
THE UGANDA HUMAN RIGHTS COMMISSION



THE ROLE OF A NATIONAL HUMAN RIGHTS INSTITUTIONS IN PRO-HUMAN RIGHTS POLICIES: THE UGANDA EXPERIENCE

Presented by:

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1. Introduction
Uganda is an Eastern Africa Country with a population of about 27 million people. Poverty eradication is a major challenge and is addressed in the government's over-arching framework called the Poverty Eradication Action Plan (PEAP). According to current statistics 38% of Ugandans live in poverty. The economy is also adversely affected by on going armed conflict in the Northern part of the country, where the poverty level are higher than the national average. The conflict situation also generates challenges in the promotion and protection of human rights

2. Uganda's human rights history since independence has been a sad one characterised by serious violations of human rights. From 1986 there has been opportunity for the country to reverse its bad human rights record. In 1995 the new Constitution established the Uganda Human Rights Commission giving it broad functions and powers to promote and protect human rights. The Commission began work in November, 1996. Its work, not surprisingly, has not been without great challenges, challenges which include the absence of a culture of respect for human rights in the country.

3. Fundamental human rights and freedoms are normatively well articulated at the international level in covenants, conventions, treaties and many other human rights instruments which bind member states. These international guarantees can remain merely normative, quoted and herald in speeches unless they are given legal teeth and implemented through rights-based legislations, policies and programmes at the national level. Indeed failure to translate and implement international and regional human rights commitments into national programmes remain one of the major challenges to the universal enjoyment of human rights. In recent times many countries, particularly in the developing countries, have given the responsibility of spearheading the promotion and protection of human rights to National Human Rights Institutions. Whether or not these institutions are legally empowered and adequately facilitated to carry this mantle

is another matter. However, national institutions which are properly established and allowed to operate in accordance with the Paris Principles on National Human Rights Institutions, can certainly have important roles in ensuring that their governments pursue pro-human rights policies.

4. A National Human Rights Institution's role in policy formulation and implementation depends on its national legal mandate: is the human rights mandate broad enough to allow the institutions to pronounce itself authoritatively on governmental policies and programmes measured against human rights standards? Can it hold government to account for any such policies or programmes which may directly or indirectly violate human rights? These roles are only possible if a National Human Rights Institution is independent, competent and has the powers to deal with all matters within its competence to work with stakeholders and to provide redress of a broad nature.
5. **Uganda's Experience**
The Uganda Human Rights Commission has well defined functions and jurisdiction supported with adequate powers that allow it to have a role in policy formulation. In addition to the usual investigative powers, the Commission has powers to monitor government compliance with international human rights instruments. Through that power the Commission runs a full directorate of Monitoring and Treaties to discharge that function. Additionally the Commission can make binding orders when satisfied that human rights has been violated. It has the mandate to conduct training, civic education, and generally to carry out research and other activities which promote human rights. And it has the legal duty to make recommendations to Parliament and the Executive, a responsibility which has created a legal channel of communication with Parliament and the Executive.
6. Armed with these mandate the Commission has constantly engaged government on policy issues from a human rights perspective. The strategies for the engagement are derived from the constitutional functions of the Commission which the Commission interprets as widely as possible to justify interventions or find entry points to allow it get involved in policy discussion. For example the functions of monitoring government compliance with human rights standards has been understood to give the Commission powers to ask government

departments to provide information to the Commission regarding human rights issues expected to be addressed through their departmental policies. On the basis of this the Commission can critique policies, programmes, using human right yardsticks and can then make recommendations.

7. With proper mandate and well considered strategies national human rights institutions can influence policies. The UHRC, contending with expected resistance, has progressively succeeded in achieving some pro-human rights policies and legislations. For example since 1997 the Commission has consistently made comments in its Annual Report about the status of certain economic and social rights. Subsequently because of this the Ministry of Finance, Planning and Economic Development recognised the Commission's voice and began considering these comments and views in its budgetary planning and allocations. From the year 2001 the Commission deliberately made moves to introduce a rights-based approach in the government planning process. As a result of this the Commission was for the first time invited to participate in the formulation of the current Poverty Eradication Action Plan (PEAP) 2004/5 – 2007/8. The result is that human rights issues highlighted by the Commission have been included and acknowledged in the PEAP. For the first time the rights of the vulnerable have been reflected in the PEAP although the measures for addressing their plight may not be wholly satisfactory from a rights-perspective. This was at the insistence of the Commission although the Commission sought unsuccessfully to have all the sectoral plans based on human rights principles. Nevertheless the PEAP now has a distinct section on human rights and good governance.

