

## UNIT 6: PARLIAMENTARIANS AND PARTICIPATION

### Learning Objectives

#### How does parliament ensure participation

After studying this unit, you should be able to:

- The value of ensuring the participation of and consultation with diverse populations in matters of governance, and examples of this;
- Other opportunities for participation open to parliamentarians, such as through networks.

### **Introduction and Overview**

Participation is one of the guiding principles of democratic governance and has been recognized as such nationally and internationally. It is important that such participation –both with those external to parliament such as the public, and internally in the composition of the parliament– includes the diverse voices in our societies. This unit provides background and examples for ways that such participation can be facilitated.

### **Consultation and Participation**

At home and abroad, governments have consistently made commitments to work with civil society. In the Commonwealth for instance, among many other recent commitments, Heads of Government at CHOGM 2002 expressed: “the need for stronger links and better two-way communication and coordination between the official and non-

governmental Commonwealth". In the UN as well, the majority of documents state their support for the role of NGOs and other civil society groups.

However, the uneven power relationships between government and civil society mean that the association is, often uneasy and uncertain. Governments may not have honed habits of consultation and civil society groups are often torn between engagement on the one hand and confrontation on the other. Nevertheless, parliamentarians as representatives of the people who have an ear to their constituencies and who also depend for re-election on their popularity at the grassroots level are often more accustomed and amenable to listening, learning and responding than commanding bureaucracies may be.

Experience indicates that there is often greater willingness to involve civil society groups at the delivery stages of development projects than at policy-making stages or in evaluating outcomes and performance. NGOs often focus specifically on human rights issues –generally and also sectorally– and have in fact developed considerable expertise which parliamentarians can usefully draw on when undertaking their own human rights work. NGOs' direct connections with the public, often including people who have had their human rights violated, can be invaluable in linking MPs and citizens who have suffered at the hands of the State and may therefore be reluctant to approach parliamentarians themselves.

## **International Participation**

Civil society has played a strong role in promoting human rights at the international level. Their hand in developing international standards can be seen in the sustained campaigns for – to name just a few examples - women's rights, child rights, protection of indigenous peoples, corruption, the Anti-Land Mine Convention and the International Court of Justice. Civil society has been particularly valuable when southern and northern groups have worked in solidarity to voice the difficulties and concerns of less developed

countries, as in the campaigns around debt forgiveness, and to assist in bringing alternate views to international negotiations.

Many organizations have set up structures to facilitate such involvement. In the United Nations this is largely facilitated through the Economic and Social Council (ECOSOC), and is generally limited to NGOs that have consultative status with ECOSOC, or have that status for the particular meeting or event in which they are participating. This enables active, albeit limited, involvement at the Commission on Human Rights, treaty-monitoring bodies and other important meetings. NGOs are in fact the primary vehicle through which the broader society has gained access to UN bodies and in the process have opened up an essentially intergovernmental body to a larger audience.

In the Commonwealth context, some civil society groups are accredited with the Commonwealth, which enables a little more access to official Commonwealth meetings and processes, although genuine participation and partnership remains an issue. Commonwealth Ministerial Meetings in particular have recently become more open in their dealings with civil society, which increasingly means that the on-the-ground experiences from NGOs can assist Ministers in their discussions. Of the Commonwealth associations, a number have conducted sustained advocacy designed to input into the Commonwealth governmental processes on human rights issues. The Commonwealth Human Rights Initiative, for instance, has engaged consistently, particularly on the work of the Human Rights Unit of the Commonwealth Secretariat; and the value of the people's right to information –an issue that is itself intrinsically linked to participation.

Regionally, the Organization for American States (OAS) provides opportunities for involvement of civil society groups that are registered with the OAS in their summits and meetings, including roundtables with government representatives. The African Union is preceded by a civil society meeting and affiliate bodies such as the African Commission for Human and People's Rights have mechanisms for working relationships with NGOs and National Human Rights Institutions. In the Pacific region there is not yet a formal process but civil society meetings are held prior to the annual meeting of the Pacific

Islands Forum leading to a statement submitted to the meeting. The Forum has committed itself to develop consultative arrangements with such organisations.

