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Translating international human rights commitments into national realities: the role of parliaments and their contribution to the Universal Periodic Review of the United Nations Human Rights Council



General Assembly
Legislative Branch
Uruguay

Seminar for Latin American parliamentarians organized by the Inter-Parliamentary Union
and the General Assembly of Uruguay in collaboration with the
Office of the United Nations High Commissioner for Human Rights

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Radisson Victoria Plaza Hotel

Conclusions and Recommendations

On 15 and 16 July 2014, 132 participants, including parliamentarians and parliamentary officials, representatives of national human rights institutions, human rights organizations, NGOs and civil society organizations from 16 countries in the region, met at the Radisson Victoria Plaza Hotel in Montevideo.

The seminar was divided into six sessions with opening presentations followed by discussion.

1. Ending violence against women: from words to deeds

Panellists and participants discussed various ways in which influence can be exerted and contributions can be made to help eliminate violence against women:

- Harmonizing national legislation in the States with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its protocol, which have been ratified by all of the participating countries. It must be recognized that the law is not neutral. Laws must be enacted to establish basic guarantees and security in accordance with this objective.
- Understanding the structural causes of violence against women. The challenge is to achieve parity: equality is the right; equity is the mechanism.
- Monitoring how their countries are adapting their day-to-day practices in conformity with the Convention through legislation for the protection of women.
- Legislating where appropriate and seeing to the proper enforcement of the laws adopted.
- Comprehensively mainstreaming a gender perspective into the formulation of public policies.
- Ensuring access to justice for victims of violence. Fighting against impunity. Punishment is not everything but it is very important. Crimes must be classified accordingly. It is fine to punish violence against a woman by her partner, but it is very important that punishment extend beyond the partner to other men and women as well as government agents involved in the case.
- Establishing databases. Develop statistics for use in evaluating what is happening, selecting appropriate indicators for the measurement of various types of violence and discrimination. "Making visible what is invisible. Making violence against women visible".

- Creating prevention and alert mechanisms for situations in which violence could occur.
- Changing the cultural patterns that are making it difficult to confront the problem of violence against women. It is considered fundamental to deal with this issue through education, not only for boys and girls but also for men and women, regarding new concepts about masculinity. Change requires education.
- Attention must also be paid to patterns that are changing, resulting in new forms of violence and discrimination. The commercial and non-commercial exploitation of children and adolescents, in particular, is on the rise and requires concrete responses.
- The political participation of women has been accompanied by a new form of discrimination, known as "political harassment". It is recommended that parliaments work to change that reality, so that men and women treat each other with respect and use appropriate language in referring to violence and discrimination. The example of Costa Rica, whose Parliament proposed a reform of its regulations with that objective, is particularly instructive.
- Revisiting the recommendations made to parliaments on the occasion of the Seminar on Gender-based Violence, Conducted in 2010 in Cuenca, Ecuador, with the participation of the Inter-Parliamentary Union and the Parliament of Ecuador, because they are still valid and in effect.
- Finally, highlighting good practices in the settlement of disputes. It is important to have knowledge about framework legislation and shared background information in order to punish violence against and trafficking in persons. The international organizations provide a forum for reflection but also for moving from words to action in promoting common legislation. A compromise must be reached among the three branches, not only for the approval of laws derived from the conventions but also in the day-to-day dynamics.

2. Eliminating discrimination against, and the exclusion of, indigenous and Afro-descendent peoples

The participants underscored the importance of multiculturalism and the mechanisms of cultural identity and integration.

They stressed the importance of civil society participation in order to build constructive dialogue, and the role of the media, which should correct certain practices to avoid stigmatization and greater discrimination against indigenous peoples.

It was agreed that progress has been made with legislation providing for consultation and prior, free and informed consent.