8. Other notable pro-human rights policies are to be found in Uganda's Food and Nutrition Policy which was completely revised by government after the Commission subjected the original policy to a national seminar of stakeholders. The policy for the first time recognises food as a human right and commits government to adopting a rights-based approach to achieve its realisation. A legal framework for the right and an investment plan for it is being designed with the full participation of the Commission. The Commission has also influenced the government policy on internal displacement and on the process of disarming the Karimojong

(Pastoralists) who illegally own large quantities of firearms. The Commission has had input into the training syllabus for the Prisons, the Police and now the Army. The Commission runs Civil Military Operation Centres in the conflict regions of the country. The centres deal with human rights issues that arise between soldiers and civilians. The centre is composed of a representative from the Commission, the Army, the Police and the Civil Society Organisations. Through the centre it has been possible to influence army conduct in these areas.

9. **Points to note by National Human Rights Institutions**

Governments recognise human rights and ratify human rights treaties but can be very reluctant to be held accountable for the promotion and protection of these rights. A national human rights commission must devise entry points and strategies for engaging government particularly on policies. Government's consider policies their responsibility and can resent suggestions if they feel the suggestions amounts to interference. They are likely to adopt that stance where suggestions are heavily critical and rubs the wrong way politically. A well-calculated approach is therefore advisable. There are however, circumstances where ANHRI must be critical but in a polite but firm manner.

10 The approach of the UHRC has been multifaceted:- a good groundwork with the policy makers is important. They must be made to understand the institutional mandate and the justification for the pursuit of human rights. That way alliances are built within sections of the policy makers. It might be advisable to start with issues that are not very sensitive then graduate to the ultimate. On our part we have made courtesy calls on the authorities to explain our roles and objectives. We have also held seminars, workshops and meetings with policy-makers and Members of Parliament to discuss human rights issues with the objectives of building understanding. It is important to be relentless as the outcomes of meetings could be ignored if not followed up from time to time. This way we have built supporters in Ministries on rights-based approach.

11. Many national human rights institutions are given functional authority to examine and make recommendations on legislative bills. That function must be undertaken seriously because often policies are based on the available national legislative framework. Ensuring that

- engaging in dialogue with all concerned.
- advocacy which must be strategic and convincing. Delving in conceptual issues without practical examples or examples of good-practice is always considered theoretical and unworkable.
- analysis and critique of policies, showing their strengths, weaknesses and giving recommendations.
- directly participating in policy discussion at the formulation stage.
- A basis must be found to convince the policymakers of the importance of NHRI's participation.
- paying attention to and analysing the human rights implications of Bills before Parliament and even existing laws. Well argued analysis and recommendations are likely to be accepted by policymakers, who are the authors of the Bills.

12. In conclusion, let me using the experience of the UHRC, summarise the role of a national human rights institutions in policy making as follows:-

laws are human rights compliant is likely to influence the policy that implements a particular law. Bills must therefore be critically examined with a human rights lens. A national human rights institution must forge good working relations with committees of Parliament. The UHRC has this good working arrangement with the Legal and Parliamentary Affairs Committee of Parliament, which is responsible for scrutinizing all bills before debate by the Plenary of Parliament. The Committee has always ensured that the Commission makes input on bills before it. Two examples can be cited:- the first is the anti-terrorism law, where the bill in its original form was a serious assault on civil liberties; the Commission through a calculated strategy engaged the public, the civil society and finally the Parliamentary Committee which eventually adopted almost all (86%) of the recommendations made by the Commission; second is the Constitutional Amendment Bill which is currently before Parliament. The general public and politicians were only concerned about political issues in the Bill oblivious that certain sections of the Bill had serious implications for human rights. It took the contribution of the Commission to open the eyes of members of the Legal and Parliamentary Affairs Committee on those issues.

- Identifying and building alliances with progressive officials within the ranks of policy makers in strategic areas.

Building working relations with officials of government is of crucial importance. An approach which suggests you want to build partnership is likely to be more welcome than excessive wielding of whatever power the NHRI may have. Through this approach the NHRI has progressively worked with the Ministry of Finance, Planning and Economic Development which has now requested us to give them a critique of the current PEAP. The Ministry has also requested the Commission to develop for them guidelines on a rights-based approach bearing in mind Uganda's circumstances. The draft is ready and is awaiting a seminar to discuss and approve the draft.

Human rights institutions require innovations in approach if they are to influence policies

Thank you

