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SOCIAL SUSTAINABILITY, AGENDA 2030 AND HUMAN RIGHTS. AN OPPORTUNITY TO REINFORCE ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN DEVELOPED COUNTRIES

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1. Introduction

The *2021/22 Human Development Report* explains that we live in a time of an unprecedented uncertainty complex that can not only be a danger but also an opportunity if we work together towards shared goals, starting by fixing the human side of the planetary ledger¹. The United Nations proposed a roadmap for joint work in 2015. Indeed, the international community's latest major commitment to sustainable development was expressed with the United Nations General Assembly Resolution *Transforming our world: the 2030 Agenda for Sustainable Development*² which approved the 17 Sustainable Development

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¹ UNDP, *Human Development Report 2021-22: Uncertain Times, Unsettled Lives: Shaping our Future in a Transforming World*. New York, 2022, pp. 3 and 21. The 2023 Report is in the process of being drawn up.

² UN GENERAL ASSEMBLY, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, 25 September 2015.

Goals (hereafter SDGs). That sustainable development must be achieved in its three dimensions – economic, social and environmental – in a balanced and integrated manner³.

The 2030 Agenda is aimed at all states in the world⁴, not only because of the obvious involvement of the richest countries in achieving the SDGs on environmental sustainability, but also because of the focus on economic and, above all, social sustainability. Even though there are developed countries ruled by law, with democratic governments, there are people who lack from well-being (food, health, education, equality...), mainly linked to situations of poverty, whose rates have suffered important declinations due to the Covid-19 pandemic in almost every country.

Poverty and, in particular, the violation of human rights that it entails, implies, in the words of the 2030 Agenda, the absence of social sustainability. In particular, the national and regional localisation of the SDGs, which developed countries are also called upon to carry out, can contribute to the realisation of the human rights of those people who, even though live in resourceful societies, suffer from their violation without legal consequences.

Therefore, although we are aware that the biggest problems of inequality and social sustainability are on a planetary scale, the aim of this paper is to reflect on the usefulness of the social sustainability claim of the 2030 Agenda to promote the fight against poverty and social exclusion in developed countries, through the connection between the SDGs and human rights, mainly economic, social, and cultural rights (ESCRs). This will show the relevance of international human rights law in achieving the social sustainability objectives of the SDGs, first from a theoretical perspective that claims the importance of the human rights-based approach (HRBA) also in developed countries to revitalize ESCRs; and then with the presentation of the work done in a concrete case of localization of the 2030 Agenda.

Firstly, we are setting out the concept of social sustainability from the human rights perspective as the objective of wellbeing avoiding poverty and exclusion, and its presence in 2030 Agenda (section 2). In the following, we will show the relevance of poverty in international human rights law (section 3), and the link between human rights and 2030 Agenda SDGs (section 4). The aim is being able to argue for the appropriateness of talking about social sustainability in developed countries (section 5) and the usefulness of the HRBA as a methodological tool for implementing 2030 Agenda (section 6). Next, we will explain the work carried out in this area in the localization of the 2030 Agenda in the Autonomous Community of the Canary Islands as an example of a possible way of incorporating HRBA into the implementation of the SDGs (section 7). Finally, we will conclude by assessing social sustainability in the 2030 Agenda from the perspective of international human rights law in the light of the previous reflections as an opportunity to make real progress in ESCRs in developed countries.

2. *Social sustainability*

2030 Agenda and its 17 SDGs recognize the triple dimension of sustainability (social, ecological and economic) derived from the Brundtland Report (A/42/427 of 4 August 1987), which provided the concept of sustainable development going beyond development as mere economic growth: «Humanity has the ability to make development sustainable -to ensure

³ *Ibid.*, par. 2.

⁴ *Ibid.*, par. 5.

that it meets the needs of the present without compromising the ability of future generations to meet their own needs»⁵.

Following this idea, social sustainability can therefore be defined as a way to achieve protection, promotion, and the preservation of values for future generations usually embodied in the term of social capital. «This includes human rights, preservation of diversity, protection and promotion of health and safety, intra and intergenerational equity among many others»⁶.

However, the social dimension of sustainability has been the least studied and it is often overlooked; there have been several different research approaches, from equity and human rights to business and corporate studies⁷, among others. We will address the concept of social sustainability from a human rights perspective and its presence in 2030 Agenda.

2.1. Social sustainability from a human rights perspective

From a human rights perspective, social sustainability as the social dimension of sustainable development involves talking about the physical, emotional and social needs of human beings. It «emphasizes living in ways that can be sustained because they are healthy and satisfying for people and communities. This requires providing for material, social and emotional needs, avoiding behaviors that result in poor health, emotional distress and conflict»⁸; it is identified with the well-being which includes food, housing, clean water, health, education, and personal security⁹. In this sense, it implies a questioning of the mere economic growth as the privileged option for progress, going beyond GDP to pay attention to objective and subjective components of well-being: «Sustainable human development adds a social dimension to this already difficult balance between economic development and respect for the environment: social inclusion and the fight against poverty. In classical economics, GDP growth was compatible with exclusion and socio-economic inequalities. Distribution did not matter. On the contrary, the human dimension of development takes up this challenge to achieve social inclusion, equal opportunities and real equality between men and women»¹⁰.

In the evolution of the concept of development, Amartya Sen's contribution marked the shift in perspective that led to the concept of human development, key to social sustainability, and the door to connect development and human rights. Sen considers that while the role of rents enjoyed by individuals is important for individual achievements and freedoms, this relationship is «neither constant nor by any means automatic and irresistible», because there are different contingencies that systematically alter the relationship between

⁵ WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT. *Report of the World Commission on Environment and Development: Our Common Future*. General Assembly of United Nations (A/42/427, 4 August 1987), para. 27.

⁶ A. WIDOK, *Social Sustainability: Theories, Concepts, Practicability*, in P. FISCHER - STABEL, H. KREMERS, A. SUSINI, V. WOHLGEMUTH (Eds.), *EviroInfo 2009. Environmental Informatics and Industrial Environmental Protection: Concepts, Methods and Tools*. Berlin, 2009, p. 43.

⁷ A. WIDOK, *Social Sustainability*, cit., pp. 44 and 46.

⁸ D. S. ROGERS, A. K. DURAIAPPAH, D. C. ANTONS, P. MUNOZ, X. BAI, M. FRAGKIAS AND H. GUTSCHER, *A vision for human well-being: transition to social sustainability*, in *Current Opinion in Environmental Sustainability*, 2012, 4, pp. 61 and 63.

⁹ D. S. ROGERS et al., *A vision for human well-being*, cit., p. 65.

¹⁰ J. BENOÏTXEA, *Introducción*, in *Consejo vasco del movimiento europeo, eurobasque (ed.), Sostenibilidad de la Europa del s. XXI: económica, ambiental y social*. Madrid, 2020, pp. 17 and 19.

rents and fundamental freedoms in the form of «capabilities for living that individuals have reason to value»¹¹.

The United Nations Development Programme (UNDP) assumed the conception of poverty inspired by Amartya Sen's capabilities and basic freedoms approach in the elaboration of its Human Development Index (HDI) introduced in 1990. Since then, the HDI has been focused on measuring income, education and health, but since 2010 it has been adjusted, among others, for inequality, gender inequality and, more recently, for planetary pressures (HPDI)¹². This reflects the fact that the United Nations has assumed with its Human Development Reports (as well as other regional reports with the same function) the need to overcome inequality, not only to reduce poverty. In this sense, we agree that: «The space of people's effective freedoms, their range of life options, depends both on access to satisfiers that cover their basic needs and on the type of interpersonal relationships that take place in society. While the former requires the availability of goods or resources that make it possible to achieve certain states of well-being, the latter has to do with differences between people in terms of their capacity to act. Often these differences derive from the social position of disadvantage and vulnerability of some with respect to others, whether due to dependence, asymmetry of power, subordination, exploitation, etc.»¹³.

