

Models of Human Rights Committee practice

Introduction

The addition of human rights to the Committee's remit was made at the start of this parliamentary session. What this might mean for the Committee's remit, given that it has previously focused on equalities, requires some consideration.

A number of experts have considered the need for parliaments to have human rights committees. This paper draws on that expertise and includes a range of examples that might help the Committee in its deliberations.

Three papers have been sourced. The first two papers focus on the need for member states of the Council of Europe to have human rights committees in their national parliaments to ensure compliance with judgements at the European Court on Human Rights (ECtHR), as well as the broader international human rights treaties. The third paper proposes that parliaments around the world need to have human rights committees to protect human rights. Each paper offers insights in how to scrutinise human rights through a parliamentary committee, including different models for committees and guiding principles. A range of guiding principles are available in the Annexes.

1. [Parliaments and the European Court of Human Rights 12 May 2015](#), Senate, Warsaw ('Warsaw Conference') – a conference organised by Middlesex University and the Helsinki Foundation for Human Rights (Warsaw), funded by the Nuffield Foundation. Speakers discussed the need for parliaments to have human rights committees, what different models might look like, and what is happening in practice.
2. [The Role of Parliaments in Implementing ECHR Standards: Overview of existing structures and mechanisms](#), Parliamentary Assembly, Council of Europe, September 2015. This paper provides an overview of how a number of national parliaments verify ECHR standards, as well as implementation of judgements at the European Court of Human Rights (ECtHR).
3. [Strengthening Parliamentary Capacity for the Protection and Realisation of Human Rights](#), Westminster Foundation for Democracy, May 2016. This paper used the Joint Committee on Human Rights as a baseline to assess the practices of six other human rights committees in Georgia, Macedonia, Serbia, Uganda, Ukraine and Tunisia. The authors state that the Joint Committee was used as a baseline for comparison for a number of reasons:

- Its pioneering practices in human rights
- its strong tradition of effective parliamentary oversight
- its capable, non-partisan professional parliamentary service and committee system; and its robust pre-and post-legislation scrutiny practices.

The need for parliamentary scrutiny of human rights

“the idea of parliamentarians taking an active role in the implementation of human rights standards and judgments is ‘an idea whose time has come’. There is now an international consensus behind the idea that the protection of human rights is a shared responsibility of all branches of the state: the executive, parliament and the judiciary” (Professor Leach, Warsaw Conference).

The Parliamentary Assembly of the Council of Europe has emphasised the role of national parliaments in implementing ECHR standards and ECtHR judgements since 2000. In 2011 the Parliamentary Assembly adopted [Resolution 1823](#) for national parliaments to follow (see Annex 1). The Resolution states that parliaments are:

“...key to the effective implementation of international human rights norms at national level and fulfil their duty to protect human rights through legislating (including the vetting of draft legislation), involvement in the ratification of international human rights treaties, holding the executive to account, liaising with national human rights institutions and fostering the creation of a pervasive human rights culture”.

The Resolution refers to positive examples in several member states, “notably the United Kingdom, the Netherlands, Germany, Finland and Romania, which have set up parliamentary structures to monitor the implementation of the Court’s judgments”.

According to Professor Leach, there are relatively few national parliaments within Europe that have adequate structures or mechanisms to enable them to carry out effective legislative scrutiny or to monitor systematically compliance with ECtHR judgements. However, there is growing momentum in this direction, driven largely by the Parliamentary Assembly.

Christian de Vos (Open Society Justice Initiative), speaking at the Warsaw conference, emphasised the need for a range of institutions to be involved in human rights compliance. He said “No single domestic institution can fulfil a country’s compliance obligations; rather, it requires a coalition of actors”. Although, he also referred to evidence that showed the greater number of actors involved in implementation, the less likely that rulings will be implemented. This suggests that for any human rights committee, there is a balance between collaboration with others and achieving its aims.

His [Rights to Remedies](#) report (2013) makes clear that few Council of Europe member states have adequate structures or frameworks in place, and the engagement of parliamentarians is scant. According to Vos, this is also true of inter-American and African human rights systems. In the [summary of the report](#) Vos states:

“While advocates have historically overlooked legislators and parliamentarians as implementers, data suggests active parliamentary involvement correlates with greater compliance with human rights obligations and decisions. In particular,

parliamentary involvement can play a preventive role by creating domestic legislation compatible with a state's treaty obligations. Parliamentary involvement can also add political weight and bring greater accountability to the implementation process".

Murray Hunt, Legal Advisor to the UK Parliament's Joint Committee on Human Rights, speaking at the Warsaw conference, said that the big task facing the Committee was the prospect of the UK Government withdrawing from the Convention. Clearly, Brexit is now also a factor. Hunt referred to the UK's 'excellent record in complying with ECtHR judgements'. Of course there are exceptions, notably the Hirst judgement on prisoner voting. The Joint Committee's report on the judgement stated:

"The UK Government's continuing failure to amend the law in response to the *Hirst* judgment undermines its credibility when invoking the rule of law to pressurise Russia—and other countries in a similar position—to comply with its international human rights obligations".

According to Hunt, this is an example of the Committee having a voice in the parliament, by making it aware of the implications of executive action for human rights and the rule of law. Hunt provided draft principles and guidelines for human rights committees; this is available in Annex 2.

Human Rights committee models

Where parliamentary structures and processes exist, they take a variety of forms. These include:

- The specialised model of having a human rights committee. It may include specific functions such as the vetting of legislation for compliance with domestic or international commitments, and oversight of ECtHR judgements. Examples include the Joint Committee on Human Rights at the UK Parliament, and committees in Albania, Finland, Greece, Hungary, Latvia, Montenegro and Turkey.
- Sub-committee, a variant of the specialised committee, which is formed under a standing committee with a wider remit. Examples include the Czech Republic, Ireland, Poland and Romania.
- Mainstreamed model, where different committees deal with human rights issues as they arise within their policy areas. Examples include Denmark, the Netherlands, Russia and Sweden.
- Hybrid approach, where more than one parliamentary committee or sub-committee has human rights within its remit. Examples include Armenia, Cyprus, Georgia, Germany, Italy and Lithuania.

The Parliamentary Assembly has not endorsed any particular model because different approaches will need to be taken to suit the national context. Country examples are available in the Parliamentary Assembly paper, as well as principles for a human rights committee (Annex 3).

The Rights to Remedies report by Christian de Vos (referred to above) endorses a more systematic approach to parliamentary involvement and makes a series of

recommendations, including the creation of a dedicated human rights committee, with a mandate that encompasses the implementation and monitoring of international decisions.

Vos cautions that the existence of formal implementation structures should not be confused with implementation itself: "...many structures – be they committees or working groups – can be, either by design or neglect, poorly resourced, badly staffed, and politically feeble."

Discussion at the Warsaw conference considered it important that parliamentarians have sufficient technical understanding of the ECHR and its domestic application. Further, that human rights committees must have adequate support, both in terms of their secretariats (ie clerks/research), and high quality legal advice.

The Westminster Foundation for Democracy identified seven key practices which can assist parliaments and parliamentarians in their role in the protection and realisation of human rights (see Annex 4). These are reflected in the general recommendations:

1. Parliaments and parliamentary human rights committees should examine the good practices and country specific recommendations contained in this report, and seek to improve their practices where necessary.

2. Parliaments and parliamentary human rights committees should seek to work with national and international partners in order to maximise human rights protection within their countries.

a. At the international level, parliaments and parliamentary human rights committees should seek to contribute to the Universal Periodic Review of the UN Human Rights Council, and the other UN treaty bodies and special procedures. They should also seek appropriate technical capacity building and training from the relevant international organisations.

b. At the regional level, parliaments and parliamentary human rights committees should work together with the relevant regional bodies to monitor the enforcement of judgements of the regional human rights court.

c. At the national level, parliaments and parliamentary human rights committees should build effective working relationships with all the key stakeholders, and work together with other parts of the national human rights machinery to ensure the coherence and co-ordination of that machinery, and its optimal use of resources for the protection and realisation of human rights.

4. Parliaments and parliamentary human rights committees should ensure that adequate resources are allocated to the protection of human rights within parliament, including through the provision of an adequate number of staff with expertise in human rights law and policy, to the committee, the parliamentary legal service, and the parliamentary research service.

3. Parliaments and parliamentary human rights committees should ensure the independence and plurality of the parliamentary human rights committee, and the parliamentary human rights committee should ensure that its reports are principled and adopted by consensus to the greatest extent possible, so that the work of the parliamentary human rights committee is respected.

4. Parliaments and parliamentary human rights committees should also continually review and improve their working practices, and assess and improve their effectiveness in protecting human rights.

For consideration

A range of principles and recommendations are already available, and they all provide similar guidance. The following is a list of issues the Committee may wish to consider in terms of human rights remit, though not exhaustive:

Should the Committee:

- scrutinise all Scottish legislation for its compliance with human rights? This is part of the remit of the Joint Committee on Human Rights. In the Scottish Parliament, this role is undertaken by the Presiding Officer, but Committees may consider how proposed legislation impact on human rights. Further, under the Human Rights Act 1998 (s.3), all legislation introduced in the UK Parliament must, 'as far as possible' be compliant with human rights. The Minister introducing a Bill has to issue a statement of compatibility. However, the UK Parliament is sovereign and can pass laws which are incompatible. The Scotland Act 1998 requires all Scottish legislation must be compatible with human rights.
- consider judgements from the European Court of Human Rights, given that Scotland is not a member state of the Council of Europe?
- focus mainly on thematic inquiries into human rights?
- specifically set out that it will focus on the concluding observations relevant to Scotland?
- seek to contribute to the UN Periodic Review of the Human Rights Council?
- propose that human rights become mandatory, as equal opportunities has been since the establishment of the Parliament?
- propose that there should be a separate human rights committee? At the UK Parliament, equalities and human rights are scrutinised by two separate committees.

In addition to these considerations, there is also the question of adequate support and expertise provided to the Committee and other committees in the Parliament. This Committee will not be able to cover every human rights issue, so there will be a need to ensure that other committees are adequately supported to scrutinise bills and areas of policy. Former Equal Opportunities Committees of the Scottish Parliament have sought to mainstream equality scrutiny across other Committees with variable degrees of success. The Westminster Foundation for Democracy recommends that all parliamentarians and staff should have access to training on human rights, and that members use the Inter-Parliamentary Union's [Human Rights handbook for parliamentarians](#) (2016 version).

And finally, whichever approach the Committee takes, there is also the question of how the approach is measured and evaluated.

20 January 2017
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Annex 1

[Resolution 1823 \(2011\) Final version](#)

Adopted by the Parliamentary Assembly of the Council of Europe on 23 June 2011

National parliaments: guarantors of human rights in Europe

1. The Parliamentary Assembly recalls that Council of Europe member states are responsible for the effective implementation of international human rights norms they have signed up to, in particular those of the European Convention on Human Rights (ETS No. 5, hereafter “the Convention”). This obligation concerns all state organs, whether executive, judicial or legislative.
2. National parliaments are often overlooked in this context. Their potential needs to be further explored. They are key to the effective implementation of international human rights norms at national level and fulfil their duty to protect human rights through legislating (including the vetting of draft legislation), involvement in the ratification of international human rights treaties, holding the executive to account, liaising with national human rights institutions and fostering the creation of a pervasive human rights culture.
3. The members of the Assembly, having a double mandate – as members of the Assembly and of their respective national parliaments – are under a particular duty to contribute to such action.
4. The Assembly notes that the United Nations “Paris Principles” of 1993 have become the internationally accepted benchmark for core minimum standards for the role and functioning of independent national human rights institutions; similar benchmarks should be drawn up for parliamentary bodies.
5. With respect to the implementation of judgments of the European Court of Human Rights (hereafter “the Court”), the Assembly:
 - 5.1. believes that national parliaments are uniquely placed to hold governments to account for swift and effective implementation of the Court’s judgments, as well as to swiftly adopt the necessary legislative amendments;
 - 5.2. regrets that the post-Interlaken debate on the future of the Convention system does not sufficiently take into account the potentially important role of parliaments and deplors the silence of the Izmir Declaration in this respect;
 - 5.3. points to the positive examples in several member states, notably the United Kingdom, the Netherlands, Germany, Finland and Romania, which have set up parliamentary structures to monitor the implementation of the Court’s judgments.
6. Furthermore, the Assembly:
 - 6.1. encourages parliamentarians to monitor the determination and enforcement of human rights standards by the domestic judicial and administrative authorities;

6.2. urges parliamentarians to exercise their responsibility to carefully scrutinise the executive in their countries when it comes to the implementation of, in particular, international human rights norms;

6.3. calls on governments to involve national parliaments in the negotiation process of international human rights agreements and in the process of implementation of judgments of the European Court of Human Rights;

6.4. calls on all member states to provide for adequate parliamentary procedures to systematically verify the compatibility of draft legislation with Convention standards and avoid future violations of the Convention, including regular monitoring of all judgments which could potentially affect the respective legal orders;

6.5. urges parliaments to step up their efforts in contributing to the supervision of the Court's judgments by overseeing steps taken by the competent authorities to execute adverse judgments, including scrutiny of the actual measures taken;

6.6. calls on parliaments to set up and/or to reinforce structures that would permit the mainstreaming and rigorous supervision of their international human rights obligations, on the basis of the principles below.

7. The Assembly therefore invites parliaments to implement the following basic principles for parliamentary supervision of international human rights standards.

Appendix 1 - Basic principles for parliamentary supervision of international human rights standards

1. Appropriate framework and responsibilities

National parliaments shall establish appropriate parliamentary structures to ensure rigorous and regular monitoring of compliance with and supervision of international human rights obligations, such as dedicated human rights committees or appropriate analogous structures, whose remits shall be clearly defined and enshrined in law.

These remits should include, *inter alia*:

- the systematic verification of the compatibility of draft legislation with international human rights obligations;
- the requirement for governments to regularly submit reports on relevant judgments of the European Court of Human Rights and their implementation;
- the initiation of legislative proposals and amendments to laws;
- subpoena powers over witnesses and documents concerning their remit.

Such committees shall have the responsibility to ensure that parliaments are properly advised and informed on human rights issues. Human rights training should also be provided for parliamentarians and their staff.

2. Independent advice

Human rights committees or appropriate analogous structures shall have access to independent expertise in human rights law.

Adequate resources shall also be made available to provide specialised secretariat support.

3.Co-operation with other institutions and civil society

Co-operation and regular dialogue shall be maintained, as appropriate, with relevant national (for example, national human rights institutions, parliamentary commissioners) and international bodies (for example, the Parliamentary Assembly, the Council of Europe Commissioner for Human Rights, European and other international human rights monitoring bodies), as well as with representatives of well-established non-governmental organisations which have significant and relevant experience.

Annex 2

Draft Principles and Guidelines on the Protection and Realisation of the Rule of Law and Human Rights

These Draft Principles and Guidelines have been drafted by Murray Hunt, Legal Adviser to the Joint Committee on Human Rights in the UK Parliament. The Draft Principles and Guidelines presently have no official status but it is anticipated that they will be debated widely with a view to their formal adoption by relevant international, regional and national bodies.

Parliaments have a special role in the protection and realisation of the rule of law, including human rights.

As the pre-eminent representative institution of the State, Parliaments enjoy a special democratic legitimacy. In their capacity as representatives of the people, parliamentarians are key actors in the protection and realisation of human rights and in building a society imbued with the values of democracy, human rights and the rule of law. Parliaments should seek to use their democratic legitimacy to build a culture of respect for and fulfilment of both human rights and the rule of law, founded as far as possible on a national consensus.

Reasonable people can disagree about the scope of a particular human right, the priority to be given to one right over another where rights conflict and the strength of justifications for interfering with human rights. Such disagreement about human rights is legitimate and Parliament, as the representative institution, is a legitimate forum for such disagreement. One of Parliament's most important functions is to represent people's views in the policymaking process. Disagreement about human rights should always take place within the framework of the State's commitments to human rights in both national law (constitutional or otherwise) and international law (including obligations assumed under international human rights treaties).

As an organ of the State, Parliaments share with the Executive and the Judiciary the obligation to respect, protect and fulfil the human rights which are recognised in national law and in international treaties by which the State has agreed to be bound. International and regional mechanisms for protecting human rights are subsidiary to the national machinery. Primary responsibility for securing in national law the rights and freedoms recognised in international treaties, and for ensuring the availability at national level of an effective remedy if those rights or freedoms are violated, rests with the State. Parliaments share that responsibility with the Executive and the Judiciary.

Because of the nature of their functions, and in particular their role in making law, Parliaments are the national authorities which are particularly well-placed to ensure that effective measures are taken to prevent violations, and to ensure that national law provides practical and effective means by which remedies may be sought for alleged violations of rights and freedoms. Their other important function, oversight of the Executive, also makes them well-placed to monitor the Executive's performance of its own responsibilities to protect and realise human rights and to comply with the rule of law.

These Principles and Guidelines are intended to assist parliaments and parliamentarians everywhere to fulfil their important role in the protection and realisation of human rights in a democracy committed to the rule of law.

I. Parliamentary Structures

Parliaments should have adequate internal structures to enable them to fulfil their responsibility to protect and realise human rights and uphold the rule of law.

These internal parliamentary structures should ensure rigorous, regular and systematic monitoring of the government's performance of its responsibilities to secure the rights and freedoms recognised in national law and in the State's international obligations.

A. Specialised Human Rights Committee

Parliaments should identify or establish a specialised parliamentary Human Rights Committee.

The specialised parliamentary Human Rights Committee could be a committee dedicated solely to human rights. Parliaments could, however, identify or establish a relevant parliamentary committee which expressly includes human rights as part of its remit. In these Principles and Guidelines, either type of committee is referred to as 'the Human Rights Committee'.

B. Mainstreaming Human Rights across Parliament

In addition to establishing a specialised Human Rights Committee, Parliaments should take active steps to mainstream human rights across the entire range of Parliament's activities and functions.

Parliaments should ensure that expert advice on human rights, including but not confined to legal advice, is available to all parliamentary committees and to all parliamentary officials.

All parliamentary committees should identify which human rights are most relevant to their work. They should proactively seek expert advice, including legal advice, about the relevant human rights whenever their work engages a human right.

The parliamentary legal service should include lawyers with expertise in human rights law.

Parliaments should ensure that the necessary institutional safeguards are in place to guarantee the independence of Parliament's legal advisers, including written procedures for dealing with improper pressure from members of Parliament or other parliamentary staff.

The parliamentary legal service should proactively deploy its expertise in human rights law to ensure that Parliament and all parliamentary committees receive expert advice about relevant human rights law across the full range of their functions and activities, and to assist them to identify when their work engages human rights.

Parliaments should put in place the necessary systems to ensure that the Speaker of the Parliament (or equivalent) is always informed in advance, and if necessary advised, when a parliamentary proceeding engages Parliament's responsibility to protect and/or realise human rights and the rule of law.

Parliaments should ensure that any relevant reports of the specialised parliamentary human rights committee are both drawn to the attention of and made available to members

before any parliamentary proceeding which will include consideration of human rights and rule of law issues.

Parliaments should ensure that any relevant reports of the National Human Rights Institution are both drawn to the attention of and made available to members before any parliamentary proceeding which will include consideration of human rights issues.

C. Budgets

Parliaments have a special role in the determination of budgetary allocations and should seek to use all appropriate opportunities to ensure that due priority is given in the setting of national budgets to the fulfilment of the State's human rights obligations.

II. The Specialised Parliamentary Human Rights Committee

A. Establishment

The specialised parliamentary Human Rights Committee must be established by Parliament, not the Executive, and its permanent existence should be enshrined in Parliament's Standing Orders.

B. Remit

The remit of the specialised parliamentary Human Rights Committee should be broadly defined. It should concern human rights in the State in question and should reflect the fact that Parliament has the obligation both to protect and to realise human rights in that State.

It may not be part of the Human Rights Committee's remit to consider individual complaints, other than as examples of a more general human rights issue.

The remit of the specialised Human Rights Committee should be defined in such a way as to enable the committee to take into account all relevant sources of human rights standards in both national and international law.

C. Composition and Guarantees of Independence and Pluralism

The independence of the parliamentary Human Rights Committee from both the Government and non-state actors, including NGOs, is vital to its credibility.

The composition of the Human Rights Committee should be defined in such a way as to ensure that there can be no Government majority on the Committee.

The composition of the Human Rights Committee should be as inclusive as possible of all the parties represented in the parliament and should reflect the principles of pluralism and gender balance.

Bicameral parliaments should consider whether the Human Rights Committee should be a Joint Committee of both Houses where possible.

Members of the Human Rights Committee should be appointed by a transparent process which commands public trust and confidence in the independence of the Committee.

Parliaments should ensure that mechanisms exist for any possible conflicts of interest to be declared by members of the Human Rights Committee.

Members of the Human Rights Committee should have a proven expertise and interest in human rights.

Members of the Government should be ineligible to be members of the Human Rights Committee. A member of the Human Rights Committee who is appointed to the Government should immediately resign from the Committee.

The Chair of the Human Rights Committee should be elected by members of Parliament and should be a senior parliamentarian of proven independence.

D. Powers

The Human Rights Committee should have the power

- to initiate inquiries of its own choosing
- to compel witnesses to attend, including Government ministers
- to compel the production of papers
- to hold oral evidence hearings
- to conduct visits, including visits abroad
- to access places of detention without notice
- to report to Parliament
- to make recommendations to the Government.

Where possible, the Human Rights Committee could have various powers of initiative, including the power:

- to initiate parliamentary debates on its reports or on subjects of its choosing
- to propose amendments to legislation
- to introduce bills into Parliament concerning matters within its remit.

E. Staff

The Human Rights Committee should be supported by specialised staff with expertise in human rights law and policy.

In order to ensure the independence of the Human Rights Committee, including the appearance of independence, the staff of the Committee should not be on secondment either from Government or from NGOs.

III. Functions of the Human Rights Committee

The principal function of the specialised Human Rights Committee should be to inform parliamentary debate about human rights by:

- Advising Parliament about the human rights which are relevant to any issue being considered by Parliament
- Identifying the relevant factual questions which must be answered if Parliament is to be satisfied that it is acting compatibly with human rights

- Obtaining information from the Government about the justification for actions or inaction which affect human rights
- Advising Parliament about the human rights framework in which human rights issues should be considered by Parliament.

A. Core Functions

(1) Legislative Scrutiny

The Human Rights Committee could systematically scrutinise all Government Bills for their compatibility with human rights.

To facilitate such legislative scrutiny, the Human Rights Committee could ask the Executive to report systematically to Parliament on the compatibility of draft legislation with human rights.

The Human Rights Committee could seek to identify opportunities for Parliament to legislate to give effect or better effect to human rights obligations, including the implementation of treaty obligations, recommendations of the treaty bodies and judgments of Courts (national or international) concerning human rights.

(2) Scrutiny of Executive Response to Human Rights Judgments of Courts

The Human Rights Committee could systematically scrutinise the Executive's response to court judgments against the Government concerning human rights, including the judgments of international courts, with a view to reporting to Parliament on the promptness and adequacy of the Executive's response.

To facilitate such scrutiny, the Human Rights Committee could ask the Executive to report at least annually to Parliament on its responses to human rights judgments.

The Human Rights Committee could monitor relevant developments in human rights law, including judgments of international courts in cases against other States, with a view to identifying possible implications for national law, policy or practice.

(3) Scrutiny of Compliance with and Implementation of International Human Rights Obligations

The Human Rights Committee could monitor the State's compliance with and implementation of its international human rights obligations.

(a) Scrutiny of State's Compliance with Existing International Human Rights Treaties

The Human Rights Committee could scrutinise the State's reports to the UN treaty bodies, and any other compliance reports provided by the Executive to any other international mechanism concerning human rights.

The Human Rights Committee could consider sending any relevant report it has published directly to the monitoring bodies, and in appropriate cases sending a representative of the Committee to attend any relevant hearing before the monitoring bodies.

The Human Rights Committee could monitor the Executive's response to the Concluding Observations of the UN treaty bodies and seek opportunities to follow up the most significant of the recommendations contained in those Observations.

(b) Scrutiny of International Treaties Prior to Ratification

The Human Rights Committee could scrutinise proposed human rights treaties, and other international treaties with implications for human rights, and report to Parliament thereon, prior to their ratification.

Pre-ratification scrutiny of treaties could include scrutiny of the Government's justification for any proposed reservations or interpretative declarations to the treaty.

(c) Scrutiny of State of Accessions/Ratifications

The Human Rights Committee could ascertain and keep under review the Government's reasons for not acceding to or ratifying existing international human rights treaties.

(4) Inquiries into Topical Human Rights Issues

The Human Rights Committee could hold inquiries into topical issues concerning human rights, particularly in areas where there is concern about the country's compliance with its human rights commitments whether national or international.

The Human Rights Committee could develop a rigorous methodology for ensuring that it only conducts such inquiries where it is satisfied that it is uniquely placed, as a specialised parliamentary committee, to make a significant contribution to public understanding of the issue in question, over and above that made by other bodies, including national human rights institutions, or other parliamentary committees.

(5) Scrutiny of Government Policy Generally for Human Rights Compatibility

The Human Rights Committee may choose not to confine itself to scrutiny of legislation but could also scrutinise Government policy generally where it has significant human rights implications, in order to assist Parliament perform its function of oversight of the Executive.

(6) Monitoring the Adequacy of the National System for the Protection of Human Rights

The Human Rights Committee could keep the practical effectiveness of national mechanisms for the protection and realisation of human rights under review, including in particular:

- The adequacy of legal remedies
- Access to legal remedies
- The availability of effective alternatives to legal remedies.

B. Desirable but Non-core Functions

The Human Rights Committee could also develop the following desirable but non-core functions.

(1) Pre-legislative Scrutiny

The Human Rights Committee could also scrutinise Government policy proposals raising significant human rights issues which are likely to become legislative proposals.

(2) Post-legislative Scrutiny

The Human Rights Committee could also conduct post-legislative scrutiny of legislation with significant human rights implications on which it reported during the legislation's passage through Parliament.

(3) Scrutiny of Secondary Legislation

If resources permit, the Human Rights Committee could also scrutinise secondary legislation for human rights compatibility. Parliaments should ensure that mechanisms exist for identifying significant human rights issues raised by secondary legislation.

IV. Working Methods of the Human Rights Committee

The Human Rights Committee should publish a statement of its working practices. It should keep its working practices under regular review in the light of practical experience.

A. Priority Policy

The parliamentary Human Rights Committee should, after public consultation and discussion with, amongst others, NHRIs, publish an explicit priority policy indicating the human rights issues it proposes to prioritise in its work programme, and the criteria according to which it will assess the significance of a human rights issue when deciding on its priorities.

B. Decision by Consensus

The Human Rights Committee should strive to reach consensus on the issues on which it reports, so far as it is possible to do so.

C. Transparency

The Human Rights Committee should maintain an up-to-date website, on which all relevant documents are publicly accessible.

All correspondence with the Human Rights Committee shall be published on the Committee's website as soon as possible after it has been sent or received.

In order to maintain public trust and confidence the Human Rights Committee should, so far as possible, avoid considering confidential material when it is carrying out its functions.

D. Civil Society

The Human Rights Committee should conduct its work in such a way as to provide opportunities for civil society to have a direct input into parliamentary consideration of human rights issues.

E. Reporting

The Human Rights Committee should report regularly to Parliament on its activities in the performance of its functions.

The Human Rights Committee should report annually to Parliament on its activities during the year and on the outcome of every review of its working practices.

The Human Rights Committee should expect the Executive to respond within a reasonable time to recommendations it makes in its reports.

F. Follow up

The Human Rights Committee should seek to follow up its reports and recommendations, including by seeking opportunities for parliamentary debate or Executive action.

V. Key Relationships

Parliaments and the parliamentary Human Rights Committee should develop and maintain consistent and effective working relationships with a range of key interlocutors. Such relationships should be established and maintained at the level of both members and officials.

A. Relationship with the Executive

Parliaments and the Human Rights Committee should help the Executive to understand how Parliament will fulfil its responsibilities to protect and realise human rights by developing, in close consultation with the Executive, detailed guidance for the Executive in respect of each of the functions identified above.

B. Relationship with Courts

Parliaments should seek to ensure that mechanisms are in place, which are consistent with the important principle of the separation of powers, for representative judicial views to be made available to Parliament to assist it in its scrutiny of laws or policies which affect the exercise of the judicial function or otherwise have significant implications for the rule of law.

Where a court wishes to consider what parliamentary consideration there has been of any human rights issue the court has to determine, Parliaments should facilitate such judicial consideration.

C. Relationship with NHRIs

Parliaments and the Human Rights Committee shall establish an effective co-operation with National Human Rights Institutions, and in doing so shall have particular regard to the Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments.

D. Relationship with Other Parts of National Human Rights Machinery

The Human Rights Committee shall develop working relationships with other parts of the national human rights machinery, including Ombudsmen, relevant commissioners, and independent reviewers, with a view to ensuring the coherence and co-ordination of that machinery, and its optimal use of resources for the protection and realisation of human rights.

E. Relationship with Civil Society

Parliament and the Human Rights Committee should be well connected with relevant civil society networks.

F. Relationship with International Human Rights Machinery

The Human Rights Committee should establish and maintain a close relationship with all parts of the relevant regional and international human rights machinery, including the UN treaty bodies and Special Procedures.

G. Relationship with Other Parliamentary Committees

The Human Rights Committee shall establish effective working relationships with other parliamentary committees with a view to ensuring that opportunities for Parliament to fulfil its obligations to protect and realise human rights are not missed.

H. Relationship with the Media

Parliaments and their Human Rights Committee should maintain close relations with the media, and be particularly vigilant about the importance of free and independent media to the protection of human rights in a democracy.

I. Relationship with Academic Institutions

Parliaments and the Human Rights Committee should maintain close relations with academic institutions, including human rights research institutes, so that relevant academic research about human rights informs scrutiny of policy and legislation, and research agendas in universities are informed about the human rights issues which are of pressing practical concern.

J. Relationship with the Legal Profession

Parliaments and the Human Rights Committee should maintain close relations with the legal profession and its representative bodies, and in particular with practitioners in relevant fields including human rights and constitutional law.

VI. Training and Research Services

A. Training

Parliaments could provide or arrange appropriate induction training in human rights and the rule of law for all new members of Parliament and staff, and at regular intervals thereafter. Parliaments should ensure that every member of Parliament is provided with a copy of the IPU's Handbook on Human Rights for Parliamentarians and other relevant materials about the role of Parliament in relation to human rights.

Parliaments should avail themselves of appropriate technical assistance available from international organisations to assist them to build their capacity to fulfil their role in the protection and realisation of human rights and the rule of law.

