



The Role of National Human Rights Institutions in the Universal Periodic Review

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1.0. Introduction

The role of National Human Rights Institutions (NHRIs) to promote and protect human rights requires them to take a central role before, during and after the UPR Process.¹ The specific mandate of NHRIs that comes to the forefront during the Uganda Periodic Review (UPR) is that of monitoring Government's compliance with international treaties and conventions obligations on human rights. This is particularly important considering that the UPR reviews state compliance with its international treaty obligations and is aimed at improving the situation on the ground. This presentation will look at the role of NHRIs prior to the UPR, during and post UPR.

2.0. Role of National Human Rights Institutions prior to the UPR Review

2.1.1. Strategic engagement

NHRIs have a core role to strategically engage stakeholders including civil society, academia and government to track progress regarding the preparation of the various reports for submission to the Office of the High Commissioner in Geneva. This includes the country report, reports from civil society, reports from UN agencies such as the Office of the High Commissioner of Human Rights and the report of the NHRIs. This coordinated approach helps to highlight the crucial human rights issues that have been pointed out in the various reports and helps put emphasis on these issues. For instance, prior to the UPR, the Uganda Human Rights Commission (UHRC) had strategic engagement with representatives from civil Society, academia and government. This was done through a meeting

¹ See the UN General Assembly Resolution 60/21. See also Objective 4 of the UN Human Rights Council: Institutional Building A/HRC/RES/5/1. Accessed at <http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx> on 25th November 2011.

convened by the UHRC that was aimed at initiating discussions between the various stakeholders on the progress made in the preparation for the UPR and strategise a way forward. During this engagement, civil society was able to present the human rights concerns they had identified which they intended to highlight in their report.

2.1.2. Input into country and other stake holders reports

NHRIs have the opportunity to contribute to both the country report and reports of other non- governmental organisations at the national and the international level. NHRIs can be used as a source to verify information that has been collected on the state of human rights in the country. The UHRC helped provide technical advice and guidance in drafting the country report. Knowing that the country report was supposed to be a product of a consultative process, the UHRC availed its offices at the regions for the regional consultations. In addition, the UHRC assisted the Ministry of Foreign Affairs to get in contact with various civil society organisations that had expertise in specific human rights issues to provide input into the country report. During this process, the UHRC encouraged the government to make voluntary pledges and commitments which would be an indication that the government was prioritising the promotion and protection of human rights. The voluntary pledges and commitments made by Uganda were to:

- i) to develop and implement a national action plan on human rights ;
- ii) carry out an annual review of the human rights situation in the country and report as appropriate;
- iii) establish a Cabinet Sub Committee to provide policy oversight and guidance on human rights issues ;
- iv) mainstream human rights issues in all aspects of governance;
- v) Establish a human rights desk under the Ministry of Justice and Constitutional Affairs to coordinate human rights issues at the national level .

The mandate of the desk will be defined in consultation with the Uganda Human Rights Commission;

vi) establish a Focal Point in the Ministry of Foreign Affairs to provide coordination of stakeholders with the international community;

vii) designate Focal Points in each of the stakeholders to follow up and report on the implementation of human rights issues;

viii) inculcate human rights , voter education and civic education in the education curriculum of schools ; and

ix) mainstream human rights issues in the training curriculum of security agencies.

2.1.3. Submission of the UHRC Report

NHRIs are the first point of reference for the promotion and protection of human rights at the national level. This mandate requires that NHRIs document the human rights situation pointing out progress, challenges and recommendations to improve the human rights situation. The UHRC just like other NHRIs submitted a report during the UPR. Specifically for the UHRC, this report highlighted progress and challenges that were a culmination of the UHRC's Annual Reports assessing the human rights situation from 2007 to 2009. The UHRC report submitted noted progress in putting place national legal frameworks, polices and programs that promote and protect human rights. However, concerns noted included state reporting and implementation of recommendations of regional and international mechanisms; the quality of education and health facilities and services; the right to culture of minority groups that is faced with threats of extinction; existence of legal frameworks that infringe on the freedom of expression; infringement of the freedom of assembly; and lack of personal liability for perpetrators of violations of the freedom from torture, cruel, inhuman and degrading treatment.²

² See the Uganda Human Rights Commission's Submission For the Universal Periodic Review in October 2011.

3.0. The role of NHRIs during the UPR

3.1. Observers during the UPR

NHRIs have the opportunity to be observers at the time their countries present their reports. This gives NHRIs the opportunity to observe the process of presentation of the country report and consider the responses of the government to issues raised by other states. During the review of Uganda that was conducted on 11th October 2011, the UHRC was an observer and took note of the statements made by the 55 delegations. The UHRC noted that of these Uganda adopted 110 recommendations, 42 recommendations were to be further examined with responses to be provided by the 19th session of the Human Rights Council in March 2012 while 19 recommendations did not enjoy the support of Uganda. The status of these recommendations is important because NHRIs can later encourage the government to adopt recommendations that are in the criteria of those to be further examined. For instance the UHRC had the opportunity to encourage the government to consider the adoption of recommendations it was to further examine.