Although the distinction between poverty and inequality¹⁴ makes sense in the vindication of the moral unacceptability of extreme poverty, an effective commitment to the eradication of this scourge seems difficult if the problem of distribution and the reduction of inequalities is not addressed globally and, especially, in each state¹⁵.

The 2019 and 2020 *Human Development Reports* focused on the perpetuation of inequalities in human development and their relation to climate change. The *2021/22 Report* keeps the same indexes, but it goes one step further: it focuses on the uncertainty generated by different factors (the destabilized and dangerous planetary change of the Anthropocene, the pursuit of sweeping societal transformations to ease planetary pressures and the vagaries and vacillations of polarized societies) and its effect on human development (the global Human Development Index value has declined two years in a row, erasing the gains of the preceding five years)¹⁶. There is no doubt that poverty places those who suffer from it at a particular disadvantage in the face of the complex threats of today's world¹⁷.

The World Bank and the International Monetary Fund, specialized agencies of the United Nations focused on the concept of development as economic growth for decades, changed their policies since the late 1990s and recognized the importance of introducing the concept of social sustainability to help the poorest countries reduce poverty¹⁸. Nowadays,

¹¹ A. SEN, *Desarrollo y libertad*, Barcelona, 2000, p. 139.

¹² UNDP, *Human Development Report 2020: The Next Frontier: Human Development and the Anthropocene*. New York, 2020, p. 259.

¹³ A. SAHÚ, *Capacidades y derechos: el enfoque de Martha C. Nussbaum*, in A. SAHÚ Y A. DE LA PEÑA (coords.), *Repensar el desarrollo. Enfoques humanistas*, Mexico D. F., 2011, pp. 117 and 119.

¹⁴ C. FERNÁNDEZ BLANCO AND E. PEREIRA FREDES, *Presentación*, in C. FERNÁNDEZ BLANCO AND E. PEREIRA FREDES (eds.), *Derecho y pobreza*, Madrid, 2021, pp. 13-15.

¹⁵ G. MACNAUGHTON, *Is economic inequality a violation of human rights*, in M. F. DAVIS, M. KJAERUM, A. LYONS (eds.), *Research handbook on Human Rights and Poverty*, Cheltenham (UK), 2021, pp. 53 and 54.

¹⁶ UNDP, *Human Development Report 2021-22*, cit., pp. 3 and 4.

¹⁷ UNDP, *Human Development Report 2021-22*, cit., pp. 75 and 76.

¹⁸ E. LÓPEZ-JACOISTE DÍAZ, *El Banco Mundial y Fondo Monetario Internacional ante los derechos económicos, sociales y culturales*, in J. BONET PÉREZ AND R. A. ALIJA FERNÁNDEZ (eds.), *La exigibilidad de los derechos económicos, sociales y culturales en la Sociedad Internacional del siglo XXI: una aproximación jurídica desde el Derecho internacional*, Madrid, 2016, pp. 245, 252 and 261.

the World Bank links social sustainability to the fight against poverty and social exclusion, but also with empowering all citizens: «Social sustainability is about inclusive and resilient societies where citizens have voice and governments respond. Social sustainability is also about expanding opportunities for all people today and tomorrow. Together with economic and environmental sustainability, it is critical for poverty-reduction and shared prosperity. The core tenet of Social Sustainability and Inclusion’s work is to help people—regardless of their gender, race, religion, ethnicity, age, sexual orientation or disability—overcome obstacles that prevent them from fully participating in society, and supporting their efforts to shape their own future. It does so by working with governments, communities, civil society, the private sector and other stakeholders to create more inclusive societies, empower citizens, and foster more resilient and peaceful communities»¹⁹.

We may conclude that the social aspect of development refers to ensuring the well-being of people in relation to economic development and environmental protection, and it is mainly focused on poverty and exclusion. 2030 Agenda confirms this conception.

2.2. Social sustainability in Agenda 2030

We can find the first obvious presence of social sustainability in Agenda 2030 in its first paragraph with its big and main aim being eradicating poverty: «This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace into larger freedom. We recognize that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development». Because States recognize «that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development» (para. 2). The importance of the end of poverty in the 2030 Agenda has been expressed with the idea of how it can constitute a barrier to the implementation of the other SDGs, and this seems to be the experts view from around the world, especially in developing countries²⁰.

At the same time, one of the main principles of Agenda 2030 is that «no one will be left behind. Recognizing that the dignity of the human person is fundamental», so «we will endeavor to reach the furthest behind first» (para. 4).

The first of SDGS, not coincidentally, is “End poverty in all its forms everywhere”. It aims to eradicate extreme poverty (population living on less than US\$ 1,90) for all people in the world by 2030, and to reduce the proportion of people living in poverty by at least half, as well as, among other things, to implement appropriate social protection measures. This SDG 1 has great synergies with most of the other SDGs, specially SDG 2 (which proposes to end hunger by 2030, ensuring healthy and sufficient food for all), SDG 3 (that focuses on achieving health and well-being for all, ending preventable deaths and promoting universal health coverage systems), SDG 4 (it calls for quality education, one of the most powerful mechanisms to fight against poverty), SDG 5 (which focuses on eliminating all forms of discrimination against all women and girls everywhere, including all forms of violence)²¹,

¹⁹ THE WORLD BANK, *Social sustainability and Inclusion*, 12 May 2023.

²⁰ W. LEAL FILHO, V. ORLOVIC LOVREN, M. WILL, A. LANGE SALVIA, F. FRANKENBERGER, *Poverty: A central barrier to the implementation of the UN Sustainable Development Goals*, in *Environmental Science and Policy*, 2021, pp. 96-99, 104, 125.

²¹ UNDP considers that «Without tackling biased gender social norms, we will not achieve gender equality or the Sustainable Development Goals», and it has created the Gender Social Norms Index (GSNI), which

SDG 6 (clean water and sanitation), SDG 7 (is about ensuring access to clean and affordable energy), and SDG 8 (the part referred to decent work).

The relationship with SDG 10 is especially relevant. It concerns reducing inequality within and among countries. Thus, some targets are related to increasing the income of the poorest and promoting social inclusion of all people; while others address global inequality and link to SDG 17, which essentially promotes effective development cooperation.

Although SDG 16 is usually framed in the Peace sphere rather than the People one, we believe it is directly linked to human sustainability insofar as its targets are aimed at significantly reducing all forms of violence worldwide, as well as promoting the rule of law and equal access to justice for all, along with effective and transparent institutions, and the significant reduction of all types of corruption. Corruption is one of the main barriers to the effectiveness of human rights²², and political polarization is one of the threats observed by the *Human Development Report*: large numbers of people feel frustrated by and alienated from their political systems, and the democratic backsliding is now the prevailing trend across countries²³. SDG 16 is the most closely linked to civil and political rights. These often lose prominence when talking about social sustainability (although they are increasingly present) but they are fundamental to whole wellbeing.

Social sustainability and climate change (SDGs 7, 12, 13, 14, 15) have many interrelationships through the reality of poverty because the poorest tend to be more exposed to climate change impacts and natural disasters, they lose a greater share of their wealth when climate shocks hit, and they have fewer resources to cope with the negative impacts of climate shocks²⁴. «Those contributing the least to climate change find themselves at the losing end. Unmitigated climate change may drive up to 132 million people into poverty in the coming decade. Planetary pressures may also exacerbate horizontal inequalities or even open new gaps between groups»²⁵. Henceforth, even the SDGs more directly referred to environmental sustainability have targets connected to poverty and, therefore, with the social sustainability²⁶.

