International, regional and national human rights protection mechanisms

Office of the United Nations High Commissioner for Human Rights (OHCHR) in Uganda

UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Content

- **International human rights instruments;**
- **Human Rights obligations for the states;**
- **Regional human rights instruments;**
- **National legal framework related to human rights;**
- **International Human Rights protection mechanisms;**
  - Treaty Bodies
  - Human Rights Council
  - UPR
  - Special Procedures

- **African Union HR mechanisms**
- **National institutions protecting human rights;**

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

What are human rights?

- Human Rights are entitlements every one has by virtue of being a **human being**, and that, based in the freedom, dignity and equality, are **recognized by the legal frameworks of States, nationally and internationally.**

- In other words, Human Rights are entitlements of each individual that are protected by the law and guaranteed by the State. So, they define the relationship between the “State” and the “Individuals”.

- Human Rights protect individuals and groups of individuals against actions that interfere with their fundamental freedoms and undermine their human dignity.

- They protect human dignity and integrity. They involve all elementary pre conditions for a dignified human existence.

Why Human Rights?

- The human rights concept is the current proposal from the human being to respond to certain dilemmas and challenges that different civilizations, societies and cultures have been confronted to since the beginning of the human history:

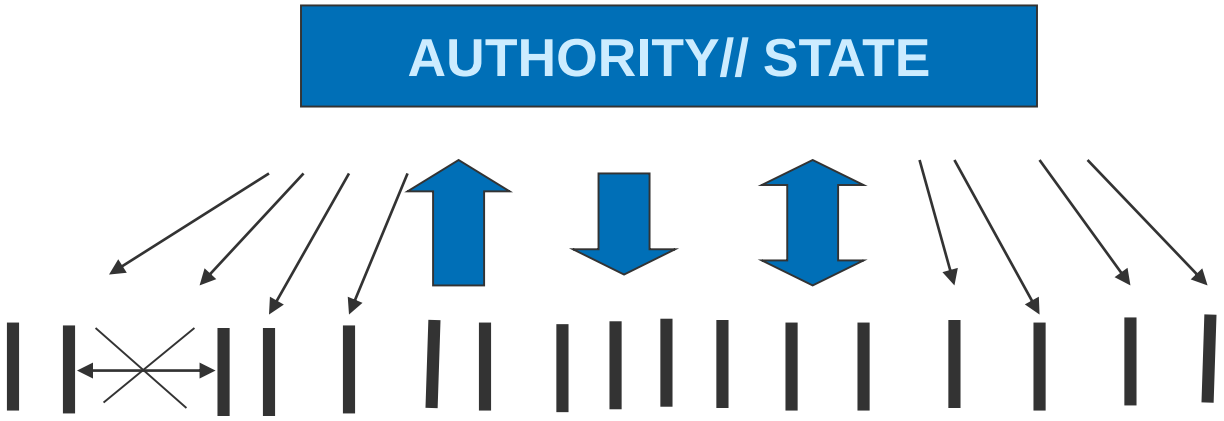
- How to balance the power relationship between the authorities and the citizens?
- How to achieve peaceful harmony and coexistence between persons from different religions, cultures, ethnic groups, and backgrounds?.

- The concept of human rights reflects the first universal consensus to respond to both questions.

Background of human rights (HR) concept:

- The concept of HR has been developing during the history of humanity, according to each period;

HR are based in a philosophical foundation: since the beginning of humanity, the members of a community appoint an authority to protect them. Hence, authorities have their powers so they can perform their duty towards the population, not to abuse it.



UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Foundational documents of human rights

- **UN Charter – 1945:**

  "To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion (article 1 (3))"

- **Universal Declaration of Human Rights – 1948:**

  "*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (article 1).*"

All subsequent International Human Rights Law Build upon these fundamental documents -

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

CLASIFICATION OF HUMAN RIGHTS

- **Civil and political rights (1st. Generation):**

  - Right to life,
  - Right to be liberty and security of a person
  - Right of detained persons to be treated with humanity
  - Right to have a fair trial,
  - Right to equality before the law and non- discrimination
  - Right to be free from torture, cruel inhuman degrading treatment,
  - Right to vote
  - Right to freedom of speech and expression,
  - Right to form an association and assembly,
  - Right to freedom of thought, conscience and religion
  - Right to movement

- **Economic Social and Cultural (2nd generation)**

  - Right to Health
  - Right to work
  - Right to Education
  - Right to just and favourable conditions of work
  - Right to protection of the family
  - Right to adequate standard of living, food, clothing and housing

- **Collective Rights (3rd. Generation)**

  - Right to Self-determination
  - Right to development
  - Right to healthy environment

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Where are these HRs written down?

