

SOCIAL DEVELOPMENT REPORTS ON BRICS: VIOLATIONS TO FUNDAMENTAL HUMAN RIGHTS IN COMPARATIVE PERSPECTIVE

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1 INTRODUCTION

This Report is a part of a research group's goals on Social Security and Human Development. The main issue of this particular research was to assess the social progress within the State members of BRICS in terms of substantive freedom. The research was based on the United Nations Development Reports (Human Development Reports, 2010-2015) as well as the theory of capabilities approach to human development.

The so-called *Capability Approach* is an alternative to traditional economic models, those limited to gross domestic product (GDP) *per capita*. According to the capabilities approach, utilitarianism is insufficient analysis model, since neglects the effects of good or bad distribution of wealth (NUSSBAUM, 2013, p. 347-349; DIXON; NUSSBAUM, 2012, p. 556). Also, they do not consider necessary individual aspects for a dignified life. Many of which are not necessarily linked to income and financial wealth, such as health, education, freedom of choice, rights and political liberties (DIXON; NUSSBAUM, 2012, p. 556). However, consideration of these factors directly entailed to the quality of life, well-being and freedom of human live are crucial to a proper understanding of human development (SEN, 2011, p. 259). Utilitarian analysis is only justified if it were limited to measurements on how much is produced, but not to assess how production affects the lives of people, that means, the conditions for free human development.

This approach is, in broad terms, what was exposed clearly in the first United Nations Development Report back in 1990 by the Pakistani economist Mahbub Ul Haq, who is the author of the internationally repeated assertion that what really matters to the development of a nation is to provide people with an ideal environment to live long and healthy lives (UNITED NATIONS DEVELOPMENT PROGRAMME, 1990, p. 9). He pointed out that policies to increase the GDP and the economic growth can overshadow the purpose of human development. This is so because the data obtained with GDP metrics do not reveal the impact on the quality of life of the national income distribution, nor capture the complexity of human activities related to human welfare. People value other things that do not appear on measurements of income or growth, such as "better nutrition and health services, greater access to knowledge, more secure livelihoods, better working conditions, security against crime and physical violence, leisure time, participation in economic, cultural and political of their communities. Obviously, it is understandable that people seek more income. However, the income does not mean the totality of human life (UNITED NATIONS DEVELOPMENT PROGRAMME, 1990, p. 9). If people are the wealth of a nation, the purpose of development of any country, more than accumulation of wealth, must be providing real opportunities for a decent life to all (DIXON; NUSSBAUM, 2012, p. 557). This was the target that guided the design and

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development of the approach of capabilities, a new way of analyzing the quality of life and justice levels provided by societies to their citizens. Focusing on human life, the *Capabilities Approach* shifts attention to the real opportunities of life (SEN, 2011, p. 275) as a mean to developing nations. The starting point is to get to know what really, people are able to be and do.

2 METHODOLOGICAL PROCEDURES

This research was concerned primarily on document analysis, particularly on Official Reports delivered by the members of the BRICS to United Nations, in order to be evaluated by the Periodic Review Mechanism of the Universal Human Rights Committee, which requires, in short, the presentation of quinquennial Report by all UN Member States. The research also relied on comparative analysis, according to the Human Development Index reports (HDI).

Notwithstanding, the classic concern of the comparative methodology was highly considered here. After all, how to compare solutions adopted in so different cultures and traditions? As McCrudden (2012, p. 373) stated, “the appearance of uniformity disappears and human rights are exposed as culturally relative, deeply dependent on political and local values.” In this work, in spite of the objections largely stated in the literature, the universalist perspective was adopted. Therefore, human rights were treated as a single system of principles being applied to all signatory countries. Thus, the methodological concerns posed by the relativistic criticism, that is to say, the relative nature of the meaning of human rights to social security, not completely lose its value, however it was considered insufficient to undermine the results.

3 RESULTS AND DISCUSSION

From the analysis of the recommendations and the foregoing observations in UN Reports it is clear that Brazil, Russia, India, China and South Africa demonstrate some normative, institutional, political and economic advances through the realization of social security rights - healthcare, social insurance, social care services, although there is still much to be done in all these countries, mainly Russia, as the guidelines and comments of the Reports published by the United Nations specify.