Finally, if the ultimate meaning of social sustainability is that of people's well-being, this must go hand in hand with the recognition and guarantee of human rights. Martha Nussbaum, who developed the Sen's capabilities approach, unambiguously considered that «one of the main avenues for implementing 'core capabilities' is to be found in the system of constitutional adjudication of fundamental rights in place in each nation»²⁷. Because although needs cannot be confused with rights, the former can be good reasons for the latter, especially ESCRs²⁸. Even though we cannot forget civic and political rights because the full concept of human development has «to include equally important notions of freedoms and

quantifies biases against women capturing people's attitudes on women's roles along four key dimensions: political, educational, economic and physical integrity. UNDP, *2023 Gender Social Norms Index (GSNI): Breaking down gender biases: Shifting social norms towards gender equality*, New York, 2023.

²² R. MARTINÓN QUINTERO, *Corrupción y Derechos Humanos. En particular, la Corte Interamericana de Derechos Humanos in Eunomia. Revista en Cultura de la Legalidad*, 2016, 10, pp. 8 and 12.

²³ UNDP, *Human Development Report 2021-22*, cit, p. 8.

²⁴ B. HOFFMAN, *How Climate Change Worsens Poverty and Inequality*, in *Ideas matter 2021*, Inter-American Development Bank.

²⁵ UNDP, *Human Development Report 2021-22*, cit., p. 37.

²⁶ See "Table 1. Sustainable Development Goals and examples of targets with connection to poverty-related issues", in W. LEAL FILHO et al., *Poverty*, cit., p. 98.

²⁷ M. C. NUSSBAUM, *Crear capacidades. Propuesta para el desarrollo humano*, Barcelona, 2012, pp. 92-93 and 120.

²⁸ S. RIBOTTA, *Pobreza como decisión jurídico-política: pobreza como injusticia Social*, in C. FERNÁNDEZ BLANCO, E. PEREIRA FREDES (eds.) *Derecho y pobreza*, 2021, Madrid, pp. 263 and 278.

agency, which together expand the sense of possibility in people's lives»²⁹. We will see the relationship between the SDGs of the 2030 Agenda and international human rights law, but first we need to look at the attention that the latter has paid to poverty, because the struggle against poverty and exclusion constitutes the very core of social sustainability as human wellbeing, and because most of international human right law is hard law.

3. Poverty in international human rights law

The link between all human rights and poverty is unquestionable. Poverty entails the direct or indirect violation of all human rights; the violation of many human rights pushes or keeps the victims in situations of poverty, and poverty can be a violation of rights in itself insofar as it entails the denial of the basic well-being linked to human dignity. This has been recognized by many international law bodies, both within the United Nations and in regional human rights systems³⁰.

3.1. The universal level

The Universal Declaration of Human Rights³¹, after proclaiming in its Preamble the advent of a world in which human beings would be free from fear and want, considers that a series of rights of a social and economic nature are indispensable for the dignity and free development of personality, among which the right to an adequate standard of living is of particular interest³². Even the Declaration recognizes that «Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized» (Article 28), introducing the problems of the international structure that the right to development³³ was going to encounter.

Declaration came into being in the context of the rise of the welfare state during World War II across the North Atlantic. According to Moyn, «It was centrally about distributive justice, not merely the liberties of mind, speech, and person that made 'human rights' so prominent decades later». It «was connected with the believable empowerment and intervention of the state, not the prestige of non-governmental action or the cautious reform of judges with which social rights became bound up in a neoliberal age»³⁴.

However, the subsequent development of international human rights law soon separated the human rights movement and the fight against poverty. This was confirmed by the adoption of two distinct treaties with different protection systems for the two types of rights: the International Covenant on Civil and Political Rights (ICCPR) and the

²⁹ UNDP. *Human Development Report 2021-22*, cit., p. 10.

³⁰ R. MARTINÓN QUINTERO, *Pobreza y Derecho Internacional: La aportación de la Corte Interamericana de Derechos Humanos*, in D. MONTALVÁN-ZAMBRANO, I. WENCES (coords.), *La Justicia detrás de la Justicia. Ideas y valores en la Corte Interamericana de Derechos Humanos*, Madrid, pp. 147, 152-157.

³¹ UN GENERAL ASSEMBLY, Resolution 217 A (III). *Universal Declaration of Human Rights*, 10 December 1948.

³² These include economic, social and cultural rights through national effort and international co-operation (Article 22); the right to work (Article 23); an adequate standard of living (Article 25); the right to education (Article 26).

³³ UN General ASSEMBLY, Resolution 41/128. *Declaration on the Right to Development*, 4 December 1986.

³⁴ S. MOYN, *Not Enough. Human rights in an Equal World*, Cambridge (Massachusetts), 2018, p. 44. See page 120 for longer explanation.

International Covenant on Economic, Social and Cultural Rights (ICESCR). ESCRs have been less protected and respected, which has been linked to the fact that «This expansion of rights has run parallel to the expansion of inequality»³⁵.

As we will see, a loophole to address the relationship between poverty and human rights has been the principle of equality and non-discrimination. However, it has been referred to individual cases, without leaping from ensuring sufficiency to guaranteeing equality that implies redistribution³⁶, which met the same fate as the forgotten proposal of the New International Economic Order³⁷, replaced by a global economic order denounced by Pogge as contributing substantially to the persistence of severe poverty³⁸, or the difficulties encountered by the right to development in its consolidation³⁹.

Despite these difficulties in moving towards international redistribution, various attempts have been made within the United Nations to link poverty and human rights. In 1989, the Commission on Human Rights began to address the problem. Nevertheless, it was in the 1990s, after the end of the Cold War, and in particular since the proclamation of the indivisibility and interdependence of all rights⁴⁰ at the World Conference on Human Rights held in Vienna in 1993, that the relationship between poverty and human rights gained prominence.

Shortly after, in 1997, United Nations Secretary-General Kofi Annan established the need to integrate the human rights agenda «into the broad range of the Organization's activities»⁴¹, and its various agencies developed different perspectives on the link between poverty and human rights.

In 2001, the ESCRs Committee defined poverty as follows: «In the light of the International Bill of Rights, poverty may be defined as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights. While acknowledging that there is no universally accepted definition, the Committee endorses this multi-dimensional understanding of poverty, which reflects the indivisible and interdependent nature of all human right»⁴².

In 2005, the United Nations High Commissioner for Human Rights (UNHCHR) considered in her Plan of Action that «In human rights terms, poverty is both a symptom and a cause: continuing severe deprivation is a sign that those affected are living in a state of

³⁵ J. MCCLURE, *The legal construction of poverty: examining historic tensions between property rights and subsistence rights*, in S. EGAN AND A. CHADWICK (eds.), *Poverty and human rights. Multidisciplinary Perspectives*, Cheltenham (UK), 2021, pp. 54 and 55.

³⁶ S. MOYN, *Not enough*, cit., p. 147.

³⁷ UN General ASSEMBLY, Resolution 3201(S-VI). *Declaration on the Establishment of a New International Economic Order*, 1 May 1974.

³⁸ T. POGGE, *La pobreza en el mundo y los derechos humanos*, Barcelona, 2005, pp. 151 and 153.

³⁹ F. GÓMEZ ISA, *El Derecho al desarrollo. Luces y sombras*, in A. CUBERO TRUYO, P. MASBERNAT (dirs.), *Protección del Medio Ambiente. Fiscalidad y otras medidas del Derecho al Desarrollo*, Pamplona (Spain), 2019, p. 47 - 69.

⁴⁰ WORLD CONFERENCE ON HUMAN RIGHTS, *Vienna Declaration and Programme of Action*, A/CONF.157/23, 25 June 1993, para. 5.

⁴¹ UN General ASSEMBLY *Renewing the United Nations: a program for reform. Report of the Secretary-General*, A/51/950, 14 July 1997, para. 79.

⁴² COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, *Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural rights: Poverty and the International Covenant on Economic, Social and Cultural Rights*, UN Doc E/C.12/2001/10, 10 May 2001, par. 8.

indignity, and thus denial of rights; and the poor and marginalized are deprived, above all, of the capacity to claim their rights»⁴³.

