

EFFECTIVE PARLIAMENTARY OVERSIGHT OF HUMAN RIGHTS

*A Framework for Designing
and Determining Effectiveness*

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BIOGRAPHIES OF INVESTIGATORS

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Kirsten Roberts

Kirsten Roberts BCL, M.Litt., is a PhD candidate and a Dickson Poon Scholarship recipient at The Dickson Poon School of Law, King's College London. Her PhD considers the effectiveness of National Human Rights Institutions (NHRIs). For the 2012/2013 academic year, she was a Visiting Researcher at Harvard Law School and presented at the Harvard Kennedy School of Government and Columbia Law School on NHRIs. From 2008-2013 she was Acting Deputy Chief Executive and Director of Research, Policy and Promotion of the Irish Human Rights Commission (IHRC), Ireland's NHRI. From 2008-2011 she was also coordinator of the European Group of NHRIs. Prior to joining the IHRC, Ms Roberts worked as a legal officer in the United Nations International Criminal Tribunal for the former Yugoslavia. Her previous experience has included the Permanent Representation of Ireland to the Council of Europe, European Court of Human Rights, European Court of Justice, and Amnesty International. Ms Roberts has spoken widely and written on the topic of NHRIs and has acted as a resource person and consultant on NHRIs for the OHCHR and UNDP. She has also undertaken a number of missions as an independent expert on fundamental rights under the European Commission's TAIEX programme. Her recent publications include *The Role and Functioning of the International Coordinating Committee of National Human Rights Institutions in International Human Rights Bodies*, in *National Human Rights Institutions in Europe: Comparative, European and International Perspectives*, J. Wouters and K. Meuwissen Eds., May 2013 and *National Human Rights Institutions as Diplomacy Actors* in *Human Rights Diplomacy: Contemporary Perspectives*, Martinus Nijhoff, Michael O'Flaherty et. al. (eds), October 2011.

EXECUTIVE SUMMARY

Parliaments can and should play a crucial role in human rights protection, yet their effectiveness as human rights actors is not being fully realised. This document presents a framework for designing and determining how parliamentary oversight can be effective. It is the outcome of an 18-month project at The Dickson Poon School of Law, King's College London, and benefits from the experience of parliamentarians, academics, NHRIs and International Organisations, including the UN Office of the High Commissioner for Human Rights.

Effective parliamentary oversight of human rights requires the oversight mechanism to have a clear goal. A goal-based approach sets expectations both for members and stakeholders, and provides a basis for the work of the oversight body, including in the selection of priorities and allocation of resources. A goal-based approach also enables the assessment of effectiveness. The goal of an oversight mechanism can be set out in a mission statement. The statement should contain two elements: the aspiration and the operative goals, and could be formulated as follows:

[Aspiration] To help ensure increased compliance with human rights and a better life for all the people in this country through [Operative goals] publicly examining existing or potential human rights deficits identified by parliamentarians, international organisations, the National Human Rights Institution, Civil Society Organisations, the media, the public, victims, whistleblowers and others; making proposals on areas for change or improvement; and calling the government to account for failures to protect the rights of the people of this country.

In addition to a clear goal, an oversight mechanism must take into account the relevant constituencies or stakeholders, their needs and interactions with them. Stakeholders will include victims, whistleblowers, NHRIs, civil society, State agencies, the executive, and international organisations. The mechanism must take into account the need for it to be legitimate in its activities, particularly in relation to its stakeholders. In assessing the effectiveness of any oversight mechanism, a number of factors (see table para 24, p. 10) will be relevant, including resources, political support and powers. These factors can be examined against the three key elements: goals, constituencies and legitimacy to develop a set of questions that can be used to assess the effectiveness of the mechanism. Whatever type of mechanism is established (such as a committee or rapporteur) this framework can help to ensure its effectiveness.

A number of practical steps that can promote the establishment of effective human rights oversight mechanisms by those concerned with improving parliamentary oversight are also proposed at the end of the document. We hope that this document will contribute to the ongoing developments in this area.

