
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