International level: International law: (treaties/ conventions/ covenants/declarations/principles/ standards)

- **Binding (Treaties/ Conventions / Covenants/ Protocols)**
- **Non-binding (principles/ rules/ standards/ declarations)**

National level: National legal framework:

- **Constitution**
- **Statutory laws/ legislations (Acts of Parliament)**
- **Policies**
- **Judicial Decisions (Case Law) (Commonwealth system)**
- **Ordinances (District), bye-laws (Sub County)**

Human Rights Instruments vs Human Rights mechanisms

- **Human Rights instruments:**

- **The international or regional legal documents where the human rights are provided for. The term is normally referred to documents that are part of the international human rights law (Declarations, charters, conventions, treaties).**

- **Human Rights mechanisms:**

- **The entities, bodies or institutions that are created in order to oversee the implementation of the human rights instruments. This term is also normally referred to international or regional mechanisms.**

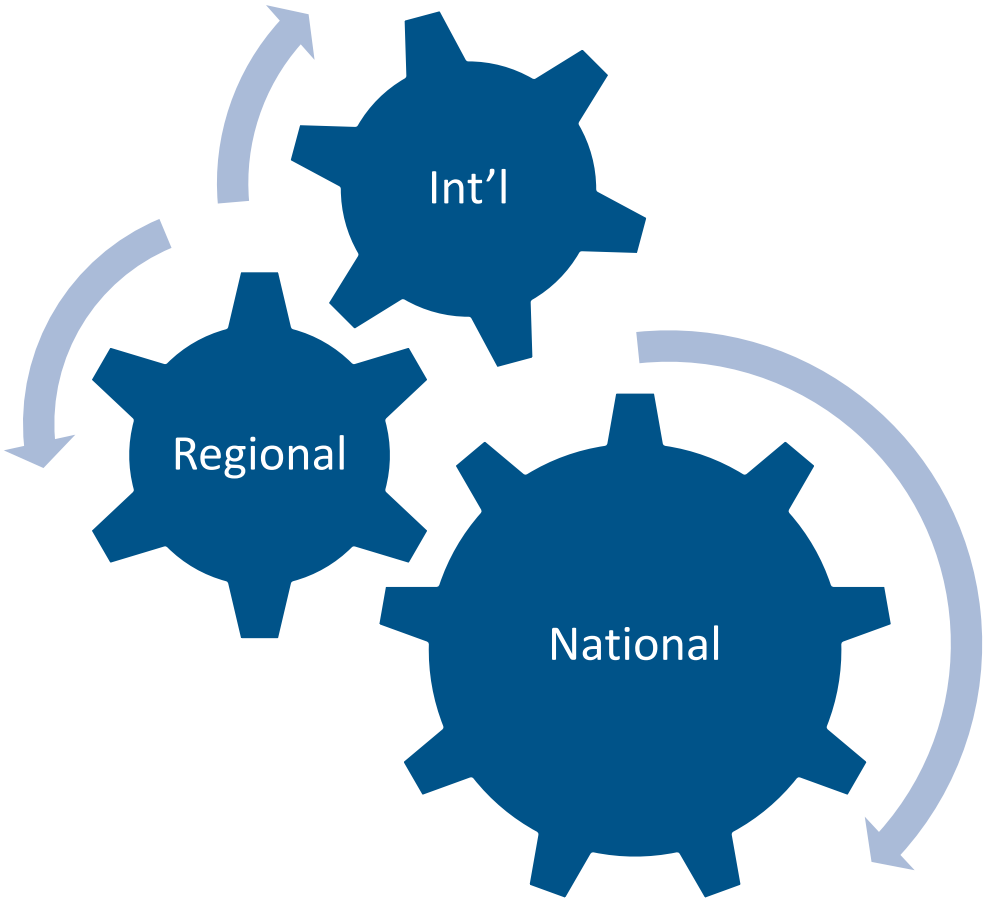
UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Human Rights instruments:

- **Three levels:**
  - **International: United Nations;**
  - **Regional or continental: African Union;**
  - **National: Ugandan legal framework**

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Linkages international, regional and national systems

