

What do other parliaments in UK do on human rights?

Introduction

There is varying practice on the scrutiny of human rights across the different UK Parliaments. This paper presents a brief overview of the scrutiny at the UK Parliament, Welsh Assembly, Northern Ireland Assembly and Scottish Parliament. The aim is to assist the Committee's deliberations over its added remit of Human Rights. This paper should be read alongside the second SPICe paper on Models of Human Rights Committees.

The Joint Committee on Human Rights at the UK Parliament has the broadest remit and has conducted a fair amount of scrutiny since its establishment in 2000. It has been held up as an example of good practice in terms of how a committee on human rights should function.

There has been much less scrutiny of human rights in the devolved administrations, but this may in part be a reflection of competing priorities given that human rights as an issue has come under very broad committee remits. Also, the need for parliaments to scrutinise human rights has been evolving over time, so that there now appears to be international consensus to fill this gap.

This paper focuses on the work of the current committees covering human rights, but governments and human rights bodies also have a significant role to play in the promotion and protection of human rights. The different human rights bodies across the UK are:

- UK – Equality and Human Rights Commission
- Scotland – Equality and Human Rights Commission on reserved matters, Scottish Human Rights Commission on devolved matters, although there can be overlap
- Wales – Equality and Human Rights Commission
- Northern Ireland - Northern Ireland Human Rights Commission

UK Parliament

[Joint Committee on Human Rights](#)

Remit

The Joint Committee on Human Rights consists of twelve members, appointed from both the House of Commons and the House of Lords, to examine matters relating to human rights within the United Kingdom. (This excludes consideration of individual cases.)

The Committee's work includes scrutiny of:

- Every UK Government bill for its compatibility with human rights, including:
 - The rights under the European Convention on Human Rights (ECHR) protected in UK law by the Human Rights Act 1998
 - Common law fundamental rights and liberties
 - The human rights contained in other international obligations of the UK
- UK Government policy for human rights compatibility
- The adequacy of the UK Government's response to court judgments finding a violations of human rights
- UK's compliance with its human rights obligations contained in a range of international treaties, and seeks to increase Parliament's role in the implementation of the obligations contained in those treaties
- Thematic inquiries

The Committee is also required to report to Parliament on any remedial order made under the Human Rights Act 1998. A remedial order is a form of delegated legislation. Remedial Orders seek to correct breaches of human rights, identified by either domestic courts or the European Court of Human Rights, between UK law and the ECHR.

Current inquiries

[The Government's proposed derogation from the ECHR inquiry](#) (call for evidence closes 31 March 2017)

- What evidence supports the Government's view that "our legal system has been abused to level false charges against our troops on an industrial scale"?
- What evidence supports the Government's view that the extra-territorial applicability of the ECHR undermines the operational effectiveness of the Armed Forces?
- Are the substantive requirements of Article 15 ECHR likely to be satisfied in the circumstances in which the Government intends to derogate?
- Are there alternatives to derogation which would achieve the Government's objective of protecting the armed forces against unfounded legal claims?
- Are there any wider implications of the UK derogating from the extra-territorial application of the Convention in military operations, such as effects on other countries or on the European system for the collective enforcement of human rights?
- Should the derogating measures be contained in primary legislation?
- Is it appropriate for the Ministry of Defence to have lead responsibility for a policy the purpose of which is to protect the MoD from legal claims?

[Mental health and deaths in prison inquiry](#) (call for evidence closes 3 February 2017)

The inquiry will be structured around three broad themes:

- Whether prison is the right place for vulnerable offenders such as those with mental health conditions and/or learning difficulties
- The way prisoners with mental health conditions are treated in prison
- How to ensure that lessons for the future are learned, errors not repeated and that good practice becomes common practice.

[What are the human rights implications of Brexit? inquiry](#) (call for evidence closed 10 October 2016)

- The Committee issued an open call for evidence, asking interested parties and stakeholders to submit evidence on any impact of the UK's proposed withdrawal from the EU on the human rights framework and protection of human rights in the UK. This was to ensure that the Committee does not exclude any relevant but hitherto undisclosed issues.
- This inquiry has concluded with a [Committee report](#), alongside the news release '[Fundamental rights not a bargaining chip, says Committee](#)' (19 December 2016). The Committee is now awaiting a Government response.