1. INTRODUCTION

1. The State is both capable of committing human rights violations and vital to protecting and promoting human rights. Within a State, parliaments play a crucial role in human rights protection. But the effectiveness of parliaments as human rights actors is not being fully realised. At present, different methods are used by parliaments in democracies around the world to oversee human rights within their countries, with varying degrees of success. This document aims to encourage a fundamental shift in parliaments' approach to human rights in order to improve domestic human rights protections. It outlines a framework for determining effectiveness and makes proposals to different actors regarding the steps that can be taken to improve parliamentary oversight of human rights.
2. These proposals are envisaged as a step in an ongoing process to enhance the role of parliaments as human rights actors, and it connects with initiatives at the United Nations Human Rights Council and within the Inter-Parliamentary Union ("IPU"), among others, which seek to promote the role of parliaments in relation to human rights. This outcome document has also benefited from the related cutting edge research being done in this field.ⁱ
3. This document is the outcome of an 18-month project funded by a King's Policy Institute Policy Impact Grant, run by Dr Philippa Webb and Ms Kirsten Roberts of The Dickson Poon School of Law, King's College London. The grant was designed to fund projects that encourage engagement between policymakers and academia. We very much appreciate the expertise, experience and engagement provided by all of the experts who participated in this project. In particular, we wish to thank Neza Hren for her excellent research support and suggestions.
4. The Effective Parliamentary Oversight of Human Rights Project ("The Project") has brought together leading academics, high-level policy makers and practitioners from nine jurisdictions as well as the United Nations to discuss how parliaments can play a stronger role in overseeing human rights. The Project also undertook research into methods of assessing effectiveness deriving from organisational effectiveness theory, as well as the prior work done in assessing parliamentary oversight in order to develop practical proposals for improving the effectiveness of parliamentary oversight of human rights. These proposals do not focus on any one particular model,ⁱⁱ but consider a framework and factors for determining effectiveness. They also seek to avoid overly complicated approaches to effectiveness or impact assessment, such as long-term indicator-based assessments. We take the approach that there are considerable challenges facing any institution that addresses human rights, including the near-impossibility of full impact assessment. These proposals therefore focus on the elements that will assist in creating an effective institutional structure: clear goals, legitimacy and engagement with stakeholders.



2. CRITICAL QUESTIONS

Why should parliaments be human rights promoters and protectors?

5. In democracies, parliaments are crucial in balancing the use of power by the executive and overseeing the functioning of the State. First, as a crucial component of the State architecture, they share a responsibility to protect, respect and fulfil the State's human rights obligations.ⁱⁱⁱ As elected representatives, parliamentarians have the responsibility to provide for the best interest of their constituents. However, in addition to this duty, parliaments are also ideally positioned to be leaders in ensuring that the State is not perpetrating human rights violations, that national law is not incompatible with human rights standards and ensuring that human rights protections are in place. Parliaments are also well placed to improve conditions for human rights at the domestic level, and their engagement can in particular allow for improved internalisation of regional and international human rights standards.^{iv}

What do we mean by the 'effectiveness' of parliamentary oversight?

6. 'Effectiveness' is a widely used yet poorly defined term. Over sixty years of extensive study by organisational effectiveness scholars has established that there is no single definition of effectiveness and that the researchers' approach will influence the final determination of what is 'effective'.^v Every proposal that seeks to define effectiveness is therefore open to challenge, and it is anticipated that these present proposals will be no exception.
7. Although there is no one-size-fits-all approach, a variety of models have been developed for assessing institutional effectiveness,^{vi} and a number of these models can be applied at the same time to undertake an assessment of effectiveness depending on the institution under examination. Indeed, this Project takes up the challenge put forward by Professor Yuval Shany for a new goal-based approach to be taken in analysing institutional effectiveness. He states that his "main interest ... is ... to develop a research agenda for an interdisciplinary approach toward studying international court effectiveness".^{vii} However, he readily acknowledges that the same framework could also serve as a foundation for future analytical and empirical work on other institutions involved in the elaboration and application of international law.
8. Applying the concept of effectiveness to parliaments, the framework proposed in this document does not presuppose a committee-based system, but rather identifies three models that can be combined to act as a framework for determining whether the oversight mechanism is effective, that is, whether it attains the goal of advancing human rights protections within the relevant State.
9. Any concept of effectiveness must take into account the position of a parliament within the structure of a State: the executive has the primary duty to respect, protect and fulfil human rights and the parliament is therefore not the institution that can implement human rights changes. Thus not all of the elements of effectiveness will be directly within the power of the parliament itself.^{viii} Furthermore, the challenges to parliamentary oversight of human rights need to be acknowledged. These include political realities, lack of independence, shifting national priorities, the existence of a multiplicity of actors, the unavailability of sufficient resources and varying levels of human rights expertise. In addition, it was discussed at the High Level Workshop ("the Workshop") that the palpable impact of parliamentary human rights scrutiny on legislative and policy reforms may be an 'iceberg phenomenon', an element that may pose additional challenges in determining effectiveness.^{ix} This phenomenon means that the visible impacts of parliamentary human rights activity may not be in the public domain, potentially impacting the legitimacy and promotion role of the parliament.



Courtesy of Professor Andrew Byrnes

What is the role of the national context?

10. These proposals start with the presumption that an effective approach to human rights protection is not so specific as to require more than a limited degree of adaptation to national contexts. Many parliaments within democracies across the world play a largely similar role. Thus, the present framework is intended to be broadly applicable across all parliamentary systems. The means for implementing the framework (such as a committee or a rapporteur system) may be country-specific, but the criteria are commonly held.

Is it necessary to have a parliamentary committee on human rights?