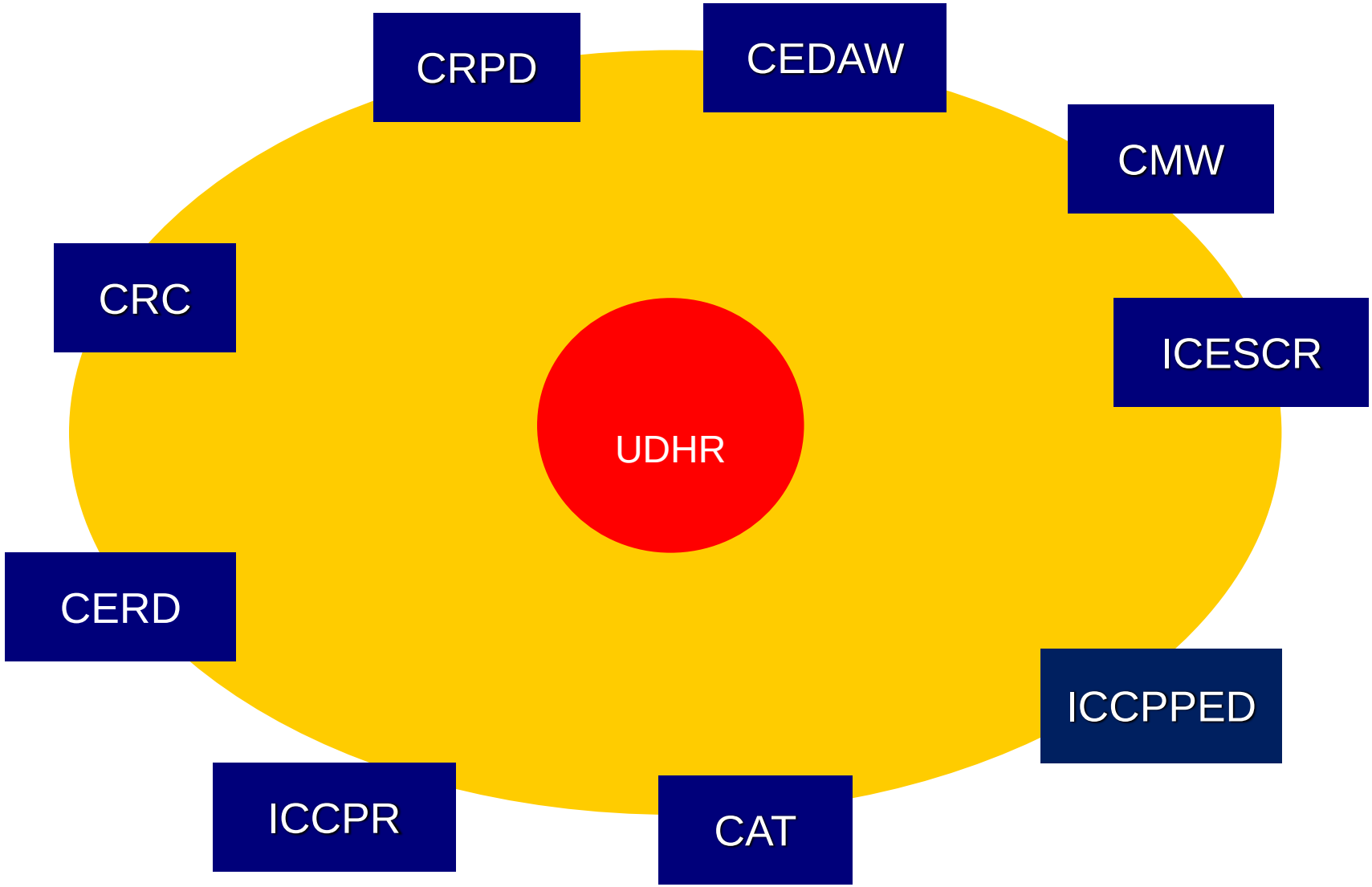


UNITED NATIONS
UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Core International UN HRs instruments

- Universal Declaration of Human Rights (UDHR- 1948)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD-1965)
- International Covenant on Civil and Political Rights (ICPPR- 1966); Two Optional Protocols
- International Covenant on Economic, Social and Cultural Rights (ICESCR-1966)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-1979)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT-1984)
- The Convention on the Rights of the Child (CRC-1989)
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CM-1990)
- Convention on the Rights of Persons with Disabilities (CPD-2006) (OP)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED-2006- 2010)

Protection of Human Rights



UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

REGIONAL / CONTINENTAL HR INSTRUMENTS: African Union (AU):

- **Organization of African Unity (OAU),** created in 1963 and now called African Union (AU). It created the next human rights instruments:

- **African Charter on Human and People's Rights (ACHPR):** Adopted at Nairobi on 27 June 1981. Entered into force on 21 October 1986.

- **Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (PACHPR):** adopted in 1998. Entered into force in 2004. Currently, ratified by 27 African States, including Uganda, in 2001.

- **African Charter on the Rights and Welfare of the Child (ACRWC):** Adopted at Addis Ababa on 11 July 1990; entered into force on 29 November, 1999.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

