

# **The Universal Declaration of Human Rights sixty years on: achievements and challenges**

Seminar for members of parliamentary human rights bodies organized jointly by the Inter-Parliamentary Union (IPU) and the Office of the United Nations High Commissioner for Human Rights (OHCHR)

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## **SUMMARY OF THE DEBATE AND RECOMMENDATIONS PRESENTED BY THE RAPPOREUR OF THE SEMINAR**

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We have met here at the invitation of the Inter-Parliamentary Union and the Office of the United Nations High Commissioner for Human Rights to discuss the achievements and challenges that remain sixty years after the Universal Declaration of Human Rights was adopted.

We have come a long way since 1948: a formidable international system for the protection and promotion of human rights has been created and continues to expand. Human rights treaties covering both civil and political rights on the one hand, and economic, social and cultural rights on the other, have come into force. Special instruments have been adopted to fight racial discrimination and discrimination against women and to root out the scourge of torture, protect the rights of the disabled and those of migrant workers and their families. To date, all States have ratified at least one of the eight core human rights treaties and 80 per cent have ratified four or more.

The implementation of the each of these treaties is monitored at the international level by independent monitoring committees, the "treaty bodies". Our expert compared them to a sort of universal parliament for human rights since the members of these committees are elected in their individual capacity, represent all civilizations and legal systems and issue mostly technical recommendations for policy and legislative change. They do so on the basis of a regular reporting procedure with the States parties to the treaty and thus help them to make progress in their human rights situation.

Too often the only state institution taking part in the reporting cycle is the executive and parliaments barely or not at all involved. For this to change, we as parliamentarians need to better acquaint ourselves with our countries' obligations under these international human rights treaties. We should demand from our governments that the country reports be shared with us so that we can make our own contribution before the final text is submitted to the treaty bodies. We need to be informed of the concluding observations of the treaty bodies so that we can help ensure their implementation. Given that country reports are submitted once every four or five years, only a sustained effort from all state authorities, including our parliaments, will ensure that continuous attention is given to the recommendations between reporting cycles. Our parliaments also have a role to play to assess regularly the validity of reservations our States may have made and to encourage their withdrawal if no longer considered appropriate.

In addition to the United Nations treaty bodies, we have also heard about the work of the new United Nations Human Rights Council, in particular its Universal Periodic Review mechanism through which it has started assessing the human rights record of all 192 United Nations Member States. This innovative process is the most universal accountability

mechanism in the area of human rights to date. Our parliaments must seek to be involved from the outset in the preparation of country reports to the Council and in the follow-up to the Council's recommendations that have been agreed to by the authorities and adopted by the Council. We should also take advantage of the interactive dialogue with human rights stakeholders established by the Human Rights Council, and use this opportunity to make our voice heard. We invite the Inter-Parliamentary Union and the Office of the High Commissioner for Human Rights to help us to enhance our involvement in the work of the treaty bodies and to engage more with the Human Rights Council and the Universal Periodical Review.

One of the major achievements in the past years has been the progress in setting up an international criminal justice system, especially the establishment of the International Criminal Court 10 years ago. Dictators are on notice that they may one day pay for their crimes. Based on the principle of universal jurisdiction for particularly heinous crimes, national authorities are duty-bound to prosecute or extradite alleged perpetrators regardless of their or the victim's nationality or the place where the crimes were committed. The work of the International Criminal Court complements the national systems when they are unable or unwilling to prosecute serious human rights violations. Parliaments have a crucial role to play to ensure that the prosecution of such crimes can and does indeed take place, by ensuring ratification of the Statute of the International Criminal Court and by adopting legislation that incorporates the principle of universal jurisdiction and empowers the national authorities to investigate and prosecute in such situations and to extend their cooperation to the International Criminal Court. The steps taken by the Parliament of Senegal in the case of former dictator Hissene Habré of Chad are a clear illustration that such action, along with the necessary political will and financial assistance from the international community, is the way forward to hold alleged perpetrators of gross human rights violations to account. We were also reminded of the fact that non-state actors in the case of conflict have a responsibility to respect human rights and international humanitarian law and may be held accountable by the Court.

While there has been impressive progress on the normative and institutional side of the international human rights protection system, there are many challenges facing us sixty years after the adoption of the Universal Declaration of Human Rights. Some of these challenges are old; but new questions have also emerged. A particularly worrying trend is that certain human rights standards, which were long considered to be solid and firmly in place, are slowly being eroded.