[Human Rights and Business](#) (call for evidence closed 15 July 2016)

- What steps the Government takes to monitor compliance with the UN Guiding Principles
- How far the Government is able to enforce the UN Guiding Principles
- Whether, and if so what, progress British business has made in carrying out its responsibility to respect human rights
- Whether victims of human rights abuse involving business enterprises within UK jurisdiction have access to effective remedy.

The inquiry is ongoing, but [written and oral evidence](#) has been published.

[UK's record on children's rights inquiry](#) (call for evidence closed 7 October 2016)

On 9 June 2016 the UN Committee on the Rights of the Child published its assessment of the UK's record for protecting children's rights. While the UN Committee welcomed progress in some areas, it made a number of detailed recommendations identifying specific ways in which children's rights could be better protected in the UK.

The inquiry will also be an opportunity for the Committee to hear about any implications for children's rights of the Children and Social Work Bill, which the Committee is currently scrutinising.

The Committee has published [written and oral evidence](#).

The Chair of the Committee, Harriet Harman, wrote to Edward Timpson MP, Minister of State for Vulnerable Children and Families, about the “the urgent need for a cross-Government action plan setting out in concrete terms how the Government proposes to act on the recommendations of the UN Committee” ([19 October 2016](#)).

No further response or report is available on the Committee's website.

Impact of the Committee

The Committee was formed in 2000 and its establishment was intended to coincide with the coming into force of the Human Rights Act 1998. Murray Hunt, legal adviser to the Committee since 2004, has published research¹ assessing the impact of the Committee's work (2012). The research demonstrated that the Committee had increased the UK Parliament's involvement in debates about human rights over the decade between 2000 and 2010. Between 2005 and 2010 there were 1,006 substantive references to the work of the Committee in parliamentary materials, compared with 23 such references between 2000 and 2005. Most of the references involved: legislative scrutiny, including amendments to bills; broad recommendations for change in law or policy; and consideration of the UK's compliance with its international human rights obligations.

This research paper was published as part of the [Parliaments, the Rule of Law and Human Rights Project](#). Funded by the Arts and Humanities Research Council and led by Murray Hunt, it focused on:

“...strengthening protection of the rule of law and human rights by finding ways of bringing them into the heart of the political process. Embedding meaningful respect for the rule of law and human rights in democratic institutions is one of the greatest challenges of our times, and the project aims to carry out and stimulate research which will help to meet that challenge”.

For further background on the Committee's remit and work, see:

- [Role - Joint Committee on Human Rights](#)
- [Previous Joint Committee reports](#)

• ¹ [Parliaments and Human Rights: redressing the democratic deficit](#) (Murray Hunt, Hayley Hooper and Paul Yowell for the Arts and Humanities Research Council, 2012)

National Assembly for Wales

[Equality, Local Government and Communities Committee](#)

Remit

The Committee was established on 28 June 2016 to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): local government; housing, community regeneration, cohesion and safety; tackling poverty; equality of opportunity and human rights.

The Committee has eight Members.

Current inquiries

[Post legislative inquiry into the Violence against Women, Domestic Abuse and Sexual Violence Act 2015](#)

The Committee looked at progress made in the implementation of the Act's provisions and its impact to date. A [report](#) and [summary document of conclusions and recommendations](#) was published on 12 December 2016.

[Inquiry into refugees and asylum seekers in Wales](#) (call for evidence closed 14 December 2016)

The Committee is looking at how much support is available for refugees and asylum seekers in Wales and how well Wales is responding to the large-scale displacement of Syrians because of the country's civil war.

It will consider:

- the pace and effectiveness of the Welsh Government approach to resettling refugees through the UK Government's Syrian Vulnerable Persons Relocation Scheme (SVPRS);
- the effectiveness of the Refugee and Asylum Seeker Delivery Plan;
- the support and advocacy available to unaccompanied asylum seeking children in Wales; and
- the role and effectiveness of the Welsh Government's Community Cohesion Delivery Plan in ensuring the integration of refugees and asylum seekers in Welsh communities.

[Inquiry into human rights in Wales](#) (call for evidence closes 10 February 2017)

This follows on from the Fourth Assembly Communities, Equality and Local Government Committee's short inquiry into the [Future of equality and human rights in Wales](#), and is also informed by the Committee's consultation on priorities which ran over summer 2016.

The Committee is seeking views on:

- The impact of the UK's withdrawal from European Union on human rights protection in Wales
- The impact of the UK Government's proposal to repeal the Human Rights Act 1998 and replace it with a UK Bill of Rights
- Public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people.

[Trade Union \(Wales\) Bill](#) (call for evidence closes 17 February 2017)

To consider –

- the general principles of the Trade Union (Wales) Bill and the need for legislation to ensure the continued and effective delivery of public services by dis-applying certain provisions of the UK Government's Trade Union Act 2016 as they apply to devolved Welsh authorities. The provisions to be dis-applied are as follows:
 - the 40% ballot threshold for industrial action affecting important public services,
 - powers to require the publication of information on facility time and to impose requirements on public sector employers in relation to paid facility time, and
 - restrictions on deduction of union subscriptions from wages by employers;
- any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them;
- whether there are any unintended consequences arising from the Bill; and
- the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

History

As mentioned above, the previous Communities, Equality and Local Government Committee undertook a short [inquiry](#) into the future of equality and human rights in Wales.

The terms of reference for the inquiry were:

- How well the specific public sector equality duties are functioning in Wales;
- The Equality and Human Rights Commission in Wales;
- The link between poverty and equality and the socio-economic duty; and
- Accountability for equality and human rights legislation in Wales.

The [report](#) (2013) made eight recommendations, including:

“The Welsh Government should seek further powers in the field of equality and human rights to build on the Equality Act 2010 and the Human Rights Act 1998”.

The Committee does not examine every piece of Welsh legislation to ensure its compatibility with human rights. The approach in that context is similar to the approach taken by the Scottish Parliament, ie that all domestic legislation must be compatible with European Convention on Human Rights, but it is up to each individual committee to consider such matters in their legislative scrutiny.

The Committee has tended to focus more on equalities, and so the current inquiry on human rights is its first major inquiry on the matter.

Northern Ireland Assembly

It is notable that the political situation in Northern Ireland has a particular bearing on equality and human rights. The equality and human rights guarantees are an integral part of the transition from conflict, with safeguards included in the Belfast Agreement and the Northern Ireland Act 1998. In addition, the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission monitor and advise on equality and human rights issues².

[Committee for the Executive Office](#) (previously the Committee for the Office of the First Minister and deputy First Minister)

The Committee was established to advise and assist the Ministers on matters within their responsibility. The Committee undertakes a scrutiny, policy development and consultation role with respect to the Executive Office and plays a key role in the consideration and development of legislation.

It is this Committee that takes the lead on human rights issues. On 16 November 2016, for example, it heard [evidence on the UN examination cycles](#).

The minutes from that meeting show that it was agreed:

“To write to the First Minister and deputy First Minister to encourage full participation on behalf of the Executive in forthcoming UN treaty reporting cycles, and in particular next year’s Universal Periodic Review”.

The Committee is currently undertaking some work on refugees and asylum seekers.

Scottish Parliament

The remit of the former Equal Opportunities was broadened at the start of session 5 to include human rights, hence the name change to Equalities and Human Rights.

Prior to this, human rights fell under the remit of the Justice Committee. However, it was not exclusive to that Committee because human rights issues can feature in any policy area. Notable examples of committee scrutiny on human rights from session 4 include:

² Research and Information Service (2011) [Equality and Human Rights Legislation in Northern Ireland: A review](#)

- [Land Reform Bill – Rural Affairs, Climate Change and Environment Committee](#). The [2016 Act](#) requires Scottish Ministers to publish a land rights and responsibilities statement, having respect for the observance of human rights.
- [The Children and Young People \(Scotland\) Bill – Education and Culture Committee](#). The [2014 Act](#) requires Scottish Ministers to keep under consideration their approach to implementing the UN Convention on the Rights of the Child. Public authorities are required to publish a report on the steps taken to further effect the UNCRC requirements every three years.
- [Human Rights inquiry – Europe and External Relations Committee](#). This considered the implications for Scotland of the UK Government’s proposals for a British Bill of Rights to replace the Human Rights Act 1998. The Committee wrote to the UK Government with key points from the inquiry.

In terms of legislation, the Scotland Act 1998 requires all Scottish legislation to be compliant with the European Convention on Human Rights. Statements on legislative competence of any bill must be made by the Presiding Officer and member in charge of the bill.

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