

Roundtable: the positive outcomes and impacts of a strengthened relationship between parliaments and national human rights institutions - a Commonwealth perspective

Side event in the margins of the UN Forum on Human Rights, Democracy and the Rule of Law

Concept Note

Background

Both parliaments and national human rights institutions (NHRIs) have a crucial role to play in the protection and promotion of human rights, as separate entities and in the framework of efficient cooperation. NHRIs are critical to an effective national human rights protection system.

They are established by constitution or legislation, and have become increasingly significant actors in effectively promoting and protecting human rights within the State. The specific tasks assigned to NHRIs can vary substantially from country to country, yet they nevertheless share key similarities in terms of objectives and competences. Broadly speaking, NHRIs carry out two primary functions in relation to the state: implementation and accountability. In relation to implementation, NHRIs must be capable of working closely with parliaments to ensure that legislation complies with international human rights obligations or constitutional provisions enshrining human rights guarantees, to educate parliamentarians about human rights norms, and to advise parliament about the human rights implications of its actions.

As elected representatives, parliaments and parliamentarians have a significant role to play in the recognition, protection and enforcement of human rights within their legislative jurisdictions. In essence, parliamentarians hold the primary responsibility for ratifying international human rights treaties, integrating international norms and standards in national legislation and holding the government accountable for the implementation and enforcement of the law. In other words, parliaments are a core part of a national human rights protection system, particularly in scrutinising legislation and the actions of the executive.

The role of parliaments as human rights actors in promoting respect for universal human rights norms has also been repeatedly recognized by the Human Rights Council and the General Assembly. The Council has adopted four resolutions¹ that acknowledge “the crucial role that parliaments play inter alia, translating international commitments into national policies and laws and hence in contributing

¹ UN Doc. A/HRC/22/15, A/HRC/26/29, A/HRC/30/14 and A/HRC/35/29.



to the fulfilment by each UN member state of its human rights obligations and commitments and to the strengthening of the rule of law.”²

The Abuja Guidelines

The Abuja Guidelines on the relationship between parliaments, parliamentarians and Commonwealth national human rights institutions³ emphasized among other things, the development of a special working relationship between NHRIs and parliaments, considering their mutual contributions to the protection and realization of human rights. The Guidelines particularly encouraged parliaments to set up an appropriate legal framework for the establishment of NHRIs, ensure adequate resources are allocated, debate NHRI reports and ensure recommendations for action are followed-up and implemented. The Guidelines also called on parliamentarians to ensure that their constituents are made aware of the work of NHRIs. NHRIs on their part, should provide independent advice especially on draft legislation and on-going human rights training to parliamentarians. Although the Guidelines are limited to the Commonwealth, the principles are universal.

The Belgrade Principles

The Belgrade Principles on the relationship between NHRIs and Parliaments⁴ elaborate on the provisions of the Paris Principles insofar as they relate to establishing effective cooperation with other key stakeholders. It sets out the responsibilities of parliaments in the establishment and functioning of NHRIs, including having the exclusive competence to legislate for establishment and sufficiently resourcing NHRIs so they may undertake their mandate. The Principles stress that NHRIs should provide advice and critical, credible, accurate human rights knowledge and information. The former UN Secretary General stressed that “Parliaments should play a critical role in securing the independence and functioning of NHRIs...States are encouraged to use the Belgrade Principles as guidelines to strengthen cooperation between NHRIs and parliaments for the promotion and protection of human rights at the national level.”⁵

As highlighted by Vladlen Stefanov “One of the most significant challenges to the full realization of human rights still remains their practical implementation at the

² UN Doc. A/HRC/22/15, first preambular paragraph.

³ Adopted in Abuja (Nigeria) in 2004 at a meeting of Commonwealth NHRIs and parliaments.

⁴ The Belgrade Principles were adopted at an International Seminar organized by OHCHR, the International Coordinating Committee of National Human Rights Institutions (Now, the Global Alliance of National Human Rights Institutions), the National Assembly and the Protector of Serbia, in Belgrade, Serbia, 22-23 February 2012.

⁵ National institutions for the promotion and protection of human rights, Report of the Secretary-General to the 20th session of the Human Rights Council, 1 May 2012, UN Doc. A/HRC/20/9, para. 95.



national level, and in this regard, parliaments and national human rights institutions have a critical role to play.”⁶

Parliaments have an important role in supporting NHRIs, for example, in protecting them from undue cuts to budgets and resources, or when there are proposals to merge an NHRI with other national bodies in a way that would weaken its work, and in protecting their independence, including in holding the executive to account for efforts to weaken their compliance with the Paris Principles. Parliaments, when voting on budget allocations, have the power to ensure that NHRIs receive adequate funding.

In States without an “A” status NHRI, parliaments should identify - including through reference to findings of the GANHRI Sub-Committee on Accreditation - how the NHRI can become fully compliant with the Paris Principles.

In countries without an NHRI, parliaments are well positioned to prioritise efforts towards encouraging establishment and ensuring that an NHRI is established with strong links to parliament, both in terms of interaction and support.

NHRIs have a responsibility to inform parliamentarians of the human rights situation in-country and advise parliamentarians of imminent challenges and threats to the realization of human rights. They should also advise parliaments on whether draft legislation or a law already in force conflicts with international human rights law and standards. By so doing, they can help parliaments strengthen their oversight functions.

Two case studies are pertinent here:

Kenya: The Kenya Parliamentary Human Rights Association (KEPHRA), popularly known as the human rights caucus, was established as a cross-party caucus of like-minded parliamentarians committed to the protection of human rights in Kenya. It partnered with the Kenyan National Commission for Human Rights (KNCHR), signing a memorandum of understanding to ensure the promotion and protection of human rights in 2015. Under the rubric of the Belgrade Principles they have deepened their relationship, collaborating to address key human rights challenges in Kenya, for instance working with civil society to advocate for change in the area of sexual orientation and non-discrimination.

Tonga: Tonga has accepted Universal Periodic Review recommendations to continue efforts to establish a national human rights institution and to seek support of the international community to this end. The Office of the Ombudsman operates within the standards of the Paris Principles, providing an important, impartial and effective complaints resolution mechanism for all Tongans. There is currently legislation

⁶ Vladlen Stefanov, OHCHR press release, ‘Strengthening the bond between parliaments and national human rights institutions’, Available at <https://www.ohchr.org/en/newsevents/pages/parliamentsandnhris.aspx>.



pending before the Legislative Assembly relating to the Ombudsman, as well as parliamentary support for the establishment of an NHRI.

Objectives

The side-event seeks to bring together Commonwealth parliamentary human rights champions and a NHRI in a roundtable to share outcomes and challenges around the strengthened relationship between parliament and an 'A' accredited NHRI in Kenya; as well as the challenges from a small state perspective such as Tonga, where there is no NHRI.

The side event will facilitate a constructive dialogue on an existing model of cooperation under the Belgrade Principles; identify the challenges where there is no NHRI and consider practical ways in which the challenges can be addressed.

Expected Outputs

The side-event will enable relevant stakeholders, including parliamentarians and national human rights institutions, to:

- Reflect on the mutually beneficial nature of the relationship between parliaments and NHRIs;
- Discuss the ways in which parliaments and NHRIs can more effectively cooperate in meaningfully protecting and promoting human rights;
- Learn examples of effective cooperation between parliaments and NHRIs from the Kenyan case study;
- Develop a better understanding of the challenges a small state in establishing an NHRI;
- Appreciate the challenges remaining, and consider practical actions to strengthen the relationship between parliaments and NHRIs.



Roundtable Discussion: the positive outcomes and impacts of a strengthened relationship between parliaments and national human rights institutions – a Commonwealth perspective

Friday, 23 November 2018

Room XXV, Palais des Nations

13:00 – 15:00

<p>13.00</p>	<p>Welcome and Opening Remarks</p> <p>Her Excellency, Ambassador Nazhat Shameem Khan Permanent Mission of the Republic of Fiji to the United Nations in Geneva</p>
<p>13.15</p>	<p>The relationship between the Kenya National Commission on Human Rights and the Kenya Parliament</p> <p>Commissioner George Morara Vice-Chairperson of the Kenya National Commission for Human Rights</p>
<p>13.35</p>	<p>Practical measures to enhance effective and impactful cooperation between Parliament and National Human Rights Institutions</p> <p>Agostinho Neto Former Parliamentarian of the National Assembly of Kenya Founder: Kenya Parliamentary Human Rights Association</p>
<p>13.55</p>	<p>The experience of Tonga and advocacy to establish a national human rights institution</p>



	Lord Fusitu'a Lord Member of Parliament for the Niuas Legislative Assembly of Tonga
14:15	Question and Answer segment
14:45	Closing Remarks Her Excellency, Ambassador Nazhat Shameem Khan