Because Article 2 (2) of the ICESCR includes social origin and property as suspect categories, in 2009 the Committee on ESCRs, in its General Comment 20 on this article of the Covenant, stated that «Individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society» and that «A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping» which can lead to a situation where they do not enjoy the same rights as others⁴⁴. The implications of this prohibition of discrimination can be summarised as the obligation not to discriminate on the basis of poverty, the positive obligation to prevent de facto discrimination and the positive obligation to prioritize attention to those living in systemic discrimination due to poverty⁴⁵.

Of particular note is the work done by the Special Rapporteur on Extreme Poverty and Human Rights⁴⁶, who was commissioned by the Human Rights Council to study the relationship between poverty and human rights, and who in 2012 presented *The Guiding Principles on Extreme Poverty and Human Rights*⁴⁷, which assumed the conception of poverty inspired by Amartya Sen's capabilities and basic freedoms approach to which we have already referred. De Schutter⁴⁸ considers the *Guiding Principles* to be the most authoritative guide on how to approach the fight against poverty from a human rights perspective, establishing the obligation for states to adopt poverty reduction strategies based on the principle of accountability (poverty reduction as a legal obligation based on the rights of the poor), the principle of equality and non-discrimination, and participation (the participation of the poor in poverty reduction strategies are fundamental to their legitimacy and effectiveness).

3.2. International regional level

At the international regional level, we find contributions from both the Council of Europe and the Inter-American Human Rights System (IAHRS). In the former, the European Court of Human Rights, although established to hear mainly civil and political rights under the European Convention on Human Rights and Fundamental Freedoms⁴⁹ (ECHR), has heard cases related to protection against poverty and social exclusion, either because of the scope offered by certain rights considered 'mixed', such as the prohibition of forced labour, or because of the impact on effective judicial protection (articles 6 and 13 of the ECHR), or because of the principle of non-discrimination in article 14, which expressly

⁴³ HIGH COMMISSIONER FOR HUMAN RIGHTS, *The OHCHR Plan of Action: Protection and Empowerment*. Geneva, May 2005, par. 10.

⁴⁴ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, General Comment n°. 20. *Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, (2 July 2009), E/C.12/GC/20, para. 35.

⁴⁵ O. DE SCHUTTER, *A human rights-based approach to measuring poverty*, in *CRIDHO Working Paper 2022*, pp. 2, 4-12.

⁴⁶ It emerged in 2011 (A/HRC/RES/17/13) as a continuation of the work of the special expert on extreme poverty and human rights created in 1998 (E/DEC/1998/250).

⁴⁷ The Human Rights Council adopted *The Guiding Principles on Extreme Poverty and Human Rights* by consensus through its resolution 21/11, in September 27th 2012.

⁴⁸ O. DE SCHUTTER, *A human rights-based approach*, cit., p. 9.

⁴⁹ Adopted by the Council of Europe and supplemented by its 16 Protocols.

includes the ground of discrimination based on fortune, or because of the connection technique.

Limitations do not only stem from the rights the Court is mandated to protect: its resolution of individual cases is not generally suitable for drawing up collective solutions such as those required to be in force⁵⁰. Therefore, the European Committee of Social Rights (ECSR), as the body responsible for monitoring compliance in the States party to the European Social Charter, has naturally done most of the work in this field. The synergies generated between the fight against poverty and rights and the principle of non-discrimination of the 1961 Social Charter to guarantee the effectiveness of the former have been consolidated with the explicit introduction of the fight against poverty and social exclusion in article 30 of the revised European Social Charter (rESC) of 1996⁵¹, which «constitutes to a large extent the consolidation of the transition from the virtues of charity towards legal enforcement to tackle situations of poverty and social exclusion»⁵².

Within the ISHR, the Inter-American Commission on Human Rights began its approach to this area by showing the need to give greater importance to ESCR, for which it created a Thematic Unit in 2012 and a Special Rapporteurship in 2014. Precisely, this Unit on ESCR was in charge of coordinating the *Report on Poverty and Human Rights in the Americas*, published in 2017. This Report argues that poverty constitutes a generalised violation of all human rights, both civil and political as well as social, economic and cultural, and that it hinders the enjoyment and exercise of human rights in conditions of real equality by those who live in such situations, which shows a clear conception of the indivisibility and interdependence of all rights⁵³.

The Inter-American Court of Human Rights (IACHR) goes a step further and succeeds in legalising the fight against poverty. Specifically, the path used by the Court to directly link poverty and human rights is based on making use of the suspect category or cause of discrimination based on economic position, which is included in article 1 (1) of the American Convention on Human Rights (ACHR), with the reinforcement of the understanding of material equality in the equal protection of the law in article 24 of the ACHR in contexts of structural discrimination. In order to be able to conclude that the state is responsible, it is very different when it is the state which discriminates on the basis of economic position and when the responsibility arises from the failure to adopt positive measures to which it was also obliged for the protection of a vulnerable group of poor people. In order to establish the obligation to take positive measures to combat poverty, it is necessary, as in the cases of *Trabajadores de la Hacienda Brasil Verde*⁵⁴ and *Empleados de la Fábrica*

⁵⁰ L. JIMENA QUESADA, *El derecho a la protección contra la pobreza y la exclusión social como paradigma del respeto de la dignidad humana. La inserción del ingreso mínimo vital en el marco de la evolución de los estándares internacionales*, in *Lex Social. Revista Jurídica de los Derechos Sociales*, 2020, pp. 361 - 388.

⁵¹ Article 30 rESC: The right to protection against poverty and social exclusion. With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake: a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance; b. to review these measures with a view to their adaptation if necessary.

⁵² L. JIMENA QUESADA, *El derecho a la protección contra la pobreza*, cit., p. 363.

⁵³ IACmHR, *Informe sobre pobreza y derechos humanos en las Américas*, OEA/Ser.L/V/II.164. Doc. 147, 2017, p. 11.

⁵⁴ IACHR, *Case Trabajadores de la Hacienda Brasil Verde vs. Brasil*. Preliminary objections, merits, reparations and costs. Judgment of 20 October 2016.

*de Fuegos*⁵⁵, that there are structural elements of inequality and discrimination linked to the violation of human rights that the State was aware of and could and should have acted upon⁵⁶.

Finally, we do not want to ignore the criticisms of the notion of poverty as a violation of human rights. Fernanda Doz Costa points out that the link between human rights and poverty through Amartya Sen's capabilities approach «runs the risk of oversimplifying the issue and losing clarity and impact in the attempt to link both fields»⁵⁷. Vittorio Bufacchi goes further, arguing that denouncing poverty as a human rights violation can be a mere rhetorical move that ends up having the counterproductive consequence of weakening the culture of human rights as it is undermined by the frequent impossibility of punishing the human rights abuses that permanent poverty entails⁵⁸.

We believe that this ignores the importance of ESCRs and how poverty is linked to the violation of all kinds of human rights. Therefore, we support that it does not seem unreasonable to say that social sustainability is substantiated by the guarantee of all human rights, underlining the importance of not putting ESCR on the back burner. The link between poverty and human rights can be an opportunity for action both in the area of legal accountability (as we have seen in regional human rights courts, especially in the Inter-American Court) and in the field of human rights.

4. Human rights and Sustainable Development Goals

The SDGs are linked to human rights, but we can find two points of divergence. Firstly, although both human rights and the SDGs aim to achieve a decent quality of life for all people, human rights do so from an individual perspective, as they are the rights of each individual person, while the SDGs take a global perspective, such as sustainable development⁵⁹. In this regard we must bear in mind that the Agenda's motto of leaving no one behind implies a concern for each individual human being and can be understood as the implementation of the principle of equality and non-discrimination, which is the foundation and basic element of all international human rights law.

