

PRIMER on

PARLIAMENTS and HUMAN RIGHTS

ABBREVIATIONS

AWEPA	Association of European Parliamentarians for Africa
BDP	Bureau for Development Policy
CCA	Common Country Assessment
CIDA	Canadian International Development Agency
DGG	Democratic Governance Group (UNDP)
IDG	Institutional Development Group
IPU	Inter-Parliamentary Union
GPPS	Global Programme for Parliamentary Support
HURIST	Human Rights Strengthening
ILO	International Labour Office
MDG	Millennium Development Goals
NHRAP	National Human Rights Action Plans
NHRC	National Human Rights Commission
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
PRSP	Poverty Reduction Strategy Paper
SIDA	Swedish International Development Agency
SURF	Sub-Regional Facility
UNDAF	United Nations Development Framework
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
WHO	World Health Organization

ACKNOWLEDGEMENTS

UNDP is indebted to Clarence Dias, Human Rights Expert and Nancy Taylor, Parliamentary Development Expert, for their work in preparing this Primer. Their years of applied advisory experience have ensured that this Primer is relevant in its practical application and brings added value to the ongoing work of development practitioners worldwide. Great appreciation is also extended to the following authors of independent country case studies, which were important background material for the Primer, informing much of the policy advice contained therein:

Guilherme de Almeida, Simone Ambros Pereira (Brazil)
Nasrin Mosaffa, Maryam Norouzi, Mohammad Hossein Hafezian (Iran)
Ghassan Moukheiber (Lebanon)
Gabriel Mumjiev (Moldova)
Eugène Nindorera (Burundi)

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I. INTRODUCTION

UNDP's primary mandate is poverty reduction, and as UNDP's Poverty 2000 Report puts it, effective governance is the "missing link" between national anti-poverty efforts and poverty reduction. Democratic governance encompasses the institutions, structures, policies, and processes that guide political and socio-economic relationships within states. It provides the means by which states promote social cohesion and ensure the well-being of their populations.

UNDP's democratic governance support includes parliamentary development¹, promoting access to justice and human rights, and strengthening oversight bodies with responsibility for transparency, accountability, and human rights. UNDP supports parliaments² because they play a fundamental role in establishing the rule of law, overseeing transparent government processes, and representing peoples views in the policy making process. Parliaments are also crucial to effecting a separation of powers and institutionalizing a system of checks and balances essential to democratic governance. This includes the promotion and protection of human rights.

Over the past decade, UNDP has increased its involvement with parliamentary institutions³. While this has included assistance in constitutional design, institutional and capacity development, as well as efforts to strengthen the participation of underrepresented social groups in parliament, UNDP needs to make a more concerted effort to apply a human rights based approach to its parliamentary development work.

This Primer was jointly commission under the GPPS and HURIST Programmes. It explores how UNDP can enhance the contribution that legislators, parliaments and parliamentary processes make towards the protection, promotion and realization of human rights. The Primer suggests elements for assessing the human rights capacities of parliaments and examines how several ongoing approaches to parliamentary development can be used to enhance parliament's contribution to human rights. The Primer concludes with some programming considerations pertinent to human rights-based parliamentary development programming.

The principal audience for this Primer comprises development practitioners working in the fields of democratic governance and human rights in UNDP country offices and, importantly, their national counterparts, both governmental and non-governmental. An important secondary audience is the democratic governance practitioner and policy-maker working within other UN agencies, programmes and funds or in bilateral development agencies.

¹ Parliamentary development comprises activities that aim to strengthen the role of parliament in governance. The primary goal of parliamentary development assistance is to enhance the representative, legislative, and oversight capacity of parliament.

² Throughout this Note, parliament is used as a short-hand term for the legislative branch of government and the term includes national parliaments, national assemblies, other elected legislative chambers, provincial and state assemblies, transitional national councils, and constituent assemblies. The term parliament is used to describe law-making bodies as they exist in common law, civil law, Islamic and other religious law-based, and customary law systems.

³ More information on UNDPs parliamentary development practice is available at <http://www.undp.org/governance/parldev.htm>.

II. A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

A. UNDP's Approach to Human Rights-Based Development

In 1997, UNDP adopted its policy of “Integrating Human Rights with Sustainable Human Development,” and since then, it has been developing its human rights-based approach to development founded on four pairs of human rights principles:⁴

▪ UNIVERSALITY	and	INDIVISIBILITY
▪ EQUALITY	and	NON-DISCRIMINATION
▪ PARTICIPATION	and	INCLUSION
▪ ACCOUNTABILITY	and	RULE OF LAW

UNDP's human rights-based approach involves twin tasks:

- Identifying and empowering claim-holders to assert their rights; and
- Identifying duty-bearers and ensuring that they have the responsibility, authority and resources needed to discharge their duties.

Practical implementation of UNDP's human rights policy is guided by the above human rights principles, the organization's strengths, and its comparative advantage. The approaches and techniques adopted include: advocacy and awareness raising, training and capacity-building, partnership-building, practice development and knowledge networking. Opportunities for integrating human rights with human development occur in all UNDP practice and sub-practice areas and throughout the programme cycle. Human rights issues arise during:

- the course of policy and programme dialogue; within the CCA, UNDAF and country programming processes;
- assessment and analysis of the development situation;
- programme formulation, implementation, monitoring and evaluation; and
- programme review.

B. The UN's Common Understanding on Human Rights-Based Development

Pursuant to the UN Secretary-General's Agenda for Reform, indeed all UN agencies, programmes and funds have been developing human rights-based approaches to their programming. Bilateral

⁴ For an elaboration of these principles and of a human rights-based approach to development see, *Poverty Reduction and Human Rights: A Practice Note*, UNDP, June, 2003. See also, *Human Rights: A Practice Note*, UNDP, March, 2004.

donors have also begun to examine entry points for integrating a human rights-based approach to development through their sectoral programmes

In May 2003, the second UN Inter-agency workshop on “Implementing a Human Rights-Based Approach to Development in the Context of UN Reform” was held in Stamford, Connecticut. At the workshop, UN agencies agreed on a Statement of Common Understanding on a Human Rights-Based Approach to development cooperation and programming focused on three principles:

- All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
- Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
- Development cooperation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘rights-holders’ to claim their rights.