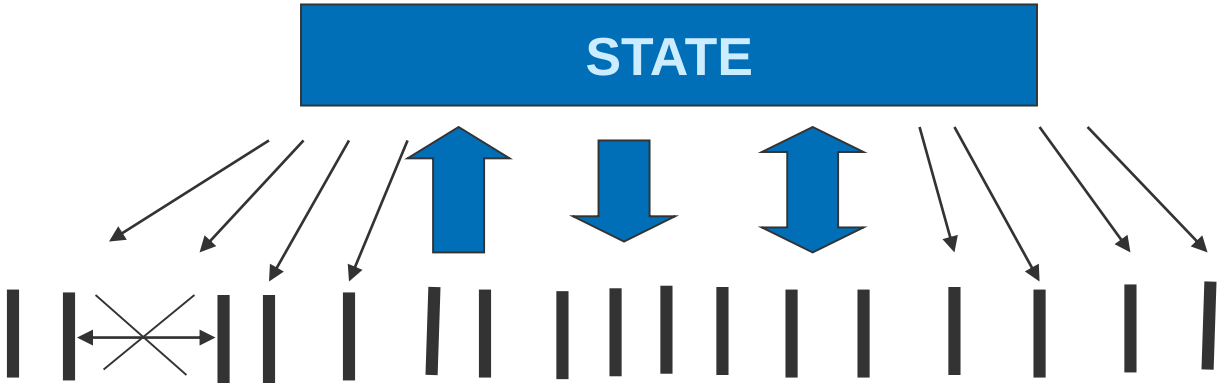
International and Regional Human Rights Treaties ratified by Uganda

Human Rights Treaty	Year of Adoption	Ratification/Accession of Uganda	Uganda's Reports to Treaty bodies
IESCR	1966	1987	2015
ICCPR	1966	1995	2003
CEDAW	1979	1985	2000,1992,1994
CAT	1984	1986	2004
CRC	1989	1990	2003(1996)
ICRMW	1990	1995	2015
ICPPED	2006	Signed 2007, not yet ratified.	N/A
CRPD	2006	2008	2012, 2016
ACHPR	1981	1986	2008(2000,2006), 2012
ACRWC	1992	1992	First report submitted

Human rights obligations for the states:

- The core international HR treaties create legal obligations for the States parties to promote and protect human rights at the national level. When a country accepts one of these treaties trough ratification, accession or succession, it assumes a legal obligation to implement the rights set out in that treaty. This implementation is done through the next types of obligations for the states:

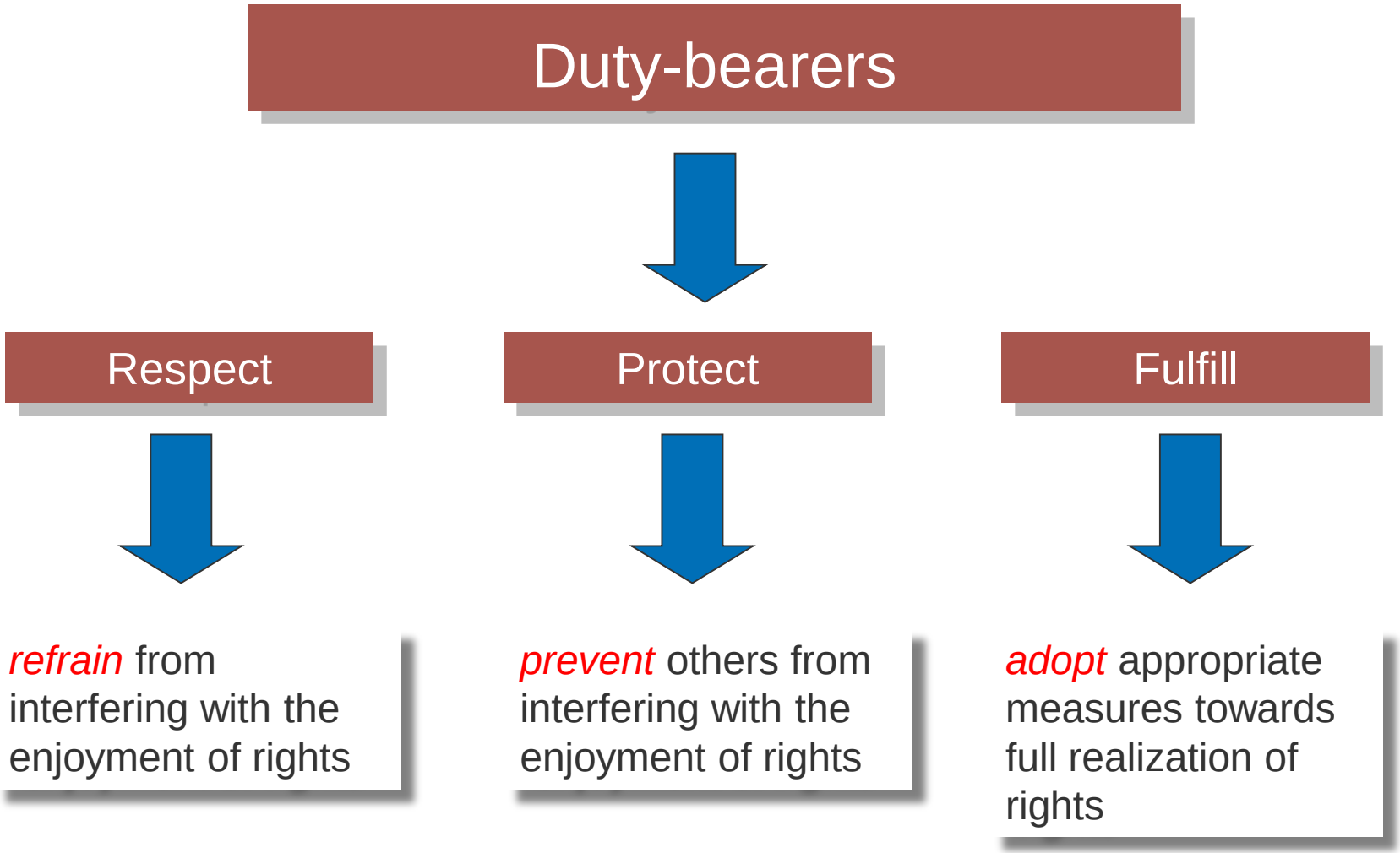
- **A. Immediate obligations vs. progressive obligations;**
- **B. Respect /protect /fulfill.**



UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Human rights obligations for the states



UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Human rights obligations for the states:

Obligation to respect: “not to interfere”: means that the State is obliged to refrain from interfering with the enjoyment of a particular right or freedom. It Prohibits certain conducts that may undermine the enjoyment of human rights.

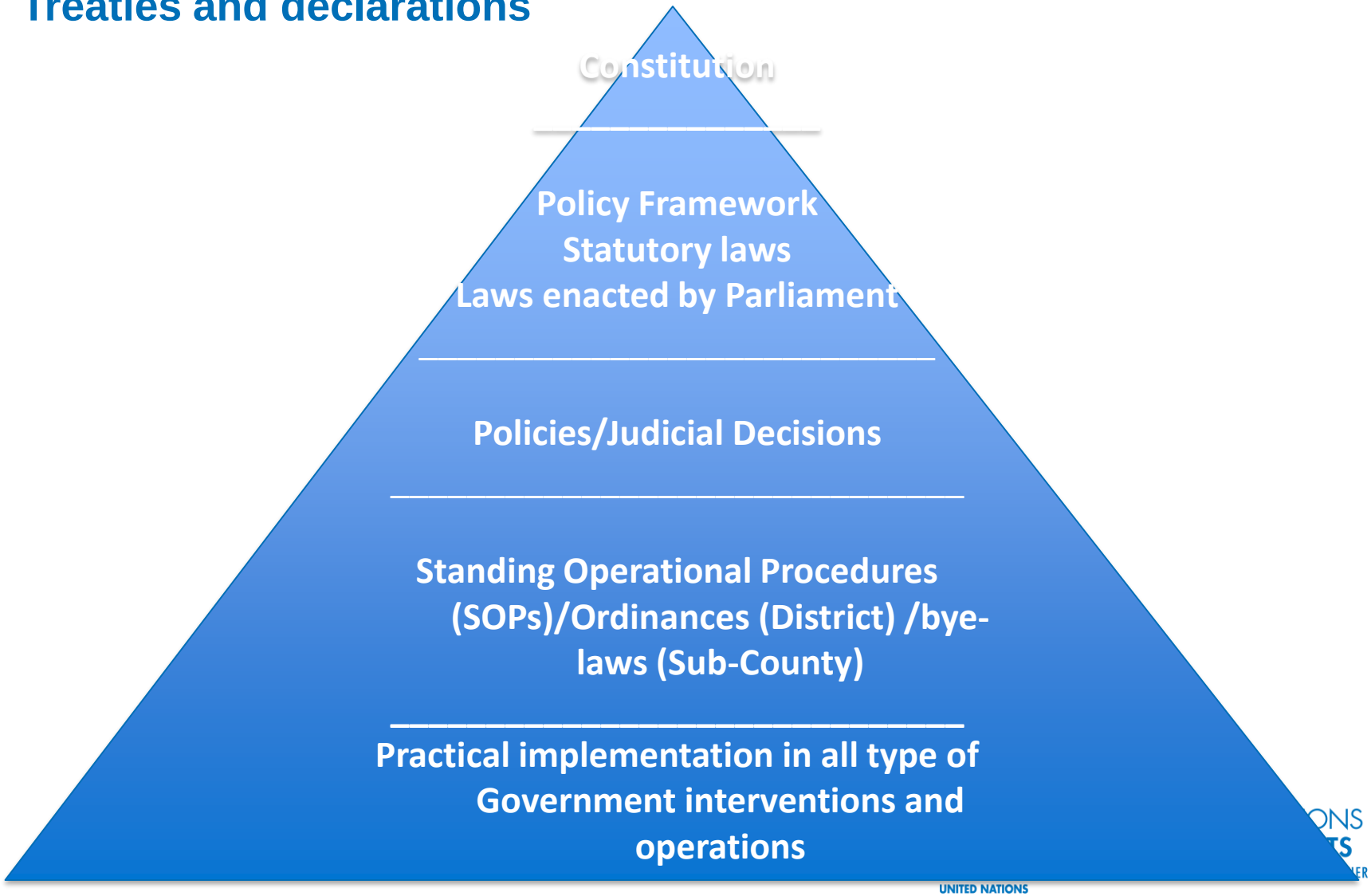
Obligation to protect: prevent violations and abuses. This obligation requires of States/agents to protect individuals/ groups against interference of ‘third’ parties (non state actors, corporations, other countries, other individuals). Law Enforcement agencies are established to perform the duty to protect individual.

