



INTER-PARLIAMENTARY UNION

Theme: The role of parliaments in the fight against racial discrimination

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Introduction

Ladies and gentlemen,

It is a real pleasure and a great honour for me to participate in this discussion, on behalf of the Inter-Parliamentary Union, as part of the follow-up work being done by the intergovernmental working group on the effective application of the Durban Declaration and Programme of Action.

More than 10 years after the adoption of these important documents, it is undeniable that significant progress has been made in implementing the recommended measures. But regrettably, we also need to recognize the hard reality of racism, racial discrimination, xenophobia and related intolerance.

The peoples who have been displaced in successive waves by conflicts and economic and financial crises have tended to perpetuate these scourges. While discrimination against foreign nationals is the most palpable form of such intolerance, its prevalence within countries - between urban and rural populations, the rich and the poor, the educated and the illiterate, the employed and unemployed - is far from negligible. Taken together, such forms of intolerance threaten the consolidation of democracy and frustrate our daily efforts to achieve peaceful coexistence within a multicultural society enriched by the differences within it.

Though not a cause for dismay, this situation does call for a greater mobilization of all actors in socio-political life, driven by a political will to develop measures and allocate resources sufficient to ensure the implementation of policies and programmes to combat such forms of intolerance.

Established to represent nations in all their diversity, parliaments, by their very existence, symbolize a perfect negation of discrimination. In practical terms, parliaments must engage their societies in a search for cohesion in the midst of diversity, developing forms of community life based on the operating principles of tolerance: the acceptance of others, who while different, enjoy the same human rights.

By virtue of their institutional prerogatives, parliaments must be a bastion in the fight against racism, discrimination, xenophobia and related intolerance. They must offer a forum for

discussion that leads to the development of effective strategies to combat these scourges and promote more peaceful coexistence among all segments of society.

This at least is the conviction of the Inter-Parliamentary Union, an international organization of national parliaments that has made the fight against all forms of discrimination, including racial discrimination, one of its highest priorities. In accordance with commitments undertaken at the parliamentary meeting held in October 2001, <http://www.ipu.org/splz-f/durban01.htm>, on the occasion of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, IPU has always encouraged its members to develop effective mechanisms for combating these scourges, which represent serious challenges to the promotion of human rights and the consolidation of democracy.

The following are examples of significant actions taken by IPU in pursuance of these initiatives, consistent with the spirit of the Durban Conference:

- a. The IPU project on the contribution of parliaments to the national reconciliation process in English-speaking Africa, 2009-2011, which led to the formulation of parliamentary action plans structured around a culture of tolerance, participation for all, without distinction, in the management of public affairs and respect for others with a view to more peaceful coexistence among peoples.
- b. The International Parliamentary Conference on *Parliaments, minorities and indigenous peoples: effective participation in politics*, <http://www.ipu.org/splz-f/chiapas10/declaration.pdf>, Chiapas, Mexico, 31 October - 3 November 2010.
- c. The seminar on *Freedom of expression, parliament and the promotion of tolerant societies*, <http://www.ipu.org/splz-f/sfe.htm>, Geneva, 25-27 May 2005.

Based on a review of the Final Declaration of the parliamentary meeting and the recommendations of the Durban Conference with respect to the role parliaments can play in this area, I shall focus my presentation on four main themes:

I. Creating an environment in parliament conducive to combating racial discrimination

As I indicated in the introduction, parliaments emanate from the people and so must reflect the diversity of the populations they represent. In the process leading up to elections, such diversity must be manifest within the political parties that nominate legislative candidates - even though, once elected, they become representatives of the nation as a whole. The parliaments of South Africa, Australia, Brazil, Canada and New Zealand are examples of multiracial representation worth following in our view.

For practical, organizational purposes within a parliament, in applying the principle of inclusive participation in the management of parliamentary affairs, every effort must be made to permit participation by all members, without discrimination. The principle of balance is often mentioned in terms of majority and opposition. We think it should also apply, in cases where ethnic diversity is significant, to ensure that such diversity is reflected in parliament and within parliamentary bodies, including:

- a. The Bureau
- b. Standing committees
- c. Other parliamentary bodies
- d. Investigative committees

The same considerations are also relevant to the organization of plenary debates. Feelings of injustice resulting from discriminatory acts - violations of freedom of expression, intimidation or threats of any kind - are clearly not conducive to effective parliamentary debate.