11. A significant proportion of the debate on parliamentary oversight in many areas is whether or not the committee system is the best approach. It is evident from both the available research and the discussions with experts undertaken as part of this Project, that the committee system is not universally considered to be the ideal model. While it has potentially beneficial elements, it also has potential risks. The potential risks of the committee system may include:

- A weak mandate that may be subject to political whims,
- A lack of human rights expertise among the members,
- Partisanship,
- Compartmentalisation of human rights within a single-mandate committee,
- Reduced political influence from a single-mandate committee where human rights are not prioritised in the parliament, and
- Perceived usurpation of the judicial role and resulting tension between the legislative and judicial branches.^{xi}

As regards compartmentalisation, the committee system has the power to withhold debates on human rights from the plenary/chamber of parliament.^{xii}

12. There are alternatives to committees that could be used to great effect, such as a rapporteur system similar to that used within regional and international parliamentary bodies, where an individual is appointed to report on a particular issue. His/her report is then fed through a committee system to the plenary.^{xiii} If such a system is effective in a certain context, then there is no reason to cling to a strict committee model. The most important point is that whatever model is chosen to oversee human rights, it should be based on effectiveness criteria.

What are the tools available for parliamentary oversight?

13. In addition to the mechanism for oversight, there is the question of which tools should be used. The ‘IPU’ has identified seven common tools:

- Committee hearings,
- Hearings in plenary sittings,
- Inquiry commissions,
- Questions,
- Question time,
- Interpellations, and
- The ombudsman.^{xiv}

The IPU study found that oversight is good for democracy, but that parliaments need the political will to perform effective oversight.^{xv}

What is the role of the National Human Rights Institution?

14. It was widely agreed at the Workshop that independent and effective National Human Rights Institutions (“NHRIs”) are vital to the national oversight of human rights. Given the diversity of models, the paucity of normative standards, as well as the relative novelty of NHRIs in most governance frameworks, parliamentary-NHRIs relations are evolving rapidly.^{xvi} At their best, NHRIs can provide a parliament with systematic, technically sophisticated and consistent method for including human rights considerations in law making.^{xvii} It was suggested that there could be a partnership between NHRIs and parliamentary oversight mechanisms through, for example, shadow reporting and providing an interface with international bodies, such as the Human Rights Council, treaty monitoring bodies and special procedures mandate holders.^{xviii} NHRIs can also encourage parliaments to ratify treaties and monitor their implementation, as well as contribute to legislative review.^{xix} In concrete terms, NHRIs’ annual reports could constitute a good point of departure for parliamentary committees to identify problems and priorities in the human rights field.^{xx} Indeed, the 2012 Belgrade Principles on NHRIs and Parliaments, which make proposals on both the role parliaments should have in supporting NHRIs as well as the forms of cooperation between NHRIs and parliaments, suggest some of these activities.^{xxi} Actions such as promoting NHRIs (and Civil Society Organisations) to have greater engagement with parliaments and parliamentarians on human rights issues “can help to create the shared trust, understanding and knowledge of human rights issues essential to building more formal, structured and rational parliamentary oversight”.^{xxii}

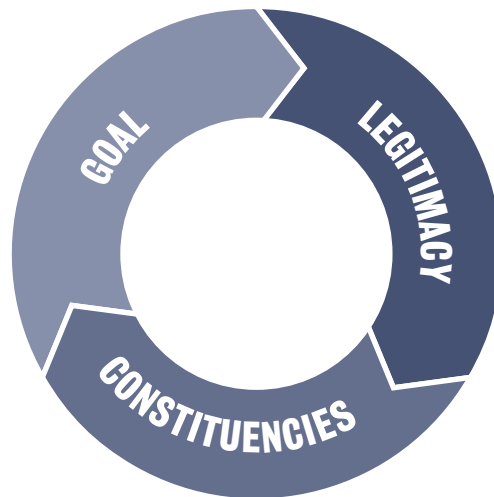


Participants at the High-Level Workshop, 13–14 November 2013, King's College London

3. A FRAMEWORK FOR ASSESSING EFFECTIVENESS

a. Approaches for Determining Effectiveness of the Oversight Mechanism

15. Every parliament should have a clear mechanism for overseeing human rights. The mechanism is one that can be chosen to fit within the national context. However the key point is that the mechanism should be effective. These proposals aim to propose a means for establishing an oversight mechanism that will support effectiveness, and the elements that will help to determine whether or not that mechanism is in fact effective.



16. In determining whether a parliament’s human rights oversight mechanism is effective, it is useful to draw from the large body of scholarship on *organisational effectiveness*. This scholarship proposes a number of models through which effectiveness can be determined. These models identify an institution as effective through a number of different core elements. The models that can be most usefully applied to parliamentary oversight are the goal-based model, the multiple-constituencies model and the legitimacy model.^{xxiii} When establishing or assessing a parliamentary human rights oversight mechanism, the first step is to clarify the goal(s) of that mechanism. The next step is to assess the factors that will influence its effectiveness from the perspective of achieving the goals, ensuring legitimacy, and meeting the needs of constituencies. Finally, the *criteria* for assessing the factors should be examined.
17. The goal-based model is one of the most traditional models for assessing institutional effectiveness. Following this approach, an effective institution is defined as “one that attains the goals set for it within a defined period of time”. Goal identification is thus a means of answering the fundamental question: *‘effective at what?’* Goals are often determined, or interpreted, by the institution’s stakeholders.^{xxvi} These stakeholders are “powerful groups outside the organisation that have a significant impact on its functioning”^{xxvii} and using this model, effectiveness is based on how well an institution responds to the demands and expectations of its stakeholders.^{xxviii} For parliaments, this is a crucial element in determining effectiveness – they clearly have a range of stakeholders, in particular the public and the executive, but also other national institutions, civil society and international organisations. Constituencies are also a source of legitimacy for an institution:
- “Legitimacy is conferred when stakeholders – that is, internal and external audiences affected by organizational outcomes – endorse and support an organization’s goals and activities.”^{xxix}*
18. Parliamentary oversight, like much of the work of a parliament, is highly dependent on legitimacy. As with ‘effectiveness’, there is no single agreed definition, but a useful approach is that legitimacy is “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions”^{xxx} The legitimacy model must also be considered in determining effectiveness since legitimacy is essential to any organisation operating in a society. Goals are closely related to the legitimacy of the institution.^{xxxi} As elected bodies, parliaments have a natural legitimacy in their actions.^{xxxii} This is particularly so with respect to oversight and accountability, which meet stakeholders’ perceptions of the role of their parliament. Nonetheless, because of perceptions of politicisation or past (including historical) behaviour, parliaments may suffer a legitimacy deficit regarding human rights. Because a perceived lack of legitimacy can be compounded by a lack of understanding of the actual purpose and powers of parliaments as regards human rights issues, a strong clear goal that responds to the needs of constituencies/stakeholders is required.

19. There may be other elements that impact on perceptions of legitimacy for parliament in acting on human rights issues. One in particular is the perceived legitimacy of the source of human rights law utilised by the parliament as a basis for its oversight. That is, it may be easier for the parliament to have legitimacy where the human rights legislation is incorporated at the domestic level.^{xxxiii} However, conversely, where a treaty or international standard is not incorporated, it may mean that the judiciary is not involved and therefore there is a gap in domestic implementation, which the parliament can play a role in bridging. The factors affecting legitimacy will be examined further below.

Establishing Goals for Parliamentary Human Rights Oversight

20. In order for parliamentary oversight of human rights to be effective, it should have clearly defined goals. Goals are important as determinants of effectiveness – they provide a baseline for establishing what can be expected, but they can also act as motivators for those working within the institution. A further crucial benefit of a goal-based approach for parliamentary oversight is that it helps to shape expectations of the system. Unclear or unrealistic expectations of an oversight body can seriously undermine its legitimacy and thus effectiveness.^{xxxiv} Thus, taking a goal-based approach provides the following advantages:

- ♦ It sets expectations for members and stakeholders,
- ♦ It provides a basis for the work of the system (selection of priorities, allocation of resources etc.), and
- ♦ It provides criteria for assessing effectiveness.

As regards the specificity of the goal itself, there should be an overarching goal – a ‘mission’ – which has a certain aspirational element, but there should also be specific or operative goals that are more readily definable and achievable.^{xxxv} Previous goal-definitions of parliamentary oversight have included: “the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation”.^{xxxvi} Another overarching goal that has been cited is “the pursuit of integrity in government”.^{xxxvii} The UK Joint Committee on Human Rights, one of the preeminent models of a human rights committee, simply states its remit, rather than its goal, namely that it is “charged with considering human rights issues in the UK”.^{xxxviii}

21. The Workshop discussed a range of goals, and it was also discussed how goals often reflected a high level of abstraction. Some argued for ‘compliance with human rights’ as a goal or even the ultimate goal for parliamentary oversight. Others contended that such a goal was unattainable and extremely difficult to measure. The division between these views might be bridged by the concept of ‘aspiration’, which, unlike a goal, is unattainable by parliamentary bodies on their own, but it is something to strive for and orient oneself towards. Compliance may be the aspiration that serves to orient the actual achievable and measurable goals of parliamentary oversight.

22. As for the operative goals, they should be able to answer the question – ‘what is the aim of this oversight system?’ so that any assessment of future effectiveness (‘how effective has this parliamentary oversight system been at ...’) will have clearly defined parameters. Some of the operative goals that the Workshop considered were:

- ♦ **Increasing the visibility** of human rights issues in the work of the parliament, the government at large and in the eyes of the public^{xxxix}
- ♦ **Increasing accountability** for unlawful human rights practices by creating another venue before which issues relating to human rights issues can be discussed and monitored, with a view to using parliamentary tools for influencing law, policy and public opinion^{xl}
- ♦ **Improving coordination** of human rights policies within parliament, across government and between government and civil society, by constituting another hub for interaction between actors involved in human rights issues^{xli}
- ♦ **Identifying opportunities for concretising** norms to which the State has committed itself in national law or policy. This is in accordance with the principle of subsidiarity which casts an obligation on national authorities to take steps to give effect in national law to internationally binding norms^{xlii} and
- ♦ **Conferring a degree of democratic legitimacy** on human rights norms which are often the product of norm-creation processes which suffer from a democratic deficit, by forcing parliamentarians to engage with the practical meaning of those norms for the content of law and policy, and through a process which affords opportunities for participation by or representation of interests which find their most effective voice through politics.^{xliii}

23. A mission statement for a parliamentary mechanism (such as a committee or rapporteur) may contain two parts: the aspiration and the operative goals.

