Enhancing Cooperation between United Nations and Regional Mechanisms for the promotion and protection of human rights

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Speaking notes (check against delivery)

Excellencies, and distinguished participants,

It’s a pleasure to be with you today. Like the previous panelist, I’m speaking from an NGO perspective—one that supports national groups to engage with various regional and international mechanisms, as well as engaging directly on cross-cutting, thematic issues.

We see national, regional and international mechanisms as part of an overall ecosystem for human rights accountability. So we’re delighted to be part of the conversation on strengthening cooperation between them.

To help make that conversation more concrete, I want share an example our work with regional and international mechanisms: our work to address the Impact of the economic crisis, and the austerity measures deployed to address it, in Spain.

It’s a case study that’s illustrative of the progress and challenges different human rights mechanisms have experienced in:

- Addressing complex socio-economic policy trends;
- Using and interpreting socio-economic data to assess human rights compliance;
- Operationalizing emerging normative principles whose scope and content has not been fully elucidated; and
- Working collaboratively with civil society organizations to fulfill their mandates more effectively.

Timeline of our work on Spain:

- May 2012: Review by the Committee on Economic, Social and Cultural Rights
  - CESR coordinated a joint submission by 19 civil society organizations.
  - Our advocacy before the Committee focused on the retrogressive and disproportionate impact of austerity policies.
The Committee issued strong recommendations to the Spanish government, particularly on the need for a comprehensive national anti-poverty program to mitigate the impacts of the crisis on vulnerable groups.

Notably, it also issued an open letter to all state parties, articulating the norm of non-retrogression in the context of austerity.

- June 2013: the Council of Europe Human Rights Commissioner visited the country, making similar conclusions in his report, with a focus on children and people with disabilities.

- November 2013: a number of Special Rapporteurs issued joint allegation letters to Spain, one on health, one on housing, framing their concerns in terms of non-retrogression and non-discrimination.

- December 2013: Council of Europe Human Rights Commissioner published an Issue Paper, in collaboration with CESR, which looked at austerity from a regional perspective. The paper proposed a twelve-point agenda for safeguarding human rights in situations of crisis, which had many parallels to Committee’s criteria.

- January 2014: The European Committee of Social Rights reviewed Spain on the thematic issues of health, social security and social protection, flagging some concerns in relation to austerity.

- February 2015: is Spain’s second Universal Periodic Review appearance, which will be a timely opportunity for peer-to-peer dialogue to reflect on issues raised by these various expert mechanisms.

As you can see from that quick overview, this is an example where we saw a high degree of continuity and complementarity in messages coming from various mechanisms.

A major impact of that has been significant normative development on the standard of non-retrogression and how the obligation to dedicate maximum available resources to the realization of ESCR might be affected in the context of austerity (e.g. need for human rights impact assessments, protection of a minimum core, need to prevent disproportionate impact).

Nevertheless, the kinds of policy changes that have been recommended are yet to be enacted and our advocacy is ongoing.
To draw out broader insights about what makes for effective coordination and/or collaboration between regional and international mechanisms, I want to highlight on some factors that both assisted and challenged us in this work:

First, there was a considerable degree of coordination among civil society groups at the national level. This was a crucial factor. It allowed us to draw out the common themes that cut across the various issues that different groups were concerned with. In turn, this meant that even if the particular groups engaging with particular mechanisms changed, there was consistency in the messages being communicated.

In this context, it is worth noting that this kind of sustained engagement wouldn’t have been possible the mechanisms’ willingness to engage with civil society. This is a practice we of course commend and encourage to continue.

Nevertheless, the kinds of capacity building activities aimed at NGOs tends to be quite mechanism-specific, e.g. “engaging with the UPR”, or “engaging with the African Commission”. This is an area where greater coordination would support NGOs to think about mechanisms more holistically and so engage more strategically both regionally and internationally.

Second, there was a large amount of relevant data about ESCR in Spain that could be visualized and effectively communicated to the relevant mechanisms. In other contexts we’ve working in, however, the frequency of data not always in sync with states’ reporting cycle, or is not adequately disaggregated to be useful in uncovering patterns of disadvantage and discrimination.

A real challenge for regional and international bodies in addressing ESCR is to understand complex, systemic issues in a limited time and with limited resources. In this context, statistics can be invaluable in presenting an overall snapshot of a particular situation and highlighting red flags that direct attention to particular issues that require further investigation.

Importantly, more solid data and hard-edged evidence base can enable human rights mechanisms, to make stronger affirmations regarding compliance with human rights norms and more concrete, actionable, and measurable recommendations regarding appropriate policy responses. This is significant, as such mechanisms can be overly deferent to states’ margin of discretion, and limit themselves to making quite sweeping calls for ‘improvement’.
In this respect, I would suggest that regional and international bodies explore opportunities to collectively advocate for strengthening the availability of data, whether this is through collaborating with national statistical offices; sharing resources; or joint capacity building.

Third, turning to challenges, the first and most obvious is the lack of implementation of recommendations from various mechanisms. In the absence of robust follow up procedures, it falls to NGOs to maintain sustained pressure on relevant decision makers to implement the recommendations addressed to them.

This is a challenge when implementation involves disparate state actors who operate in different institutional settings and often have different or competing political interests. For this reason, I would advocate for a greater role for national human rights institutions as centralized interlocutor for civil society organizations and stakeholders—when they have the capacity to do so. This monitoring role could even be explicitly incorporated into recommendations made. NHRIIs are a unique form of state institutionalized pressure and can use the power of their office to link the implementation of recommendations with state’s broader human rights commitments.

Finally, a major challenge is the lack of policy coherence between intergovernmental bodies, financial institutions and human rights mechanisms.

In Spain, for example, the austerity measures being critiqued by the Council of Europe Human Rights Commissioner and the European Committee on Social Rights were exactly the policies being pushed by the troika (European Commission, European Central Bank and the International Monetary Fund). Similar dynamics occur at the international level between the UN human rights mechanisms and the World Bank and IMF.

To the extent that there’s scope for greater engagement to mainstream economic, social and cultural rights horizontally across mechanisms at the regional and international level, that’s something that should be encouraged.

Thank you.