All of these operating rules need to be incorporated in a parliament's rules of procedure. It is the duty of all parliamentarians to adhere to them strictly. Disciplinary measures should also be proposed for application to any act or statement by a member of parliament that is of a racist, racially discriminatory, xenophobic or relatedly intolerant nature. We believe that as representatives of the people and as political decision-makers we need to set a good example and convey clearly to all our hostility towards any act of discrimination.

The above measures should serve to make elected representatives of the people predisposed to fight against racial discrimination and promote all appropriate activities to that end.

As part of their internal organization, parliaments need to establish a network for the purpose of monitoring the issue of racism and related discrimination. As an early alert system within parliament, such networks should be responsible for keeping their parliaments continuously informed and for proposing concrete, diligent action. Similarly, in their annual reports, parliaments should include a heading on measures taken against racial discrimination.

II. Building a legal framework comprised of international norms against racial discrimination and ensuring its effective implementation

Their prerogatives in voting on legislation, approving budgets and overseeing executive branch action give parliaments the means to help formulate strategies for combating racial discrimination.

But first, some essential questions. Does the parliament have a policy for the fight against discrimination? Does the issue receive priority attention? If so, how?

The answers to these initial questions will determine what steps parliaments take next.

1. An assessment of the national legal framework for the fight against racism, racial discrimination, xenophobia and related intolerance

The very first thing we need to do as parliamentarians is to assess the legal framework. With support from executive branch specialists in this area, we can take stock of the tools and resources we have as part of our efforts to legislate or re-legislate against racial discrimination.

Are we up to date with the relevant international and regional standards? If so, how do we apply them? Do we have policies and programmes in place to fight against racial discrimination? Are we up to date with the UN mechanisms for monitoring adherence to the conventions for the fight against racial discrimination, and in particular the Committee on the Elimination of Racial Discrimination (CERD)? What is the executive branch doing about the recommendations of that committee? How has parliament received and made use of the Durban Declaration and Programme of Action?

The answers to these nonexhaustive questions will determine the kinds of action parliaments should take.

2. Development of an appropriate legal framework for the fight against racial discrimination

The international and regional instruments against racial discrimination prescribe norms conducive to an effective fight against this scourge. The parliaments of countries that have still not acceded to them should engage with their governments on the subject and encourage ratification as soon as possible. If reservations have been expressed about one or several of these conventions, parliaments should look into the motivations behind them and consider lifting them if possible.

In cases where these instruments have been ratified, and in particular the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention and Protocol Relating to the Status of Refugees, parliaments should take every measure to ensure that these instruments are reflected in national legislation, through the creation of an appropriate normative and institutional framework appropriate according to the degree of implementation of instruments so ratified. The recommendations contained in the Durban Declaration and Programme of Action should also be included. Some sensitive themes, such as equal treatment, minorities (in countries where this question is sensitive), freedom of expression and association for all, the status of persons of foreign origin (with reference to respect for their rights) will be subjects receiving particular attention.

Permit me in this context to recall the commitment of my country, Switzerland, to this cause. As you know, in 2001, following the Durban Conference, the Office for the Fight against Racism (SLR) was created within the Federal Department of the Interior of our pluralistic, multicultural country. Many projects have been developed but the challenges remain. Thus, to promote equal opportunity and prevent discrimination, the Federal Office of Migration (ODM) provides financial support for numerous activities to facilitate the social and professional integration of persons of foreign origin (refugees and persons allowed provisional entry). We do not remain silent when equal opportunity is obstructed by direct or indirect discrimination. The policies adopted by our parliament are designed to promote the integration of migrants and help them to develop their capacities. This integration policy goes hand-in-hand with an antidiscrimination policy. It should be remembered that our Federal Constitution prohibits discrimination of any kind and protects freedom of belief, conscience and language.