3.1 BRAZIL

Brazil's Report was praised by several countries for pointing out the commitment to the ratification of international human rights treaties. Noted also that the details of the information issued by Brazil were well received by the Human Rights Committee. Many states, and even the Committee, praised the country for effective responsiveness to previous questions and the issue of data and information requested.

Advances in healthcare and social security as a whole were perceived and the actions taken for the implementation of economic, social and cultural rights were cited by most of the States participating in the Committee, many of these actions are related to the creation of laws and administrative actions. High investments were dedicated to health programs in Brazil in recent years, which shows State responses to implementation of the Covenant.

By contrast, it was highlighted by the participants the need for improvement regarding to inequality in access to health protection and social insurance as well as the empowerment of vulnerable groups as urgent measures to be taken.

3.1.1 Main points of concern and recommendations by Committee

The Committee expressed concern about the lack of information on homeless communities and their allegations of discrimination in particular regarding access to medical care, social assistance, education and employment (articles 26 and 27) (Item 20 p.5) and requested Brazil to take steps to ensure the practical enjoyment of the rights referred to in the Convention. The Committee noted the absence of significant factors or difficulties impeding the effective implementation of the Convention by Brazil. Particular information was verified regarding the advances and setbacks of Brazil in relation to the rights to healthcare and social security.

The Committee recommended that appropriate measures should be taken to address the discrepancies between life expectancy and poverty levels among black and white populations with a focus on health programs and poverty eradication. And was concerned about the high proportion of the excluded population in any form of social security, especially the high number of people employed in the informal economy, particularly domestic workers who are not eligible for any social security benefits and provisions for people who Unable to contribute to the social security system is inadequate. The Committee noted that the Continued Social Assistance Benefit Program (BPC) is only available to people with incomes less than 25% of the minimum wage (item 19, p. 6).³

It also recommended that extensive measures should be taken to provide social security coverage to the economically disadvantaged population and to those who could not contribute to the system and to intensify efforts to regularize the informal situation of workers by allowing them access to the Benefit of basic social protection that should include old-age pension, maternity benefit and access to medical care.

The Committee noted with concern the increase in the number of registered cases of HIV/AIDS during the last decade, which constitutes a serious health problem. And even with the free provision of antiretroviral therapy drugs by the state, cases are still high and even higher in economically disadvantaged communities. Was recommended an effort to control the spread of the disease and extensive measures addressed in particular to the part of society vulnerable to the virus. Next to this the news of the Compulsory Licensing of HIV/AIDS antiviral drugs insofar as they made them accessible and available for the treatment of all patients (item 3-b p.2) were appreciated as well as the ratification by the State of the international instrument of the Framework Convention (WHO Framework Convention on Tobacco Control - ratified Nov 2005) (Item 5-c, p. 3).

The Committee also expressed concern about the high maternal mortality rate and the disproportionate risk of death that affects marginalized communities, particularly Afro-Brazilians, indigenous women and rural women. And it noted that this disparity is attributed in part to the inadequate distribution of obstetric care facilities and to the fact that failure to pay appropriate care to populations disadvantage. The Committee was particularly concerned that most of mater-

³ This orientation has already been modified by STF Decision, in Complaint 4374/2013. From this decision, the minimum family income became a half a minimum wage

nal deaths could be avoided with adequate medical care under article 12, paragraphs 1 and 2d of the Convention (Item 28, p. 9), and inferred that clandestine abortions still remain the majority of the female cause and recommended that Brazil take legislative measures and others, including a review of the present legislation and the protection of women, from the effects of illegal and unsafe abortions and ensure that women do not need to engage in such a harmful procedure.

In response to those observations, the Brazilian human rights minister explained that under President Rousseff's plan for the eradication of poverty in 2014, 16 million people were rescued from this situation through the "Bolsa Família" program, a program to transfer income to research activity that seeks to identify the most vulnerable sector of society in the areas of education, health, housing and other policies.

In the national report presented by State, the Minister of Human Rights emphasized that for Brazil the universal periodic review report is a mechanism that promotes cooperation and constructive dialogue on human rights (Item 5, p. 3). She further added that the protection and promotion of human rights are irrevocably enshrined in the Brazilian Constitution and emphasized that the practice of a consultative process involving the participation of civil society in the formulation of policies through national conferences, councils and other bodies Collectives (Item 6, p. 3).