B. Research Support

Parliaments should ensure that their libraries and on-line resources provide access to the most relevant human rights materials required by parliamentarians to fulfil their role in the protection and realisation of human rights and the rule of law.

Parliaments should ensure that their research services include appropriate expertise in human rights and proactively provide regular updates to all members of parliament on significant human rights issues, in anticipation of the human rights issues likely to be most relevant to parliamentary business.

VII. Effectiveness

Parliaments should develop a methodology for assessing their effectiveness in the protection and realisation of human rights.

Annex 3

Principles underpinning the parliamentary role in ensuring human rights compliance¹

23. For brevity, the term ‘committee,’ in this section, refers to any committee or sub-committee that regularly considers human rights matters, whether as a specialised function or as part of a broader mandate.

- Does the committee have a permanent status?
- Is the remit of the committee clearly defined and enshrined in the parliament’s standing orders (or equivalent)?
- Is the remit of the committee sufficiently broad so as to reflect the imperative for parliament both to protect and realise human rights in the state concerned?
- Does the remit of the committee expressly include, or could it be interpreted by its members to include:
 - systematic verification of the compatibility of draft legislation with international human rights obligations;
 - systematic monitoring of the implementation of judgments of the European Court of Human Rights, including the requirement for governments to regularly submit reports on human rights judgments and their implementation;
 - the power to initiate legislative proposals and amendments to laws; and
 - subpoena powers over witnesses and documents relevant to its remit?
- Does the committee have access to independent advisers with expertise in human rights law?
- Is the committee adequately resourced to carry out its functions, included dedicated secretariat support?
- Does the method of appointment of the committee ensure that it is independent from the executive?
- Does the membership of the committee reflect the principle of political pluralism, i.e. does it reflect the balance of power between political groups within the Parliament?
- Does the committee maintain regular dialogue with other bodies, at national level (e.g. national human rights institutions or ombudsmen)³⁶ and international level (e.g. Parliamentary Assembly, the Council of Europe Commissioner for Human Rights, European and other international human rights monitoring bodies)?
- Does the committee regularly invite non-governmental organisations to contribute to its work, e.g. by submitting evidence to thematic inquiries, assisting the committee to determine priorities for its inquiries, or providing evidence about the impact of legislation on the enjoyment of human rights?

¹ [The Role of Parliaments in Implementing ECHR Standards: Overview of existing structures and mechanisms](#), Parliamentary Assembly, Council of Europe, September 2015, p10.

Annex 4

Westminster Foundation for Democracy – Parliaments and human rights: key practices

1. Parliaments should have adequate internal structures to enable them to fulfil their responsibility to protect and realise human rights. These internal parliamentary structures should ensure rigorous, regular and systematic monitoring of the government's performance of its responsibilities to secure the rights and freedoms recognised in national law and in the State's international obligations.

2. Parliaments should have specialised human rights committees that adhere to the following principles:

- Are established by parliament, and not the executive, with their permanent existence enshrined in Parliament's Standing Orders;
- Have remits that are broadly defined, concerns human rights in the domestic context, and allows the committee to take into account all relevant sources of human rights standards in both national and international law;
- Are composed in such a way as to guarantee their independence and pluralism;
- Have powers that enable it to carry out its work effectively; and
- Be supported by specialised staff with expertise in human rights law and policy, and who are independent from government and NGOs.

3. The principal function of the specialised parliamentary human rights committee should be to inform parliamentary debate about human rights issues, and may include the following:

- Legislative scrutiny;
- Scrutiny of executive response to human rights judgements of courts;
- Scrutiny of compliance with and implementation of international human rights obligations;
- Inquiries into topical human rights issues;
- Scrutiny of government policy generally for human rights compatibility; and
- Monitoring the adequacy of the national system for the protection of human rights (If resources permit, the specialised parliamentary human rights committee could also perform the following functions:
 - Pre-legislative scrutiny
 - Post-legislative scrutiny
 - Scrutiny of secondary legislation

4. The specialised parliamentary human rights committee should adopt appropriate working methods, which are published and kept under regular review in the light of practical experience. These working methods should include:

- A priority policy and work programme;
- Decisions by consensus;
- Transparency;
- Civil society input;

- Regular reporting; and
- Follow up.

5. Parliaments and their parliamentary human rights committee should develop and maintain consistent and effective working relationships with a range of key interlocutors. Such relationships should be established and maintained at the level of both members and staff.

6. Parliaments should provide appropriate training and research services on human rights to all members and staff

7. Parliaments should develop a methodology to assess their effectiveness in the protection and realisation of human rights.