Secondly, we can state that SDGs are not formulated in human rights language. The 2030 Agenda represents a new approach for international human rights law though it does not focus so much on expressing the legal obligations of States (which is also the case) as on promoting a context for the realization of human rights, with the idea that achieving the effectiveness of human rights does not only depend on international and national normative development. As Fernández Liesa explains: «This is important. The fact that the SDGs are not formulated in the language of human rights is related to some of the gaps or inconsistencies that could occur in the development of the policies that are approved for their implementation, in a way that is reminiscent of the problems associated with the MDGs.

⁵⁵ ICHR, Case *Empleados de la Fábrica de Fuegos de Santo Antón de Jesús y sus familiares vs. Brasil*. Preliminary objections, merits, reparations and costs. Judgment of 15 July 2020.

⁵⁶ R. MARTINÓN QUINTERO, *Pobreza y Derecho Internacional*, cit., p. 171.

⁵⁷ F. DOZ COSTA, *Pobreza y derechos humanos: desde la retórica a las obligaciones legales. Una descripción crítica de los marcos conceptuales*, in *Sur. Revista Internacional de Derechos Humanos*, 2008, 9, pp. 87 - 103.

⁵⁸ V. BUFACCHI, *Keeping human rights out of poverty*, in S. EGAN, A. CHADWICK (eds.), *Poverty and Human Rights*, Cheltenham (UK), 2021, p. 34.

⁵⁹ L. J. WAGNER, J. SATTELBERGER, *How does the 2030 Agenda relate to human rights?*, in *KJW Development Research. Development in Brief*, 2017, 12.

In other words, the aforementioned problem is that progress can be made in achieving the indicators linked to the achievement of the SDGs, but international human rights obligations may not be met or may even be collaterally affected in a negative way»⁶⁰.

We will see how United Nations has responded to these problems, and the main aspects of the relationship between SDGs and human rights.

4.1. *Human rights in the 2030 Agenda*

The predecessor of the SDGs of the 2030 Agenda was the Millennium Development Goals (MDGs). These were created as a roadmap to implement the Millennium Declaration adopted by the United Nations General Assembly in 2000 (A/RES/55/2) on poverty and hunger reduction (it was its first goal), improvements in education, health, gender equality and environmental sustainability, with a clear focus on improving the situation of developing countries.

The Millennium Declaration had a specific section dedicated to human rights, democracy and good governance, and the importance of incorporating human rights in its planning and implementation was analysed and recognised. However, they failed to play an important role, and the policies followed in pursuit of the MDGs suffered from a very technocratic perspective that ignored full respect for human rights, and provoked social and political resistance. This was widely criticised for a lack of sensitivity to justice, equity and, ultimately, respect for and guarantee of human rights. The lack of consideration of human rights may have been one of the main reasons why its development was not fully achieved, insofar as the legal force and instrumental value of international human rights law was not used to achieve its goals⁶¹. Full awareness of this problem was present in the drafting of the 2030 Agenda.

Compared to the Millennium Declaration, the human rights community was much more involved in the negotiation of 2030 Agenda⁶² and, although satisfaction with the final outcome was not full, it is certainly reflected in the 2030 Agenda.

Almost from the very beginning of the 2015 Resolution, one of the basic principles of the Agenda is presented: «As we embark on this journey together, we pledge that no one will be left behind». At the same time, it is stated that it aims to realize the human rights of all people and the vision states that: «We aspire to a world where respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination are universal; where race, ethnicity and cultural diversity are respected and where there is equal opportunity for human potential to be fully realized and to contribute to shared prosperity; a world that invests in its children and where all children grow up free from violence and exploitation; a world where all women and girls enjoy full gender equality and where all legal, social and economic barriers to their empowerment have been removed; a just, equitable, tolerant, open and socially inclusive world where the needs of the most vulnerable are met» (para. 8).

⁶⁰ C. R. FERNÁNDEZ LIESA, *Transformaciones del Derecho Internacional por los Objetivos de desarrollo sostenible*, in C. R. FERNÁNDEZ LIESA, C. M. DÍAZ BARROSO (dirs.), D. M. VERDIALES LÓPEZ (coord.), *Objetivos de Desarrollo Sostenible y derechos humanos: paz, justicia e instituciones sólidas / Derechos humanos y empresas*, Madrid, 2018, p. 29 - 31.

⁶¹ D. M. VERDIALES LÓPEZ, La importancia del enfoque de los derechos humanos en los Objetivos de Desarrollo Sostenible, in C. R. FERNÁNDEZ LIESA, C. M. DÍAZ BARROSO (dirs.), D. M. VERDIALES LÓPEZ, (coord.), *Objetivos de Desarrollo Sostenible y derechos humanos: paz, justicia e instituciones sólidas / Derechos humanos y empresas*, Madrid, 2018, pp. 75, 77, 80 and 81.

⁶² I. T. WINKLER, C. WILLIAMS, *The Sustainable Development Goals and human rights: a critical early review*, in *The International Journal of Human Rights*, 2017, 21, 8, pp. 1023 and 1024.

The 2030 Agenda for Sustainable Development finds its foundations, inter alia, in the Universal Declaration of Human Rights and international human rights treaties (para. 10) and emphasizes «that, in accordance with the Charter of the United Nations, all States have the responsibility to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, prosperity, birth, disability or other status» (para. 19).

António Guterres, United Nations Secretary-General, on the occasion of the seventy-fifth anniversary of the United Nations, made a *Call for action for human rights* whose actions include to support States to ensure that human rights principles inform implementation of the 2030 Agenda; to encourage the full use of human rights mechanisms to contribute SDGs implementation; and to continue the efforts to help design policies that support the most vulnerable and/or excluded groups⁶³. Besides, the second section of *Our Common Agenda* (designed to strengthen and accelerate multilateral agreements –particularly the 2030 Agenda–) deals with a renewed social contract, anchored in a comprehensive approach to human rights: because the economic, social, cultural, civil and political rights are vital problem-solving tools, and 92% of all the SDG are linked to human rights and labour standards⁶⁴.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has recommended that the possible unintended negative effects of the Agenda (such those announced above) be anticipated and prevented. In this regard, it reminds us that the 2030 Agenda aims to combat inequalities and discrimination under the basic principle of leaving no one behind. It therefore called for the SDG monitoring data to be disaggregated according to discriminatory grounds. It also considers it essential that attention be paid to the most vulnerable groups of people, especially when they are not explicitly recognized as such in the Agenda⁶⁵.

4.2. Human rights and SDGs: the preeminence of ESCRs

The Danish Institute for Human Rights⁶⁶ has connected 156 of the 169 SDG targets with human rights instruments and has built an online database in seven languages showing these links. It is to observe how many of the SDGs are clearly linked to ESCRs. After all, the SDGs can also be understood as a corrective response to market-generated inequalities revealed by globalization⁶⁷.

SDG 16, in which the EU played a key role, is more closely linked to the civil and political rights of democracies as prerequisites for peace, justice and strong institutions⁶⁸. For its part, SDG 17 is clearly linked to the right to development insofar as it recognizes the need for strong international networks that institutionalize the provision of international support to countries in need.

⁶³ UNITED NATIONS SECRETARY-GENERAL. *The highest aspiration. A call to action for human rights*, 2020, p. 6.

⁶⁴ UNITED NATIONS SECRETARY-GENERAL. *Our Common Agenda – Report of the Secretary-General*, 2021, p. 33.

⁶⁵ OHCHR. *Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development*.

⁶⁶ THE DANISH INSTITUTE FOR HUMAN RIGHTS: *The Human Rights Guide to the Sustainable Development Goals*.

⁶⁷ T. GÓMEZ, *Salud y bienestar: niños, madres y enfermedades graves*, in C. R. FERNÁNDEZ LIESA, A. MANERO SALVADOR, *Análisis y comentarios de los objetivos de desarrollo sostenible de las Naciones Unidas*, Pamplona, 2017, p. 150.