3.2. Statement on the adoption of the report

NHRIs with an 'A' status have the opportunity to make a statement to the Human Rights Council at the adoption of the report. The statement can contain an assessment of the process of the UPR, note measures taken to address the recommendations and outstanding challenges. For instance, the UHRC acknowledged the disbandment of the Rapid Response Unit and applauded efforts by the Uganda Police Force to respect the freedom of assembly during the Action For Change Rallies. However, the UHRC still urged the government to hold individual perpetrators under the disbanded Rapid Response Unit accountable. The UHRC further urged the Uganda Police Force to ensure the observance and respect of human rights after closure of rallies. The UHRC committed to continue to work closely with the Uganda Police force to ensure the promotion and protection of the freedom of assembly. In addition, the UHRC urged the

Government of Uganda to implement the voluntary commitments, pledges and recommendations adopted and made specific reference to the National Action Plan on Human Rights that will incorporate the recommendations from the Uganda Periodic Review.

4.0. The role of NHRIs Post UPR

4.1. Publicity of recommendations

NHRIs should be aware that the UPR is not a one-time event but it is a process that will feed back into the review of the implementation of the recommendations adopted by the Government. NHRIs still have the important role to provide technical support on the implementation of the recommendations and to monitor the implementation of the voluntary commitments, pledges and recommendations adopted. The starting point is publicity of the recommendations and voluntary pledges and commitments undertaken. NHRIs could cluster the recommendations on the basis of thematic areas so that they are easier to be understood by the public. In the case of the UHRC, recommendations were clustered by thematic areas for ease of reference in its annual report which was submitted to Parliament and circulated to Government ministries, agencies and the public.

4.2. Presentation of the recommendations to the Human Rights Committee

In order to strengthen the monitoring of the recommendations and voluntary pledges and commitments made during the UPR, NHRIs could present these recommendations , voluntary pledges and commitments to oversight committees in Parliament that monitor human rights. This is crucial considering that the role of Parliamentary Human Rights Committees includes putting human rights at the centre of the policies presented and laws enacted, domestication of human rights standards, considering human rights as a cross cutting issue, raising awareness of human rights at various fora and assessing budgetary allocations from a human rights perspective. In order to assist the Human Rights Committee in its role, the UHRC included the clustered recommendations in its presentation of its Annual

Report to the Human Rights Committee. In addition, the UHRC further pointed out to the Human Rights Committee the specific institutions that were supposed to implement the UPR recommendations, voluntary pledges and commitments.

4.3. Presentation of the report to crucial sectors

NHRIs could also engage crucial sectors that will be needed to implement the recommendations, voluntary pledges and commitments. NHRIs can assist to identify recommendations that need to be implemented at the strategic and programming levels. When this is done it helps to focus on the priority areas of interventions for various institutions and departments. Engagement with these crucial sectors also helps in identifying capacity gaps and provides opportunity to build the capacity of the concerned government departments and institutions in order to implement the UPR recommendations, voluntary pledges and commitments. The UHRC presented the clustered recommendations to the Justice, Law and Order Sector (JLOS) since several of the recommendations from the UPR affected institutions that are involved in the delivery of justice.³

4.4. Sharing and adoption of best practices

Several countries have undergone the first phase of the UPR and various states have adopted recommendations. However, NHRIs should be aware that the implementation of the recommendations could pose challenges to states and therefore there is need to share best practices on the implementation of the recommendations. In order to address this, meetings have been held with the assistance of UN agencies where NHRIs have been given the opportunity to share best practices of countries that had earlier undergone the UPR. NHRIs should also be aware that states have adopted various recommendations that could affect

³ Institutions in the Justice , Law and Order Sector are the Ministry of Justice and Constitutional Affairs, Judiciary, Ministry of Internal Affairs , Ministry of Gender, Labour and Social Development (Juvenile Justice), Ministry of Local Government (Local Council Courts), Centre for Arbitration and Dispute Resolution, Directorate of Citizenship and Immigration Control , Directorate of Public Prosecutions, Law Development Centre, Tax Appeals Tribunal, Uganda Registration Services Bureau, Uganda Law Society, Uganda Police Force, Uganda Prisons Service, Uganda Law Reform Commission, Judicial Service Commission and Uganda Human Rights Commission

their legislative and policy framework. However, in spite of the fact that recommendations vary from state to state, NHRIs can consider areas where a similar strategy could be adopted by NHRIs to implement recommendations of the UPR within their countries.

4.5. Track progress in development of the National Action Plan

NHRIs can track the progress of development of National Action Plans and assist in the process of development of National Action Plans for states that have committed to develop them. NHRIs can help to identify priority areas such as the enactment of laws that were pointed out in the recommendations of treaty bodies and the Universal Periodic Review and follow up on ratification of treaties and optional protocols. NHRIs can also encourage government to make the process of developing of the National Action Plan consultative. This process should involve civil society, members of the Parliamentary Human Rights Committee and the public. Currently, the UHRC is providing technical assistance to the Ministry of Foreign Affairs in developing the National Action Plan and has encouraged the Human Rights Committee to get involved in the process of developing the National Action Plan.

4.6. NHRIs support to Non Governmental Organisations

NHRIs should support Non Governmental Organisations that are monitoring implementation of recommendations of the UPR. NHRIs have the important role of monitoring government compliance with international treaty conventions. This includes monitoring the status of recommendations that have been adopted during the UPR. The UHRC has supported Non Governmental Organisations that are monitoring the status of the recommendations adopted by Uganda during the UPR. The UHRC was able to point out progress that has been made since the adoption of the UPR recommendations, persistent challenges and made recommendations to ensure the implementation of the UPR recommendations.

5.0. Conclusion

NHRIs play a crucial role in the UPR process which entails active participation at the initial stages, during and after the UPR. NHRIs as the first point of reference when human rights violations are committed have a vital role not only in providing technical assistance but also in monitoring state compliance and providing guidance in the implementation of the UPR recommendations and voluntary pledges and commitments.