Regarding the area of stigmatization, the Brazilian Minister pointed out that Brazil has a wide range of measures on access to justice and protection of the elderly and persons with disabled (Item 12, p. 4), and concluded by emphasizing that the State has demonstrated that human rights and development are mutually reinforced. According to her, Brazil is a country that grows, includes and protects, with full respect for human rights (Item 16, p. 4).

In response to comments on the eradication of poverty, Ms. Nunes explained that the "Caring Brazil" initiative established within the "Brazil Without Extreme Poverty" program aimed at providing benefits for children up to six years of age that will reach two million Brazilians, Extended to the "Bolsa Família", services of daily care, health services and distribution of medicines among other benefits (Item 110, p. 13).

Regarding the rights of the elderly, she mentioned the demographic changes in Brazil, making the country adapt health policies, especially for elderly women, violence prevention and social security. She also mentioned the social security programs that guarantee a minimum income for the elderly in Brazil (Item 113, p. 13).

3.2 RUSSIA

Given the unclear feature of the Russian Reports, and the absence of complete information regarding some issues it was not possible assess data on gender inequalities, groups of marginalized minorities or disadvantaged. There is another point of concern regarding the access to Justice, once more than a half of all petitions sued to Courts have simply not been accepted. Moreover, it was underlined the lack of a Report with information on how the Human Rights Office actually works in the State party. Thus, the Committee questioned the high level of corruption in the State party and expressed strong concerns on the negative impact this has on realization of economic, social and cultural rights. The Committee also called on Russia to make an effort to implement legislative strategies and other measures to combat corruption in the federal and regional level, allocating sufficient resources, in addition to a monitoring mechanism and control of

federal and regional bodies on the resources allocated to the achievement of economic, social and cultural rights. Seen that in practice the realization of many rights and benefits depends on the data records which is not happening in Russia, hindering the assessment of progress and setbacks in the realization of these rights. There are gaps in many aspects passed by the State party.

3.2.1 Main points of concern and recommendations by Committee

With regard to persons with disabilities, the Committee noted with concern the lack of measures taken by the State against the marginalization of economic, social and cultural rights for such persons, including employment, education and medical care. It urges the State to intensify its efforts to combat the marginalization of people with disabilities and, in particular, to take measures to promote the integration of these persons into the labor market by establishing quotas for them, reintroducing tax benefits as an incentive to hire people with disabilities. Deficiency and establish an enhanced procedure and remedies. It further encourages Russia to consider ratifying the Covenant on the Rights of Persons with Disabilities.

The Committee noted with concern the gaps in information data regarding the coverage system for indigenous peoples in northern, Siberia and the far east, which includes a compulsory annual check-up at the municipal and state offices under the State Guarantees Program, Gaps in information and coverage of outpatient systems - for small tribes such as Pareny in Kamchatka who had no outpatient care for two years (item 28, p. 8).

An important point also analyzed by the Committee was about the spread of drug addiction including the main fact of the increase of the HIV/AIDS epidemic, hepatitis C and tuberculosis through the injection of drugs. And it indicated that preventive measures should be taken on substitutive therapies in addition to overdose prevention programs.

Women in rural areas have limited access to reproductive and sexual health services and lack of reproductive and sexual education, the Committee has indicated that the State party continues its efforts to increase the dissemination of information and women's access to contraceptive methods in the Guarantee family planning information available to everyone including in rural areas. In addition to including sex education for adolescents in the school curriculum, in the prevention of pregnancy and control of sexually transmitted infections and the inclusion of costs in a public health schema (Item 30, p. 9).

There is an urgent need to disseminate the present concluding observations to all levels of society, in particular official bodies such as judiciary and civil society organizations, translated into the minority languages spoken in Russia and publicize as much as possible and inform the Committee of the steps the matter in the next periodic report. It was also encouraged to Russia to continue to engage with the national human rights institution, non-governmental organizations and other members of civil society in the national discussion process prioritizing the submission of the next periodic report.

3.3 INDIA

The Committee made it clear that India was generic and unclear in providing data. The State did not provide, for example, information on the requirements of Articles 1 and 5 of the Convention.