Beyond the criminal laws against racism our legislation contains numerous provisions of constitutional, private, criminal and administrative law against discrimination. According to a large majority of our parliament the existing legal framework in Switzerland currently provides sufficient protection against discrimination. But it is up to the parliament to be vigilant.

Such vigilance is needed in every country. Even after laws are adopted, parliaments must see to their effective application, facilitated as necessary by appropriate decrees. This means monitoring and oversight by means of oral and written questioning in investigative committees.

More specifically, laws originating in parliament and government, policies, programmes and mechanisms to fight against racial discrimination are essential – and access to justice must then be guaranteed.

Over the last 10 years in Switzerland, for example, the legal proceedings brought against discrimination have been few in number. To better understand the mechanisms hindering access to justice, various agencies (the Federal Office of Equality between Men and Women, the Federal Office of Equality for Disabled Persons, the Office for the Fight against Racism, the Political Section of Human Rights, the Federal Office of Justice) have commissioned a study on this subject from the Swiss Centre for Human Rights. The study will cover all aspects of discrimination and the various avenues for legal recourse (such as pre-trial offers of legal consultation).

At the level of our Inter-Parliamentary Union, parliaments need to recommend review of their penal codes to introduce where necessary appropriate antidiscrimination provisions. This requires collaboration between parliament and the judicial branch. Such collaboration helps these two institutions coordinate, regularly report and follow up on their activities. The empirical data generated will help to better track the prevalence of these scourges and propose appropriate means for combating them.

With respect to the ministries concerned, parliaments also need to see to the formulation and implementation of specific training policies and programmes¹ for the armed forces, police and judiciary. Parliaments should take the initiative of incorporating the provisions of conventions against discrimination and relevant recommendations from the Durban Declaration and Programme of Action into the codes of ethics for these organizations and agencies.

These programmes should also be extended to the primary and secondary school systems, since children at that age are impressionable and susceptible to influences in their family and social environments. It is essential that they be permitted to flourish in a climate of tolerance and acceptance of others.

In terms of the tools to be used in taking concrete measures against discrimination, several mechanisms have been created in Europe. Some examples are shown below.

Country	Institution
Austria	Committee for Equal Treatment
Belgium	Centre for Equal Opportunity and the Fight against Racism
Cyprus	Office of the Commissioner for Administration
Denmark	Danish Institute for Human Rights
Estonia	Chancellor of Justice
Finland	Office of the Ombudsperson for Minorities; National Tribunal for the Fight against Discrimination
France	High Authority for the Fight against Discrimination and for Equality
Hungary	Parliamentary Commissioner for the Rights of National and Ethnic Minorities; Authority for Equality of Treatment
Ireland	Authority for Equality; Tribunal for Equality
Italy	Office for the Fight against Racial Discrimination
Latvia	Latvian National Office of Human Rights
Lithuania	Ombudsperson for Equal Opportunity
Luxembourg	Special Standing Committee for the Fight against Racial Discrimination
Netherlands	Committee on Equality of Treatment
Norway	Centre for the Fight against Ethnic Discrimination
Portugal	Committee for Equality and against Racial Discrimination
Romania	National Council for the Fight against Racial Discrimination
Slovakia	National Centre for Human Rights
Sweden	Ombudsperson against Ethnic Discrimination
Switzerland	Federal Commission for the Fight against Racism

Source: European Commission against Racism and Intolerance, examples of good practices: specialized bodies in the fight against racism, xenophobia, anti-Semitism and intolerance at national level, January 2006.

I draw your attention to the need for parliaments to institute collaboration with these mechanisms to learn about their work and take into account their recommendations and opinions as part of their parliamentary efforts to combat racial discrimination.