Sample goal-based mission statement of human rights oversight mechanism

[Aspiration] To help ensure increased compliance with human rights and a better life for all the people in this country through [Operative goals] publicly examining existing or potential human rights deficits identified by parliamentarians, international organisations, the National Human Rights Institution, Civil Society Organisations, the media, the public, victims, whistleblowers and others; making proposals on areas for change or improvement; and calling the government to account for failures to protect the rights of the people of this country.

This mission statement is proposed as the type of statement which an oversight mechanism might adopt in order to ensure that its goals are clear. The mission statement is primarily focussed on oversight and does not expressly refer to promotion or prevention, though this is implicit in the reference to ‘ensur[ing] increased compliance’. Furthermore, it can certainly be interpreted to include these elements through, for example, the phrase “potential human rights deficits”. In addition, increased oversight should both improve protection of rights and raise awareness of them. The mission statement also includes an accountability element, a key component of democracy and core role of parliament. Finally, it explicitly references relevant stakeholders (constituencies) and clearly sets out the relationship that the system is intended to have with these stakeholders.

b. Determining Effectiveness of the Parliamentary Oversight of Human Rights Mechanism

24. Once the oversight mechanism has established its goals, the mechanism and its stakeholders must be able to identify the issues that may impact on its ability to be effective. There are a number of factors that act as criteria for assessing effectiveness and can be used to develop an assessment framework.

Factors Internal to the Parliament	
Factors	Description
Quality	<ul style="list-style-type: none"> • Expertise on human rights among parliamentarians and their staff, including the availability of high-quality training; • Access to relevant and reliable human rights materials.
Resources	<ul style="list-style-type: none"> • Resources, including secretariat/advisor support, and availability of information.
Political Support	<ul style="list-style-type: none"> • Relationship with the executive and the existence of government commitment to oversight.^{xliv}
Partnerships	<ul style="list-style-type: none"> • Partnerships with NHRIs and civil society through cooperation, coordination, consultation etc.; • Relationship with the judiciary.
Mandate/Powers	<ul style="list-style-type: none"> • Status/stability of mandate; • Powers should include independent selection of issues, publication of recommendations, compelling witnesses, compelling government members to appear, reviewing draft legislation, and proposing amendments.^{xlv}
Approach	<ul style="list-style-type: none"> • Willingness to tackle sensitive human rights issues.
Method of Operation	<ul style="list-style-type: none"> • Transparency, including reasons given for incompatibility/compatibility with human rights obligations.
Politics	<ul style="list-style-type: none"> • Non-partisanship in the composition of oversight mechanisms; • Independence from the executive.
Factors External to the Parliament	
National Context	<ul style="list-style-type: none"> • National commitment to human rights through State participation in treaties, international and regional organisations, dispute settlement, resource allocation etc.; • Political system and environment (dialogue v division); • Quality of the overall democratic framework, including whether parliament is dominated by ‘reactionary forces’ opposed to human rights;^{xlvi} • Composition^{xlvii} and commitment of parliamentarians.

25. These factors can then be examined in relation to the goals, constituencies and legitimacy of the mechanism, as indicated by the table below, which gives rise to a number of questions that will assist in an assessment of effectiveness.

Factor	Goal	Constituency	Legitimacy
Quality	Is it sufficient to achieve goals?	Does it meet the needs of constituencies?	Is it sufficient to promote legitimacy?
Resources	Are they applied to achieve goals?	Are they strategically used to meet the needs of the constituency?	Are they applied in a manner to promote legitimacy?
Political Support	Is it strategically used to achieve goals?	Are constituencies appropriately taken into account?	Is it drawn upon/challenged as needed?
Partnerships	Are they established and maintained to meet goals?	Are relevant constituencies included as partners?	Do partnerships support legitimacy?
Mandate/powers	Are they sufficient to meet goals?	Are they utilised judiciously to reach constituencies?	Are they utilised in a manner that will promote legitimacy?
Approach	Is it sufficient to achieve goals? Is it directed towards achieving goals?	Does it support/challenge constituencies?	Is it sufficient to promote legitimacy?
Method of Operation	Is it aimed at achieving goals?	Is it designed to meet constituency needs?	Does it promote legitimacy?
Politics	Is it utilised or set aside to achieve goals?	Are all constituencies considered (not solely political ones)?	Does 'politicisation' risk legitimacy?
National Context	Does it support goal achievement?	Does it support constituency requirements?	Does it support NHRI legitimacy?