Obligation to fulfill: Positive and progressive actions - Enact laws, policies, allocate budget, administrative measures- to ensure the HR are realized. The Government has a responsibility to take necessary positive steps to ensure progressive realization by maximum use of available resources to promote HR rights. This obligates States to set a conducive environment to promote enjoyment of HRs.

Human rights obligations for the states:

International human rights

Treaties and declarations



HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL

- **Legislation and policy framework related to human rights:**

- **Constitution of the Republic of Uganda, 1995;**

- **Treaties ratified by Uganda;**

- **Legal and policy framework,**

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL: Reflection of the Social Contract in Ugandan Constitution 1995

- **Art. 1 (1) of the Constitution 1995: "**All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution.
- **Art. 1 (2): "**Without limiting the effect of clause (1) of this article, all authority in the State emanates from the people of Uganda; and the people shall be governed through their will and consent."
- **Art, 1(3) C-95:** "All power and authority of Government and its Organs derive from this Constitution, which in turn derives its authority from the people who consent to be governed in accordance with this Constitution."

- **Art. 20 (1) C-95:** "Fundamental rights and freedoms of the individual are inherent and not granted by the State."

- **Art. 20 (2) C-95:** "The rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons."

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL: Human Rights in the Constitution, 1995

- Most of the fundamental rights are included in the **Chapter Four** of C-95: **"PROTECTION AND PROMOTION OF FUNDAMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS":**

- Fundamental and other human rights and freedoms;
- Equality and freedom from discrimination;
- Protection of right to life;
- Protection of personal liberty;
- Respect for human dignity and protection from inhuman treatment;
- Protection from slavery, servitude and forced labor.
- Protection from deprivation of property;
- Right to privacy of person, home and other property.
- Right to a fair hearing;
- Protection of freedom of conscience, expression, movement, religion, assembly and association;
- Right to education;

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL: Human Rights in the Constitution, 1995

- Rights of the family;
- Affirmative action in favor of marginalized groups;
- Rights of women;
- Rights of children;
- Rights of persons with disabilities;
- Protection of rights of minorities;
- Right to culture and similar rights;
- Civic rights and activities;
- Right to a clean and healthy environment;
- Economic rights;
- Right of access to information;
- Right to just and fair treatment in administrative decisions;
- General limitation on fundamental and other human rights and freedoms;
- Prohibition of derogation from particular human rights and freedoms;
- Human rights and freedoms additional to other rights.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL: Human Rights in the Constitution, 1995

- Also human rights aspects are included in the part of the **"National Objectives and Directive Principles of State Policy. Arrangement of Objectives." "Protection and promotion of fundamental and other human rights and freedoms.**

- Fundamental and other human rights and freedoms.
- Gender balance and fair representation of marginalized groups.
- Protection of the aged.
- Provision of adequate resources for organs of Government.
- The right to development.
- Role of the people in development.
- Role of the State in development.
- Balanced and equitable development.
- Protection of natural resources."

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Human Rights Protection Mechanisms

- **Three levels:**
  - **International level: United Nations;**
  - **Regional or continental: African Union;**
  - **National: Ugandan institutions with a mandate related to human rights: Uganda Human Rights Commission (UHRC);**

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

UNITED NATIONS SYSTEM AND ICC

UNITED NATIONS GENERAL ASSEMBLY (UNGA)- 193 Member States

UN SECURITY COUNCIL
Peace and Security:
15 Members:
5 Permanent / 10 Non permanent

ECOSOC

HR Com, until 2006

UN Secretary General

UN Secretariat
UN agencies
UNICEF, FAO, WB, WHO, UNDP, UNESCO, OHCHR, UNHCR, WFP, UNFPA, UN WOMEN, UN AIDS, IAEA, etc.