## **National Participation**

At a domestic level, in some countries such participation is facilitated by the inclusiveness of parliament in its own working by embracing openness in its functioning and welcoming constant engagement with the myriad actors that make up society and are often ignored once an election is over. As elected representatives, parliamentarians represent the collective aspirations of the people. From this high position of public trust, MPs engage in their official and unofficial capacities with a host of systems and actors within and outside the structures of governance. The bureaucracy, military, police and security agencies, judicial fraternity, business, unions, chambers of commerce, professional associations, media, charities, non-governmental organizations and the individual citizen, are all influenced by members of parliament. In democracies, these actors also influence their representatives in turn. By encouraging and welcoming constant interactions and setting up systems that will provide easy access, members also demonstrate their commitment to the human rights values of inclusiveness and participation.

Some governments benefit from having formal policies and procedures for consultations with civil society organizations that provide them the opportunity to add their views and voice to policy formulation. Section 59 (1) a of the South African Constitution in fact lays down that the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees. New Zealand also makes participation and consultation a legal requirement through what's called a 'sunshine law', which legally requires government meetings to be open except in certain specified cases.

Countries are increasingly espousing open governance norms and some have or are in the process of formulating access to information laws. Such a law enables the public to

access all government information – and even information held by private bodies where that is necessary for the exercise or protection of a right – unless disclosure would actually cause harm to legitimate national interests. Such transparency related to parliamentary information and proactive disclosure is a practical measure that so far 10 Commonwealth countries have taken toward enabling their constituents the opportunity to participate in their own governance.

The parliamentary committee system offers an effective structure for making such participation possible. The Scottish Parliament is just one example of a committee system that facilitates involvement of the public by providing detailed information online on each committee, as well as related documents and dates for submissions. A nascent initiative in Nigeria is also poised to assist in strengthening parliament-civil society relations by setting up a body within parliament to institutionalise closer relations. This group is a non-governmental legislative advocacy and research organisation, which will be based in the legislature to bridge the gap between legislators and civil society.

## **Civil Society Space**

The extent to which civil society can engage depends greatly on government openness, the room available for civil society to blossom and grow and the respect accorded to civil society to make serious and informed interventions. International and national commitments have been made to this, for instance in the Vienna Declaration that “Special emphasis should be given to measures to assist in the ... strengthening of a pluralistic civil society and the protection of groups which have been rendered vulnerable”. The importance of civil society and providing protection for individuals and groups active in human rights has been recognized globally with the expanding legal protection and support networks for human rights defenders, to the extent that a UN Special Representative of the Secretary General on Human Rights Defenders was appointed in 2000. A 1998 Declaration has outlined human rights defenders’ rights (“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at

the national and international levels” and the State’s primary duty and responsibility to protect this.

In reality, though, this is not always the case. In Zimbabwe for example, the Parliament recently passed a law specifically seeking to ban foreign funding and support to NGOs engaged in governance and human rights related activities. Other countries regulate the registration of clubs and other private associations and discourage the formation of political parties and non-government organizations, in flagrant violation of people's right to associate. It is positive to note, though, that in Bangladesh, while the government had recently considered enacting restrictive legislation that would have limited the work of NGOs; this Bill has now been scrapped.

### **Working with the Media**

The media can also be a key partner in promoting respect for human rights. Its broad reach into the community and its ability to target diverse issues makes it an invaluable tool in spreading awareness as well as pressuring key stakeholders to either take action to promote rights or refrain from acting in a way that violates rights. Cultivating the media deliberately in support of particular human rights campaigns, or at the very least, keeping the media apprised of key initiatives via press releases and briefings, can thus be a canny strategy.

Unfortunately, while the media has a crucial role to play in promoting human rights, the relationship between the media and parliamentarians is not always an easy one. In some countries this manifests as reluctance by the government to see the media as allies in human rights promotion. In others, the resistance becomes more sinister as governments try to pass restrictive media laws to prevent the media from reporting on human rights violations. This has been most worryingly demonstrated in stubbornly resistant countries of which sadly there are still too many. Fortunately parliamentarians who see their role as human rights protectors would reject legislation that seeks to curb the right to freedom of expression and freedom of the media.

## **Importance of Diversity**

Good governance increasingly requires parliament as an institution to attend to the diverse voices of society. There is a clear link between exclusion from governance and underdevelopment, as well as an associated link with instability. Lack of participation is itself an indicator of bad governance, as well as regularly leading to other problems in society. Despite a recognition of its importance, the challenge of including the weakest and most vulnerable in the processes of governance remains.

