OHCHR

Enhancing cooperation between United Nations and regional mechanisms for the promotion and protection of human rights

International Workshop

Geneva, 8 - 9 October 2014

Session II: Mainstreaming economic, social and cultural rights

Panel 2: Strengthening cooperation between international and regional human rights systems to mainstreaming economic, social and cultural rights

Statement delivered by

Mr. Zdzislaw Kedzia

Chairperson of CESCR
Chairperson,
Distinguished panellists from the regional mechanisms and civil society,
Excellences,
Representatives of National Human Rights Institutions,
Ladies and Gentlemen

May I first of all sincerely thank the organizers for the invitation to this important meeting. It is a great pleasure for me to be here in the company of outstanding human rights specialists. Let me tell you that members of our Committee are, indeed, encouraged by the fact that this session has been dedicated to cooperation between international and regional human rights systems in mainstreaming economic, social and cultural rights.

Nowadays, these rights have found themselves again at the centre of international discourse. This is all the more important because - I quote from a recently published Commentary to the International Covenant by Sydney University - “Despite the much-emphasized indivisibility of human rights, economic, social and cultural rights have long been seen as the poor cousins of civil and political rights.”

However, notwithstanding all the progress made in advancing these rights, including the entry into force of the Optional Protocol one year ago, structural deficits and implementation gaps affecting these rights remain enormous. But, one of the essential responses to these challenges may surely be cooperation between human rights mechanisms located at the international, regional and domestic levels.

Overview of presentation

This afternoon, my intention is to briefly touch upon three points. At the outset, I would like to highlight some basic parameters of cooperation between the international and regional mechanisms; thereafter, to look at some of the challenges in this regard; and finally, to come up with a few suggestions.

Parameters

Ladies and Gentlemen, the call for a more intensive interaction between international and regional human rights systems finds a rather incontestable
support among a wide spectrum of actors involved. A lot has been said about the potential benefits that may result from the exchange of information on jurisprudence, on interpretative approaches, on methodologies applied and practical experience gathered so far. But, indeed, while there is a lot of convergence at the level of principles, the problem (I would not say: the devil) is, as usual, in details, in the implementation. Therefore, we need to be able not only to define the potential of cooperation between the international and regional systems but also to fully recognize the framework within which such cooperation may be developed, including its institutional and practical limits.

The experience of the regional systems is present in the daily work of our Committee due to a balanced representation of all regions in our membership. We draw on the doctrine of the regional human rights protection systems and their jurisprudence while conducting dialogues with State Parties and working on General Comments. We also expect the entry into force of the Optional Protocol to our Covenant, which establishes among others complaint and inquiry procedures, to open new opportunities for experience sharing between our Committee and relevant regional bodies.

On a more operational note – our Committee has often indirectly supported its regional partners by encouraging States Parties to implement the Covenant through cooperation with regional organizations; we have recommended ratification of regional instruments relevant to economic, social and cultural rights; dissemination of publications of regional bodies, as well as compliance with rulings of regional human rights courts.

On the other hand, references to the work of the Committee by various regional bodies confirm the two-way interest of the relevant mechanisms. An example are the draft Principles and Guidelines on ESCR in the African Charter on Human and Peoples’ Rights (2011) – which refer to both concluding observations and general comments issued by the Committee.

Challenges

Ladies and Gentlemen, if there is a widespread support for interaction between regional and international systems as documented among others by this Workshop and by the recommendations of a similar Workshop held two years
ago, one can pose a probably reasonable question why after 21 years since the Vienna Declaration and Programme of Action highlighted the importance of cooperation between international and regional systems we still talk in terms of an unfinished job and about potential to be exploited?

Trying to respond to this question, I believe, we need to look at the discussed matter in a more practical, I would even say, more technical way. We need to think not only in terms of plans and postulates but also feasibility.

Let's be blunt - cooperation between international and regional human rights systems has resource and timing implications. Just 10 days ago, I met a friend who is now working with one of the regional organisations in the division supporting bodies dealing with economic, social and cultural rights. Needless to say, we very quickly agreed that it would be great to enhance our institutional contacts which are rather sporadic at present. However, we also quickly arrived at two essential points – time of members of the relevant bodies and of the respective organizations’ experts, as well as financial resources which would be necessary to make such cooperation meaningful. Without underestimating the first, the latter is a main challenge, in particular in the current financial climate.

**Suggestions**

Under these circumstances, our task is to devise creative ways of interaction. Let me refer to some examples:

**Firstly**, taking into account funding constraints and differences in mandates and institutional settings, we, in the human rights bodies, probably need to think more of an “Alliance of minds” rather than an “Alliance of structures”. This means enhancing methods of benefiting from each other’s expertise which can help to streamline our respective actions to protect economic, social and cultural rights, such as exchanging regularly information on major thematic concerns.

An example may be the protection of economic, social and cultural rights during the time of economic downturns. Our Committee has developed its – so to say – emergency doctrine in the context of austerity measures deployed by numerous countries to address the consequences of the recent economic and financial crisis in a Letter sent to Governments in 2012. The impact of such
guidance may be significantly enhanced if both international and regional organizations undertake a concerted action to disseminate and promote it among Governments, international organizations and the civil society.

Another example, although partially inspired by the last one, is related to the frequently repeated call for information exchange. Yet, one of the main stumbling blocks here is, in fact, the wealth of information from which it is not easy to distil key elements of main interest. In the time of Internet, this is probably a more acute problem than lack of access to information. Therefore, it would be most important to have a regular guidance to information on relevant developments mutually provided by cooperating systems. This is among others the purpose of the bi-monthly OHCHR ESCR Bulletin, although further steps in this direction, tailored to the needs of specific partners, are not only possible but highly desirable.

**Secondly**, cooperation between our Committee/OHCHR and the regional systems may be also instrumental for strengthening the reporting system, including by alleviating the reporting “burden” of States. Together, we may reflect on modalities of optimizing the use of materials compiled for reporting at both regional and international levels. The necessity of moving in this direction has already been voiced by States in GA Res 68/268 para.17(b) which encourages OHCHR to strengthen cooperation with regional human rights mechanisms to provide technical assistance to States. Another example could be building of national human rights capacities that may be supported by the United Nations and regional organizations in the follow up to the human rights bodies’ recommendations. From the perspective of our today’s topic, it is essential that relevant programmes adequately mainstream economic, social and cultural rights.

**Thirdly**, the discussed cooperation have a particular role to play in promoting the ratification or otherwise acceptance of human rights commitments under the existing instruments at international and regional levels.

**Fourthly**, cooperation could be most conducive to the follow-up to recommendations by human rights bodies. Here, I would like to refer to the fact that follow -up «Platforms» which include recommendations of international
and regional mechanisms are already being piloted at the national level by OHCHR.

Ladies and Gentlemen, the list of such examples can, of course, be continued. And, this is an optimistic thought. As it has already been said, cooperation between regional and international systems has a great potential to ultimately benefit the rights holders. However, its impact will be eventually measured not by its potential but by its achievements.