

POLITICAL PARTIES AND HUMAN RIGHTS

AN INTRODUCTION



DIPD

DANISH INSTITUTE FOR
PARTIES AND DEMOCRACY

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ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DIPD	Danish Institute for Parties and Democracy
ICCPR	International Covenant on Civil and Political Rights
MP	Member of Parliament
NHRS	National Human Rights System
RBA	Rights Based Approach
UN	United Nations

FOREWORD

DIPD's strategy underlines that democracy is underpinned by respect for human rights and the strategy express the following principles;

- That democratization builds upon and is strengthened by the **respect for human rights**, particularly civil and political rights, and rights like freedom of assembly, freedom to organize, freedom of expression, and the protection of minorities;
- That the institute takes its point of departure in **democratic principles** rather than one particular political system consisting of particular institutions and processes;
- That the institute considers **political parties as key actors** in a parliamentary democracy, where parties are tasked with a number of key democratic responsibilities and interacting with e.g. the media and civil society;

The DIPD strategy also sees political parties as key actors in democratic societies. They serve as channels for the choices of the electorate and thus the ability for citizens to influence their local and national parliament and government. The two crucial democratic functions of political parties regarding **representation and accountability** are particularly important.

As DIPD engages with partners around the world to strengthen multiparty dialogue and cooperation and to help enhance the capacities of political parties in representation and accountability, we are on a daily basis confronted with the interlinkage between human rights and democracy.

There are many testimonies and experiences shared by DIPD's political party partners that confirm the DIPD principles and that underlines the importance of respecting and promoting human rights as part of democratic strengthening.

We see that human rights are important to political parties for many reasons. Most importantly, human rights protect the existence of political parties as independent civil organisations and they protect the members. In a larger picture respect and protection of human rights such as the right to free speech, assembly and right to information are essential to ensure free and fair elections. Good respect and protection of human rights are essential to a vibrant civil society where citizens can participate freely and without fear in the local governance of their community or in the national political processes.

In several DIPD partner countries, human rights are under pressure and political parties find their ability to perform their basic functions much restricted. In some countries lack of human rights respect leads to local conflicts and immense human suffering.

While the relevance of human rights to political parties seems obvious, it is surprising that there is little material available on this subject that can form the basis for dialogue among political parties of how they themselves can address human rights or how they experience the link between political parties and human rights and more broadly speaking between human rights respect and the local or national democracy processes they engage in.

DIPD is with this short paper hoping to contribute to political party dialogues on the importance of human rights and how human rights protection can assist the political parties in their work. DIPD is very thankful to the Danish Institute for Human rights for the contribution to this draft, which will be developed as experiences and dialogues take place on the importance of human rights. It is also envisaged that country cases and examples will be added along the way as in-country as human rights briefings for political parties are starting for example in Myanmar. It is aiming a creating discussion on how parties can make a difference both as independent political associations but also as legislators with responsibility regarding the quality of national laws adopted in many social and economic sectors including in the human rights and justice sector itself.

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1. INTRODUCTION

This note explores the rights and responsibilities of political parties, demonstrating why, how and when human rights matter to political parties. Overall, the paper argues that human rights are important to political parties for four reasons:

- Human rights protect the existence and functions of political parties as important actors in any democracy
- Human rights outline responsibilities of political parties in carrying out these functions
- Human rights provide guidance for enhancing the functions of political parties as actors in democracies
- Human rights and democracy are mutually reinforcing

1. WHY ARE HUMAN RIGHTS IMPORTANT TO DEMOCRACY?

Human rights and democracy are interdependent and mutually reinforcing.¹ Democracy provides the environment for the protection and effective realisation of human rights. The full exercise of fundamental freedoms and human rights can only take place within democratic systems.² It is core democratic concepts such as the rule of law, non-discrimination and universal suffrage that promote human rights, and it is through democratic institutions such as an independent judiciary, an accountable military, a free and responsible press, and a vibrant civil society that these fundamental principles are realised.³

At the same time, human rights make sure that a democracy is truly democratic, enshrining **principles** of dignity, equality and non-discrimination. As noted by one human rights expert, “history has taught us that the formal ‘trappings’ of democracy are never enough.”⁴ Periodic elections and freely elected governments are not always a guarantee of individual rights, or a protection against the tyranny of the majority. Human rights make sure that democracy is non-discriminatory, inclusive, and participatory.

More specifically, the human rights framework entails a number of **specific rights** that protect individuals’ right to political and public participation. Of particular importance is the right to take part in government and related rights such as the rights to peaceful assembly and association, and freedom of expression and information. The right to non-discrimination is essential to ensure equal political and public participation regardless of race, colour, descent, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, disability, nationality or other status. However, even when there is no formal discrimination in connection with political or public participation, inequalities in access to other human rights may impede the effective exercise of political participation rights.⁵ As such, economic and social human rights are important in ensuring equality and equity with respect to access to civil and political rights.

Finally, human rights create a **system** of rights-holders and duty-bearers. Under international law, the state has the obligation to respect, protect and fulfil human right and must therefore implement provisions from international and regional human rights treaties and realise human rights at domestic level. According to the UN, this obligation covers the following: the obligation to respect means that state actors must refrain from interfering with the enjoyment of human rights; the obligation to protect requires that state actors actively protect individuals and groups against human rights abuses; and the obligation to fulfil means that state actors must take positive action to facilitate the enjoyment of human rights, such as promotion, dissemination, education, etc.

In a well-functioning national human rights system (NHRS), the state effectively respects, protects and fulfils the human rights of everyone, and non-state actors, such as civil society and the business sector, respect and promote human rights.⁶ In such a system, remedies, accountability and inclusive participation are central elements, building on and reinforcing democratic principles, institutions and structures.

HUMAN RIGHTS AND DEMOCRACY

The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures (Universal Declaration of Human Rights).

Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice (International Covenant on Civil and Political Rights).

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others (International Covenant on Civil and Political Rights).

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests (International Covenant on Civil and Political Rights).

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country (International Covenant on Civil and Political Rights).

[T]he essential elements of democracy include respect for human rights and fundamental freedoms, freedom of association, freedom of expression and opinion, access to power and its exercise in accordance with the rule of law, the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organizations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media (Commission on Human Rights Resolution 2002/46).

3. WHY ARE HUMAN RIGHTS IMPORTANT TO POLITICAL PARTIES?

Political parties are private association of individuals who aim to be represented in political institutions, including through the presentation of candidates to free and democratic elections, as well as to exercise political powers and take part in public affairs.⁷ As such, they are **key actors in democratic societies**. Through membership and voting, they serve as channels for the choices of the electorate and thus support the ability for citizens to participate in political life and influence their national parliament and government.⁸ The establishment and well-functioning of several political parties in a country is a guarantee of pluralism in political opinions and representation.⁹ This pluralism is both the characteristic of and the condition for a democratic society.¹⁰

Political parties play a vital role in democratic governance. No democratic system can function without alternative parties and candidates. Political parties are crucial in aggregating interests, presenting policy alternatives to citizens, nominating candidates and linking voters with elected public officials. Moreover, political parties can play a central role in generating cadres of leaders who promote democratic governance principles and monitor elected representatives (Hanne Lund Madsen, 2012, p.5).

As private associations, political parties are part of civil society. At the same time, they participate into state structures through the election or appointment of their members to central and local parliament and government. Often, a political party is simultaneously part of civil society and state structures. When the members of a political party exercise political power in parliament and government, the party becomes associated indirectly to duty-bearers within the national human rights system. This is particularly true for the top management of any party that leads the government of a country. Depending on the organisation of the party, other parts of the party (regular members, local committees, youth wing, and affiliated trade unions) remain part of civil society, and as such, they are rights-holders.

Taking into account these **different roles**, some characterise political parties as part of 'political society'. Political society refers to those institutions by which society constitutes itself politically to select and monitor democratic government, i.e. political parties, elections, electoral rules, political leadership, intraparty alliances and legislatures. Political society is in other words that part of society that is concerned with winning and exercising state power.¹¹

These different roles entail different rights and responsibilities with regard to human rights. The following sections explore these rights and responsibilities, demonstrating why, how and when human rights matter to political parties.

4. WHAT ARE THE RIGHTS OF POLITICAL PARTIES?

Human rights are important to political parties, because they protect their existence, functions, practices and expressions. They also protect their members.

The rights to **life, liberty and safety** are paramount to the enjoyment of all human rights.¹² For political parties and their members, this implies in particular, that the state must ensure adequate protection against violence of all kinds directed at candidates and supporters of political parties. States must combat political violence and intimidation directed at political parties either by state authorities or by private actors, such as members of other political parties.

While most human rights are relevant to the existence and functioning of political parties, including the right to property, right to respect for privacy, home and correspondence, freedom of religion and belief or the right to education, this note focuses on **participation rights**, which are at the core of the nexus between democracy, human rights and political parties. The rights concerned here are:

- the right to take part in the conduct of public affairs
- the right to freedom of association and assembly
- the right to freedom of expression and information

The state is obliged to take these rights into account when regulating the establishment and operations of political parties. No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Participation rights are collective rights, which means that they protect both individual members of political parties as well as political parties as entities. This implies, for instance, that the imposition of legitimate limitations on hateful speech of a specific member of a political party will not have automatic consequences for the whole party's freedom to express the party's political opinions.

All participation rights may be submitted to restrictions. These restrictions must be imposed in conformity with the law and not just based on an administrative decision with no legal basis. There must be a legitimate aim prescribed by law in order to restrict these rights: restrictions must be necessary and proportionate in the interests of national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. For instance, political parties may be prohibited or dissolved if they agitate for or engage in violence.

4.1. Right to freedom of association (including peaceful assembly)

Freedom of association is essential to any political party. According to articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), every individual has the right to freedom of association and peaceful assembly with others.¹³ The right to freedom of association is a central right to the existence and functioning of political parties. In addition, exercising the right to association allows parties to be protected

as entities representing individuals. In this respect, associations themselves, including political parties, have human rights, including the right to freedom of peaceful assembly, the right to an effective remedy, the right to a fair trial, the right to the protection of their property, private life and correspondence and the right to be protected from discrimination.¹⁴

For political parties and their members, the right to freedom of association and assembly means that:

- All individuals have the right to establish and seek register with a competent authority of a political party
- All individuals have a right to be member of a political party, or not to be a member, and not to be sanctioned for being or not being a member of a political party
- All political parties have the right to expect that their supporters will be able to assemble freely
- All political parties have the freedom to determine their own rules for membership, subject only to the principle of non-discrimination
- All political parties have the freedom to determine their own manifestos, political programmes and activities, within the limits provided for by the laws that comply with international standards
- All political parties and their members have a right to effective remedies in order to challenge or seek review of decisions affecting the exercise of their rights¹⁵

These rights entail e.g. that the state should:

- not interfere in the establishment and functioning of political parties
- protect political parties from interference by non-state actors, as for instance political opponents¹⁶
- create enabling environments for political parties, including e.g. simplifying regulatory requirements on establishment, procedures, finances etc.
- apply legislation and policy to all political parties in impartial and timely manner free from political influence and not discriminate on specific ground¹⁷

Restrictions to these rights and obligations must be imposed by law and such laws must aim at protecting national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.¹⁸ For instance, political parties may be prohibited, dissolved or refused to register as political parties if they agitate for or engage in violence, incitement to hate or other anti-democratic activities. Political parties may not be dissolved, prohibited or refused to register on any other grounds. For instance, a political party may not be refused registration or prohibited on the sole ground that they refer to a specific minority, focus on the interest of one region or even refer to the right to self-determination of one people.¹⁹ In addition, it must be noted that impartial and independent remedies must be available for political parties to contest the grounds on which they are being prohibited or dissolved. In many countries, opposition parties are being forbidden on unfounded ground of pursuing anti-democratic objectives, such as aiming at turning the regime in place through violence or secession.²⁰

4.2 Right to take part in the conduct of public affairs

At the centre of political party activity is the engagement in public affairs. According to article 25 of the ICCPR, every citizen has the right to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and to have access, on general terms of equality, to public service in his country.²¹

For political parties, this means e.g. that they and their members have a right to:

- take part in the exercise of political power, in particular legislative, executive and administrative powers
- participate in genuine periodic elections
- nominate candidates for election to membership in legislative bodies or executive office
- nominate any candidate they wish, regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

The state is obliged to ensure these rights for political parties and their members without discrimination. This entails e.g. that the state should:

- adopt election laws that creates a framework for nominating and electing candidates
- offer remedies in case of disputes in relation to elections.

Limitations must be based on objective and reasonable criteria. For instance, it may be reasonable to set a minimum age limit for the right to vote, or to run for particular offices. It is also accepted that some penal sanctions include a temporary suspension of the right to vote or to run for elections. Mental incapacity may also be a ground for denying a person the right to vote or run for office. It is however unreasonable to restrict the right to vote or run for office on grounds of physical disability, illiteracy, property or educational requirements. Membership of a political party cannot be a disqualification, nor a requirement.²²

4.3. Right to freedom of expression and information

Political parties are for good reasons generally very attentive to the right to freedom of expression and information. Article 19 of the ICCPR states that everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.²³ Without freedom of expression and information, political parties' right to association and their right to take part in public affairs amount to little. It is freedom of expression that ensures the right of political parties and their members to present their political views, take part in the political debate, etc.²⁴

For political parties and their members, this means that

- they have the freedom to express their political views and opinions, even when these 'offend, shock or disturb' the state or any sector of the population, or when these are factually incorrect, lack merit or are offensive²⁵
- they have the freedom to distribute information on their political views and opinions in whatever, non-violent, manner they wish
- they have the right to seek and receive information on political views and opinions
- they have the freedom to undertake research, education, training and advocacy on issues of public debate²⁶

When members of political parties become members of parliament or government, they arguably have extended rights with regard to freedom of expression. As politicians, they play a particularly important role in the public debate, and states have little room for legitimate interference with their freedom of expression, as long as these expressions are seen as contributing to the public debate. At the same time, however, politicians must also accept a greater degree of criticism than regular citizens, precisely because of their public role. Arguably, the margin of appreciation is even narrower when the criticism targets the government as a whole. The government, even more so than an individual politician, must accept criticism and show a high degree of tolerance towards it.²⁷

The state is obliged to ensure these rights. This entails e.g.