The following recommendations were made:

- Raise awareness among the executive branch, the legislative branch and civil society in order to gain their serious commitment to fighting jointly on behalf of the rights of indigenous and Afro-descendent peoples. This is particularly important for parliamentarians because their role in promoting rights, assigning responsibilities and allocating resources is fundamental.
- Discuss a definition of multiculturalism so as to understand its implications, better address related challenges and recognize that our democracy is incomplete and uneven in quality. Inclusive discussions and normative frameworks have not been lacking, but it is important that action also be taken to show how progress can be made in this area, with emphasis on education.

- Give continuing emphasis to the fight for identity and the promotion of universal policies and affirmative actions to repair and restore the rights of indigenous peoples.
- Formulate a commitment to ensure that the World Conference of Indigenous Peoples, to be held in New York, will not signify regression or stagnation.
- Rewrite history to take account of the indigenous and Afro-descendent peoples, creating a new social pact based on equality between men and women, multiculturalism and pluralism as fundamental elements.
- Issue an appeal that our actions be aimed to achieve societies free of racial and gender discrimination by 2025.
- Constitutionally recognize the existence of native indigenous and Afro-descendent peoples. This should be considered in conjunction with the issue of gender-based violence as part of the Millennium Development Goals and the post-2015 development agenda.
- Launch a revolution in education to combat stereotypes, prejudice, xenophobia and racism. The work of parliaments is of vital importance in this connection, given their role in approving national budgets. Significant budget funding needs to be allocated to the achievement of inclusive, multicultural and pluralistic education. That is the backbone of the post-2015 development agenda, with both genders joining hands for the fulfilment of Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights".

3. The role of parliaments in promoting and protecting human rights at national level

It was recommended that Parliament approach the issue of human rights as follows:

- Give priority to human rights, assigning it a central place on the parliamentary agenda, bearing in mind the benefits of a gradual approach, starting with less but continually adding a little more, as some small step is always possible. At international level, the best way to pursue that agenda is to follow the recommendations of the Universal Periodic Review (UPR). The resolutions of the Inter-American Court of Human Rights are also important. Other important resources at national level include reports on human rights issued by the executive branch and parliamentary committees. It is key to have access to periodic reporting.
- Introduce accelerated procedures so that legislation can be enacted to protect vulnerable persons and ensure that justice is done.
- Encourage vigorous activity on the part of parliamentary committees dedicated exclusively to human rights – whether or not other committees may approach the issue from different perspectives – because that is the best way to promote human rights from within Parliament and link up with relevant international organizations. Several steps should be taken to this end: the mandate and representative character of these committees should be broadened; parliamentarians should be educated about human rights; self-evaluation mechanisms should be established to measure the effectiveness of these committees' work; mechanisms should be established to ensure transparency, including public hearings and the posting of information about international commitments on parliamentary webpages; and regular reports should be made to the International Commission in Geneva.

- Create an environment within Parliament conducive to the observance and promotion of the human rights of parliamentarians, so that the members of Parliament can themselves serve as an example in the promotion of human rights.
- Organize parliamentary debate on human rights matters requiring greater public awareness and consultation, with a view to holding such debates in the electoral districts.
- Organize regular training sessions on human rights issues for parliamentarians and parliamentary staff.
- Monitor progress, adapting political processes in our countries to ensure regular reporting by the executive branch to Parliament, and in particular to the Commission on Human Rights, on human rights developments in their areas of responsibility during the period in question, so that Parliament has up-to-date and accurate information on which to base its activities.
- Continue to encourage inter-parliamentary cooperation and joint analysis of these issues, taking the recommendations into account and adapting solutions that have proven successful in other countries to specific national realities.

4. Parliaments as part of a broader national human rights system

Parliament is one of the most important national institutions for the promotion of human rights. To be more effective, parliaments need to connect, preferably on the basis of clear institutional agreements, with other institutions that have specialized knowledge in the area of human rights. Parliaments can also exercise their constitutional powers to help build a legal environment conducive to the effective functioning of human rights institutions.

The following recommendations were made:

- Highlight the importance in the legislative process of national human rights committees and ombudspersons, proposing normative provisions on their own initiative or in pursuance of a legal mandate. To perform their role effectively, it is fundamental that they be sufficiently autonomous. Working together, national human rights institutions, and in particular the national human rights commissions, can help educate and raise awareness among parliamentarians about human rights issues. They can also present their annual reports to Parliament for plenary debate. The amendments and proposals made by parliamentarians in connection with those reports can help to make national institutions more effective.
- Promote joint action between citizens and public institutions in the area of human rights, through cooperation or consultation. Given its close ties with the population and specific, comprehensive knowledge about human rights, civil society needs to be working with Parliament. As a channel of information and communication, civil society organizations can help to spread public awareness about the laws enacted and in turn keep Parliament informed about the practical repercussions of those laws. Observations and proposals received from the people, once transmitted to Parliament, can generate and nourish legislation to improve the human rights situation.
- Bet on education as the means to instil human rights values and awareness in the general public – particularly among youth – and thus pave the way for needed changes.

5. General information about the Universal Periodic Review (UPR) mechanism and opportunities for participation by parliaments

Parliaments have an important role to play, since most of the recommendations formulated by the human rights mechanisms, and in particular the UPR, are directly incumbent upon them.

Taking as their premise that human rights are an interdisciplinary concern requiring a coordinating mechanism, and that the UPR is a mechanism in which all of the interested parties participate, the participants made several recommendations to improve the participation of parliaments, with the cooperation of those interested parties, in the three stages of the UPR process: preparation of the national report, presentation of the report to the Human Rights Council and application of the Council's recommendations:

- Implement the resolution adopted by the Council in June of this year that parliaments should be invited to arrange for their formal representation in all of the bodies involved in the UPR process.
- Take part in the national consultation process and in the preparation of the national report, participating in the analysis of the State's challenges and achievements in the area of human rights and the identification of good practices in addressing specific problems from a human rights perspective; submit the draft national report for discussion before submitting it to the Council as part of the UPR process.
- Participate in interactive dialogue with members of the official delegation during the UPR Working Group's session in Geneva (Switzerland).
- Help formulate the State's position with respect to the recommendations and related follow-up.
- Participate in the preparation of the midterm report.
- Collaborate in activities to disseminate information on the good practices shared among other parliaments.
- Create space within each Parliament for the heightening of awareness among new parliamentarians about human rights and the UPR mechanism.
- Design a legal framework for carrying out the country's human rights obligations. Parliament can use this prerogative as a means of implementing some of the UPR recommendations, taking into account that the commitments transcend an elected government's term in office.

6. Case studies on the participation of parliaments in the UPR

The cases of Uruguay and Paraguay were examined. It was explained how consultations were conducted in preparing and presenting the national report and how the UPR recommendations, understood as incumbent upon all three branches of government, were applied. Particular attention was given to the participation of Parliament in that process and its interaction with other agencies active in the field of human rights at national level.

The following recommendations were made:

- Develop the right kinds of information systems, which requires the adoption of structural indicators to measure the process and its results, taking into account the development of public policies in the area of human rights.
- Present the State's national report in consultation with organized civil society, but without forfeiting independence.

- Create the institutional structures necessary for the various stages of the UPR process, ensuring that institutional practices are consistent with the obligations undertaken.
- Take advantage of the UPR process to receive information from the participating, independent experts and to request international cooperation in order to strengthen human rights policies where necessary.
- Promote the participation of other countries in the UPR as a way to better understand their realities, learn how they have approached the recommendations and as a “source of ideas”.
- Compile documentation and effective practices as to how parliaments can help fulfil international human rights commitments within the UPR framework.
- Request that the IPU and United Nations support and promote the formal – that is, non-discretionary – participation of national parliaments in the entire UPR process.

Two challenges were given particular emphasis:

- Closely monitor implementation of the consolidated UPR recommendations.
- Widely disseminate to the public information about the UPR and the international human rights commitments undertaken by the State – as a matter of public knowledge, not the instrument of a knowledgeable few in each country.