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STRATEGIES FOR THE PROTECTION OF HUMAN RIGHTS AT THE NATIONAL LEVEL

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1.0 Introduction

Globally, there is a growing consensus around the importance of the role of Parliaments in the protection and realisation of human rights.¹ Parliaments have an important role to play in ensuring respect for human rights law, particularly on the basis of two of its principal functions. Parliament's law-making, oversight and appropriation functions make it well-placed to ensure that effective measures are taken to prevent human rights violations.

Parliamentarians are therefore uniquely positioned to influence and shape their respective national human rights agendas and their implementation processes through various strategies as discussed below:

2.0 STRATEGIES FOR HUMAN RIGHTS PROTECTION

2.1 Ratification of International and Regional Human Rights Instruments

Ratification is one of the methods through which states express their willingness to be bound by a treaty. Although majorly a preserve of the Executive, Parliaments have a critical role to play in the ratification of international and regional human rights treaties. Parliament should ensure that it passes laws to govern the ratification of such treaties, authorise government to ratify treaties, check whether government has ratified core human rights treaties and the respective Optional Protocols.

Additionally, Parliament should in the event that a State has not signed or ratified human rights treaties, urge government to do so. More so, where government makes reservations to a treaty, Parliament should check whether such reservations do not offend the objectives of the treaty.²

2.2 Build a Human Rights Sensitive National Legal Framework

Parliament and Parliamentarians have a critical role to play in ensuring that international human rights obligations are domesticated through enactment of relevant legislation that seeks to promote and protect fundamental rights and freedoms. Members can also play a key role in regularly reviewing existing legislation, to identify provisions that are inconsistent hence ensure that they are harmonized with international human rights norms and standards.

¹ Chang & Ramshaw "Strengthening Parliamentary Capacity for the protection and realization of humanrights", Westminster Foundation for Democracy.

² IPU handbook No. 26

In addition, Members of Parliament can also examine whether domestic Constitutional rights implement the State's international human rights obligations effectively. As a consequence, Members can recommend, changes to existing constitutional guarantees or reinterpretations to ensure compliance in practice.

Legislative Enactments in Uganda

Parliament of Uganda has been instrumental in enacting legislation that has largely provided promotion of political, civil and economic, social and cultural rights of Ugandans. An important step towards implementation of its international commitments to protect the above rights was the enactment of the **Constitution of the Republic of Uganda** that makes provisions for fundamental rights and freedoms in Chapter Four. Furthermore, in fulfilment of the Constitutional guarantees for human rights, Parliament has undertaken legislative measures to protect rights for instance rights of women through enactment of specific laws including, the Domestic Violence Act, 2010; the Prohibition of Female Genital Mutilation Act, 2010 and the Trafficking in Persons Act among others.

The Human Rights Enforcement Act 2015 is a recent enactment by Parliament that gives effect to Article 50(4) of the Constitution by providing for the procedure of enforcing human rights under Chapter 4 of the Constitution. Since the promulgation of the Constitution in 1995, Parliament had never enacted any law providing for the enforcement of human rights.

2.3 Exercise Oversight that is Human Rights Focused

While legislation is necessary in ensuring the protection of human rights, it is not sufficient, as there are often gaps between legislation and effective implementation. Through the exercise of their oversight role, Members of Parliament can bridge this gap by overseeing the actions of the executive and keeping the executive's policies and actions under constant scrutiny. This can be achieved through the following:

- a) *Establish Committees with Human Rights based mandates*

It is important for Parliaments to establish Committees with an exclusive human rights mandate. The existence of a human rights Committee in Parliament, sends a strong political message on Parliament's commitment to promote human rights standards. Such a committee would be able to consider the human rights impact of laws in depth, consult with the public on human rights issues and make Parliament more transparent on human rights issues.

Establishment of the Standing Committee on Human Rights: Uganda

In 2012, the Human Rights Committee of the Parliament of Uganda was created as one of the standing committees in the Parliament of Uganda. The Committee was given a wide mandate which can be summarised as follows: ensuring the adoption of a Human Rights Based Approach to Legislation and to act as a watchdog to ensure human rights compliance in the country and timely and accurate country reporting on human rights issues to treaty monitoring bodies.³ It was a bold step by the Parliament of Uganda to create a specific committee to address the dire need for human rights compliance.

b) Overseeing compliance by Government with International Human Rights obligations

Parliament and Members through the committee system can play a vital role in overseeing the implementation of enacted laws and policies with, a critical focus on ensuring that fundamental rights and freedoms are protected. This can be done through scrutiny of government actions hence hold the executive to account.

In Uganda for example, one of the core functions of the Human Rights Committee's is to examine the recommendations in the Uganda Human Rights Commission Reports and ensure that Government is held accountable in this regard. Hence, the Committee has scrutinized UHRC annual reports from 2010 to-date and conducted hearings with representatives of government ministries and other relevant stakeholders in respect of whom UHRC recommendations are made. These are questioned on the status of implementation or actions taken in lieu of the recommendations made in UHRC annual reports. The Committee's constant engagement with government leaders and institutions to ensure commitment to reform and act on areas recommended in UHRC annual reports has to a certain extent helped check abuses by state agencies compared to before.

c) Scrutiny of Every Business Handled by Parliament

Human Rights Committees of Parliament should scrutinize all business before Parliament i.e. bills, motions, petitions and policy statements to ensure that, whatever legislation or legislative action that may be taken up or recommended by other committees, is consistent with the bill of rights as enshrined in the national constitution as well as International human rights treaties.