⁶⁸ L. J. WAGNER, J. SATTELBERGER, *How does the 2030 Agenda relate to human rights?* cit.

The fact that ESCRs have this pre-eminence is an indirect vindication of the importance of these rights vis-à-vis civil and political rights (most of which are more protected constitutionally and internationally) in accordance with the principle of indivisibility and interdependence of all human rights. These principles arise from the experience and consequent conviction that all rights are necessary to guarantee human dignity, and that it is impossible to guarantee some rights while disregarding or ignoring others. It is impossible to enjoy equal civic and political rights if one suffers from a lack of basic ESCRs, as reflected in situations of severe poverty and exclusion.

ESCRs can be strained by misunderstood economic development that prioritizes growth to the detriment of social justice, but the gap between the promoters of the one and the promoters of the other has been narrowing at the United Nations level. Recently, the ravages of the COVID pandemic have served as the impetus for the *Surge Initiative*, created by the HCHR. It involves, among other aspects, experts in human rights and macroeconomics to provide «specialized advice and analysis to operationalize ESCR, as relevant to furthering the goals of the 2030 Agenda for Sustainable Development and curbing economic and other inequalities, including through macroeconomic policies anchored in human rights norms and standards», and to promote change for a human rights economy, by applying a HRBA to macroeconomics to ensure compliance with Member States' ESCR obligations⁶⁹.

Another area of tension between the SDGs and human rights is between these and environmental sustainability. Traditionally, human rights have been built on a utilitarian approach to the well-being of the individual that may appear to clash with the defense of the environment itself, although the legal protection of the planet has been built in part hand in hand with international human rights law, an area in which the rights of nature have been configured in a pretorian manner⁷⁰. Human rights linked to environmental sustainability SDGs only occasionally appear explicitly in the 2030 Agenda. However, there is no doubt that the deterioration of the planet has direct impacts on people's health and well-being⁷¹, and increases the vulnerability of the most vulnerable, such as children, to situations of violence and abuse, as in the case of migratory movements⁷²; or indigenous peoples, who are considered one of the most vulnerable groups in the face of climate change⁷³. «It is not just that typhoons are getting bigger and deadlier through human impact on the environment; it is also as if, through our social choices, their destructive paths are being directed at the most vulnerable among us»⁷⁴.

In view of all this, it seems more than reasonable that the localisation of the Agenda by the different administrations of the world's states should be carried out from a human rights perspective and with special consideration for people belonging to socially, economically and politically vulnerable groups, with a clear vindication of the ESCRs, even in the case of developing countries.

⁶⁹ OHCHR, *Seeding change for an economy that enhances human rights – The Surge Initiative*.

⁷⁰ D. J. MONTALVÁN ZAMBRANO, *El derecho al medio ambiente sano como un derecho autónomo en el Sistema Interamericano de Derechos Humanos*, in *Anales de la Facultad de Derecho*, 2020, 37, p. 63.

⁷¹ D. S. ROGERS et al., *A vision for human well-being*, cit., p. 63 and figure 1.

⁷² K. ARTS, *Inclusive sustainable development: a human rights perspective*, in *Current opinion in Environmental Sustainability*, 2017, pp. 58 - 61.

⁷³ INTERNATIONAL LABOUR OFFICE, *Indigenous peoples and climate change. From victims to change agents through decent work*, Geneva, 2017.

⁷⁴ UNDP *Human Development Report 2021-2022*, cit, p. 9.

5. Why must we talk about social sustainability in developed countries?

The Monitoring report on progress towards the SDGs in an EU context states that «SDG 1 does not only call for the eradication of extreme poverty but also for poverty in all its dimensions to be halved by 2030. This global goal has a universal approach to reducing poverty»⁷⁵.

The EU, in its European Pillar of Social Rights Action Plan, employs the EU's at-risk-of-poverty-or-social-exclusion (AROPE) indicator. It is based on three components: monetary poverty⁷⁶; severe material and social deprivation⁷⁷; and very low work intensity⁷⁸. Through this multidimensional approach, the indicator shows which share of the population is at risk of exclusion and marginalisation from economic and social activities.

According to Eurostat, the percentage of people living at risk of poverty or social exclusion in the European Union in 2021 reached 21.7%⁷⁹. In the case of Spain, this percentage was 27.8% (26% by 2022), and for Italy, 25.2% (24.4% by 2022)⁸⁰. In Spain, the Autonomous Communities with the worst situation in the AROPE rate are Extremadura (39%), Canarias (37%) and Andalucía (36%)⁸¹.

Ultimately, there is no need to go to great lengths to reaffirm the existence of groups of people living in poverty in many developed countries, with areas where poverty is widely spread «despite the fact that its consequences are not as dramatic as in the developing world since they have well developed social safety nets»⁸².

These socio-economic realities constitute or are linked to violations of ESCRs, and are associated with violations of civic and political rights. The lack of economic resources is linked to: the lack of adequate food which, in turn, affects health and life expectancy; decent housing with basic services of water, electricity and heating is essential to be able to take care of oneself, study and rest; the right to work (with a fair salary, holidays and a social security system for the times when one cannot work) is basic to obtain the resources necessary to live but also for personal and social fulfilment. Access to quality education is essential for personal fulfilment, for the formation of people with all the necessary skills to exercise active citizenship and to be able to access the desired professional training that allows them to build

⁷⁵ EUROSTAT. *Sustainable development in the European Union Monitoring report on progress towards the SDGs in an EU context*, Luxembourg, 2023, p. 42.

⁷⁶ The “at-risk-of-poverty rate” is the share of people with an equivalised disposable income (after social transfer) below the at-risk-of-poverty threshold, which is set at 60 % of the national median equivalised disposable income after social transfers.

⁷⁷ It corresponds to the sum of persons who are severely materially and socially deprived (Proportion of the population experiencing an enforced lack of at least 7 out of 13 deprivation items (6 related to the individual and 7 related to the household) or living in a household with a very low work intensity). EUROSTAT. *Statistics explained*.

⁷⁸ People from 0-64 years living in households where the adults (those aged 18-64, but excluding students aged 18-24 and people who are retired according to their self-defined current economic status or who receive any pension -except survivors' pension-, as well as people in the age bracket 60-64 who are inactive and living in a household where the main income is pensions) worked a working time equal or less than 20% of their total combined work-time potential during the previous year. EUROSTAT. *Statistics explained*.

⁷⁹ EUROSTAT. *Persons at risk of poverty or social exclusion by age and sex*.

⁸⁰ *Ibid.*

⁸¹ FUNDACIÓN FOESSA. *Evolución de la cohesión social y consecuencias de la covid-19 en España*, Madrid, 2022, pp. 122-123.

⁸² W. LEAL FILHO et. al., *Poverty*, cit., pp. 96-104.

a life project. Lack of health care threatens the most basic right to life, hinders access to education and work. With hunger, illness, lack of education and lack of work, the possibility of participation in public affairs becomes unrealistic; the principle of equality and non-discrimination is undermined; and the safeguarding of human dignity becomes a humongous chimera.

However, in countries with rule of law, poverty is often not perceived as a violation of human rights; on the contrary, great inequalities (involving situations of deprivation) are seen to be compatible with the perfect observance of fundamental rights⁸³. For this reason, it is stated that «the law becomes an effective strategy to prevent real access to and enjoyment of rights based on a flawed equality of opportunities, which reproduces the structural conditions of poverty, based on a model of law that prioritises freedom over equality»⁸⁴. All of this is not the result of chance, but of political decisions, reflected on a large extent in law, both at national and international level.