UN HUMAN RIGHTS COUNCIL
Since 2006

OHCHR

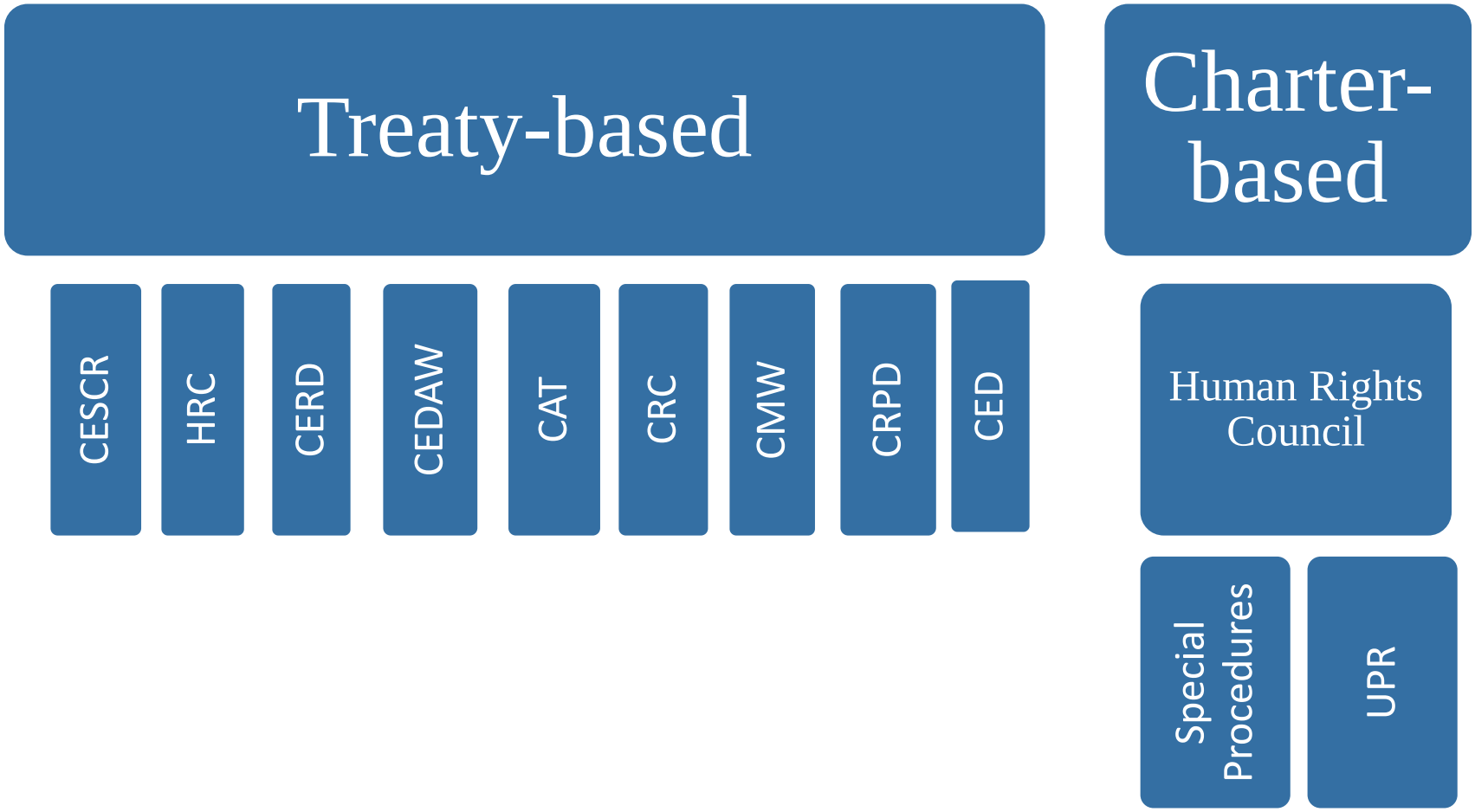
INTERNATIONAL COURT OF JUSTICE (ICJ)

International Criminal Court (ICC)
Not UN

UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

International human rights mechanisms



UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

UN MECHANISMS FOR PROTECTION OF HUMAN RIGHTS

- 1.- Conventional Mechanisms: Treaty Bodies;
- 2.- Human Rights Council;
- 2.1 Extra-conventional mechanisms: Special Procedures
  - 2.a. Geographical Mandate
  - 2.b. Thematic mandate
- 2.2. - Universal Periodic Review (UPR).

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

International Mechanisms Human Rights Protection:

Treaty Bodies (TB):

- Conventional mechanisms;
- Each treaty creates an international committee of independent experts to monitor the implementation of the rights enshrined therein. Functions:
- They examine State Party Reports (with recommendations);
- Issue General Comments (authoritatively, interpret of specific provisions in the treaties);
- Promotion and awareness raising.
- Handle individual complaints or conduct inquiries: CCPR, CERD, CAT, CEDAW, CRPD, CED, CESCR may if State recognizes the competence of the treaty body.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

International HR protection mechanisms: Treaty Bodies (TB):

- State Parties have an obligation to periodically report to the treaty body.
- **Process:**
  - State report complemented by alternative report
  - Review in Geneva – dialogue: state/committee/civil society
  - Concluding Observations – recommendations for further compliance with convention

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

International HRs protection mechanisms: Treaty bodies:

- **Individual Complaints:**
  - Only when domestic remedies have been exhausted;
  - Cannot be anonymous – substantiated information
  - Should not be simultaneously or previously considered by any other international/regional body
  - The event of the complaint must have occurred or continued after ratification by state of said protocol (CRPD)

International HR protection mechanisms : The Human Rights Council

- Established in 2006.
- HRC is an inter-governmental body consisting of 47 member states (elected by GA max 6 years) that review emerging human rights situations and make resolutions and other agreements – Can also receive complaints.