This table can be used by the mechanism and by stakeholders to assist in determining whether the human rights oversight mechanism is effective.

26. When establishing or reviewing a human rights oversight mechanism, organisational effectiveness theory provides a useful and tested means that can help ensure that any oversight mechanism is effective. The mechanism should have clear goals, ensure the engagement of stakeholders, and have a clear focus on legitimacy. Those seeking to determine effectiveness can then use the above table, which takes into account the factors that will impact effectiveness, to assess the oversight mechanism.



L-R Dr Philippa Webb, Professor David Caron, Professor Yuval Shany at the opening of the High-Level Workshop, 13-14 November 2013

4. PRACTICAL PROPOSALS

In addition to the organisational basis for a parliamentary human rights oversight mechanism and the assessment framework proposed above, this Project proposes a number of practical steps that can contribute to a human rights oversight mechanism being effective.

To Parliaments:

- Assess current oversight system against the effectiveness framework and strengthen the system as necessary, including establishing a specific mechanism where none exists;
- Produce a mission statement for parliamentary oversight of human rights that incorporates aspirational and operative goals;
- Undertake training and education on human rights, including on the tools available for their enforcement and the terminology of human rights. This training should also be available to parliamentary support staff;
- Engage with the NHRIs, Civil Society Organisations, and other stakeholders to improve public access to information and the rate of implementation.

To Parliamentarians:

- Promote oversight of human rights in your daily work;
- Educate yourself on human rights standards;
- Take personal responsibility for the promotion of specific human rights issues, particularly those relevant to your constituents.

To NHRIs:

- Make contact with your parliament and include it as a stakeholder;
- Promote and advocate for stronger oversight by parliament;
- Establish a system of regularly providing reports to parliament and promoting the use of annual reports as agenda-setting devices;
- Include information on parliamentary oversight in reports to international and regional organisations, as well as treaty bodies;
- Identify means of providing information to and supporting victims, whistleblowers and others who wish to reach out to the parliamentary oversight mechanism.

To Civil Society Organisations:

- Make contact with your parliament and include it as a stakeholder;
- Promote and advocate stronger oversight by parliament;
- Establish a system of regularly providing reports etc. to parliament;
- Include information on parliamentary oversight in reports to international and regional organisations, as well as treaty bodies;
- Identify means of providing information to and supporting victims, whistleblowers and others who wish to reach out to the parliamentary oversight mechanism.

To Regional and International Organisations:

- Promulgate international principles on the human rights role of parliamentarians and consider an accompanying accreditation type mechanism;
- Promote stronger oversight by parliaments with a core focus on effectiveness;
- Establish a system of regularly providing reports on human rights issues from their organisations and mechanisms to national parliaments.

To Treaty Monitoring Bodies:

- Reinforce the application of international principles on the human rights role of parliamentarians;
- Include an assessment of parliamentary oversight systems within treaty body reporting;
- Establish a system for regularly providing reports to parliament;
- Seek engagement of the parliament on country visits and in the context of periodic reporting.

ANNEX 1: List of Attendees at High-Level Workshop

Kathalijne Buitenweg, Netherlands Institute for Human Rights

Nicole Bürli, University of Zurich

Professor Andrew Byrnes, University of New South Wales

Professor David Caron, Dean, The Dickson Poon School of Law, King's College London

Dr Alice Donald, University of Middlesex

Professor Akiko Ejima, Meiji University

Professor Keith Ewing, King's College London

Katie Hamilton, Australian High Commission

Neza Hren, King's College London

Nedim Hovic, Sarajevo School of Science and Technology

Hayley Hooper, University of Oxford

Professor Murray Hunt, UK Joint Committee on Human Rights

Dr Aileen Kavanagh, University of Oxford

Dr Jeff King, University College London

Professor Francesca Klug, Chair, British Institute for Human Rights and London School of Economics

Dr Günther Kräuter, Secretary-General of the International Ombudsman Institute

David Langtry, Acting Chief Commissioner, Canadian Human Rights Commission

Professor Philip Leach, University of Middlesex

Gianni Magazzeni, Chief of the Americas, Europe, and Central Asia Branch, Office of the United Nations High Commissioner for Human Rights

Maria Fe T. Pangilinan, Embassy of The Philippines

Dr Thomas Pegram, University College London

Kirsten Roberts, Investigator, KPI Policy Impact Grant, King's College London

Chairperson Loretta Ann Rosales, Philippines Commission on Human Rights

Professor Yuval Shany, Dean, Hebrew University of Jerusalem

Dr Philippa Webb, Investigator, KPI Policy Impact Grant, King's College London

Dr Elin Weston, King's College London

Professor Robert Wintemute, King's College London

Senator Katherine Zappone, Seanad Eireann (Irish Senate)