Further, Members of Human Rights Committees have an important role to play in other Committees of Parliament. It is important that they work with other Committees to identify human rights concerns in business before Committees, in

³ Rule 174 of the Parliament Rules of Procedure

scrutiny of budgets as well as consistently sensitize other Members of Parliament on human rights implications of any business before Committees or the House.

Development of the Human Rights Checklist in Uganda

When the Human Rights Committee was established in 2012, there was no guidance to alert Members of Parliament to the inconsistencies that are embedded within Bills, petitions, policy statements, budgets or other business handled by Parliament. There was dire need for a simple criterion against which an assessment of human rights compliance could be made. To address this need, the Committee, with the help of the British High Commission, developed a Human Rights Checklist to provide certainty to the Members of Parliament and the Executive on what they need to comply with before introducing any business in the House. As a result, Committees of Parliament use the checklist and are very keen when analyzing bills and other business before them to ensure that they are all human rights compliant.

d) On-spot monitoring visits

Another strategy that Parliamentarians can use to enhance the promotion and protection of human rights while undertaking their oversight is undertaking monitoring/on-spot visits in places where violations are likely e.g. prisons, police cells, refugee settlements etc. Such visits would enable Members identify any violations and or, examine the extent of implementation by the executive of human rights obligations.

Uganda's Parliamentary Human Rights Committee has since its establishment conducted field visits to detention facilities, refugee settlements, and ethnic minorities among others, in various regions of the country, to ascertain the human rights situation on the ground and what is reported by government during the hearing sessions on each UHRC annual report.

2.4 Budgetary Support

Parliaments approve the budget and set national policy priorities. It is therefore important that Parliaments ensure that sufficient funds are provided to government for human rights implementation and monitoring and that the funds are used appropriately.⁴ Appropriation should specifically target programs that enhance human rights protection and promotion.

⁴ The Commonwealth- Universal Rights Group (2018), "The Global Human Rights Implementation Agenda: The Role of National Parliaments", Policy Brief, November 2018 at p.17

2.5 Follow up on Recommendations and decisions of Treaty monitoring bodies

Another strategy that Parliament and Parliamentarians can adopt to enhance the protection and promotion of rights at the national level is following up on recommendations and concluding observations of treaty bodies. This can be done through verification of state's cooperation with treaty monitoring bodies; establishing a country's reporting status to the bodies on various treaties; urging state governments to submit state reports to the respective bodies on a regular basis.⁵

In addition, the participation of members of Parliament particularly Members of Human Rights Committees in preparation of State reports to Treaty monitoring bodies and, attendance of sessions during presentation of the report are all important measures for realization of human rights standards.

More so, it is important that Parliamentarians follow up on implementation of the recommendations and concluding observations arising out of review sessions of treaty monitoring bodies. Also, monitoring implementation of national human rights action plans by Parliament is vital.

Monitoring Treaty reporting in Uganda

It is worth noting that the Parliament of Uganda has taken considerable steps to follow up the State's reporting to treaty bodies. Through its hearing sessions with the Ministry of Foreign Affairs (MOFA) in respect of various UHRC reports, the Committee has constantly urged the Ministry to effectively coordinate preparation of state reports to treaty monitoring bodies to ensure timely reporting. Arising out of the recommendations of the Human Rights Committee, an inter-ministerial Committee was established to ensure adequate preparation of state reports with input from all government Ministries and departments.

Further, Members of the Human Rights Committee participated in reviewing of the state report to the Universal Periodic Review Session in 2016 to ensure that what was reported in the State report, was reflective of the situation on the ground in regard to the legislative and administrative measures so far undertaken by the State in respect of international and regional human rights treaties. Moreover, Members of the Committee also attended the session in Geneva to enhance their engagement in the treaty monitoring and reporting process.

2.5 Engagement with Constituents on Human Rights Issues

⁵Inter- Parliamentary Union Handbook for Parliamentarians No. 26

Members of Parliament should seek public opinion on government implementation and compliance with international and regional human rights standards through engagement with citizens on human rights issues. Such engagement helps to promote public debate on human rights. Members of Parliament would consequently, 'lend democratic legitimacy to the outcome of such debates and galvanize support for implementation.'⁶

The Uganda Parliamentary Human Rights Committee mobilizes public opinion on important human rights issues through public hearings and consultations with stakeholders in the different regions of the country, talk shows on radio and television programs and annual human rights events. The Human Rights Committee's public dialogues have increased awareness of rights enabling some sections of the public to heighten the demand and respect for their rights and better service delivery.

2.6 Collaboration with other Stakeholders

The protection and promotion of human rights calls for the need to collaborate and network with other stakeholders. Hence, it is important for Parliament and Parliamentarians to establish partnerships and work closely with national human rights institutions, civil society organizations and non-governmental organizations focusing on rights issues, the media, human rights defenders etc.

Such organizations are better placed to conduct independent investigations and highlight human rights violations in a country on a regular basis and, to mobilize citizenry to bear pressure on government.⁷ Therefore, when Parliament and Members collaborate with them, it increases visibility of human rights and provides a wider platform for articulation of human rights concerns.

CONCLUSION AND WAY FORWARD

The need for Parliamentarians to perform their constitutional roles from a human rights perspective for purposes of promoting and protecting fundamental rights and freedoms within their countries is critical. The onus is on Parliamentarians to strive to undertake their legislative, oversight and representation functions using a human rights based approach and, to build new partnerships, work more collaboratively with various stakeholders at the national, regional and international level.

⁶ The Commonwealth- Universal Rights Group (2018), "The Global Human Rights Implementation Agenda: The Role of National Parliaments", Policy Brief, November 2018

⁷ DENIVA, "The Role of Parliament and Civil Society in Governance and Democracy in Uganda"

