Human Rights Council 31st Session

High-level panel to commemorate the 50th anniversary of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights

1 March 2016 – 9:00 to 12:00

Catarina de Albuquerque, « Challenges facing the universality, indivisibility, interdependence and interrelatedness of the Covenants over the next 50 years »

Mr President, Excellencies, Ladies and Gentlemen

First of all I would like to thank you Mr President for your invitation to participate in this Panel. It is both a pleasure and an honour to be here today again before the Human Rights Council.

I would like to address you today on the issue of the Challenges facing the universality, indivisibility, interdependence and interrelatedness of the Covenants.

I would divide these challenges in five groups and, due to the limited time available, I will be succinct.

The first set of challenges is Legal and Institutional, and I am for example thinking of cases of lack of legal protection or lack of justiciability of certain rights at the national level. In terms of institutional challenges, what is often the case is that certain national institutions (as courts of law or ombuds offices) are only competent to examine cases of violations of certain categories of rights, leaving others aside.

The second set of challenges is Contextual and Political. In this context I would like to highlight the unequal wealth distribution, the economic crisis affecting several countries, as well as austerity measures adopted as a response to the latter. Such measures might (and indeed do) lead to retrogressions in the realisation of human rights. Such effects are not only felt in the area of economic, social and cultural rights, but also extend to the area of civil and political rights (as for example access to justice of freedom of expression), or even violence against women. Such effects are more pronounces on the most vulnerable and marginalized persons.

The third set of challenges relates to Discrimination, Stigma and Taboos. Sexual orientation, land tenure status, disability, age, caste, gender, homelessness, ethnicity, citizenship and other circumstances affect every aspect of a person’s life, including decision-making power. In certain instances the prevailing stigma and discrimination even “legitimizes” certain actions against certain groups of people, creates an “us vs them” divide in society and ignores a part of the population.

Fourthly, there are Existential challenges and I am thinking of misconceptions about human rights – about the nature and implications of different human rights. I am also considering that for some States some rights seem to be more important than others: it can either be that economic, social and cultural rights are seen as luxuries only to be implemented in times of economic abundance. It can also be the inverse situation, namely the conviction that civil and political rights
are the luxuries that can only be implemented and realized after all economic, social and cultural rights are in place.

Such misconceptions also lead to situations where certain countries feel as custodians of human rights and hence, being “more equal than others” – are entitled to prioritize, pick and choose and determine those rights that are more important than others.

Still in this category of existential challenges I would also mention the categorization or creation of families of human rights – namely the split of the rights contained in the Universal Declaration of Human Rights (UDHR) into two categories: civil and political and of economic, social and cultural rights. Does this categorization reflect the reality and help implementers doing a better job, or does it rather oversimplify and do more harm than good?

Finally the last category of challenges covers those of a procedural or structural nature. Having split the rights contained in the UDHR between two treaties that led to the establishment of two treaty bodies did, in my view, lead to a fragmentation of human rights, instead of promoting their universality, indivisibility and interrelatedness. We – to be more accurate, you as UN Members States – can correct this mistake and use the time (as set by the UN GA) until 2020 to take the necessary measures to strengthen and enhance the treaty body system. In that context, one of the options that should surely be on the table should be the creation of a unified treaty body that would resurrect the holistic vision of human rights contained in the UDHR. Such a unified treaty body could examine all interlinks between all human rights and could also assess the impacts of the violations of a particular right on all other human rights.

Thanks for your attention.