6. *The human rights-based approach as a methodological tool for public policy and its possible incorporation into the implementation of the 2030 Agenda*

Although the HRBA arises within development policies, to the extent that the SDGs have universal application (to all States in the world and involving all public and private actors) it seems reasonable to introduce it in developed countries if we accept the need to link the achievement of the 2030 Agenda with human rights.

6.1. *What is HRBA?*

The HRBA is a methodological tool that uses the discourse of constitutional and international human rights theory, but at the same time incorporates a political dimension into the analysis: that of the public decision taken through the public policies of the State, which is primarily responsible for the enforcement of rights and places the citizen at the center of all decisions⁸⁵.

In developing countries, the HRBA has been promoted as a revulsive of «traditional approaches based on needs, because these, unlike rights, are only satisfied, are not universal, can be prioritized and do not entail state obligations enforceable by citizens»⁸⁶. In other words, the HRBA allows people to stop being mere beneficiaries of public programs, projects and policies and become rights-holders⁸⁷.

In developed countries, HRBA can promote public policies focused on citizen participation and social justice. Although they are resource-rich countries, social rights violations are often not met with an unequivocal response to reverse manifestly unjust inequalities. «Politicizing the approach to human rights means promoting the universality of

⁸³ S. RIBOTTA, *Pobreza como decisión jurídico-política*, cit., p. 299.

⁸⁴ *Ibid.*

⁸⁵ C. ALZA BARCO, *El enfoque basado en derechos ¿qué es y cómo se aplica a las políticas públicas?*, in *Red de derechos Humanos Y Educación Superior, Derechos humanos y políticas públicas*, Barcelona, 2014, p. 52 - 54.

⁸⁶ C. GIMÉNEZ MERCADO, X. VALENTE ADARME, *El enfoque de los derechos humanos en las políticas públicas: ideas para un debate en ciernes*, in *Cuadernos del Cendes*, 2010, 74, p. 51 and p. 58.

⁸⁷ C. ALZA BARCO, *El enfoque basado en derechos*, cit., p. 56.

citizenship, rescuing and discussing the concepts of justice and equality»⁸⁸. In this way, the citizen becomes a truly active subject of politics.

The truth is that the link between human rights and public policy is more complex than it might seem at first glance. Sometimes public policies explicitly target human rights in order to guarantee them. In other cases, human rights are taken into account as a central element in their design, implementation and evaluation. The problem arises because public policies, as government action, determine priorities among claims of similar value. Because human rights are subjective legal rights that do not allow for negotiation and that the state is obliged to respect, protect and guarantee⁸⁹.

In any case, we believe that the HRBA is a particularly interesting perspective in the policies for achieving the SDGs of the 2030 Agenda. It is to be expected that in countries that are democratic states governed by the rule of law, with a high degree of respect for human rights, the need to highlight the validity of these rights in the achievement of the SDGs is not essential or, at least, pressing. However, the introduction of a human rights perspective can be very useful in the implementation of the Agenda in order to realise its basic principle of leaving no one behind. In other words, it should not only allow for the development of policies that are particularly respectful of human rights, but should also serve to highlight the most pressing situations of vulnerability that also exist in developed democracies, and the need to pay special attention to the rights of those people who are not being guaranteed, or at least not adequately guaranteed.

ESCRs and their denial through situations of poverty, exclusion and inequality, which are evidence of the lack of social sustainability, but which have not generated a satisfactory response from the law, take on special importance here. This is due to the hierarchy of rights that has left rights linked to the most urgent material needs in a subordinate position to civil and political rights. «Even their curtailment and ineffectiveness are not perceived as harming the inviolable democratic core that is necessary to consider a state as a modern and democratic rule of law», in the framework of a law that has prioritized freedom over equality⁹⁰.

6.2. *The inclusion of HRBA in the implementation of 2030 Agenda*

The inclusion of human rights has several benefits for the successful implementation of the 2030 Agenda. It means a HRBA that explicitly addresses States' commitments under international human rights law and their constitutional law. Because the enforceability of human rights is not limited to their justiciability. Their political enforceability, understood as all actions that promote the conditions for their realization⁹¹, is also important, especially in the case of ESCRs and the limitations existing both at the international and national levels

⁸⁸ J. F. Y. DELUCHEY, *El gobierno de los derechos humanos en la era neoliberal*, in *Red de Derechos Humanos y Educación Superior, Derechos humanos y políticas públicas*, Barcelona, 2014, pp. 15 and 47.

⁸⁹ A. MAUÉS, B. E. SÁNCHEZ, Prólogo, in *Red de Derechos Humanos y Educación Superior Derechos humanos y políticas públicas*, Barcelona, 2014, pp. 9-10.

⁹⁰ S. RIBOTTA, *Pobreza como decisión jurídico-política*, cit., p. 274 and p. 293.

⁹¹ J. BONET PÉREZ, *Introducción general: presupuestos y dinamismo evolutivo de la exigibilidad jurídico internacional de los derechos económicos, sociales y culturales*, in J. BONET PÉREZ, R. A. ALIJA FERNÁNDEZ (eds.), *La exigibilidad de los derechos económicos, sociales y culturales en la Sociedad Internacional del siglo XXI: una aproximación jurídica desde el Derecho internacional*, Madrid, 2016, pp. 11 and 14.

for their jurisdictional claim, both in a direct and indirect sense, which is different from their legally binding nature and consequent opposability to the public authorities⁹².

Specifically, we observe different advantages in the inclusion of human rights in the implementation processes of the 2030 Agenda:

Firstly, this implies linking the SDGs to international legal obligations of States through the multiple treaties that most of the world's States have signed, with the consequent strengthening of the accountability system of the SDGs. Although the SDGs have the special power to call for action because of the scale of the global problem they address, the consensus achieved in their adoption and the monitoring system developed for their follow-up, the 2030 Agenda, as a resolution of the United Nations General Assembly, is not in itself legally binding.

However, as it largely reflects obligations already undertaken by states in international law, such as international human rights law, many of its provisions can be seen to be binding. The HRBA is therefore essential to make this binding dimension explicit and to take advantage of the opportunities provided by existing monitoring and accountability mechanisms in the field of human rights protection⁹³. In this regard, the Universal Human Rights Index⁹⁴ promoted by the OHCHR is of particular interest. This is a human rights database that shows the relationship between the tens of thousands of human rights observations, recommendations and guidelines from human rights protection mechanisms and the SDGs. The aim is to quickly and easily display this relationship by searching by country, mechanism, theme, affected persons and SDGs.

Secondly, taking human rights into account in development policies entails paying attention to the concept of inclusive development in which it is accepted that development efforts will fall short if inequality, discrimination, social exclusion and marginalisation are not addressed⁹⁵. It is particularly important to reconsider the relationship between poverty (which is the aim of SDG 1) and human rights as we have already seen. Poverty may be the result of rights violations, but it may also entail the violation of many rights, and may even constitute a rights violation in itself⁹⁶. It can even be a right in itself as stated in article 30 of the rESC: the right to protection against poverty and social exclusion.

Thirdly, a human rights perspective implies a focus on the most vulnerable people. The Agenda includes a very broad (though not complete) list of particularly vulnerable groups of people who require special attention (women and girls, children, youth, people with disabilities, people living with HIV, refugees, displaced persons and migrants, etc.) linked to its priority of leaving no one behind. Among the groups that are not mentioned, the OHCHR highlights the LGTBI collective and many types of minorities. In any case, these are groups of people that will be defined not only according to each SDG and each of its goals, but also according to the reality of each State and territory that proceeds to localize the 2030 Agenda to organize its public policy action towards its achievement. In short, the incorporation of a human rights perspective in the indicators of the SDG targets makes it

⁹² J. BONET PÉREZ, *Introducción general*, cit. p. 15.

⁹³ Á. SOLANES CORELLA, *La implementación de la Agenda 2030 desde el enfoque basado en derechos humanos*, in *Derechos y libertades*, 2020, 43, pp. 19 and 35.