REFERENCES

- ⁱ See, e.g. Janet L. Hiebert, *New Constitutional Ideas: Can New Parliamentary Models Resist Judicial Dominance When Interpreting Rights?*, 82 *TEX. L. REV.* 1963 (2004); Janet L. Hiebert, *Parliament and the Human Rights Act: Can the JCHR help facilitate a culture of rights?* *Int'l J Con Law*, Vol 4, No 1 (Jan 2006) at 5; Murray Hunt, Hayley Hooper and Paul Yowell, *Parliaments and Human Rights: Redressing the democratic deficit* AHRC Public Policy Series No.5, p. 13. Available online at: <http://www.ahrc.ac.uk/News-and-Events/Publications/Documents/Parliaments-and-Human-Rights.pdf>; Alice Donald and Philip Leach, *The Role of National Parliaments in the Implementation of Judgments of the European Court of Human Rights* (Oxford University Press, forthcoming 2014).
- ⁱⁱ In this regard, it is noted that the committee system can comprise a wide range of models. A 2007 Inter-Parliamentary Union study of 88 parliaments provided the following overview:
- Parliaments in continental Europe: Permanent legislative committees – Permanent non-legislative committees – Non-permanent committees – Joint committees – Committees of investigation.
- Parliaments in the Westminster tradition: Legislative committees, – Special committees, – Standing committees, – Joint committees, – Subcommittees, – Committee of the Whole, – Domestic or internal committees. p.15, Box 1.1
- ⁱⁱⁱ Murray Hunt, Hayley Hooper and Paul Yowell, *Parliaments and Human Rights: Redressing the democratic deficit* AHRC Public Policy Series No.5, p. 13.
- ^{iv} Yuval Shany, *Keynote Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013. Copy on file.
- ^v See e.g. K. Cameron, *Critical Questions in Assessing Organizational Effectiveness*, *Organizational Dynamics*, Autumn 1980, p.66.
- ^{vi} For an overview of the main models see, K. Cameron, *Effectiveness As Paradox: Consensus and Conflict in Conceptions of Organizational Effectiveness*, *Management Science*, Vol. 32, No. 5, *Organization Design* (May, 1986), pp. 539-553, p. 542.
- ^{vii} Yuval Shany, *'Assessing the Effectiveness of International Courts: A Goal-based Approach'*, 106 *AJIL* 2012 225, p.230.
- ^{viii} In this regard see the division of effectiveness factors between those in control of the state, the institution and those outside the control of both. A Laurence R Helfer and Anne-Marie Slaughter, *Towards a Theory of Effective Supranational Adjudication* (1997) 107(2) *Yale Law Journal* 273.
- ^{ix} Andrew Byrnes, *Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013. Copy on file.
- ^x See, See, e.g. Janet L. Hiebert, *New Constitutional Ideas: Can New Parliamentary Models Resist Judicial Dominance When Interpreting Rights?*, 82 *TEX. L. REV.* 1963 (2004); Janet L. Hiebert, *Parliament and the Human Rights Act: Can the JCHR help facilitate a culture of rights?* *Int'l J Con Law*, Vol 4, No 1 (Jan 2006) at 5.
- ^{xii} The Inter-Parliamentary Union highlights three possible committee-based approaches: human rights as a cross-cutting issue, an exclusive human rights mandate and intermediate solutions such as adding human rights to another subject area (such as justice). The first two options – cross-cutting or exclusive – from our research, have different benefits and costs, for example:
- Cross-Cutting**
- Pros: allows human rights to be considered in all areas and entrenches the 'mainstreaming' of human rights; broader knowledge and consideration of rights across parliament. Cons: potentially unfocussed examination; possibility of differing application of standards
- Single-Issue**
- Pros: focused examination; 'focal point' for human rights issues and expertise; with requisite powers, can act as a catalyst for holding state to account
Cons: potential marginalisation of human rights issues; if ineffective there may be no other human rights discussions in parliament.
- ^{xiii} This system is used in the Parliamentary Assembly of the Council of Europe, for example.
- ^{xiv} World Bank Institute, *Parliamentary Oversight for Government Accountability*, Edited by Riccardo Pelizzo, Rick Stapenhurst and David Olson 2006
- ^{xv} *Ibid.*, p. 19.
- ^{xvi} This was a point raised by Chairperson Loretta Rosales, Chair of the Philippines Commission on Human Rights.
- ^{xvii} Senator Katherine Zappone PhD, *Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013. Copy on file.
- ^{xviii} Gianni Magazzeni, Chief of the Americas, Europe, and Central Asia Branch, Field Operations and Technical Cooperation Division, Office of the United Nations High Commissioner for Human Rights. *Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013.
- ^{xix} David Langtry, Acting Chief Commissioner, Canadian Human Rights Commission, *Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013. Copy on file.
- ^{xx} Gianni Magazzeni, *Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights*, 13-14 November 2013.