In this respect, we have spoken at length about the human rights implication of the fight against terrorism. We all agree that terrorism is the antithesis of human rights and that we all have a right to life and security and hence to be safe from terrorism. We need therefore to take action to combat and eradicate terrorism. The question that arises is how do we go about it? By placing, without restriction, security above liberty in the fight against terrorism, we have often seen the erosion of basic human rights standards, in particular of the absolute prohibition of torture, and due process rights. These counter-terrorism methods are not only morally reprehensible and run counter to the most fundamental human rights standards, they also diminish the ability to fight terrorism as they produce unsound intelligence and help terrorists expand their support base. We should therefore rethink the concept of security and tackle the root causes of terrorism, which are related to social and economic deprivation, corruption and human rights violations. There is a need for renewed commitment to the promotion and respect of all human rights - civil and political and economic, social and cultural alike - as the only effective way to fight terrorism and extremism. In the event that the security of a nation is under real and immediate threat, we should make sure that any special action taken by the authorities takes place within a clear legal framework that does not contravene international law. It has been said that it is very easy to adopt an "emergency framework" but much more difficult to get out of it; there is a risk of the exceptional

becoming the "norm". It is essential, therefore, for any emergency framework to be temporary. It is also crucial that safeguards be put in place, that the principle of accountability is fully ensured and that human rights are integrated into any security response. There is a need to agree on an appropriate internationally accepted definition of terrorism, all the more so since its absence has been used by some to define terrorism in the broadest possible sense, with the highly questionable inclusion of certain speech offenses.

Among the major challenges since the adoption of the Universal Declaration of Human Rights is the implementation of the normative human rights framework that has been put in place, and this is where we have failed in the past 60 years. We have a dismal record of implementing human rights. This implementation "gap" that we have talked about shows how human rights commitments remain an empty shell if they do not bring the necessary change for their beneficiaries, the people, for all of us. Sometimes the failure to implement is a question of a lack of resources, sometimes a lack of political will or the incapacity of politicians to overcome the political divide although human rights should rise above party politics. Sometimes this is also a question of international financial institutions, which oblige countries to adopt certain policies, such as privatization and deregulation, which all too often result in the State's incapacity to fulfill human rights obligations, especially in the economic and social fields. Many examples were given of the failure of States to implement human rights, be they civil, political or economic and social rights. In this regard, some referred to the use parliamentarians should make of the recommendations issued by the treaty bodies. They are a means for us to take the necessary action to monitor and ensure government compliance with those recommendations.

Failure to implement is particularly grave when it involves the right to equality. Discrimination against women and racism remain scourges all over the world. As one participant said, discrimination against women is "a chronic persistent disease". Our expert identified four major trends in the past 15 years. First, in all countries, women are targeted by physical, sexual or psychological violence wherever they are: at home, in their communities, and in the workplace. Second, although some progress has been made regarding the participation of women in political life, we are still far from achieving equality in terms of women in decision-making positions. Third, women continue to suffer discrimination in the labour market. They are paid less than men for the same work, they are employed in low-wage posts and more likely to lose their jobs and they have more difficulties in finding a new job than men. This comes despite the fact that in most States, women have achieved much higher levels of education. And lastly, sexist stereotyping remains a huge obstacle to achieving gender equality. We need to take much more robust action to ensure gender equality. It is worth recalling the measures adopted in some parliaments to address the various forms of discrimination against women. We must not forget that women, as human beings, not only have the same rights as men, but that gender equality is absolutely necessary for the harmonious development of our societies.

Racial discrimination is almost always linked to poverty and targets the most disadvantaged groups in society, such as the Roma, indigenous populations, non-citizens and inferior castes. A vicious circle comes into play since those groups usually have less or no access to education. This is why they have difficulty accessing the labour market and hence housing and medical treatment. The unemployment rate among those groups is very high, which in turn leads to petty crime, racial profiling and arbitrary arrests and detention. We as parliamentarians can do much to break this vicious circle, first and foremost by ensuring that those groups have access to social benefits. We should also not hesitate to adopt special measures and legislation to ensure equal treatment, and carefully check that legislation does not impact negatively on already disadvantaged groups.

Human rights are indivisible. Civil and political rights go hand in hand with economic social and cultural rights. The single most critical failure of our States and the international

community in the field of human rights has been their failure to implement economic, social and cultural rights. This may be partly due to a misconception of what these rights entail. They have been perceived as mere policy objectives with no particular State obligation. However, while these rights cannot be implemented over night, there are clear and immediate obligations, including the obligation not to retrograde. Most importantly, there needs to be an effective remedy for violations of economic and social rights and courts increasingly address and grant claims for these rights. But court litigation, which requires important financial means and time, cannot replace the need for legislation and appropriate entitlement systems.

The obligation of States to respect, protect and fulfil human rights includes the obligation to protect against human rights violations by third parties, including companies. Companies are capable of being involved in violations of the full spectrum of human rights. States should therefore establish human rights-compatible frameworks to regulate the operation of private corporations, providing for due diligence, accountability and means of redress.

We as parliamentarians should not only hear the voice of the powerful but must also hear the voice of the poor, listen to them and adopt innovative means to address their situation. Providing access to remedies at the international level is equally important and we should therefore ensure that our States ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights, which provides for a complaints mechanism. The new focus of the United Nations on economic, social and cultural rights and the recognition of the need for a redistribution of economic resources, as shown by the financial crisis, should also lead to significant policy changes of international financial institutions.

Last but not least, we should not forget that promoting and protecting human rights starts at home and creating a culture of human rights in our countries should be at the centre of our action, as it is the only means for all societies, whether developed or developing to ensure a dignified life and peace for all of us.