As I said earlier, and I refer again to my own country, we have two mutually complementing bodies: the Federal Commission against Racism and the Office for the Fight against Racism. The latter is the interlocutor within the federal government for all questions pertaining to the fight against racism, anti-Semitism and xenophobia, whereas the Federal Commission against Racism, founded in 1995, is an extraparliamentary commission instituted by the Federal Council that was given a wider objective. This commission closely follows current developments and regularly publishes a political agenda in respect of racism and antiracism. This agenda is an important tool both for the public and for the government and

¹ Education to prevent discrimination, awareness heightening and explanations about votes taken, community awareness tours, dissemination of antidiscrimination posters for use in the workplace, radio and television spots and sketches.

parliamentarians. This tool also contains parliamentary interventions relating more particularly to minorities discriminated against because of their ethnicity, origin, religion, or skin colour. This working instrument is updated each parliamentary session. It reflects political concerns and serves as a barometer. This commission operates under the Federal Department of the Interior. It is authorized to obtain from the Confederation's offices such information as may be necessary for the performance of its functions. It can also enter into direct contact with other agencies and offices at all political levels.

In order to complete this work it is necessary to provide specific agencies with the financial resources needed to be effective and productive. Each year, as part of the Confederation's budget process, the Swiss parliament debates how to allocate financial resources to the integration of migrants, support for refugees and applicants for asylum, the fight against discrimination, the bodies put in place to ensure respect for our Constitution and conventions and international conventions and treaties signed by Switzerland.

Other countries have also put in place specific parliamentary tools, mechanisms and structures for the fight against discrimination. I refer, by way of example, to the case of Hungary: http://www.coe.int/t/dghl/monitoring/ecri/good_practices/1-specialised%20bodies/sb_hungary_pcn_FR.asp

I. Allocation of sufficient resources for the implementation of established programmes and policies

Once the necessary programmes and policies have been developed, sufficient resources are needed to execute them. From this standpoint, it is the function of parliament to propose the allocation of these resources so that the measures adopted can be implemented. It is well understood that the ministries concerned, which are accountable for implementation of these programmes, and for the resources allocated for that purpose, must report on their work as part of the process for oversight of government action.

II. Specific measures to prevent racial discrimination at its source

As channels, shapers and mobilizers of public opinion, political parties have a profound and transformative impact on life in society. Parliaments should therefore promote the revision of political party charters to include provisions to suppress any act or statement that may be of a racist, racially discriminatory, xenophobic or relatedly intolerant nature. Based on the version of the charter that includes provisions against discrimination, political parties should themselves propose training sessions for their members on a culture of tolerance.

From the same standpoint, similar provisions should be made for electoral processes, considering the potential for unrest.

Under the rubric of prevention, parliaments should encourage their executive branches to study possibilities for special emergency measures to deal effectively with flows of refugees or economic and financial crises. The objective is to manage incendiary expressions of nationalistic sentiment when such crises arise.

III. Organizing parliamentary antidiscrimination awareness missions

This kind of mission is one in which the parliamentarian's intervention can be decisive.

As mentioned earlier, prevention at the source, in particular through education, is the best way to combat racism, racial discrimination, xenophobia and related intolerance. Parliamentary awareness missions are necessary to instil a culture of tolerance and acceptance of others. IPU promotes activities of this nature in Sierra Leone as part of its project on the contribution of parliaments to the national reconciliation process. Parliamentary tours covered nearly the entire national territory, enabling parliamentarians to discuss their work

with local populations and stress in particular the need for peaceful coexistence among all segments of society.

While serving as national representatives, parliamentarians also visit their districts, giving them the opportunity to organize discussions about the lives of their constituents.

IV. Strengthening collaboration with other actors

The collaboration of parliaments with other actors is today more essential than ever, particularly in the fight against racism and racial discrimination.

The primary actor is the executive branch, which is accountable for its action to parliament. Parliament can avail itself of this opportunity to propose a reformulation of targeted antidiscrimination strategies or measures.

Like parliamentarians, civil society and NGOs are actors in the field, living close to the everyday manifestations of racial discrimination. These actors contribute greatly to the work of parliaments to combat racial discrimination. They can potentially give follow-up in the field to the actions of parliament (i.e., legislation) and then inform parliaments about the impact of their laws and the difficulties encountered in implementing them. Similarly, as privileged witnesses of discriminatory acts, they can brief parliaments on the events they have experienced, leading potentially to new proposals or amendments to existing laws.

International institutions, including the Inter-Parliamentary Union (IPU), the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as other development partners, are among the best sources of support for parliaments in the fight against discrimination.