- to respect the freedom of expression of all political parties in public media
- to take positive action to prevent non-state actors from interfering with the exercise of freedom of expression by political parties and their members²⁸
- to put in place positive measures to ensure that its own actions contribute to the free flow of information and ideas in society, e.g. through a legal framework to provide for access to information held by public bodies²⁹

The right to freedom of expression might be restricted if necessary to respect the rights or reputations of others and for the protection of national security or of public order, or of public health or morals.³⁰ In addition, the ICCPR stipulates that domestic law shall prohibit any propaganda for war³¹ and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.³² For instance, a political party cannot agitate for the abolition of democracy, incite to violence against a specific ethnic group or a sexual minority or condone terrorism.³³

5. WHAT ARE THE RESPONSIBILITIES OF POLITICAL PARTIES?

Human rights are important to political parties because they outline some of their roles and responsibilities as actors in a democracy and as actors of the national human rights system of the country where they operate. Together with other civil society actors, political parties have an important **role to play in terms of monitoring and promoting human rights**. This includes e.g.:

- Hearings and consultations on policies and law projects related to human rights: political parties can give their opinions about new policies and law projects through formal consultations, media and campaigns, etc. (see also Annex 1).
- Dissemination of information about human rights: political parties can choose to focus on specific human rights issues as part of their policies or campaigns or categories of persons and disseminate information about their human rights or their situation through media, campaign, participating in information meeting, etc.
- Monitoring of human rights: political parties may denounce human rights violations or highlight human rights issues and hereby participate in an informal monitoring of the human rights action of the state.

In democratic systems, political parties as such are not part of the state and have **no legal human rights obligations**.³⁴ However, at times political parties may participate, directly or indirectly, in the ruling of the country. They become closely associated to exercising political power when their members get elected or appointed to parliament or government. In such situations, members of political parties become part of the state infrastructure, and as such they are duty-bearers with human rights obligations in the national human rights system (see the text box below for an outline of these obligations).

THE ROLE OF PARLIAMENT AND GOVERNMENT IN THE NATIONAL HUMAN RIGHTS SYSTEM (NHRS)

The **parliament** has a unique role within the NHRS, because of its function in making law, conducting oversight, ratifying treaties, setting budgets, and representing and shaping the views of constituents. The parliament must:

- take active measures to ensure that laws, policies, actions, programmes and budgets reflect the principles and obligations contained in human rights treaties (See annex 1)
- raise awareness of human rights among constituents
- function as a bridge between the legislative and executive branches of the power and the population, through e.g. public hearings and regular meetings between parliamentarians and their constituency.

The **government** is the main driver of the implementation of the state's human rights obligation. Both central, regional and local/delocalised structures have a role to play in this respect. Key roles of the government include:

- elaborating draft laws, including relevant budgetary proposals, and passing necessary executive acts
- developing and adopting policies and programmes which promote and protect human rights (national action plan, specific plans focusing on rights, sectors or categories of individuals)
- establishing organs within the administration charged with specific human rights tasks (for ex. human rights focal points)
- reporting to international and regional human rights mechanisms.

Even though political parties have no *human rights* obligations as such, they must fulfil a number of legal obligations: Political parties and their members need to operate legally and therefore respect all the domestic legislation and regulation that implement human rights in the country where they operate, such as law on associations and/or political parties, equality laws, media laws, as well as criminal law (hate speech, defamation, insult, etc.), labour law etc.

In addition, it may be argued that all actors in a democratic society have a **responsibility** to work in a manner that is compliant with the overall aim of respecting, protecting and promoting human rights. According to the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (1998), Article 18 (2 and 3),

Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

For political parties, this means e.g. that they are encouraged to:

- **COMBAT VIOLENCE IN SPEECH AND ACTION:** Parties in democratic systems must reject the use of violence as a mean of achieving political goals. They should not advocate or resort to violence, maintain their own militias or use hate speech as a political tool.³⁵ In many countries, law punishes incitation or resorting to violence. Political parties must therefore make sure that this legal framework is in place, respect it in all their actions and work for its effective implementation in all situations.
- **SUPPORT POLITICAL PLURALISM:** The right to freedom of association and the right to freedom of expression entails the coexistence of a diversity of political opinions and political organisations in society. The state must protect and encourage it, and all private actors must respect it. For political parties, this implies that they should not act in any way that could hinder the creation of other political parties. They should also work with the state to make sure that an enabling framework is in place to secure the free creation and operation of political parties. In addition, political parties should be taking part in debates and discussions with opposing parties. They should not hinder the free-speech rights of those with opposing views or disrupt meetings held by their political opponents.
- **COMBAT DISCRIMINATION:** The principle of non-discrimination is at the core of human rights. Political parties and their members must follow equality and anti-discrimination legislation. This means that they may not discriminate when hiring people to work for the party and in their external relationships of the party. In addition, when nominating candidates to elections, they must follow equality legislation imposing for instance gender quota for electoral list.
- **UNDERTAKE HUMAN RIGHTS SCREENING** of new proposed policies and legislation: It is important that the parties themselves consider the compliance with human rights when proposing new policies or legislative measure or when they consider government proposals in parliament. This concerns that the *process* of developing policies and laws is to be undertaken in light of human rights, including the right to participation and consultation, the *substantive elements* of policy and law itself is complying the human rights and that it is being *implemented* in a manner that protect and promotes human rights and finally that the *results* of the policy is not in contravention of rights (See Annex 1).

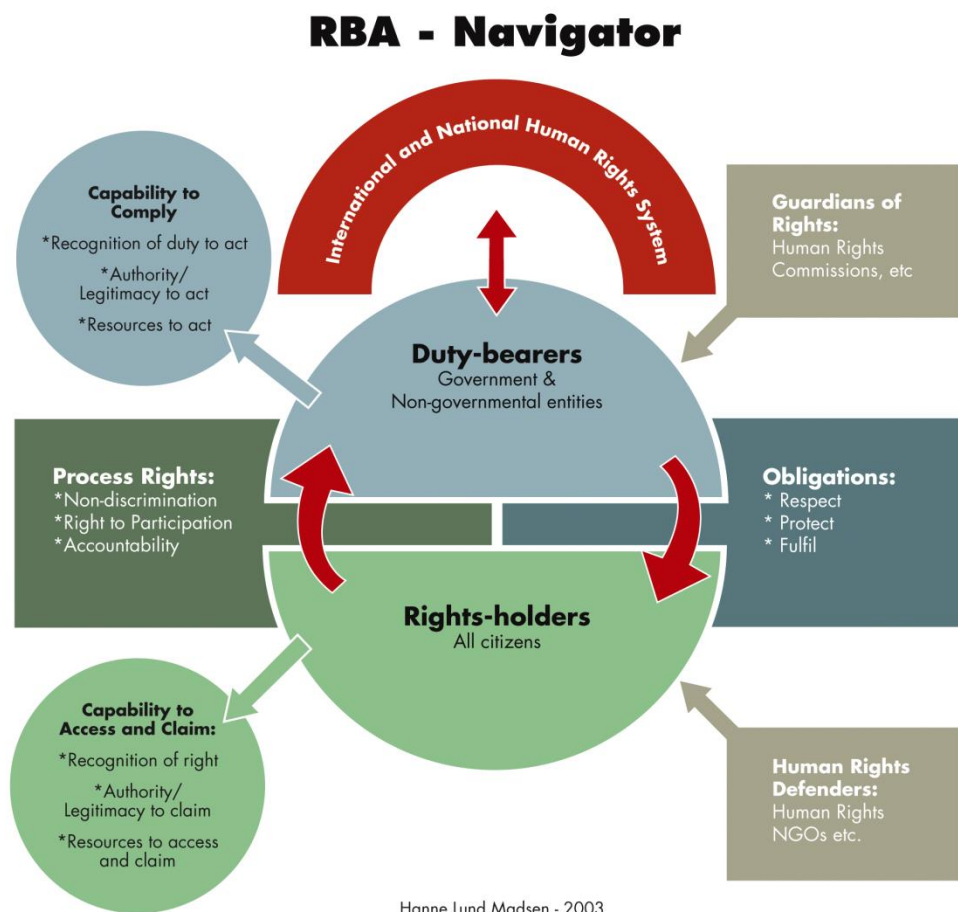
The above principles have been laid down in many global and regional documents as for example also in the African Charter on Democracy, Election and Governance, adopted by African Union in 2007.

ANNEX 1: A RIGHTS BASED APPROACH TO SCREENING OF LAWS AND POLICIES

Hanne Lund Madsen

Human rights are important to political parties because it present a framework that can guide parties in their own work. Moreover, it can guide them in critically and constructively reviewing laws and policies in Parliament. Parties and their MPs will as policy makers and lawmakers be required to legislate in a manner that is in compliance with and promoting human rights. Perhaps the MP of the party has a seat in a parliamentary committee where screening of new policy measures or laws are relevant in light of human rights. The question of legality is thus essential meaning that all political programmes, policies and proposals are grounded in, or not contradicting, international human rights standards.

Through a human rights-based approach, political parties can strengthen their capacity to serve as key actors in democracy or as lawmakers emphasising the principles of participation, accountability and non-discrimination. Moreover, it will be important to look into the substantive rights within various sectors (health, education, etc) and finally be attentive to the obligations to respect, protect and fulfil rights as illustrated in the RBA Navigator below.



The RBA Navigator is the overall framework that can guide such systematic screening of any policy or legislative measure.³⁶

In some sectors specific guidelines have been developed. For instance, the UN Independent Expert on Foreign Debt and Human Rights has developed guiding principles for human rights impact assessments for economic reform policies.

The RBA Navigator can also assist political parties in identifying areas where there is a need for enhancing their capacity to comply or their capacity to access and claim fundamental rights.

DIPD is pursuing a **capacity development approach** to enhancing political parties' capacity to be representative and accountable and thus rights are much relevant in this regard. It can also help parties to think of other actors, i.e. human rights NGOs that can assist in the defence of human rights. Or the role of the National Human Rights Commission, which is to act as a guardian.

When adopting a human rights lens for a political party itself, the RBA may moreover translate into the following guidelines:

PARTICIPATION

- Representation at local level through local party structures or local level consultations
- Internal party democracy with participatory processes in nomination and policy development³⁷
- Campaigns and education to mobilise citizens to participate in public affairs
- Role in encouraging government hearings and consultations

ACCOUNTABILITY

- Transparency in internal decision-making and party finances
- Accountability of party leaders and members of parliament to rank-and-file
- Role in holding government and parliament to account
- Delivery and accountability according to party policy and programmes³⁸

NON-DISCRIMINATION AND EQUALITY

- Involvement of women and youth at all levels of the party structures and processes
- Non-discrimination and equality in recruitment and nomination of candidates
- Attention to groups vulnerable to structural discrimination in local consultations
- Ensuring that programmes, policies and proposals are not (intentionally or unintentionally) discriminatory
- Ensuring that party members, in particular leaders and members of parliament or government, do not engage in hate speech and incitement to violence

In conclusion, human rights concern a relationship and it regulate that interface between citizens and powerholders. For political parties the relationship with citizens in terms of representation is also essential, as is the relationship with powerholders in terms of accountability.

As DIDP's work rests on the **internationally recognised human rights** it means that partnerships are sought internationally and with local partners where democracy and human rights respect and protection are shared goals.

The political parties and their members are in many instances the rights holders vis-à-vis governments, and in some instances, they are even struggling to get recognition of their rights (e.g. Swaziland). In other situations, DIPD considers political parties to be duty bearers and especially so when holding power in government office. For example, the support to Women in Politics and Youth in Politics is focussed on strengthening the rights of women and youth to active political participation, while the political parties are considered the duty bearers responsible for making more conducive frameworks for their participation and also putting in place affirmative action measures. In several cases, such as in Nepal and Myanmar, the work is undertaken with direct reference to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the measures and advocacy undertaken in this light.

The **principles** of participation, accountability, and non-discrimination are not only crosscutting values underpinning the work of DIPD, but also directly targeted in DIPD's cooperation projects through strategies to enhance participation and youth in politics, to enhance the linkages between parties and citizens and parties and governments to enhance accountability, eliminate discriminatory practices, and to support transparent decision-making in political parties and discussions on party financing mechanisms.

The focus on the quality of both the **process** and the **outcome** is also to be present in DIPD's democracy work, where all experience shows that for democracy to thrive the process (elections, campaigning, etc.) must conform to agreed standards, but also the outcome must be accepted and supported by the political parties and the citizens at large.

NOTES

¹ World Conference on Human Rights: *Vienna Declaration and Programme of Action*, para. 8, 1993.

² Commission on Human Rights: *Resolution 2002/46*, 2002.

³ Anne Gallagher: 'The United Nations, Democracy and Human Rights,' in *Manual on Human Rights Monitoring*, University of Oslo: Norwegian Centre for Human Rights, 1997, p. 2.

⁴ *Ibid*, p. 2.

⁵ Office of the High Commissioner for Human Rights: *Equal participation in political and public affairs*, <http://www.ohchr.org/EN/Issues/Pages/EqualParticipation.aspx>.

⁶ The NHRS concept builds on the respect, protect and fulfil framework developed by the UN. The concept underlines that human rights promotion and protection entails continuous processes of interaction and communication between a complex whole of state and non-state actors within a given legal and policy framework. For more information, see *DIHR Concept Note on NHRS*, DIHR HRS Toolbox, 2016.

⁷ This definition builds on a definition given by the OSCE and the Venice Commission in two publications: European Commission for democracy through Law (Venice Commission) and OSCE/ODIHR, *Guidelines on Political Party Regulation*, adopted by the European Commission for democracy through Law (Venice Commission) at its 84th Plenary Session, Venice, 15-16 October 2010, OSCE, 2011 (in the following, Venice Commission/OSCE-ODIHR Guidelines on Political Party Regulation, 2011); and European Commission for democracy through Law (Venice Commission), *Code of good practice in the field of political Parties and Explanatory Report*, Study no. 414/2006, CDL-AD(2009)021, 2009, para. 11. Today, most states have to some degree regulated the establishment and the operation of political parties in domestic law, including a definition. However, the rules applying through constitution and legislation vary from one context to the other. For a discussion of different definitions and understandings of political parties, see Hanne Lund Madsen: *Political Participation. Perspectives from civil society and political parties*, Copenhagen: Danish Institute for Parties and Democracy, 2012.

⁸ Danish Institute for Parties and Democracy: *Strategy 2018-2020. Parties & Democracy in the World*, Copenhagen: Danish Institute for Parties and Democracy, 2017, p. 5.

⁹ See Venice Commission/OSCE-ODIHR *Guidelines on Political Party Regulation*, 2011, para. 20 on political pluralism.

¹⁰ See for instance ECtHR, judgment of 7 December 1976, *Handyside v. UK.*, and ECtHR, judgment of 7 December 1976, *Kjeldsen, Busk, Madsen & Pedersen v. Denmark* which set the basis of the European Court of Human Rights' understanding of pluralism, democracy and human rights.

¹¹ Juan Linz and Alfred Stepan: *Problems of Democratic Transition and Consolidation*, Baltimore: Johns Hopkins University Press, 1996, p. 8; Lund Madsen, *Political Participation*, p. 4.

¹² UDHR art. 3; ICCPR, article 6 and 9; ECHR, Art. 2 and 5; AmCHR, Art. 4 and 7; AfCHR, Art. 4, 5 and 6.

¹³ The right to freedom of association is reaffirmed by other international treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the American Convention on Human Rights (ACHR), the Charter of Fundamental Rights of the European Union (CFREU) and the African Charter on Human and Peoples' Rights (AfCHPR). The Arab Charter on Human Rights also provides for the right to freedom of association but makes it applicable only to citizens. Similarly, other international documents protect this right with respect to trade unions and employers' organizations, including several conventions of the International Labour Organization (ILO) and the European Social Charter (ESC). Various other international and regional human rights instruments also specifically recognize the right to freedom of association of particular persons or groups, such as refugees (the Convention and Protocol Relating to the Status of Refugees), women (the Convention on the Elimination of All Forms of Discrimination against Women), children (the Convention on the Rights of the Child), migrant workers and members of their families (the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families), persons belonging to national minorities (the Council of Europe Framework Convention for the Protection of National Minorities) and persons with disabilities (the Convention on the Rights of Persons with Disabilities) (overview from Venice Commission/OSCE-ODIHR Joint Guidelines on Freedom of Association, 2014, p. 10f). For an analysis of the right to freedom of association, see Allan Rosas, 'Article 21' in

Gudmundur Alfredsson and Asbjørn Eide: *The Universal Declaration of Human Rights. A Common Standard of Achievement*. The Hague/Boston/London: Martinus Nijhoff Publishers, 1998, p. 432.

¹⁴ European Commission for democracy through Law (Venice Commission) and OSCE/ODIHR, *Joint Guidelines on freedom of association*, adopted by the Venice Commission at its 101st Plenary Session, Venice, 12-13 December 2014 (in the following Venice Commission/OSCE-ODIHR, *Joint Guidelines on Freedom of Association*, 2014), p. 17.

¹⁵ Venice Commission/OSCE-ODIHR, *Joint Guidelines on Freedom of Association*, 2014), p. 17ff.

¹⁶ See European Court of Human Rights, case of *Ouranio Toxo et autres c. Grèce*: “It is incumbent upon public authorities to guarantee the proper functioning of an association or political party, even when they annoy or give offence to persons opposed to the lawful ideas or claims that they are seeking to promote. Their members must be able to hold meetings without having to fear that they will be subjected to physical violence by their opponents. Such a fear would be liable to deter other associations or political parties from openly expressing their opinions on highly controversial issues affecting the community.” (judgement of 20 October 2005, appl. No. 74989/01, para. 37).

¹⁷ Venice Commission/OSCE-ODIHR, *Joint Guidelines on Freedom of Association*, 2014, p. 18.

¹⁸ See a. o. ICCPR Art. 21 and 22 and all other standards in freedom of association and assembly.

¹⁹ See extensive case law from the European Court of Human Rights in the *Fact sheet on political parties and associations*, October 2016 (available on www.echr.org).

²⁰ *Ibid*, see case-law concerning Turkey or the Russian Federation.

²¹ Article 25 is complemented by the interpretive General Comment no. 25: *The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25)*, CCPR/C/21/Rev.1/Add.7, July 1996, and jurisprudence adopted by the Human Rights Committee. Other international human rights instruments contain similar provisions. These include the Universal Declaration of Human Rights (art. 21); the International Covenant on Economic, Social and Cultural Rights (art. 8); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (c)); the Convention on the Elimination of All Forms of Discrimination Against Women (arts. 7 and 8); the Convention on the Rights of the Child (art. 15); the Convention on the Rights of Persons with Disabilities (arts. 4 (3), 29, 33 (3)); the International Convention on the Protection of All Migrant Workers and Members of Their Families (arts. 41 and 42); the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (art. 2 (2)); the United Nations Declaration on the Rights of Indigenous Peoples (arts. 5 and 18); the Durban Declaration and Programme of Action (art. 22); the Declaration on the Rights to Development (arts 1.1, 2 and 8.2); and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (art. 8). At the regional level, equal political rights are protected in several instruments, including Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 3), the American Convention on Human Rights (art. 23) and the African Charter on Human and Peoples' Rights (art. 13) (overview from Office of the High Commissioner for Human Rights: *Equal participation in political and public affairs*, www.ohchr.org/EN/Issues/Pages/EqualParticipation.aspx).

²² General Comment no. 25.

²³ Other international standards on freedom of expression and information include the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women, ILO Convention N° 135, Workers' Representatives Convention, General Comment 10 [19] (Article 19) of the Human Rights Committee (CCPR/C/21/Rev.1 of 19 May 1989), General Comment 11 [19] (Article 20) of the Human Rights Committee (CCPR/C/21/Rev.1 of 19 May 1989), The public's right to know: Principles on Freedom of Information Legislation. Annex II Report E/CN.4/2000/63. Regional standards: American Convention on Human Rights “Pact of San José. Costa Rica” (OAS), Declaration on principles of freedom of expression (OAS), African Charter on Human and Peoples' Rights, Declaration of principles on freedom of expression in Africa, Amsterdam Recommendations. Freedom of the Media and the Internet. Organization for Security and Co-operation in Europe (OSCE), Bishkek Declaration. OSCE (overview from Office of the High Commissioner for Human Rights: *Freedom of Opinion and Expression – International Standards*, www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Standards.aspx).

²⁴ ECtHR, *Lingens v. Austria*, Judgment of 8 July 1986, Series A no. 103, at para. 42: “freedom of political debate is at the very core of the concept of a democratic society”.

²⁵ ECtHR, *Handyside v. the United Kingdom*, judgment of 7 December 1976, appl. no. 5493/72), cf. OSCE, *Guidelines on freedom of association*, p. 41; ECtHR, *Hertel v. Switzerland*, 25 August 1998, appl. no. 25181/94, para. 50

²⁶ See Council of Europe, *Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe*, 10 October 2007, paras. 12-13.

²⁷ ECtHR, *Karatas v Turkey*, judgment of 8 July 1999, app. 23168/94, para 50.

²⁸ Toby Mendel: *Restricting Freedom of Expression: Standards and Principles*, Halifax: Centre for Law and Democracy, 2010, p. 5.

²⁹ *Ibid*, p. 5

³⁰ ICCPR, Art. 19.3.

³¹ ICCPR, Art. 20.1.

³² ICCPR, Art. 20.2. Article 20(2) of the ICCPR; see also OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, Warsaw: ODIHR, 2010, 2nd edition, para. 96, and ECtHR, *Vona v. Hungary* (Application no. 35943/10, judgment of 9 July 2013), para. 55. See also OHCHR: *Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*, 2012

³³ See extensive case law from the European Court of Human Rights in the *Fact sheet on hate speech*, February 2018 (available on www.echr.org).

³⁴ For a theoretical attempt to construct such obligations, see Tim Wood, Reinforcing Participatory Governance Through International Human Rights Obligations of Political Parties, *Harvard Human Rights Journal*, Vol. 28, 2015, 145-200.

³⁵ Venice Commission and OSCE/ODHIR Guidelines, para. 47 on commitment to non-violence.

³⁶ For further elaboration of the RBA Navigator developed by Hanne Lund Madsen see “Human Rights & Development in the New Millennium: Towards a Theory of Change, Routledge, 2014)

³⁷ Danish Institute for Parties and Democracy (editor: Hanne Lund Madsen): *Developing Political Party Capacity: A DIPD Approach. Strategy 2014-2017*, Copenhagen: Danish institute for Parties and Democracy, 2014, p. 10

³⁸ *Ibid*, p. 10