

Michał Balcerzak, PhD

[draft version]

Member of the Working Group of Experts on People of African Descent
Human Rights Department
Faculty of Law, Nicolaus Copernicus University, Torun, Poland

Towards more effective implementation of economic, social and cultural rights of people of
African descent – challenges and perspectives

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Mr. Chairperson,
Distinguished Guests,
Ladies and Gentlemen,

I am honoured to address you today with some reflections on the effective implementation of economic, social and cultural rights of people of African descent. My intention is to share with you a couple of general points on challenges and perspectives concerning this particular area of human rights. Yesterday we heard an excellent keynote speech on the right to development and people of African descent delivered by Professor Laurence Juma. I think it is very fortunate that we now have a chance to follow-up and elaborate on specific rights which constitute essential prerequisites of development.

But before we will move to some details and having regard to the fact that this is my first intervention as the member of the Working Group, allow me to start by saying how much I appreciate the opportunity to be actively involved in the efforts aimed at a better recognition, promotion and protection of human rights of people of African descent. I come from the Central/Eastern part of Europe where the rates of people of African descent in societies are noticeably lower than in the Western and Southern part of the European continent. But unfortunately it does not mean that the human rights records in the EEC group as regards people of African descent are more satisfactory. Regrettably, no country in the region is free from racism, intolerance or Afrophobia. I firmly believe it is of utmost importance that we do not lose sight of any part of the world in the context of identifying and combatting violations of human rights against people of African descent, even where the latter constitute a less numerous population. With all that in mind I wish to stress that I consider my membership in this Working Group not only as an honour but a solid commitment to act for the benefit of those whose human rights are at the center of the Group's interest and mandate.

With respect to the implementation of economic, social and cultural rights of people of African descent I wish to raise the following points:

- The Program of activities for the implementation of the International Decade for People of African Descent¹ makes reference to four main areas considered as a domain of economic and social rights: education, employment, health and housing. Although culture or cultural rights are not mentioned under the same heading, there is no doubt that this area needs to be included as part and parcel of the human-rights approach to development. What is worth underlining is that we need an integrated and inclusive methodology when we attempt to assess the *status quo* and suggest recommendations aimed at more effective implementation of the economic, social and cultural rights of people of African descent. Let me ask you: do we have such methodology? Are we adequately prepared to identify and analyze deficiencies in the protection of economic and social rights within the group we focus at? Of course, I am aware that there is a lot of sources of information and documents issued both by civil society and the UN human rights bodies. The Working Group itself collects such information *inter alia* by conducting country visits. Nevertheless, a question arises: do we have a comprehensive view of the situation? I am not prepared to give you any specific answer but I think it is worth to ask: do we know enough as regards the implementation deficit?
- Another point I want to raise is that in evaluating economic, social and cultural rights of people of African descent we should encourage co-operation with other mandate holders as well as UN treaty bodies. Our natural ally in this regards is obviously the UN Committee for Economic, Social and Cultural Rights. While the Committee did not deliver a general comment concerning exclusively people of African descent, its other comments could be very helpful. This concerns for instance its General Comment no. 13 on the right to education (Article 13 of the ICESCR)². Along these lines, a useful feedback can be found in the general comments of the Committee on the Rights of the Child.
- This brings me to the next issue, and notably the rights of the vulnerable. As we know, there has been a general trend in the international human rights law for two or three decades to focus on the rights of the most vulnerable groups. Indeed, people of African descent should be regarded as such a group in the enjoyment of economic, social and cultural rights. But also, should we not pay more attention to special needs and rights of those youngest and oldest, i.e. should the debate on the economic, social and cultural rights encompass always everybody within the group or should it

¹ Resolution adopted by the General Assembly on 18 November 2014, A/RES/69/16

² Published on 8 December 1999, E/C.12/1999/10.

also include an inquiry of how states fulfill their duties towards children and the elderly. I would argue that both of these sub-groups require somewhat different approach. Perhaps it would be useful to address the issues concerning economic, social and cultural rights of people of African descent not only on a right-by-right basis, but with reference to particular age groups.

- Let us take the example of the right to work. Notwithstanding the vital importance of this right for everyone, we understand this right in a different context when discussing children or the elderly. As we know, children should be protected from economic exploitation and from performing “any work that is likely to be hazardous or to interfere with the child’s education” (cf. Article 32 para 1. of the 1989 Convention on the Rights of the Child). With respect to the rights of the elderly, it is more the right to social security which plays a central role and we focus less on the right to work as such. In any event, I would argue that we should pay more attention to age when discussing economic and social rights.
- We all learn all our lives but in case of children it is hard to overestimate the importance of the right to education “on the basis of equal opportunity” and of appropriate quality. Let me remind in this context of the educational values expressed in Article 29 (1) of the Convention of the Rights of the Child which stipulates that the education of the child shall be directed to:
 - (a) *The development of the child’s personality, talents and mental and physical abilities to their fullest potential;*
 - (b) *The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations,*
 - (c) *The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own,*
 - (d) *The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin*
 - (e) *The development of respect for the natural environment.*
- Education is a key component of development and has been duly taken into account in the Program of activities for the implementation of the International Decade for People of African Descent. The Program encourages states to take all necessary measures to give effect to the right of people of African descent to free primary education and access to all levels and forms of quality public education without discrimination. Understandably, the access to education is a necessary condition of

development. But let us also not forget that education should conform to certain basic standards and values.

- What is also worth underlining is that although the Program of activities focuses on the access to education of people of African descent, we should have in mind fostering recognition of their human rights among societies through education. It is important that we constantly share the knowledge of the background and situation of people of African descent to raise awareness, promote tolerance and combat prejudices. I consider it a vital task and challenge both in short and long term.
- The discussion on economic, social and cultural rights often includes the issue of justiciability. I have no doubts that this is a tremendously important aspect of the matter. We should expect that people of African descent can effectively pursue and claim their rights, also in the context of domestic or international proceedings. In this context let me recall that the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted in 2008, introduces the mechanism of individual complaint in relation to the rights enshrined in the IESCR. The Protocol already entered into force, although only 20 state parties are bound by it, with another 26 being signatories. Even though a complaint procedure cannot be considered a cure in itself, I believe it is advisable that states aiming to improve their human rights records with respect to people of African descent be encouraged to sign and ratify the Protocol. Also, some of the states which are already parties to it are known to have a considerable population of African descent on its territory. Therefore members of this population could have recourse to this remedy when their economic, social or cultural rights are at stake.
- It seems important that the efforts aimed at better implementation of economic, social and cultural rights of people of African descent be undertaken also in co-operation with regional organizations. It is my impression that this co-operation needs to be encouraged and stimulated. Speaking of European regional organizations, the area of economic, social and cultural rights is under constant evaluation by the Council of Europe and some of its specialized human rights bodies. This includes, for instance, the European Committee of Social Rights established under the European Social Charter. Much attention to economic and social rights have also been paid in the works of the Fundamental Rights Agency of the European Union. These efforts are laudable but we also need to observe that their activities in this regard were hardly focused on people of African descent. This should change and I expect that in the framework of the Decade we will have opportunity to encourage our colleagues from regional organizations to take more interest in the economic and social rights of the people we serve.