- xxi Belgrade Principles On The Relationship Between National Human Rights Institutions And Parliaments (Belgrade, Serbia 22-23 February 2012).
- xxii David Langtry, Acting Chief Commissioner of the Canadian Human Rights Commission.
- xxiii Shany applied the goal-based approach and constituencies model to the assessment of international courts.
- xxv Yuval Shany, Keynote Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights, 13-14 November 2013. Copy on file.
- xxvi In organisational effectiveness parlance: 'constituencies'. The multi-constituency model was developed by organisational effectiveness scholars to enable effectiveness assessments for institutions that have multiple stakeholders.
- xxvii K. Cameron, *Critical Questions in Assessing Organizational Effectiveness*, Organizational Dynamics, Autumn 1980, p.68.
- xxviii Ibid. p.67.
- xxix Kimberly D. Elsbach and Robert I. Sutton, Acquiring Organizational Legitimacy through Illegitimate Actions: A Marriage of Institutional and Impression Management Theories, *The Academy of Management Journal*, Vol. 35, No. 4 (Oct., 1992), pp. 699-738 at 700.
- xxx D. Deephouse and M. Suchman, Legitimacy in Organizational Institutionalism, in R. Greenwood, C. Oliver, R. Suddaby, & K. Sahlin (Eds.), *The SAGE handbook of organizational institutionalism*, London: SAGE (2008).
- xxxi T. Parsons "Suggestions for a sociological approach to the theory of organizations." *Administrative Sci. Q.* 1: 63-85 (1956) cited in John Dowling and Jeffrey Pfeffer, *Organizational Legitimacy: Social Values and Organizational Behavior*, *The Pacific Sociological Review*, Vol. 18, No. 1 (Jan., 1975), pp. 122-136 at 127.
- xxxii See for example, Ronald D. Hedlund, *Organizational Attributes of Legislatures: Structure, Rules, Norms*, (1984) 9(1) *Legislative Studies Quarterly* 51.
- xxxiii Laurence R Helfer and Anne-Marie Slaughter, *Towards a Theory of Effective Supranational Adjudication* (1997) 107(2) *Yale Law Journal* 273. Cf. UK debates on the 'imposition' of European human rights law.
- xxxiv See for example, Gregory and Pearson, *The Parliamentary Ombudsman After Twenty Twenty-Five Years*, *Public Administration* Vol. 70 Winter 1992 (469-498) describing the antagonism aimed at the UK ombudsman when it began its work, and noting that "[t]o some extent, such expressions of disappointment merely reflected the vague and unrealistic notions of ill-informed critics labouring under the mistaken impression that, in other countries, virtually nothing was beyond the powers of review and direction vested in the ombudsman".
- xxxv Yuval Shany, Keynote Address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights, 13-14 November 2013. Copy on file.
- xxxvi Tools for parliamentary oversight: A comparative study of 88 national parliaments, H. Yamamoto, Inter-Parliamentary Union 2007.
- xxxvii Parliament and Accountability: The Role of Parliamentary Oversight Committees, G Griffin, New South Wales Parliamentary Library Research Service, November 2005. The report continues, "Following Tomkins, it has been suggested that Parliament can seek to stand at the apex of the accountability pyramid, using its committee system as the principal means at its disposal for scrutinising the annual reports and other accountability mechanisms relevant to government agencies", p.39. [http://www.parliament.nsw.gov.au/prod/parlament/publications.nsf/0/6C8CD0CEBA24749ECA2570B40002D1D4/\\$File/Parliament%20and%20Accountability%20BRIEFING%20Paper%20and%20INDEX.pdf](http://www.parliament.nsw.gov.au/prod/parlament/publications.nsf/0/6C8CD0CEBA24749ECA2570B40002D1D4/$File/Parliament%20and%20Accountability%20BRIEFING%20Paper%20and%20INDEX.pdf)
- xxxviii <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/>
- xxxix Yuval Shany, Keynote address to Workshop on Effectiveness of Parliamentary Oversight of Human Rights, 13-14 November 2013. Copy on file.
- xl Ibid.
- xli Ibid.
- xlii Murray Hunt, Presentation to Workshop on Effectiveness of Parliamentary Oversight of Human Rights, 13-14 November 2013. Copy on file.
- xliii Ibid.
- xliv In certain circumstances, this may also be an external factor. See World Bank Institute, *Parliamentary Oversight for Government Accountability*, Edited by Riccardo Pelizzo, Rick Staphenurst and David Olson 2006. p. 32
- xlv PAC powers list, World Bank Institute, *Parliamentary Oversight for Government Accountability*, Edited by Riccardo Pelizzo, Rick Staphenurst and David Olson 2006, p. 29.
- xlvi This was a point raised by Chairperson Loretta Rosales.
- xlvii A survey of Public Accounts Committees found that a PAC should have representation from all parties in the PAC but not representation from government, given that it is holding government to account, and that the presence of members of the government would impact PAC credibility. See supra note xiv, p. 27-28. See also, http://www.ccaf-fcvi.com/attachments/259_ParliamentaryOversightBackground-EN.pdf

PROJECT ON EFFECTIVE PARLIAMENTARY OVERSIGHT OF HUMAN RIGHTS

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