In other cases the Committee noted that the information provided was not sufficient to advance the evaluation of the enjoyment of the rights protected by the Convention in the State party. For example, information on the private health sector; detailed information on a comparable basis, regarding the progress on the quality and accessibility to health services without hidden costs, especially for individuals and groups in disadvantaged or marginalized; a systematic evaluation of policy measures and realities of the mentally ill; information on the progress of policies implemented to eradicate the trade in human organs; detailed information on the extent of coverage of its social security system to the informal sector, that is, the lack of reliable information regarding these rights was received as the lack of transparency and responsiveness in providing the data, which ended up hurting the evaluations of progress or setbacks in health care. Failure to comply with the obligations under the Convention, especially those for the progressive realization of rights, and even though the Supreme Court will progressively interpreting the Constitution, the Convention is not having enough effective, partly due to the absence of relevant domestic legislation and the non-implementation of decisions of the Court by the state authorities. Thus, the lack of effective mechanisms for coordination and guarantee at federal and state level, and the failure to implement policies and administrative measures of economic, social and cultural rights is the greatest impediment to effective and equal implementation of the Rights Convention, on economic and social rights by India.

3.3.1 Main points of concern and recommendations by Committee

Although the Supreme Court has interpreted the Constitution significantly to achieve justiciability, the Convention is not having its effectiveness in India's legal system due to the absence of relevant domestic legislation. And the non-implementation of decisions of the Court by state authorities (item 9, p. 3). Since the lack of effective mechanisms of coordination and guarantee at the federal and state levels, political and administrative measures of economic, social and cultural rights constitute the greatest impediment to the effective and egalitarian implementation of this Convention in the State in question (item 10, p. 3). Another point of deep concern of the Committee is related to the reports of human rights defenders (item 12, p. 3), including those who assist communities and individuals in asserting their economic, social and cultural rights, who have been threatened, harassed and suffered violence by state and police officials. This demonstrates the existence of national security legislation that grants immunity to State officials who violate human rights.

Even though there are constitutional guarantees of non-discrimination as well as legal provisions of punishment against acts of discrimination, discrimination is widespread and socially accepted, with harassment and / or violence persisting against members of certain disadvantaged and marginalized groups including women, castes, tribes, poor people, informal workers, religious minorities, people with disabilities and people living with HIV/AIDS (Item 13, p. 3). Concern is also expressed about the obstacles that victims face when accessing justice, which includes the high cost of litigation, delays in court proceedings, and failure to implement decisions by government authorities.

In health care issues, the Committee was concerned about the implementation of the "Pre-conception and Technical Prenatal Diagnosis Act" (prohibition of sexual selection), given by

the 2003 amendment, which has resulted in high rates of fetal girls and proportional sex ratio is skewed and continues to worsen (Item 17, p. 4).

The most worrying fact brought by the Committee's comments in that report is that although there is economic growth achieved by India, health spending remains very low, at around 1% of GDP⁴, and a significant proportion of the population continues to have limited or No access to basic health services, resulting in alarming rates of maternal and infant mortality, as well as high rates of tuberculosis and other contagious diseases. What was also worrying was the growth of HIV/AIDS infections. In addition, there is a lack of reliable information on people affected by mental illness, which has shown a lack of transparency and responsiveness in data provision, hampering assessments of progress or setbacks in the general health of the population (item 34, p. 7).

One of the major problems that still affects India is the lack of access to drinking water, and the presence of heavy metals in groundwater. As well as overpopulation and sub conditions in prisons operating 200-300% more than their capacities, which resulted in the disproportionate growth of tuberculosis and other health problems affecting prisoners (items 34 and 35, p. 7).

Still in relation to the setbacks resulting from the lack of investment and public administration actions in the State of India is the prevalence of the widespread phenomenon of early marriages, the high rate of maternal mortality and the rapid spread of HIV/AIDS and other sexually transmitted diseases, according to the Evaluation Committee, the wide lack of sexual and reproductive education that is still seen as taboo in this country can be attributed (item 37, p. 7).

There is also a serious increase in the marketing of organs, mainly of the kidneys, predominant in India (item 39, p. 7).

Discrimination is still strongly noted when we observe that the universal health care system in the State party falls short of universal coverage, excluding a considerable portion of the population. The quality and availability of health services provided by the system has been hampered by the large scale of privatization of health services in the State party, particularly impacting the poorest sections of the population (item 38, p. 7).

It also recommended that India reinforces improvements in access to safe drinking water for the general population and develop measures to improve sanitary conditions in prisons to ensure that the right to mental and psychological health of all prisoners is retained in accordance with Article 12 of the Convention (Item 74 and 75).

Regarding Social Security, the Committee pointed to the disorganization of the sector of social security accounts of workers, with most of the workers employed in the informal sector, who do not have the benefit of the social administration, due to the pending issues of the Parliament in relation to this problem (item 24, p. 5).

In addition in relation to social security, was recommended to the Country adopt a sector of social security accounts for workers without delay and to ensure, in the sense of the general recommendation of Committee N.19 (2007), the right to social security, due to the large part of the population that is not yet adequately covered by the social security system, not being guaranteed the benefits of social security and minimum standards, inter alia, health, maternity aid, old age pension, work accident insurance and benefits to dependents. The Committee recommended that the State party consider ratifying ILO Convention No. 102 (1952) on Social Security (Minimum

⁴ Gross Domestic Product

Standards) and requires India to provide detailed information in the next periodic report on the extent of coverage of its social security system for the informal sector (item 61, p. 11).

The Committee recommended that India strengthen the enforcement of existing legal prohibitions on discrimination, and should consider the comprehensive administrative, civil and / or criminal enactment of anti-discrimination legislation guaranteeing the right to equal treatment and prohibition against discrimination in the areas of employment, social security, housing, health care and education on grounds of race, color, sex, language, religion, political opinion, social or national origin, property, birth or other status, such as those stipulated in article 2, paragraph 2 of the Convention and urged the State party to intensify efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts (item 52, p. 9).

Positive aspects and actions taken by India were the legislative measures and other measures taken to promote the realization of economic, social and cultural rights in particular: The National Rural Health Mission - The National Rural Health Mission - launched in 2005 to provide Information, affordable and quality health services; The 2003 amendment to diagnostic techniques in pre-conception and prenatal care (CE act 1994) - (item 4 p.2); As well as the ratification of the Convention on the Rights of Persons with Disabilities in 2007 (item 5 p.2). The Committee also appreciated the important contribution made by the Supreme Court of India to the development of international jurisprudence in favor of the justiciability of economic, social and cultural rights through proactive interpretations of the Constitution (item 6, p. 2) and that no Factors or difficulties impeding the implementation of the Convention (item 5, p. 3).

3.4 CHINA

The main negative point discussed by the Committee was the lack of institutionalization of the listed rights in the “Paris Principles”, which shows retrogression in the realization of such rights, and there is concern on the omission of the Judicial Branch, lack of independence of these institutions, result also the high corruption rate in the state and the resulting lack of internal application of the Convention.

On the other hand, advances ratifications were mentioned and many international instruments concerning the economic, social and cultural rights, not just rights to health and social security as well as labor rights, education, housing and children were ratified by China.

Responsiveness of China regarding the problems listed in previous Reports was stated in the introduction of the last Report (E/C.12/CHN/CO/2) particularly its timely submission of responses to the Committee. In no time the Committee complained of withholding data and status information have raised in the report, but that does not mean the problems are being solved largely by China, given the amount of negative points indicated over the search results. Transparency in the issue of information can be a point in favor in an attempt to recognize their shortcomings and initiate resolution of the issues listed by the Committee on the effective implementation of Rights Convention, Economic and Social.

3.4.1 Main points of concern and recommendations by Committee

The Committee expressed concern about the lack of an independent national human rights institution in accordance with the “Paris Principles” (item 8, p. 2) in national human rights

institutions, on the internal applicability of the Convention on Economic, Social and Cultural Rights. With the independence of the judiciary, corruption, international cooperation, economic, social and cultural rights. It is relevant to say that China does not have a comprehensive anti-discrimination law, although this principle is contained in its Constitution. And the Committee expressed concern at the widespread discrimination, especially in the western ethnic provinces, especially in the areas of employment, social security, housing, health and education, despite the efforts of the State party (item 14, p. 4), and urgently recommended that they be adopted Measures in accordance with Articles 2 (2) of the Convention.

The Committee recommended that measures be taken in respect of medical care for women and elimination of gender pay differentials. The Committee was concerned that even with measures taken by the State to promote access to employment and the improvement of working conditions for people with disabilities, including the establishment of 1.5% of the employment quota, the high rate of unemployment among people with disabilities persist and there are disparities in relation to their salaries (articles 6 and 7) (item 18, p. 6). And the Committee calls for the urgency of efforts to effectively promote the integration of people with disabilities, especially in the labor market including the effective attendance of quotas. The Committee recommended that the State party take measures to increase the working conditions of persons with disabilities and equal pay for functions of equal value. It also called for measures on statistical data on the employment rates of people with disabilities.

The Committee welcomed China's efforts to ensure universal access to social security, including basic old-age pensions, basic medical care and minimum living standards. While the Committee is concerned about the significant persistence of disparities between urban and rural populations and migrant workers from rural to urban areas in terms of quality and access to benefits (Item 24, p. 7) and called for the strengthening of efforts to extend social security coverage, especially to individuals belonging to ethnic minorities, rural and migrant residents, as well as to the informal sector. Also the adoption of measures necessary to ensure the benefits of sufficient social assistance to cover the real costs of living, including the creation of an effective and transparent indexing system. It indicated to the State party to carry out information and awareness campaigns in the country to inform the beneficiaries about the programs and initiatives to access and enjoy the right to social security.

The Committee was content with the one-child policy decision that allows couples to have the second child but is still concerned about the constraints of people's free choices deciding how many children they want to have and recommended efforts to raise awareness of the use of Contraceptives and adequate sex education in addition to reproductive health (Item 25, p. 7). And the change in coercive political measures that encourages forced abortions in view of birth control.

The Committee remained concerned about the adverse environmental effects of industrial pollution and contamination of food, and its negative impacts on the realization of the right to an adequate standard of living and health. Although measures are being taken to mitigate environmental degradation, implementation and monitoring of environmental pollution remain inadequate, and administrative authorities and private companies are not held accountable for environmental legislation (Articles 11 and 12).

While increasing budget allocation to the health service, the Committee expressed concern about the inadequacy of funding, which particularly affects rural areas and exacerbates per-

sistent disparities in access to health services between urban and rural areas. And the due system of residence registration, rural-urban migrant workers do not have equal access to medical service subsidies that urban residents, and pay proportionately more for health insurance and medical costs (Article 12). The Committee recommended that all necessary measures be taken for improvements in health services and ensuring the realization of the right to access and good quality health care for all people in the country, particularly disadvantaged or marginalized individuals, minorities Ethnic and rural migrants; And that appropriate measures are taken to prevent the spread of HIV/AIDS, particularly at risk groups and in rural areas; Conducting information campaigns to promote awareness of HIV transmission and tolerance of people living with HIV/AIDS among health professionals, employers and the general population, and the measure of the impact of it (Item 34, p. 11).

Positive aspects and steps taken by China were the ratification of several international instruments, one of them being the Convention on the Rights of Persons with Disabilities (Aug / 2008); It was appreciated the State party's measures to promote economic, social and cultural rights that include the adoption of the Social Security Act in October 2010; The implementation of the National Plan of Action on Human Rights (2012-2015); The adoption and implementation of the Economic and Social Development Plan (2011-2015); The adoption and implementation of the new scheme for the development of rural poverty reduction in China (2011-2020); among others.

The Committee welcomed the State party's contribution to the achievement of the Millennium Development Goals, such as eradicating extreme poverty, achieving universal primary education and reducing maternal mortality (item 3, p. 2).

The Committee welcomed the measures taken by Hong Kong, China to promote economic, cultural and social rights, including the adoption of a legal minimum wage and the establishment of the Commission on poverty (item 6, p. 2).

The Committee appreciated the measures taken by Macao to promote economic, cultural and social rights including the implementation of free education until the age of 15 and the adoption of the Individual Accounts Act of the Pension Fund in 2012, which consolidates the retirement protection for residents (item 7, p. 1).

3.5 SOUTH AFRICA

The South African delegation answered questions on socioeconomic improvements and pointed out numerous reforms and measures for the redistribution of wealth, as well as various policies adopted to enhance all of the standard of living. They emphasized that without state interventions aimed directly at historical inequalities in the country, economic growth would not be feasible and references were made to the Reconstruction and Development Programs (RDP), and Accelerated Shared Growth Initiative for South Africa, as well as a skills building program within this. Recently the Economic Empowerment Act of Black people (Black Economic Empowerment Act) became one of the most decisive transformation programs in the economic sphere.

Through interactive dialogue from the responses issued by South Africa, 45 delegations recognized the quality of the presentation of the national Report of South Africa which shows a high rate of responsiveness and transparency of the State Party.

The actions taken from the legislative measures for the promotion of human rights are enabling the enjoyment of a higher standard of living, and an advanced social security system,

which shows the progress that has been achieved by the State in the realization of economic and social rights. Particularly in decreasing gender inequality in care as well as control and treatment of HIV/AIDS. By contrast, it was recognized the need for actions related to the care of people living in rural areas, especially women, by the health service.

Presenting the State under review, Ms. Glaudine J. Mtshali, ambassador and permanent representative of South Africa at the United Nations office, indicated that the 1996 Constitution guarantees all human rights and fundamental freedoms and also internalizes the nuclear provisions of the “Bill of Rights”. According to her, the list of constitutional rights is the pillar of democracy in South Africa, which enshrines the rights of all people and affirms the democratic values of human dignity, equality and freedom. And there is a clear separation of powers between the judiciary, legislature and executive in the South African state. Following the first democratic elections of 1994, the government adopted a reconstructive framework of primary goals directed at the historical legacy of inequality, creating and integrating services to improve the quality of life of the South African people. In order to accelerate the achievement of this objective, the government has subsequently introduced economic development structures focused on overcoming the challenges of extreme poverty and hunger, underdevelopment and unemployment. As one of the earliest countries in the world, South Africa introduced the socio-economically justifiable rights in its Constitution. The government fulfills its obligations by taking due account of its available resources to the progressive realization of human rights. Socio-economic rights are on an equal footing with the more traditional political and civil rights. Judgments issued by the South African Constitutional Court deal with the rights constitutionally guaranteed by the pioneering jurisprudence which are well regarded by the international community (Items 4 and 5, p. 3-4).

South Africa has recently ratified the International Conventions on the Rights of Persons with Disabilities and the Optional Protocol in November 2007. At present, national political structures of persons with disabilities are being reviewed (item 10, p. 5). Another example of good practice is the establishment of a social safety net that did not previously exist. The program supports 10 million children, foster children and dependent grants (item 11, p. 6). The government remained committed to the effective implementation of the Multisectoral National Strategic Plan (2007-2011) aimed at HIV/AIDS, tuberculosis and malaria. And the main focus is the strategic prevention plan. It also includes clear targets for the provision of antiretroviral drugs, care for vulnerable children, and increased prevention of mother-to-child transmission (Item 11, p. 6).

On the issue of unequal access to health services, the head of the delegation reaffirmed that in 1994, when President Mandela took office, there was a requirement to introduce free health care services to people who are unable to pay for Private market, including women and children. And stressed that access to health care services is not unequal between men and women. He further indicated that when South Africa introduced legislation to provide cheap drugs on the market, President Mandela was brought to court by pharmaceutical companies based in developed countries and took several years before the lawsuit was withdrawn in that period South Africa could not provide expensive medicines to the people who needed them. And then she ended her comment by citing the recent regulation on drug prices, which will make them cheaper (item 65, p. 19).

4 FINAL CONSIDERATIONS

From the UN Reports on Human Rights and Development and, particularly on the main advances and regulatory setbacks, institutional and political and economic of the states that form the BRICS (Brazil, Russia, India, China and South Africa) it could be found, although from a somewhat limited perspective, there is a great difference between those State members in terms of implementing measures to the enjoyment of social security as a human rights. The most important contrasts comes up from Russia and India when compared to South Africa, China and Brazil. The formers have been strongly warned on the lack of accountability and responsiveness with United Nations. While the latter, if by one hand they proved to be able at achieving good outcomes to better implement the commitments of the Covenants, they still have challenging issues to address, such as inequalities, corruption and universal coverages of social security.

The conclusions based on documentary research for the development of freedoms related to expansion of social security in those countries as well as the analysis of the recommendations made by the Committee to the five countries on the rights to health, social insurance and social assistance demonstrate the shortcomings not yet overcome by them in attending the realization of these rights, although also observed some normative advances, institutional and political-economic in response to realization.

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