Diversity is relevant to participation and consultation in the sense that such participation can not be limited to certain sub-groups of society, but must be facilitated for a diverse range of society, particularly the traditionally marginalized. A practical commitment to diversity is also intrinsic to a human rights ethos in parliament. Communities are made up of people with varied backgrounds and identities, and associated needs and priorities. A democracy based on human rights provides the framework for the recognition and representation of such divergent groups and needs, in a non-discriminatory fashion. In particular, this includes special efforts for the segments of society that have been marginalized and face discrimination –whether within a particular cultural context or people living with disabilities or HIV, women, children, the gay, lesbian and transsexual communities, indigenous peoples, or an ethnic or religious minority.

As well as special efforts to include their views in parliamentary discussions, some countries have procedures to encourage their direct involvement. This includes within political parties, mechanisms for preference the under-represented for election. Reservations for women in politics have been included in a number of countries to ensure this. In Uganda for instance, a constitutional provision states that there will be one woman representative for each district. Uganda also has quotas for persons with disabilities and youth representatives. Bangladesh and Kenya also have constitutional quotas for women in national parliament. Once within parliament, efforts can also be made to ensure diversity within committees and in the choice of individual for positions

that are appointed by parliament. The selection of parliamentary staff and advisers is another opportunity to ensure an inclusive and diverse team.

## **Collaborating with Other Parliamentarians**

Within parliament, there are also opportunities for collaboration. Non-partisan human rights groups within parliament include the All-Party Parliamentary Human Rights Group in the United Kingdom, which investigates and publicises human rights abuses, in addition to raising the profile of human rights more generally. It organises fact-finding missions and communicates to governments its concern about violations – recently this has included highlighting violations in Zimbabwe among other countries and the detention of prisoners in Guantanamo Bay.

Amnesty International, an international human rights NGO, has also facilitated such collaboration - the first Amnesty International Parliamentary Group (AIPG) was formed in Australia in 1974, and has now been replicated elsewhere. The AIPG draws its members from all political parties, is non-partisan in its operation and is open to anyone working in parliament, including parliamentary staff. A representative from the Human Rights Section of the Department of Foreign Affairs and Trade also attends meetings. The AIPG engages with incoming overseas delegations. Human rights parliamentary delegations of Australian MPs traveling overseas are usually provided with a human rights briefing from Amnesty International. The AIPG was instrumental in the 1989 ratification of the Convention Against Torture. Amnesty also produces a Human Rights Parliamentary Bulletin, which is sent to all parliamentarians four times a year to update them on key research, issues and campaigns.

International associations also exist for parliamentarians. The Inter-Parliamentary Union (IPU), for instance, is active in the area of human rights – debating issues at its statutory conferences and during specialized meetings and making recommendations for change. The IPU has in fact established its own mechanism for taking up individual cases of parliamentarians whose rights have been violated. It recognizes that parliamentarians across the world frequently fall victim to human rights violations when

exercising their functions as elected representatives, including State harassment, arbitrary arrest, detention, and unfair trial. In response to this trend, in 1976 the Inter-Parliamentary Council adopted procedures to look into violations of human rights of parliamentarians. The IPU Committee on the Human Rights of Parliamentarians is mandated to look into such complaints. It can hold hearings, undertake on-site missions, and submit reports and recommendations to the IPC and make these public.

The Commonwealth Parliamentary Association (CPA) is another international collective which could become a useful forum for the organized promotion of human rights standards across the Commonwealth by parliamentarians. CPA has already done some work on human rights promotion, most notably in the area of the right to information. The sub-groups of parliamentarians, such as women parliamentarians or parliamentarians from small States, also provide an excellent forum for work on areas such as gender, poverty or other key human rights issues.

### **Unit 6 Questions**

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. Why is public participation in parliamentary activities important?
2. What factors can enhance or inhibit this participation?
3. What strategies have some countries introduced to promote diversity in parliament?

### **Relevant Internet Resources**

Enhancing Access to Human Rights, by the International Council on Human Rights Policy:

[http://www.ichrp.org/ac/images/download\\_pdf.gif](http://www.ichrp.org/ac/images/download_pdf.gif)