Entry points for the application of a human rights-based approach to development programming include:

- Assessment and analysis in order to determine the development entitlements of rights-holders and the corresponding obligations of duty-bearers as well as the immediate, underlying and structural causes of the non-realization of these entitlements. This can facilitate the identification of the duties and obligations of those against whom a claim can be brought to ensure that needs are met, as well as the assignment of responsibilities among specific agencies and agents.
- Assessment of the capacity of rights-holders to claim their rights (including access to information and ability to exercise the requisite skills and competences) and of duty-bearers to fulfil their obligations (including with respect to adequate levels of responsibility and authority and availability of the necessary resources) and development of strategies to build these capacities.
- Monitoring and evaluation of both programme outcomes and programme processes in the light of human rights standards and principles.
- Taking account of the recommendations of UN human rights bodies and mechanisms during programme formulation, implementation, monitoring, and evaluation.⁵

⁵ *Human Rights: A Practice Note*, UNDP, March, 2004.

III HUMAN RIGHTS AND PARLIAMENTARY DEVELOPMENT

The rationale for adopting a human rights-based approach to parliamentary development programming is that doing so will enhance the contribution of parliament, its bodies and its members to human rights through parliamentary processes. Parliaments have significant responsibility for promoting, protecting and realizing human rights through their functions of law-making, oversight, and representation. Parliaments can demonstrate the key tenets of democratic governance and the universal principles that underpin human rights through their exercise of inclusive participation, their accountability to citizens, and their influence over the equitable allocation of resources. Strong parliamentary institutions help to ensure democracy, the rule of law, and human rights.⁶

Adopting a human rights-based approach to parliamentary development programming empowers parliaments and legislators to better support national human rights protection systems.⁷ National human rights protection systems consist of the legal framework that enshrines human rights; the statutory and non-statutory bodies charged with advancing, protecting, and monitoring human rights; and the mechanisms and procedures for addressing violations.

There are five dimensions of a human rights-based approach to parliamentary development:

Human Rights Values and Principles that both demonstrate and activate human rights include universality and indivisibility, equality and non-discrimination, participation and the inclusion of vulnerable groups, accountability and the rule of law. Most of these principles form part of the constitutions of most states and should guide and direct the work of parliaments and legislators in their law-making, oversight and representation responsibilities. Technical cooperation programmes should vigorously promote and integrate these key values and principles in all capacity development activities and initiatives.

Human Rights Standards of human rights contained in international human rights instruments guide national development and should be adhered to and utilized by parliaments and legislators in their day-to-day work. Technical cooperation for parliamentary development can and should support human rights standard-setting, whether at national, regional or international levels. Technical cooperation activities can be directed at incorporating human rights standards contained in international human rights instruments into national laws. This can take the form of ensuring that human rights standards are applied to national issues such as gender equality, the rights of internally displaced persons, minorities, indigenous peoples, the disabled, the aged, or those suffering from HIV/AIDS.

Human Rights Claim Holders refers to people as holders of rights that can be claimed through participation in parliamentary processes. The right to vote, the holding of public hearings, the ability for citizens and organizations to participate in the development of legislation and the role for public inputs to the national budget process all demonstrate how claim holders can participate in parliamentary processes and thus actively assert their rights. Addressing issues of impunity and

⁶ *Parliamentary Development: A Practice Note*, UNDP, April, 2003.

⁷ “National human rights protection systems” are accorded considerable importance in UN Secretary-General Kofi Annan’s, *Agenda for Further Reform of the UN System*.

justice in post-conflict countries is one critical area where the application of human rights values, principles and standards can facilitate access to rights by claim holders. Another example is during peace negotiation and peace-building processes (including post-conflict constitution-making or constitutional revision processes), where the rights of all parties to a conflict can be accommodated through the active participation of representatives from all societal groups.

Duty-bearers refers to legislators as individuals and parliaments as governance institutions with responsibilities and obligations to respect protect, promote and realize human rights principles and standards through the legislative, oversight and representational functions and through the execution of parliamentary procedures and practices. This can be accomplished through raising public awareness about human rights laws, procedures, and remedies empowering public scrutiny of parliamentary processes and performance. It can also be demonstrated through the monitoring of adherence to human rights laws and of the progressive realization of human rights in the implementation of national laws. Investigating and monitoring allegations of human rights violations also underscore the obligations of legislators as duty-bearers. Conducting parliamentary hearings and issuing parliamentary White Papers on human rights issues are other ways in which parliaments can demonstrate their responsibilities as duty-bearers.

Human Rights Remedies address the structural inequalities that prohibit or limit the realization of human rights, including the right to development. Through the articulation and application of a human rights-based approach to its mandate, parliaments can address structural inequalities and be more effective in closing deficits in both democratic governance and human rights. Remedies can take many forms, including judicial and administrative measures, but all forms of legal remedies require legislative action, sometimes by changing the law, or by changing the implementation and application of the law. Addressing human rights issues related to budgetary, resource allocation and resource utilization processes, (including Poverty Reduction Strategy Programmes and the achievement of the Millennium Development Goals), all constitute remedies.

The following review of parliamentary functions provides an opportunity to consider how a human rights-based approach can facilitate parliaments to advance human rights while also strengthening their core roles and responsibilities.

i. Law-making

By utilizing a human rights-based approach within the various stages of the law-making process, legislators can visibly reaffirm human rights values and principles whether through public hearings, public inputs to draft bills, or analysis of bills and amendments. The bill drafting process provides legislators with many opportunities to examine economic, social, political, civil and cultural rights and the means to protect them through legislation, thus securing national development objectives and aligning them with Millennium Development goals.

Through the conscientious application of the principles and standards of international human rights instruments in the analysis of bills and amendments, legislators can be guided to identify rights holders within a proposed law and ensure that participatory and inclusive procedures are utilized to prioritize excluded members of society. This requires working directly with legislators on a specific piece of legislation to incorporate human rights values, principles, standards and remedies within the

legislation. It also requires analyzing laws with a view to ensuring that they comply with international standards and address the structural inequalities that cause poverty and prevent access to basic services, knowledge and information. Working through parliamentary committees may be a potential entry point

Awareness-raising activities and capacity development initiatives aimed at sensitizing legislators to basic human rights principles and approaches have not automatically led to increased adherence to human rights standards. More direct interventions with political parties, cabinet, and legislators on the human rights dimensions of work under parliamentary control and scrutiny may be required.

BOX 1: STRENGTHENING THE PARLIAMENTARY HUMAN RIGHTS COMMISSION IN RWANDA

With the technical assistance of the IPU, UNDP supported a series of capacity development activities from June 2000 to June 2002 for promoting human rights and gender awareness with the Rwandan Transitional National Assembly. The capacity development modalities included:

- study tours for members of the Parliamentary Committee for National Unity and Human Rights to Norway, the Netherlands and South Africa
- seminars on parliamentary roles for the promotion and protection of human rights
- the establishment of a human rights and gender documentation centre.

These technical cooperation initiatives led to an increased awareness and understanding among legislators and improved the quality of dialogue on human rights issues within the Rwandan parliament. Amendments with human rights dimensions to new laws have been introduced and integrated, and there is evidence of greater legal analysis of draft laws from a human rights perspective. Additionally, the study tours exposed linkages between human rights and truth and reconciliation and judicial processes.

Interestingly, IPU's capacity development activities with the Transitional National Assembly of Rwanda took place in parallel with an investigation by the IPU Committee on the Human Rights of Parliaments, which reviews and examines violations of the human rights of legislators. The case of four Rwandan members of the Transitional National Assembly whose parliamentary mandates were being revoked was under review by the IPU Committee. This context provided an important opportunity for demonstrating a number of key human rights issues that follow ratification of international instruments, including the integration of human rights principles and standards in addressing human rights violations and the role of parliaments in the promotion, protection, and realization of human rights.

ii. Oversight

A human rights-based approach, by providing parliaments with the necessary authority to hold the executive accountable for implementation of the laws and for the allocation of public resources, introduces checks and balances and reinforces the separation of powers. The oversight function is not well-entrenched in most new and transitional parliaments.

Considerable technical cooperation assistance has been directed to increasing the capacity of legislators for securing the financial and economic accountability of the executive. Parliamentary development of oversight functions has focused on the review and control of the national budget. Commitment by parliament to make the budget process more participatory, accountable and

transparent can also help to ensure that the formulation of macro-economic policy is equitable and, in so doing, promote pro-poor development policies and practices.⁸ Increasing public inputs to the budget process, in partnership with civil society organizations and other watchdog agencies, can also support a more participatory and equitable approach to national development. The power wielded by parliaments for the approval of the national budget provides opportunities to concretely advance civil, political, economic, social and cultural rights. Increasingly, the emphasis on the Millennium Development Goals has highlighted opportunities for legislators to promote the realization of human rights throughout the bill-drafting process and in reviewing the achievements of sectoral programmes aimed at meeting priority targets in health, education, and economic development.

Oversight of implementation and enforcement of law is an important responsibility of parliament. The separation of powers provides legislators with considerable scope to both advance and monitor civil, political, economic and social rights through oversight of the development and implementation of laws. Legislators have many opportunities to reinforce the adherence to international human rights treaties and monitoring their actual implementation, particularly through the creation of special Parliamentary Human Rights Committees and the establishment of statutory human rights commissions or offices of ombudspersons. Technical support for the oversight function of parliaments has also included training and sensitization for the monitoring of statutory and non-statutory bodies, including human rights commissions and offices of ombudspersons.

Parliamentary Committees, whether specialized human rights committees or sectoral committees can monitor the implementation of laws by the executive and the application and interpretation of laws by the judiciary. Parliamentary development programmes can support legislators to create such monitoring mechanisms.

The case study from Brazil highlights opportunities for strengthening the oversight function through a human rights-based approach. (See Box 2)

iii. Representation

Capacity development initiatives aimed at strengthening abilities of legislators for representation have generally concentrated on public outreach activities of parliaments, access to information, public access to parliamentary processes, and the establishment of constituency offices. More emphasis is now being placed on developing and strengthening the capacity of legislators to represent social diversity and to shape and encourage consensus on public policy. This requires dialogue and engagement with citizens on the political process and policy debates on economic and social performance. Many parliaments in the process of transition from authoritarian regimes face both legal structures and belief systems that do not encourage public participation in the legislative process.

⁸ See, *Budgets as if People Mattered: Democratizing Macroeconomic Policies*, Social Development and Poverty Elimination Division, Bureau for Development Policy, UNDP, May, 2000.

Error! **BOX 2: ENGAGEMENT ACROSS GOVERNANCE ACTORS: EXPERIENCES FROM BRAZIL**

A number of initiatives are being undertaken in Brazil to increase the understanding of legislators about their responsibilities as duty-bearers and to enhance the awareness of members of the judiciary about international human rights instruments and the extent to which national laws can be used to censure human rights violators.

- An Annual Human Rights Conference is a highly participatory event involving representatives from the executive, judicial and legislative branches and diverse civil society groups. The primary objective of the Annual Human Rights Conference is to review and debate human rights policies in Brazil along thematic concerns and to provide recommendations to national bodies, including Parliament. The Annual Human Rights Conference provides focus and gives direction to Parliament on priorities in their law-making and oversight efforts.
- A Forum on the Legislative Human Rights Commissions aims to promote the exchange of experiences between legislators at national, state and municipal levels and to analyze government programs. Political space is created to review and debate human rights violations and to define potential legislative and policy responses. This has motivated and speeded up the establishment of Human Rights Commissions at the federal state level and created a strong support network among federal and state Parliaments in the area of human rights protection.
- Parliamentary Commissions are organized by sectors and consider human rights in their respective areas such as the right to health, education, housing, etc. This offers an important conceptual framework for the setting of benchmarks and goals at sectoral levels that can then be integrated into budget analysis and reviews, and oversight work can be used to promote and monitor human rights principles and practices with the executive and the judiciary.
- Public hearings held by the Parliamentary Human Rights Commission involve representatives from the executive, judicial, and legislative branches and civil society provide opportunities to debate human rights policy priorities and thus give guidance to parliamentary committees for policy development and for monitoring of the executive and judiciary.
- The Parliamentary Human Rights Commission regularly uses the media and internet technology to publicize their monitoring efforts. This provides both increased credibility and advocacy for human rights principles

Citizens usually want to exercise their democratic freedoms by engaging with elected representatives to improve the quality of life in their country. This interaction is experienced as something novel and interesting in new democracies. When opportunities for such engagement do not exist, or are infrequent, democracy is eroded, and there is a growing lack of confidence in elected legislative bodies. In new democracies, parliaments are crucial to developing and strengthening a culture of human rights based upon participation and accountability.

The representative quality of legislatures depends on the quality and quantity of the interactions between citizens and their representatives. Representation may take place in a variety of contexts in addition to elections and the processes leading up to them: constituent relations, constituency casework, and the incorporation of public input into the law-making or oversight functions of the legislature. A human rights focus demands a strengthening of the representative role of parliaments.

Beyond capacitating legislators to make laws and to use the budget process as a means of securing human rights, there is considerable scope to build competencies in human rights by providing parliamentarians with research support. Practical research, analysis and policy advisory skills can be developed within the parliamentary administration to support the work of legislators and their committees, along with the establishment of a human rights data collection function within the research and library divisions. This can help legislators to more effectively play their representational roles.

How a parliament engages in policy debates and monitors social and economic performance through dialogue and engagement with citizens, constitutes this representative role. It is through the representative responsibility of parliaments that they can make a key contribution to democratic governance, in partnership with civil society, fostering greater community and citizen participation. Policy dialogue on economic and social rights can provide an entry point to allow legislators to tackle more sensitive issues that touch on political and civil rights.

Public hearings and increased opportunities for citizen inputs can help promote legislative, oversight and representation functions by reaffirming key human rights norms, such as equality and inclusion, as demonstrated in the Niger case study (See Box 3). This can be particularly helpful in addressing priority national issues, such as poverty reduction. In this way, human rights can provide both a theoretical framework and a practical instrument to reinforce political representation and strengthen the bonds between parliaments and their citizens. In sum, the human rights framework provides a justification for reinforcing the capacity of parliament and its members for representation of their constituencies whether through constitutional, electoral or legal reform (where needed); strengthening the capacities of the representatives and the represented; or through other programmatic strategies.

BOX 3: STRENGTHENING REPRESENTATION IN NIGER

A public consultation process on the government's proposed decentralization bills in Niger demonstrated how a parliament can perform its representational role in support of both law-making and oversight and thus provide inclusiveness, participation and accountability to its citizens. The public consultation process brought legislators and government representatives together for a four-week, cross-country tour of 30 communities. The process engaged diverse civil society interests (from farmers to women to tribal chiefs) on the merits and limitations of decentralization and resulted in legislative amendments reflecting the views of civil society on the decentralization process. Legislators also used the opportunity of the visits to their constituencies to check on government spending (visiting prisons, flooded areas etc.) thus, enhancing credibility with their constituents and strengthening their oversight skills.

The public consultation process significantly enhanced representation and public access to Parliament, and a tangible human-rights based approach was integrated into the dialogue and problem-solving processes to shape and finalize the decentralization laws. The decentralization consultations engaged some of the most marginalized members of Nigerian society, especially women, and the oversight of government spending on rural projects during the consultations uncovered some of the structural inequalities that cause poverty and prevent access to basic services in Niger.

III. APPLYING A HUMAN RIGHTS-BASED APPROACH TO PARLIAMENTARY DEVELOPMENT PROGRAMMING

Parliaments can contribute to the promotion (through creating enabling human rights legal environments, and through human rights education), protection (through legislation that prohibits impunity and enacting proactive protection mechanisms and effective remedies) and realization (through creating and allocating resources for programmes of human rights-based development) of human rights in a variety of ways. They do so primarily through their law-making, oversight and representational functions, as described above. How can capacities to effectively perform these functions be strengthened so that parliament can help realize the right to know, freedom of information, the right to participate, the right to accountability and the right to effective remedies?

A. Assessing the Human Rights Capacities of Parliaments

Applying a human rights approach to parliamentary development requires a shift in the design of parliamentary development programmes from *needs* assessment alone to *capacity* assessment as well. Technical assistance approaches employed in both human rights and parliamentary development tend to reflect traditional capacity development methodologies narrowly focused on institutional development, and therefore with an emphasis on institutional structure and functions. Capacity-development approaches, from a human rights programme perspective, should support improvements in the ability of legislators and parliaments as governance institutions to exercise their authority, their abilities and the resources at their disposal to better protect and realize human rights.

Much of parliamentary development support involving considerations of human rights to date has focused on raising the awareness of legislators and increasing their understanding of human rights principles and norms and their responsibilities and obligations as duty-bearers. This work has been both necessary and highly sensitive, particularly in post-conflict settings, where human rights violations and other infringements on civil and political rights may have taken place. A great deal of the work of organizations like OHCHR and IPU has been aimed at facilitating a shift in the views and concerns of legislators regarding investigating violations and helping them be proactive agents in promoting and protecting human rights through their day-to-day legislative, oversight and representational duties.

Providing training opportunities that bring legislators and civil society groups together to develop laws or socio-economic policies is a means of broadening capacity development. Decentralizing training to locations outside the parliament, especially to more marginalized parts of the country, can be another means to bring new ideas and perspectives to bear in the deliberations by legislators, as experienced in Brazil.

Human rights capacities relate to the main tasks and functions involved in the effective promotion, protection, and realization of human rights. They include:

- Human rights standard-setting, which clearly implicates the legislative function of parliaments.

- Awareness-raising regarding the contents and implications of human rights values, principles and laws, in which parliamentarians can become involved by virtue of their representative function vis-à-vis their constituencies.
- Monitoring implementation and enforcement of human rights laws, which clearly implicates the oversight function of parliament.

Engaging parliaments and parliamentarians more actively in human rights protection, promotion and realization requires human rights capacity-development along the three key dimensions elaborated above. As with all capacity-development programming, an essential first step is capacity-assessment. Human rights capacity assessment of parliament and its members is an important component of any Parliamentary Assessment. A checklist for making such an assessment is set out at the end of this primer in its closing section entitled, “*Human Rights Capacity Assessment of Parliaments: A Preliminary Checklist*”.

B. Empowering Parliament through the Constitutional Framework

International human rights law reiterates that “the will of the people shall be the basis of the authority of government” and that everyone has the right to take part in government “directly or through freely chosen representatives”.⁹ It becomes difficult for parliament to fulfill its duties regarding law-making, oversight and representation when the election of representatives is interfered with by principles that undermine the direct link between voters and the elected. (See Box 4.)

BOX 4: PARLIAMENTARY ENGAGEMENT IN LEBANON

The Lebanese Constitution provides for three separate and independent branches of government: a unicameral legislature, an executive and the judiciary. The Constitution also provides for the principle of the separation of powers between the branches of government. But formally and informally, the entire political system is characterized by communitarian apportionment of all governmental positions.

Parliament consists of 128 deputies, equally divided between Christian and Muslim representatives. Within this parity system, representation is also in pro-rata to the various sub-religious community main groups. This inhibits the ability to develop within Parliament a national consensus on issues which transcends the community main group making it difficult for Parliament, as an institution, to play its representational roles.

The inability to achieve an effective separation of powers and the lack of a tradition of complementary relationships between the legislative, executive and judicial branches of government, impede Parliament in the exercise of its oversight role.

Support for parliamentary institutional design, particularly in transitional or post-conflict settings, has been critical in helping to introduce democratic governance concepts and approaches. Specifically, assistance in institutional design and development has fostered greater opportunities for public inputs to the legislative and oversight functions of parliaments. It is becoming increasingly evident today,

⁹ Article 21, Universal Declaration of human Rights.

that if parliament is to play its role in conflict prevention and post-conflict peace-building it must be constitutionally empowered through the separation of powers and able to operate within an effective system of checks and balances. Development of such constitutional frameworks for the empowerment of parliament is essential if parliamentary development assistance is to foster democratic governance and enhance the protection, promotion and realization of human rights.

Once such a constitutional framework has been developed, and where such a framework already exists, there are important opportunities for parliamentary development assistance. Parliamentary support programmes have tended to focus on the institution of parliament almost exclusively, with support directed to the systems, structures and administrative requirements of the parliamentary institution. Such a focus is entirely understandable, especially in countries where parliament is a fledgling institution. However, parliamentary development programming needs to focus not only on parliament, but importantly on the relationships between parliament and the executive, the judiciary, civil society and the private sector. Thereby, complementarities and synergies will be developed which are essential for democratic governance and even more so for the effective promotion, protection and realization of human rights.

C. Institutional Development: the Role of Parliamentary Committees

An institutional approach is most often favoured in parliamentary development. This involves strengthening the institution of parliament through capacity development of staff, resources, technology-enhancement and organizational or procedural reform. Much of the work of parliaments is done in committee, whether in reviewing legislative proposals, scrutinizing budgets, or examining the policies or programme implementation of government ministries. Committee structures therefore offer important entry points also for introducing a human rights-based approach to improving legislative, oversight, and representative work, especially on economic, social and cultural rights. Committee work provides opportunities to bring representatives closer to society's aspirations. Committees are an important mechanism for moving parliamentary control out of strict and exclusionary party structures. Training can be more effectively conducted through Committees. Committee processes are also an important entry point for building the capacity of parliamentarians and staff alike.

Moreover, if the objective is to strengthen parliament not merely as an institution of government, but as a rule of law institution committed to the concepts of the separation of powers and checks and balances, then particular attention needs to be paid to establishing a parliamentary committee with an exclusive human rights mandate. This has proven important in a number of parliaments, particularly in Latin America, for building specific human rights knowledge among legislators and providing a direct mechanism for parliament to oversee national human rights commissions. The existence of an active parliamentary human rights commission can highlight and bring attention to human rights issues and provide a mechanism to facilitate greater interactions between parliament and civil society.

In the case of Moldova, the parliamentary Committee on Human Rights and Minorities has worked to ensure that all draft laws are examined to secure compliance with international human rights standards. The Committee also undertakes reviews of the laws six months after they have come into force and reports to Parliament on the quality of their implementation. The Committee also works with other sectoral committees to promote the interests of vulnerable groups within the society.

Once such parliamentary human rights committees are established and strengthened, it is important to establish a division of labour and complementary relationships between them and other statutory bodies dealing with human rights, such as national human rights commissions and ombudsperson offices as the Sri Lanka experience clearly indicates (See Box 5).

BOX 5. SUPPORTING HUMAN RIGHTS IN SRI LANKA

Since October 2001, UNDP and SIDA have been supporting the Human Rights Commission of Sri Lanka to:

- conduct a review of national legislation and existing administrative practices to ensure compliance with the provision of the Fundamental Rights Chapter of the Sri Lanka Constitution and international human rights obligations
- train Human Rights Commission staff in investigative skills and conciliation techniques
- deliver a workshop and seminars on the operational aspects of the international human rights treaties targeting the legal profession and government officials
- establish regional human rights commission offices
- develop capacity of regional staff and
- provide support for civil society networks

In November 2002, UNDP was asked to provide assistance to the Parliamentary Select Committee, an ad hoc Parliamentary committee that oversees monitoring responsibilities of the Human Rights Commission, including those related to the conflict and the ceasefire/peace agreement under negotiation. The UNDP assistance included technical advice on legislative revisions and exposing the Select Committee to the principles and workings of national and international human rights institutions.

These two interventions highlight the relationship between the Parliamentary Select Committee and the Human Rights Commission, particularly in monitoring progress towards the realization of human rights and ensuring compliance with international human rights standards, and invites considerations of how the capacity of both bodies can be enhanced and how a rational division of labour could best be achieved. The coordination of donor interventions is also highlighted.

As the Sri Lanka example indicates, much promise lies in fostering co-operation, collaboration and complementary relationships between parliament; parliamentary human rights and other select committees, and statutory bodies created by parliament such as National Human Rights Commissions and Offices of Ombudspersons. A recent productive move in this direction was made at an international workshop on “National Human Rights Institutions and Legislatures: Building an Effective Relationship” held in Abuja in March 2004. (See Box 6)¹⁰

¹⁰ See *Report of the International Workshop*; and **The Abuja Guidelines on the Relationship between Parliaments, Parliamentarians and Commonwealth National Human Rights Institutions**, March 23 – 26, 2004.

BOX 6. THE ABUJA GUIDELINES

At a recent meeting in Nigeria (March 2004), representatives of national human rights institutions (NHRI) and of parliaments from the Commonwealth discussed ways to develop a constructive relationship between their respective institutions. It was recognised that both NHRIs and parliaments have an invaluable contribution to make to the promotion, protection and realization of human rights and that parliaments should develop a special working relationship with, and support the work of NHRIs. It was also recognised that NHRIs have a significant role to play in support of the work of parliaments and parliamentarians. The meeting adopted Guidelines (the Abuja Guidelines) for developing an effective relationship between parliaments, parliamentarians and NHRIs for the promotion and protection of human rights.

Specifically, parliaments should produce an appropriate legislative framework for the establishment of NHRIs; ensure that NHRIs have adequate resources; debate reports of NHRIs in parliament and ensure that recommendations for action from NHRIs are followed-up and implemented; and establish an all-party parliamentary committee for overseeing and supporting the work of NHRIs. Parliamentarians should ensure that their constituents are made aware of the work of NHRIs.

For their part, Human Rights Commissions should provide parliamentarians with regular expertise and independent advice on national, regional and international human rights issues; provide on-going training for parliamentarians on human rights; advise parliamentarians on the human rights implications of all proposed legislation and constitutional amendments as well as of existing laws; and advise parliaments on the creation of parliamentary human rights committees.

D. An Issues-Based Approach

Issue-based (as opposed to institutional) approaches to strengthening parliament are emerging as a significant means by which to promote both human rights and democratic governance in parliamentary processes. Such approaches focus on a particular issue such as gender budgeting, the development of a poverty strategy (PRSP), the achievement of the Millennium Development Goals or the development of a national strategy on HIV/AIDS¹¹ and involve working with key governance actors, including but not limited to parliament, to resolve the particular issue. This entails working with, for example, a bipartisan parliamentary poverty committee or with sectoral committees on health, education and budget.

In working towards fulfilling Millennium Development Goals, many parliaments are being encouraged to monitor pro-poor development strategies, which include open, transparent and inclusive policy-making processes. While working on solving a particular issue, relationships are forged between the different branches of government (including parliament), and civil society. Capacity development takes on an issues rather than institutional focus, drawing on expertise from all sectors: government, civil society and parliament. In Niger, for example, a public outreach campaign that focused on the Government's proposed decentralization laws resulted in enhancing parliamentary-executive-constituency relations through which the decentralization laws were improved by incorporating constituents' concerns.

¹¹ See for example, *What Parliamentarians can do about HIV/AIDS*; An information and action kit of communications materials, UNICEF/AWEPA, Field Tested Version/April, 2003.

A primary avenue for the issues-based approach is the national budget process. Approval of the budget is the process by which parliaments set national development priorities. Budgetary oversight provides a perfect opportunity for parliamentarians to work in partnership with their constituents in support of a two-pronged strategy built around social impact analysis and social audits of existing budgets and the preparation of people-centred budgets. This includes scrutiny of revenue-raising (through public revenue incidence analysis); scrutiny of expenditure allocation (benefit incidence analysis); reprioritizing expenditures (through reformulation of taxation and revenue laws); and building capacity and the knowledge base of the citizens.

In politically volatile environments, in situations where executive-legislative relations are tense, or where sensitive issues of human rights or minority rights are involved, issue-based approaches are proving to be useful and indirect strategies for bringing diverse actors together to facilitate relationship-building, capacity development, constructive engagement and consensus-building towards democratic governance and the advancement of human rights. Discrete activities with select parliamentary counterparts on specific issues can also facilitate consensus-building among committed parliamentary leaders. The issues-based approach is especially appropriate for working at the country-level as a UN Country Team, under a CCA and the UNDAF.

BOX 7: THE CHALLENGES OF A HUMAN RIGHTS-BASED APPROACH IN CONFLICT SETTINGS: THE CASE OF BURUNDI

Burundi's democratization process began in the 1990s in a context marked by inter-ethnic violence. A military coup in October 1993 initiated the longest and bloodiest turmoil in Burundian history, culminating in externally-supported peace negotiations in Arusha in June 1998. The introduction of human rights principles and practices into the democratization process, and especially parliamentary development programming, has been extremely limited as long as there has been ongoing violence and conflict. Though all Burundians agree that genocide, war crimes, and other crimes against humanity violate human rights, there is no clear consensus on the mechanisms required to determine who is to be held accountable for these violations. The development of Parliament is held hostage to the conflicts in the country and the difficulty in building institutions that can overcome ethnic and partisan loyalties. It is, thus, very much part and parcel of general governance reform measures, while changes of parliament only would have limited impact.

The Burundi case study by Eugene Nindorera presents the strengthening of parliament and of human rights as a mutually reinforcing process, seeing opportunities for progress in both areas as part of broad institutional reforms. From a considerable agenda for action, he selects for political priority the following main issues:

- Mechanisms to clear the bloody dispute and to fight impunity;
- Power sharing and the electoral system;
- Reform of the judicial system;
- Reform of the defense and security bodies;
- Programmes for rehabilitation of the victims of disaster (i.e. refugees and repatriated, internally displaced people).

For Parliament to play a significant role in this context, it needs to strengthen its capacity to initiate legislation and to oversee the activities of the executive. The study also stresses the need for more active interaction with the people represented by the parliamentarians.

E. A Sectoral Approach

The examination of sectoral issues such as health, education, or gender, provides possibilities to integrate human rights. Increasingly, sectoral programmes need to pay attention to the role of parliament in governance processes. UNICEF, in the case of women and children, and ILO, in the case of workers, has worked closely and successfully with parliaments to advance human rights in the sectors of their concern. Parliamentary committees are normally organized on sectoral lines, opening opportunities for legislators to apply human rights values and standards to policy or legislative development, or to the monitoring of public expenditures to meet sectoral objectives and targets. Sectoral approaches provide opportunities to focus legislators on social, economic, and cultural rights in line with national development objectives and sustainable human development strategies. Sectoral benchmarks and goals can then be integrated into budget analysis, reviews, and oversight work and can be used to promote and monitor the protection and fulfillment of human rights.

Sectoral programmes allow for focus on vulnerable populations and minorities and their the inclusion in consultation. In countries where civil and political rights may be sensitive matters to approach, sectoral programme may offer opportunity for policy influence. A good example of this is girl's education in Iran that has advanced substantially with parliamentary support. Like the issues-based approach, the sectoral approach is also well suited to work by a UN Country Team, allowing for the involvement of several UN agencies.

F. A Regional Approach

Regional programmes can be very useful in catalyzing new thinking among legislators and parliamentary administrators, especially about sensitive topics like human rights. Regional programmes that can provide a non-judgmental forum in which to exchange experiences and ideas through seminars and study tours that bring together legislators from a variety of political, social and economic experiences are highly valuable. Regional seminars have been particularly successful in raising awareness and sensitization among parliamentarians about human rights concepts, especially with respect to civil and political rights, without specific references to the human rights situation in any single country. Regional seminars have also proven to be cost-effective mechanisms to bring large numbers of parliamentarians and non-parliamentary actors together, providing a forum also for controversial issues.

Regional programmes may be helpful in providing legislators with an opportunity to share best practices in the region of law-making on sensitive issues such as gender or ethnicity. This can be particularly important in sensitizing and introducing human rights principles in ongoing conflict situations or into externally-supported peace negotiations, such as those described in the Burundi case study (See Box 7). Inability to transcend the political and ethnic cleavages in Burundi has led to a politicization of human rights violations, and regional approaches appear to be one of a limited number of options to depoliticize the human rights environment. Regional programmes through which a human rights-based approach could be introduced to the work of Parliament could focus on:

- reinforcing legislative power, independence and autonomy of the parliament versus the executive;
- support for the creation of commissions of inquiry and for capacity development of legislators to conduct inquiries;
- economic and social rights and accompanying policies;
- the engagement of legislators with other civil society actors in promoting human rights;
- participation around national issues such as HIV/AIDS.

IV. ADDITIONAL PROGRAMMING CONSIDERATIONS

A select and very practical set of resources already exists geared to governance practitioners involved in designing, implementing or evaluating parliamentary development programmes in general,¹² as well as to specific issues in parliamentary development such as legislative needs assessment,¹³ or strengthening the representational role of parliaments.¹⁴ This Note adds a few considerations specific to human rights-based parliamentary development programming and to parliament-focused human rights development assistance programming. It does so with the dual goal of:

- Increasing the human rights impact of parliamentary development programming; and
- Increasing the parliamentary development impact of human rights programming.

A. Short-term interventions versus long-term programmes

The UNDP Parliamentary Development Practice Note stresses the importance of targeted short-term activities versus long-term capacity-development programming in countries where resources are scarce, where political environments are new or changing or severely constraining, where UNDP has no prior parliamentary development experience, or where parliament itself has limited experience in working with international donors. In such cases, targeted short-term activities (such as staff training or the revision of rules of procedure) may be desirable and yield visible results, providing the basis for gaining programme experience and establishing relationships between UNDP and parliamentary authorities. This may well be even more appropriate in the case of introducing human rights issues and concerns into parliamentary development programming.

B. Timing of parliamentary projects and programmes

¹² *Parliamentary Development-Practice Note*, UNDP, April 2003, offers practical guidance on diagnostic issues; on programme design and formulation, and on implementation and management. *Annex III: UNDP Lessons Learned in Parliamentary Development to Global Programme for Parliamentary Strengthening: Progress Report 7* addresses capacity-building methodologies and approaches and issues of project management.

¹³ *How to conduct a legislative needs assessment*, UNDP, Management Development and Governance Division, October 1999.

¹⁴ The NDI/UNDP, *Guidebook on Strengthening the Representative Capacity of Legislatures*, October 2001, not only lays out several programming options but also addresses issues of programme implementation and of assessment, performance monitoring and evaluation.

Many events may lead to a change in the demands being made of legislative bodies, and these may open opportunities for limited investments that have a significant impact. Timing, which is so crucial in the success of any parliamentary development project, is even more crucial in the case of such projects when they are addressing human rights issues and concerns. There is a need to be strategically opportunistic in responding to situations of basic systemic changes, the end of conflict, the emergence of divided government, genuine decentralization, growing demands for representation, the assumption of new legislative functions, or a realization within the parliament itself of the need to strengthen the institution. The occasion to report to a human rights treaty-body and the need to respond to the recommendations of such a treaty-body, the occasion of a visit by a Special Rapporteur to a country, or the Report of a thematic Rapporteur, may provide opportunities as well as challenges for legislative bodies and therefore for parliamentary development programming.

C. Human Rights-based Parliamentary Development Programming: Targets and Focus

The importance of targeting newly-elected members of parliament and newly created committees and bodies of parliament has long been recognized in parliamentary development practice. To date, much development assistance has targeted national institutions, but the importance of also targeting sub-national and regional institutions is also gaining recognition with decentralization becoming an important component of national development.

Targeting assumes special importance in building human rights capacities within parliament. All members need to be targeted for basic human rights education, and indeed their role in providing basic human rights education to their constituencies needs to be stressed. But parliamentary human rights committees and bodies merit special (and indeed specialized) human rights capacity-building programmes. Such special human rights capacity-building programmes are also timely when new constitutions are adopted, in conflict and post-conflict situations, and in countries in transition.

Special human rights capacity-building may be effective when parliaments are considering signing or ratifying human rights treaties; participating in human rights standard-setting at international, regional or national levels; or are playing a role in reporting (and post-reporting follow-up) under such treaties; as well as when special opportunities (such as the adoption of a PRSP or a campaign around MDGs) arise. While parliamentary development assistance is directed usually at both houses of a bicameral legislature, special attention may need to be paid to the house (usually the Senate) that has a special role to play in treaty ratification.

A human rights focus, generally, would seek to ensure that parliaments in their legislative, oversight and representational roles pay particular attention to the problems and needs of the women, the poor, the excluded and marginalized, and disadvantaged and vulnerable groups. Parliaments also need to give priority to addressing human rights issues of grave or urgent concern in the country.

D. Partnering for human rights expertise

Parliamentary development programmes with a particular human rights focus and those concerned with human rights capacity-building may need specialized human rights expertise and, within the UN

system, an obvious source for such expertise is the OHCHR.¹⁵ But, for strategic reasons as well as for reasons of building sustainability, it is vital to fully utilize as well, the human rights expertise of parliamentarians and their staff and of other institutions in the country.

E. Dealing with political parties

In all parliamentary development work, it is imperative to work with all existing political parties. Human rights call for a national consensus that transcends and cuts across all political parties. With this objective in mind, political parties could be supported in developing a human rights component in their party manifestos and programs. Human rights education for party leaders within the different structures (such as youth wings, for example) that a party may have should be seen as an integral part of parliamentary development or programmes promoting specific rights.

F. Implementation and management arrangements

The guidance contained in the UNDP Practice Note on *Parliamentary Development* regarding the role of UNDP country offices in parliamentary development programmes; implementation agreements, counterparts and partners within parliaments; and selection of an execution agency is especially pertinent to human rights-based parliamentary programming. Special care needs to be taken however regarding selection of an executing agency. Direct execution and agency execution may be limited options given the sensitivities often associated with human rights. NGO execution, often perhaps the most-preferred option, may at times be politically incorrect, or even worse, politically unacceptable. National human rights institutions clearly are one of the more important options for execution.

G. Monitoring and Evaluation

Baseline assessment of the current capacity of a parliament is the first step in designing any parliamentary development programme and a vital aspect of such assessment must be of human rights capacities. Human rights standards should be integrated into indicators for monitoring of the kind described for example, in the UNDP publication, “Indicators for Legislative Development” i.¹⁶ Human rights standards are relevant in the disaggregation of evaluation data and progress in realization of human rights can be one measure of evaluating performance, outcomes, results, performance and improvements in process. Human rights are also relevant when capacity and performance indicators are being developed for each of parliament’s three key roles: legislative, oversight and representational.

Finally, a human rights approach requires both transparency of all monitoring and evaluation processes and activities and effective participation of all programme partners in such processes and activities.

¹⁵ On selecting appropriate partner organizations for parliamentary development assistance programmes, in general, the practical guidance provided in the UNDP (2003) *Parliamentary Development Practice Note* p.20 is of particular relevance.

¹⁶ Indicators for Legislative Development, UNDP, Bureau for Policy Development, September, 2001. See also *supra* Foot note 14 at pages 14 and 15..

V. HUMAN RIGHTS CAPACITY-ASSESSMENT: PRELIMINARY CHECKLIST

Human rights capacity assessment of parliament and its members is an important component of any Parliamentary Assessment. Elements of such a human rights capacity assessment are suggested below:

A. Human Rights Values and Principles

Human rights values and principles are relevant for two crucial reasons. The rationale for support for parliamentary development is that strong parliamentary institutions help to ensure democracy, the rule of law, and human rights. Human rights values and principles (notably those contained in the Covenant on Civil and Political Rights) provide a justification for the doctrines of separation of powers and checks and balances. Development assistance must provide support for encouraging the separation of powers and strengthening checks and balances in countries where this is not the case, by for example, strengthening parliamentary institutions. Human rights values and principles are also relevant to the way in which Parliament conducts its work, with transparency, participation and inclusion, non-discrimination and accountability being the criteria for assessment.

Some questions to ask in assessing the internalization and practice of human rights values and norms by parliament include:

- Does the parliament promote active citizenship and gender-balanced/ethnically balanced participation by citizens in the public policy process? How does it do this? (e.g. Through public hearings, citizen advisory committees, constituency meetings, etc.?)
- Do women, poor and disadvantaged groups have representation within parliament?
- How successful is parliament in fostering open and transparent economic and social policy-making and encouraging public debate of policy options? (e.g. Are there laws on freedom of information? Does parliament have the authority to reject economic programs that do not meet public demands, including those entered into with International Financial Institutions?)
- Is there public participation and freedom of speech, expression and assembly in parliamentary processes and procedures? Has parliament enacted laws to safeguard such rights and freedoms?
- Does parliament have the authority to prevent the arbitrary exercise of power (e.g. Through laws, the Auditor General, ombudsperson, ensuring an independent judiciary, etc.?)
- How accountable is parliament to its constituents. (e.g. How does it report on its activities? Does it provide information to the public readily? Is it an open institution - can the public observe the workings of the parliament?)
- Does the parliament conduct hearings and studies on key human rights issues?
- Are there public dialogues, opportunities for public inputs to policies, legislation, budgets, etc.?
- Is parliament an independent and autonomous institution in law and in fact and does it act as an effective check and balance against the other institutions of government?

B. Human Rights Standards

Human rights standard-setting involves the most basic function of parliament, namely making laws. The following are elements of an assessment of Parliament's capacity and record regarding human rights standard-setting:

- The status of a country's human rights commitments (e.g. has it ratified key international conventions? Has national legislation been revised in line with international treaties ratified? Are there reservations to treaties that require attention?).
- The role of the parliament in international human rights standard-setting and ratification of international conventions.
- The extent to which the parliament has focused on securing human rights in national laws.
- The extent to which parliament accesses and utilizes information on human rights within the country. (e.g. through its research services, library, committee reviews, participation by national human rights commissions in policy/law reviews, etc. Is there disaggregated data by region, gender and ethnic group to support analyses?).
- The extent to which parliament encourages and provides opportunity for public participation in human rights standard-setting and in law-making processes pursuant to such standard-setting.
- The extent that standards adoptions and implementation are monitored and follow-up schemes are undertaken.

C. Human Rights Claim Holders

In determining whether parliamentary activities and processes support rights/claims holders, the following could be assessed:

- Analysis to identify human rights claims of rights holders, including importantly women and ethnic groups that have not been supported by parliament and the immediate, underlying and structural causes of the non-realization of rights.
- The extent of exclusion and vulnerability of women/ethnic, poor marginalized and disadvantaged groups, to ensure they are the focus of parliamentary actions.
- Analysis of popular perceptions of the representative nature of the parliament (e.g. Does it represent all people, especially minority or ethnic groups? Is it seen to be an inclusive institution or one that serves the elites? If so, are any efforts implemented or adopted by Parliament to revert this situation).
- The relationships between parliament and civil society.
- The extent to which parliament has enacted legal procedures and remedies the holders of

D. Duty-bearers

In order to assess the capacity of parliamentarians and the parliament to deliver on its obligations to rights-holders, the following could be analyzed:

- Effectiveness of political parties as a mechanism for participation.
- The relationship between the parliament and national human rights bodies. (e.g. What are the characteristics of that relationship? How could it be strengthened?)
- Public confidence in parliament as a duty-bearer.
- How well do legislators understand and formulate legislation?
- What are the level of priority, intensity and speed of proposals/laws that favor and strengthen Human Rights protection.
- What mechanisms exist within parliament to bring human rights claims and to redress human

E. Human Rights Remedies

Parliaments have many options to seek and apply remedies through their law-making, oversight, and representation functions. The following questions and factors help determine potential remedies:

- How are resource allocations made? Who participates in decision-making? How is the impact of policies assessed and decisions made to redirect policy?
- Do budgets ensure just, equitable and transparent resource allocations.
- Capacity of parliamentarians to take decisions which support pro-poor development strategies.
- The extent to which parliament has worked towards ensuring a free and independent media; fostering rights of freedom of speech, expression, association and assembly. (e.g. How is this achieved: through legislation, open dialogue with media, support for parliamentary journalism, etc.?)
- Has parliament enacted laws making specific human rights “justiciable” (enforceable in a court of law)? Has it created legal aid programmes to enable the poor to seek judicial remedies where they do exist?
- Effectiveness of parliament in overseeing implementation of the laws it passes.
- The extent to which parliament monitors specific allegations of human rights violations (e.g. through the appointment of commissions of inquiry).
- The degree to which parliament specifically monitors the progressive realization of human rights (e.g. through budgetary processes, implementation of laws, protection of vulnerable groups and minorities, etc.).
- The extent to which parliament, in its review of government policies, budgets and the implementation of government programs, takes into consideration the human rights dimensions of economic policies and strategies.
- The role of parliament in the national budget process. (e.g. Is it oriented towards realizing social and economic rights for marginalized groups? Does it include an examination of potentially discriminatory practices in either policies or budget allocations?).
- The extent to which social and economic rights are in fact being monitored by parliament through the budget process. (e.g. Through inputs such as spending on education, or outcomes, such as illiteracy rates, child/maternal deaths

REFERENCE MATERIALS

- Parliamentary Development: Practice Note, UNDP, April 2003 especially Section 7, “Links to resources” P. 22.
- Vienna Declaration and Programme of Action, UN World Conference on Human Rights and Development, 1993.
- Integrating Human Rights with Sustainable Human Development, UNDP policy document, January 1998.
- Human Rights: A Practice Note, UNDP, April 2004.
- Implementing A Human Rights-Based Approach to Development, Reports of the First and Second Interagency Workshops, especially Attachment 1 to the Report of the Second Interagency Workshop, May 2003 on, “The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies.
- Report of the International Workshop, The Abuja Guidelines on the Relationship between Parliaments, Parliamentarians and Commonwealth National Human Rights Institutions, March 2004.
- Poverty Reduction and Human Rights: A Practice Note, June 2003.
- An Agenda for Further Reform, Report of UN Secretary-General Kofi Annan.
- Budgets as if People Mattered: Democratizing Macroeconomic Policies, Social Development and Poverty Elimination Division, Bureau for Development Policy, UNDP, May 2000.
- What Parliamentarians Can Do About HIV/AIDS, UNICEF/AWEPA, April 2003.
- Global Programme for Parliamentary Strengthening: Progress Report 7, especially Annex III: UNDP Lessons Learned in Parliamentary Development.
- Guidebook on Strengthening the Representative Capacity of Legislatures, NDI/UNDP, October 2001.
- How to Conduct a Legislative Needs Assessment, UNDP, Management Development and Governance Division, October 1999.
- Indicators for Legislative Development, UNDP, Bureau for Development Policy, September 2001.