⁹⁴ OHCHR. *Universal Human Rights Index*.

⁹⁵ K. ARTS, *Inclusive sustainable development*, cit., p. 59.

⁹⁶ F. DOZ COSTA, *Pobreza y derechos humanos*, cit., p. 87.

possible to make people who are members of vulnerable groups visible⁹⁷ and to demand the relevant responsibilities for the failure to guarantee their rights.

7. Human rights in the localization of the 2030 Agenda in the Canary Islands (Spain)

The localization of the 2030 Agenda in the different states or sub-state territorial units implies an adaptation of the SDGs to the reality of the societies in which they are to be implemented. «Localisation is the process of taking into account sub-national contexts for the achievement of the 2030 Agenda, from setting goals and targets, to determining the means of implementation and using indicators to measure and monitor progress»⁹⁸. This is what the development of the 2030 Canary Islands Agenda for Sustainable Development (2030 ACDS) has consisted of. The participation of local and regional governments is essential for progress towards the SDGs, but such localisation processes also provide an opportunity for better planning and management by these levels of government.⁹⁹

The 2030 ACDS had its first impetus in the Conference of European Regional Legislative Assemblies (CALRE)¹⁰⁰ when it approved the new working group Strategy for sustainable development of the European regions¹⁰¹, chaired by the Parliament of the Canary Islands. Its aim was to provide European regions with a reference of good practice in the localisation of the 2030 Agenda. In June 2018, the *Estrategia Canaria para un Desarrollo Sostenible* project was presented to the representative of the UNDP, Johannes Krassnitzer. The collaboration between the two institutions resulted in the SDG localisation guide: the *Guía de localización de los ODS: la perspectiva del Parlamento de Canarias*¹⁰².

The *Estrategia Canaria* was never approved in Parliament, but the regional government accepted the baton and completed the localisation process. As stated in the presentation on the website of the 2030 ACDS¹⁰³, this is the document resulting from the participatory process (with representatives of civil society, academia and public administrations throughout the Islands) of localizing the United Nations 2030 Agenda in the Canary Islands. It contextualizes the 17 SDGs and their targets in the reality of the Archipelago.

In this process the link between the SDGs and international human rights obligations was made explicit, and the vulnerable groups directly related to each Goal were identified. Human rights are considered the foundation of the entire 2030 ACDS and a transversal axis that informs all the values associated with the five areas of critical importance for humanity

⁹⁷ I. T. WINKLER, C. WILLIAMS, *The Sustainable Development Goals and human rights*, cit., p. 1028.

⁹⁸ Global Task Force of Local and Regional Governments, Un-Habitat, UNDP, *Primer módulo de capacitación sobre localización de los ODS*, 2016, p. 16.

⁹⁹ GOBIERNO DE ESPAÑA, *Guía para la localización de la agenda 2030*, 2020, p. 9.

¹⁰⁰ CALRE was founded in 1997 and unites 72 presidents of European regional legislative assemblies. Its missions is to go in depth in the democratic and participative principles within the framework of the European Union, to defend the values and principles of regional democracy and to reinforce links among regional legislative assemblies.

¹⁰¹ CALRE, PARLAMENTO DE CANARIAS, *Estrategia para el desarrollo sostenible de las regiones europeas. Una Agenda Canaria para 2030. Resumen ejecutivo*, 2018.

¹⁰² PARLAMENTO DE CANARIAS AND UNPD, *Guía de localización de los ODS: la perspectiva del Parlamento de Canarias*.

¹⁰³ GOBIERNO DE CANARIAS, *Agenda Canaria de Desarrollo Sostenible*, 2021.

and the planet set by the 70/1 Resolution (people, planet, prosperity, peace and partnerships), to which culture has been added¹⁰⁴.

Therefore, in the annex to the ACDS, which contains the «Canary Islands Goals, associated indicators and target values», in the introduction to each of the SDGs it is provided a presentation of the Canarian goals from the perspective of their relationship with human rights and, especially, their impact on the most vulnerable groups of people.

The work on which this presentation of the 2030 ACDS was based on the identification of each of the rights and freedoms set out in the norms of international law binding on Spain, and those of the Spanish Constitution itself, with which the Canarian SDG targets can be linked. This not only serves to make explicit the link between those targets and human rights, but is also useful for detecting the possible effects on two types of vulnerable groups of people for each SDG Goal: on the one hand, those who could preferentially benefit from the achievement of the SDGs, especially if the design and implementation of public policies in that field of action take into account that they are groups of people particularly destined to benefit from those SDGs; on the other hand, those groups who, due to unintended consequences of the action, could be collaterally harmed by those actions if they are not specifically taken into account. The latter is mainly the case for SDGs with ecological or planetary content, which, for example, can sometimes negatively affect traditional economic sectors.

The explicit linkage between human rights and vulnerable groups with the SDGs facilitates the introduction of a human rights approach in public development policies that revitalizes ESCRs (fundamental to these policies for social sustainability). For example, if we focus on first SDG, the end of poverty, and its Canarian targets, we find the direct implication of the human right to an adequate standard of living (which includes the rights to food, clothing, housing, medical care and necessary social services) and the right to work with at least adequate remuneration (besides the specific right to protection against poverty and social exclusion, art. 30 rESCS). About vulnerable groups it is considered that low work-intensity families and the under-aged, homeless, elderly and dependent people require special attention. The issue of digital exclusion and vulnerability is explicitly addressed. Indicators should pay special attention to people with disabilities, migrants, single-parent families, dependent persons, people with severe addictions and people coming from institutions for the protection of minors or penitentiary institutions¹⁰⁵.

In this way, the concerns expressed by all those calling for the introduction of a human rights perspective in the implementation of the 2030 Agenda have been addressed. The call by human rights activists, multiple doctrinal sectors, and the OHCHR to make this relationship explicit was heeded.

Indeed, the elaboration of the SDGs is nothing more than the design of a global public policy that sets goals and pathways, inviting public and private efforts to join forces. The hardest part comes next. Let us hope that the participatory nature of the implementation process will reduce the usual gap between the design and implementation of any public policy.

¹⁰⁴ *Ibid.*, pp. 23, 29 and 121.

¹⁰⁵ *Ibid.*, p. 120.

8. *Final reflections*

Social dimension of sustainability has a very important presence in the United Nations General Assembly Resolution on the 2030 Agenda. Its main objective is finishing with extreme poverty, and it recognizes respect for human rights and human dignity as an explicit objective, it includes leaving no one behind as a basic principle, and it finds its basis in international human rights law.

Although the SDGs and their targets are not formulated in the language of human rights law, they are closely linked to this part of international law. It is necessary to make this linkage explicit through a HRBA to not overlook social sustainability, to avoid undesired effects in the implementation of policies to achieve the SDGs, so that they gain in legal strength and to properly address the most vulnerable groups of people. This also applies to countries that are democratic states under the rule of law because of the secondary role played by ESCRs.

Therefore, the 2030 Agenda is an opportunity to consciously introduce a human rights perspective in developed states that emphasizes the need to not forget the interaction of all rights and to work for the realization of ESCRs as a fundamental strategy to ensure that we leave no one behind and therefore respect the dignity of all.

The localization process of the 2030 Agenda in Canary Islands has introduced this human rights perspective by making its relationship explicit to the SDGs and their targets. It is now necessary that its implementation does not lose sight of this perspective and is developed within a HRBA. In this case it is particularly interesting to highlight the insufficient guarantee of many rights of people from vulnerable groups (mainly ESCR, but whose insufficient guarantee affects civic and political rights) and to take advantage of the development policies of the 2030 ACDS to promote mechanisms that provide effective solutions to put an end to this reality.

This is just a sample, a possible response, of the task ahead of us to respond to the uncertainty complex in which we live, and to minimise the damage that climate, technological and socio-political hazards cause to the most vulnerable people, especially the poorest.