- Composition based on Geographical Balance and take into consideration commitment to human rights

- The Human Rights Council oversees two important human rights protection and promotion functions: Special Procedures and the Universal Periodic Review

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

International HR protection mechanisms : UPR

Universal periodic review (UPR):

- Periodic review of the fulfillment of HR obligations in every UN Member State. The review is done by UN Member states that are part of the Human Rights Council.
- Every year, in turns, different countries are evaluated; so the same state is reviewed after four years again;
- State (including NHRIs), Civil Society, and UNCT inform the review; UPR formulates recommendations, which the State under review can endorse or reject recommendations .

- **Uganda was reviewed in UPR in October 2011, it received over 170 recommendations and accepted 129 of them fully. In 2016, Uganda received 226 and accepted 183.**

UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

International HR protection mechanisms : Special Procedures:

Special procedures, or Extra-conventional mechanisms:

- Independent experts on human rights, nominated by the Human Rights Council;
- They receive different names: **Independent Experts, Special Rapporteurs, or Working Groups**;
- The selection is based on their independence, expertise, integrity and objectivity.
- They are not UN functionaries

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

International HR protection mechanisms: Special Procedures:

Special procedures, or Extra-conventional mechanisms:

- Based on emerging human rights issues new Special Procedure mandates are created. Examine particular thematic human rights issue:
- Thematic mandate : 37, as at 16 June;
- Country mandates : 14;
- Examine, Monitor, Advise, and Publicly Report on HR issues related to their specific mandates;
- Country visits: Upon invitations;
- Receive communications on human rights violations from individuals, organizations and other entities in countries and follow up with states on these allegations.

Regional HR protection mechanisms : African Union

- **African Court on Human and People´s Rights (AfCHPR):** was established by the Court Protocol to the ACHPRs which entered into force in January 2004. It is a regional court created to make judgments on AU states' compliance with the ACHPRs. Based in Arusha, Tanzania. **Functions:**
- - Collect documents and undertake studies and researches on HPRs matters in Africa;
- - Lay down rules aimed at solving the legal problems relating to HPRs;
- - Ensure protection of HPRs in African states; and
- - Interpret all the provisions of the Charter.

  - Cases brought by Members States, Int. Afr. Org, NGOs and individual accredited with the AComHPRs.
- Possible creation of the **African Court of Justice and Human Rights**, based on Protocol from July, 2008, at the AU Summit Egypt. 5 out of 15 AU states needed have ratified.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Regional HR protection mechanisms : African Union

- **African Commission on Human and People´s Rights (ACHPR):**

- Based on the ACHPR, it was set up in 1987 and is now headquartered in Banjul, Gambia.). It is a quasi judicial body tasked with promoting and protecting individual and collective HR throughout the AU as well as interpreting the ACHPRs and considering individual complaints of violations of the Charter. It reports to the Assembly of Heads of State and Government of the AU. The Commission has three broad areas of responsibility: promoting HPRs, protecting HPRs; Interpreting the ACHPRs.
- The Commission is mandated to "collect documents, undertake studies and researches on African problems in the field of human and peoples, rights, organise seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights and, should the case arise, give its views or make recommendations to governments" (Charter, Art. 45).
- Preparing cases for submission to the Court's jurisdiction.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Regional HR protection mechanisms : African Union

- **Special mechanisms:**
- The Commission has several Special Mechanisms in the form of Special Rapporteurs, working groups, or committees that monitor, investigate and report on specific human rights issues. The Commission shall determine the mandate and ToRs of each subsidiary mechanism. Each subsidiary mechanism shall present a report on its work at each ordinary session Commission.
- - **6 Special Rapporteurs** who on allegations of violations;
- - **8 working groups, 2 Committees** and **1 study group** that monitor and investigate various issues under the purview of the Commission.
- Country Missions. Promotion Mission to Uganda, 2013.
- **Committee of Experts on the Rights and Welfare of the Child (CERWC):** draws its mandate from articles 32-46 of the ACRWC, which was adopted in July 1990 and came into force on 29th November 1999. Functions:
- promote and protect the rights enshrined in the Charter, monitor the implementation and ensure protection, interpret the provisions, other tasks.

UNITED NATIONS

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS PROTECTION AT NATIONAL LEVEL

- **Institutions provided for in Constitution and legal framework:**
- **Uganda Human Rights Commission (UHRC);**
- **Equal Opportunities Commission (EOC);**
- **Law Reform Commission (LRC);**
- **Justice, Law and Order Sector institutions (JLOS)**
- **Uganda Police Force (UPF);**

UNITED NATIONS
UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

INTERNATIONAL, REGIONAL AND NATIONAL HUMAN RIGHTS PROTECTION MECHANISMS

Thank you very much!

Questions??

UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER