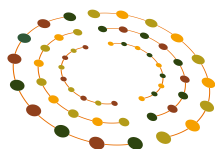




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INTER PARES | Parliaments in Partnership
EU Global Project to Strengthen the Capacity of Parliaments

Effective Human Rights Engagement for Parliamentary Bodies

A Toolkit



EFFECTIVE HUMAN RIGHTS ENGAGEMENT FOR PARLIAMENTARY BODIES

A Toolkit

Kirsten Roberts Lyer

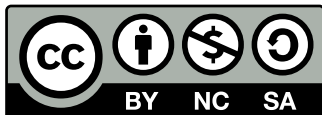


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INTRODUCTION

Parliaments have an important and potentially transformative role to play in creating societies in which the human rights of everyone in the country are respected.

In recognition of this, increasing attention is being paid to the role of parliaments as human rights actors. Initiatives of the United Nations (UN), the European Union (EU), the Council of Europe (CoE), the Organization for Security and Co-operation in Europe (OSCE) and others emphasize the importance of parliaments' powers and functions in ensuring that human rights are respected, protected and fulfilled at national level.

This toolkit aims to provide support to parliaments that are already working, or are aiming to work, on human rights issues. It was written to accompany support provided to partner parliaments through the INTER PARES project, but we hope that it will be valuable to all parliaments and those working with parliaments to enhance human rights. It was created based on research on international standards, recommendations and good practices in parliamentary human rights work across the EU.

The toolkit looks at the mandates and competencies of parliamentary human rights bodies, the factors that contribute to their effective functioning and how they can operationalize their human rights work in practice. It particularly focuses on specialized human rights committees, which are considered best practice for parliaments in human rights engagement, allowing for a build-up of expertise, creating a centralized focus and encouraging mainstreaming.

Parliaments have an important role to play in creating societies in which the human rights of everyone in the country are respected.

Recognizing several factors, including how busy members of parliament (MPs) and their staff are, and that they may not have prior experience or expertise in human rights, this toolkit is presented with parliamentary professionals in mind, and in such a way as to make the information easily accessible, with additional relevant materials provided in the notes.

This toolkit promotes the concept of active, rather than reactive, parliamentary human rights engagement. That is, parliaments should monitor, oversee and examine human rights based on events in the country, rather than waiting until they receive bills or reports.

Chapter 1

ABOUT THIS TOOLKIT

1.1. WHAT DOES THE TOOLKIT COVER?

The aim of the toolkit is to provide evidence- and example-based tools, inspiration and ideas to those working on domestic human rights issues in INTER PARES partner parliaments to support them in strengthening their own processes in the short, medium and long terms. In particular, it focuses on specialized parliamentary bodies, such as human rights committees.

The toolkit provides examples of substantive human rights engagement on procedural and thematic issues, including how parliamentary human rights bodies can and do engage with different national and international actors, as well as the types of powers available to parliamentary human rights bodies and how they are used in practice.

The toolkit sets out the different models of parliamentary engagement that exist, primarily focusing on those in the EU.

It focuses on dedicated mechanisms in parliaments, in particular parliamentary human rights committees, that is, committees with a specialized human rights mandate.

Several useful publications on the role of parliaments in relation to human rights already exist (e.g. Council of Europe 2018; IPU 2016a), hence the mechanisms-based focus of this toolkit, which aims to provide an added value. Furthermore, the UN has specifically promoted the role of parliamentary human rights committees as

The aim of the toolkit is to provide tools, inspiration and ideas to those working on domestic human rights issues.

interlocutors in national systems, which is the recommended route for parliaments in their human rights engagement (Roberts Lyer 2019).

The toolkit also focuses on parliaments' role in relation to national human rights issues, rather than those occurring abroad. While this aspect is important, the aim is to focus on domestic human rights engagement.

The geographical scope of the examples are the EU Member States' parliaments. Non-EU examples have been included where particularly useful.

Temporally, the toolkit focuses on examples primarily from 2016 to 2021, to provide up-to-date good practices and largely reflect recent global conditions for human rights and the rule of law.

However, the toolkit has limitations. Of course, parliamentary engagement with human rights can and does happen outside of dedicated human rights mechanisms. Therefore, there are initiatives by other mechanisms/committees that are not mentioned in the toolkit. Moreover, many parliaments are making significant efforts to engage with human rights in other countries, which are not reflected here.

1.2. WHO IS THIS TOOLKIT FOR?

This toolkit is designed for parliamentarians and their staff, particularly those working on human rights issues.

Recognizing several factors, including how busy MPs and their staff are, and their level of experience and expertise in human rights, this toolkit is presented with parliamentary professionals in mind, and in such a way as to make the information quickly accessible, with additional relevant materials provided in the notes.

Chapter 2

PARLIAMENTS AND HUMAN RIGHTS

2.1. WHAT ARE PARLIAMENTS' HUMAN RIGHTS ROLES AND RESPONSIBILITIES?

Parliaments have an essential role to play as human rights actors (IPU n.d.a). Their mandate and functions at the national level, and their critical place in the national system, give them the ability to improve human rights domestically. As the INTER PARES project description states:

Parliaments are responsible for the protection and promotion of human rights. As the main representative body in a democracy, parliament is the place to approve international treaties and take legislative measures to protect and promote human rights, to highlight human rights challenges and put them in the frontline of political debate, and to hold governments to account on their action and record on human rights issues.

(INTER PARES n.d.)

In addition, parliaments have responsibilities as part of the state structure.

States hold the primary responsibility for respecting, protecting and fulfilling human rights (see IPU 2016a, Chapter 2 on state obligations, for more on this). Respecting human rights means not interfering in the enjoyment of the rights of people or groups. Protecting human rights means protecting people from abuses of their rights and providing remedies when they are violated. Fulfilling human rights

Parliaments are cornerstones of national human rights protection systems (OHCHR 2018a: 5).

States hold the primary responsibility for respecting, protecting and fulfilling human rights.

Figure 1. Parliaments' roles in relation to the human rights situation

Improving the national human rights situation:

- government monitoring and oversight
- human rights-compliant budgeting
- ensuring human rights-compatible legislation
- supporting the human rights framework (non-governmental organizations, civil society organizations, national human rights organizations, etc.)
- supporting/overseeing national human rights action plans
- examining potential human rights violations (inquiries, hearings, reports)

Supporting international commitments:

- monitoring the implementation of regional and international standards
- following up recommendations from regional and international bodies
- engaging with regional and international mechanisms
- engaging with regional and international parliamentary assemblies

means taking positive action to ensure people's rights are respected and enjoyed.

Parliaments can and do have a range of roles in relation to the human rights situation at the national level, and the country's international human rights commitments and obligations (see Council of Europe 2018, Chapter 3; IPU 2016a, Chapter 2). These include the roles listed in Figure 1.

Parliaments also engage with human rights situations overseas. Although this is an important role of parliaments, as noted in the introduction, this toolkit focuses on the engagement of parliaments with human rights in their own countries.

2.2. WHAT INTERNATIONAL STANDARDS ARE THERE ON PARLIAMENTS AND HUMAN RIGHTS?

International standards recommend a range of roles for parliaments, as well as the establishment of a dedicated human rights mechanism to support the domestic implementation of international human

rights standards arising from the Universal Declaration of Human Rights and other international instruments.

In 2013, the UN Human Rights Council acknowledged parliaments' role in translating international commitments into national policies and law (OHCHR 2013).¹ In 2014, it expressly affirmed that states, in accordance with their national legislation, should 'promote the involvement of parliaments in all stages of the universal periodic review reporting process', including in the implementation of recommendations (Human Rights Council 2014).

The most important UN document on human rights and parliaments for the purpose of this toolkit is the 2018 Office of the United Nations High Commissioner for Human Rights (OHCHR) *Draft Principles on Parliaments and Human Rights* (OHCHR 2018b; adopted as Annex 1 to OHCHR 2018a). These principles guide parliaments in setting up parliamentary human rights committees, as well as in their effective functioning. The principles cover:

the (1) mandate, (2) responsibilities and functions (both domestically and vis-à-vis the international human rights system), and (3) composition and working methods of a parliamentary human rights committee. The preamble to the draft principles specifically identifies the relevant functions of parliaments in promoting human rights implementation:

Ratifying human rights treaties, scrutinising legislation, and overseeing the work of the executive in fulfilling its human rights obligations.²

(Roberts Lyer 2019; quoting OHCHR 2018b)

1 In its Resolutions 65/123 of 2010 (<https://digitallibrary.un.org/record/698338?ln=en>) and 66/261 of 2012 (<https://digitallibrary.un.org/record/729495?ln=en>), the UN General Assembly underscored the importance of cooperation and interaction in the area of human rights between the UN, in particular its Human Rights Council, national parliaments and the Inter-Parliamentary Union.

2 The most recent relevant international document identified is the 2019 Human Rights Council report (A/HRC/40/65), containing a summary of the discussions, conclusions and recommendations of the Forum on Human Rights, Democracy and the Rule of Law held in Geneva on 22 and 23 November 2018 on the theme 'Parliaments as promoters of human rights, democracy and the rule of law'. Other relevant materials include the 2004 Abuja Guidelines on the relationship between Commonwealth national human rights institutions and parliament and the 2012 Belgrade Principles on the relationship between national human rights institutions and parliaments.

At the European regional level, the EU has long recognized parliaments as critical to the protection of rights in Europe. For example, in its 2020 communication on the *Rule of Law Report*, the European Commission highlighted the importance of parliamentary oversight:

The particular circumstances of 2020 have brought additional challenges to citizens' rights, and some restrictions on our freedoms, such as freedom of movement, freedom of assembly or freedom to conduct a business, had to be applied to address the COVID-19 pandemic. Effective national checks and balances upholding respect for the rule of law are key to ensuring that any such restrictions on our rights are limited to what is necessary and proportionate, limited in time and subject to oversight by national parliaments and courts.

(European Commission 2020a: 2)

The Parliamentary Assembly of the Council of Europe (PACE) has also recognized the potential role of parliaments and encouraged the establishment of parliamentary mechanisms for the domestic implementation of human rights judgments of the European Court of Human Rights (see, for example, PACE 2006, 2011a, 2011b, Appendix 1, paragraph 1, 2012, 2013, 2017). In Resolution 1823 (2011b), PACE urged parliaments to create 'dedicated human rights committees or appropriate analogous structures, whose remits shall be clearly defined and enshrined in law'.³ Similarly, in Resolution 2178 (2017), PACE urged national parliaments to establish parliamentary structures guaranteeing follow-up and monitoring of international obligations in the human rights field, in particular of the obligations stemming from the European Convention on Human Rights; and to question governments on their progress in implementing judgments of the court and demand that they present annual reports on the subject (PACE 2017).

As many reading this toolkit will be aware, the Inter-Parliamentary Union (IPU) produces a range of materials that support parliamentary functioning. Particularly relevant to this toolkit is the IPU's 2016

³ In Resolution 1914 (2013), PACE explicitly urged parliaments to ensure that their committees monitoring compliance with human rights obligations are actively involved in the execution of the court's pilot judgments and other judgments revealing structural problems; the assembly also invited national parliamentarians to regularly question their governments regarding execution of the court's judgments.

Human Rights: Handbook for Parliamentarians (IPU 2016a; see Box 40), which provides guidance on what parliamentarians can do to ensure that international human rights provisions are incorporated into national law and that proposed legislation brought before parliament is consistent with human rights obligations.⁴ The IPU and OHCHR have also produced a set of recommendations on parliamentary engagement on human rights (IPU 2019a).

2.3. WHAT ARE THE OPTIONS FOR MODELS OF PARLIAMENTARY ENGAGEMENT ON HUMAN RIGHTS?

Across the EU, there are countries with specialized human rights committees in their parliaments, and countries where human rights are ‘cross-cutting’ (see Table 1). ‘Cross-cutting’ means that, in theory, human rights issues can arise and be dealt with in any relevant committee. Although this approach may appear positive insofar as human rights are indeed cross-cutting, covering every aspect of a parliament’s work, it has received some criticism because it risks diluting attention from human rights issues, particularly taking into account the challenging volume of work that parliaments deal with. Partly for this reason, the OHCHR has promoted the establishment of dedicated parliamentary human rights committees with defined functions, as detailed in Chapter 3.

Types of parliamentary human rights body vary across the EU in terms of size, focus and mandate. A scholar studying parliaments and human rights writes:

Aside from the cross-cutting approach in the unicameral parliaments of several Nordic states, there is no distinctive pattern in the models adopted elsewhere in the [member states of the Council of Europe] ... Each of the approaches—cross-cutting, specialised and hybrid—is found in unicameral and bicameral parliaments; systems that are (at least formally) monist or dualist; presidential, semi-presidential and parliamentary systems; and older and newer Convention member states.

(Donald 2017: 82)

Types of parliamentary human rights body vary across the EU in terms of size, focus and mandate.

⁴ Even where not human rights-specific, many of these can be utilized to improve the work of parliaments on human rights, in particular materials on oversight (see, for example, IPU 2018a).

Table 1. Models of parliamentary engagement in human rights in EU countries

Country	Parliament type	Human rights body type	Human rights committee name in English	Mandate	Members
Austria	Bicameral	Human rights mandate (National Council)	Committee on Human Rights	Broad, covering human rights, racism, xenophobia and discrimination issues	23 permanent and 23 substitutes
		Cross-cutting (Federal Council)	No specialized committee		
Belgium	Bicameral	Cross-cutting (Chamber of Representatives and Senate)	No specialized committee	Human rights issues can be addressed by constitutional affairs, social affairs or health and equality committees	
Bulgaria	Unicameral	Human rights mandate	Committee on Human Rights, Religions and Citizens' Complaints	Broad	16
Croatia	Unicameral	Human rights mandate	Committee on Human Rights and Rights of National Minorities	Broad	15
Cyprus	Unicameral	Human rights mandate	Parliamentary Committee on Human Rights and Equal Opportunities for Men and Women	Broad	11
Czechia	Bicameral	Human rights mandate (Chamber of Deputies)	Committee on Petitions; Subcommittee on National Minorities; Subcommittee on the Protection of the Rights of Persons Restricted in their Freedom	Committee on Petitions addresses human rights and minority rights issues (including laws that implement secondary European Union law in this field). Subcommittee mandates address national minorities and detained persons respectively	16
		Human rights mandate (Senate)	Committee on Education, Science, Culture, Human Rights and Petitions	Broad	11
Denmark	Unicameral	Cross-cutting	No specialized committee	Legal Affairs Committee addresses human rights	29
Estonia	Unicameral	Cross-cutting	No specialized committee		
Finland	Unicameral	Cross-cutting	No specialized committee	Constitutional Law Committee addresses human rights issues	16

Table 1. Models of parliamentary engagement in human rights in EU countries (cont.)

Country	Parliament type	Human rights body type	Human rights committee name in English	Mandate	Members
France	Bicameral	Cross-cutting (National Assembly)	No specialized committee	Law Committee addresses human rights issues	73
		Cross cutting (Senate)	No specialized committee	Committee on Constitutional Laws, Legislation, Universal Suffrage, Regulations and General Administration addresses human rights issues	49
Germany	Bicameral	Human rights mandate (Bundestag)	Committee on Human Rights and Humanitarian Aid	Broad, addressing both national and international human rights issues. Legislative reforms fall under the competence of the Legislative Affairs Committee	19
		Cross-cutting (Bundesrat)	No specialized committee		
Greece	Unicameral	Human rights mandate	Special Permanent Committee on Equality, Youth and Human Rights	Broad	19
			Standing Committee on Public Administration, Public Order and Justice	Competent on matters pertaining to the Ministry of Justice, Transparency and Human Rights	58
Hungary	Unicameral	Cross-cutting	Committee on Justice	Also addresses constitutional matters, alongside human rights, religious issues, civil affairs, legislation and data protection	11
Ireland	Bicameral	Cross-cutting (House of Representatives and Senate)	No specialized committee	Joint Committee on Children, Equality, Disability, Integration and Youth addresses human rights issues	14
				Committee on Justice addresses human rights issues	14
Italy	Bicameral	Cross-cutting (Chamber of Deputies)	No specialized committee		
		Human rights mandate (Senate)	Extraordinary Commission for the Protection and Promotion of Human Rights	Broad	25
Latvia	Unicameral	Human rights mandate	Committee on Human Rights and Public Affairs	Broad	9

Table 1. Models of parliamentary engagement in human rights in EU countries (cont.)

Country	Parliament type	Human rights body type	Human rights committee name in English	Mandate	Members
Lithuania	Unicameral	Human rights mandate	Committee on Human Rights	Broad	7
Luxembourg	Unicameral	Cross-cutting	No specialized committee		
Malta	Unicameral	Cross-cutting	No specialized committee		
Netherlands	Bicameral	Cross-cutting (House of Representatives and Senate)	No specialized committee		
Poland	Bicameral	Human rights mandate (Sejm)	Committee on Justice and Human Rights	Broad	33
		Human rights mandate (Senate)	Committee on Human Rights, Rule of Law and Petitions	Broad	11
Portugal	Unicameral	Human rights mandate	Committee on Constitutional Affairs, Rights, Freedoms and Guarantees	Broad	26 permanent and 24 substitutes
Romania	Bicameral	Human rights mandate (Chamber of Deputies)	Commission for Human Rights, Cults and National Minorities Issues	Focused on the rights of national minorities, religious cults and equality of opportunity	26
		Human rights mandate (Senate)	Commission for Human Rights, Equal Opportunities, Cults and Minorities	Focused on the rights of national minorities, religious cults and equality of opportunity	11
Slovakia	Unicameral	Human rights mandate	Committee on Human Rights and National Minorities of the National Council of the Slovak Republic	Broad, addressing human rights, the rights of members of national minorities, other vulnerable groups, the protection of personal data, equality between women and men, with an emphasis on the principle of non-discrimination	13
Slovenia	Bicameral	Human rights mandate (National Assembly)	Commission for Petitions, Human Rights and Equal Opportunities	Broad	15
		Cross-cutting (National Council)	No specialized committee		

Table 1. Models of parliamentary engagement in human rights in EU countries (cont.)

Country	Parliament type	Human rights body type	Human rights committee name in English	Mandate	Members
Spain	Bicameral	Cross-cutting (Congress of Deputies)	No specialized committee	Human rights issues addressed by numerous committees, including the Constitutional Commission and the Committee on Social Rights and Comprehensive Disability Policies	
		Cross-cutting (Senate)	No specialized committee	Human rights issues addressed by numerous committees, including the Committee on Social Rights	
Sweden	Unicameral	Cross-cutting	No specialized committee		

Source: Compiled by the author.

Note: This table does not claim to be a source of definite information on parliamentary human rights committees, but rather seeks to present an overview of the way domestic human rights are approached by specialized parliamentary bodies in EU Member State Parliaments as of mid-2022. Other non-human rights specialized committees may also cover human rights matters. Note that committee names, mandates and compositions are subject to frequent changes. Committee names not originally in English have been translated by the author.

Table 1 illustrates some of the diversity across the EU.

More information on specific parliamentary human rights committees can be found on the IPU's Parline database (IPU n.d.b).

2.3.1. What is considered the 'ideal' model for parliamentary human rights engagement?

Although models vary in practice, international standards support the establishment of a dedicated human rights committee with a broad mandate and various functions.

As previously noted, leaving human rights solely as a cross-cutting issue has its limitations. An examination of parliamentary human rights bodies in Council of Europe member states succinctly sets out the benefits of having a specialized mandate body in parliament:

Existing practice reveals a number of potential benefits of the specialized model:

- The specialized model is likely to be preferable for parliaments that are instigating human rights oversight for the first time, or in states where the execution of judgments and the verification of legislation for human rights compatibility is poorly co-ordinated by the executive.
- Creating a dedicated human rights committee sends a signal that parliament recognises and intends to act upon its human rights obligations.
- Such a committee plays a crucial role in informing parliamentary debate about human rights. This includes advising parliament about the human rights obligations and frameworks which are relevant to any issue before it, and pressing the executive to justify its action or inaction on matters relating to human rights and the rule of law.
- A human rights committee that is independent of the executive can, over time, develop both systematic oversight mechanisms and human rights expertise among its members and staff. As the former Parliamentary Assembly rapporteur, Christos Pourgourides, argues, the specialized model has 'clear advantages' since it 'pools competences and provides direction'.
- A dedicated human rights body within parliament creates an interlocutor with the executive and a body which can perform specialized functions such as 'real

time' scrutiny of action plans and action reports and consideration of reports by the executive on Court judgments and their state of execution

- A further advantage to having a focal human rights body within parliament is the potential for it to develop understanding of, and independent contact with, the Court, the Committee of Ministers, the Parliamentary Assembly, and possibly other Council of Europe bodies such as the Commissioner for Human Rights.
- Moreover, a specialized committee may be more likely to attract and retain high quality professional legal and policy advisers with human rights expertise, who are a lynchpin of effective parliamentary human rights work

(Council of Europe 2018: 50–51)

The competencies of parliamentary human rights bodies are discussed further in Chapter 3.

2.3.2. What if the parliament cannot set up a specialized body?

Although the specialized or dedicated model is preferable, it is certainly not the only available model. Cross-cutting or thematic committees can be effective in ensuring human rights protection; however, in these circumstances, it is important that human rights are clearly identified in the committee's mandate, and that human rights-specific expertise is available to the body.

2.3.3. How relevant are different national frameworks?

The national framework in which a parliament sits is relevant to the type of role it can play. Like the frameworks for parliamentary human rights bodies themselves, each national system in which parliamentary committees operate has its own unique features. What is perhaps more useful to identify is the relevant stakeholders, and their potential relationship with the parliamentary human rights body, as discussed further in Chapter 3.

Elements of the national environment that are particularly relevant to how these bodies function include:

- the nature of their relationship with the government;
- the constitutional and legal framework;

- whether or not there are federal or other decentralized parliaments, and their powers;
- the powers of the parliament over lawmaking, budgets and oversight, among other things;
- ‘by-laws, standing orders or rules of procedure and their implications for the day-to-day work within parliament, formally as well as informally’;
- ‘the independence of parliament (in terms of its budget, infrastructure and human resources)’
(Danish Ministry of Foreign Affairs 2010).

Chapter 3

FUNCTIONALITY OF PARLIAMENTARY HUMAN RIGHTS BODIES

3.1. WHAT IS REQUIRED FOR A PARLIAMENTARY HUMAN RIGHTS BODY TO FUNCTION PROPERLY?

To function properly, parliamentary human rights bodies require clear powers set in law, a clear mandate and sufficient competencies, stakeholder engagement, expertise, communication and information management, transparent operations, a functional structure and sufficient resources (a particularly useful and authoritative resource on parliamentary processes is Venice Commission 2021).

3.1.1. What mandate and competencies are required?

The IPU, in its 2016 human rights handbook for parliamentarians, sets out its ideal competencies for parliamentary human rights committees (IPU 2016a, Box 40). According to the IPU, for full effectiveness:

- a parliamentary human rights body should:
- Have a broad human rights mandate, encompassing legislative and oversight functions;
 - Be competent to scrutinize bills and other acts as to their compatibility with the State's national and international human rights obligations;
 - Be competent to deal with any human rights issue it deems important, take legislative and other initiatives in the area of human rights and address human rights problems and concerns referred to it by third parties;
 - Be competent to advise other parliamentary bodies on human rights issues;

- Have the power to request information, question witnesses and carry out on-site missions.
(IPU 2016a: 112)

As the OHCHR stated, there are several common features of parliamentary human rights mechanisms:

The mandates of parliamentary human rights committees vary, although a common core set of responsibilities can be observed, including legislative initiative, review and amendment in the light of the international human rights obligations of the State, parliamentary oversight of the work of the executive in fulfilling its human rights obligations, parliamentary debates and hearings on human rights-related issues, engagement with national human rights institutions, and the provision of recommendations to the plenary of the parliament.

(OHCHR 2018a: 7)

Although mandates may vary considerably, a clear mandate and sufficient competencies are essential to the functioning of the mechanism.

The 2018 OHCHR draft principles recommend the following mandate:

A parliamentary human rights committee shall be given as broad a mandate as possible, covering all human rights as defined in national and international law. The mandate of the parliamentary human rights committee shall also provide clear terms of reference setting out its purpose and goals.

(OHCHR 2018b: 14)

A study of EU parliamentary committees with a rule of law and/or human rights specialization found that their mandates included:

discussing complaints and motions, examining requests and other initiatives addressed by citizens, informing competent bodies of the national Parliament, monitoring and studying issues to ensure human rights and fundamental freedoms, monitoring the realisation of the international obligations (Slovenian *Državni Zbor*), securing human rights without discrimination on any ground, carrying out parliamentary scrutiny of public institutions enforcing human rights

(Lithuanian *Seimas*). Most of these met on a regular basis (23 Parliaments/Chambers). In a majority of cases, these committees were established decades ago. The most important reasons for establishing such committees were to ensure the compliance with the country's own Constitution, the European Convention on Human Rights and other relevant international conventions, to combat discrimination and defend human rights.
(COSAC 2016: 21)

Mandates should be broad, and should set out the range of human rights-related functions that parliamentary mechanisms can exercise. For example, the Croatian parliamentary Human Rights Committee has the following mandate:

The Committee on Human and National Minority Rights shall establish and monitor the implementation of policies, and in procedures to enact legislation and other regulations it shall have the rights and duties of a competent working body in matters pertaining to:

- the implementation of ratified international treaties that regulate the protection of human rights;
 - matters of principle, proposals and opinions related to the implementation of the provisions of the Constitution of the Republic of Croatia dealing with human rights and fundamental freedoms;
 - the exercise and protection of human rights and freedoms;
 - the exercise of the rights of national minorities set forth in the Constitution of the Republic of Croatia and laws, and the proposal of measures to exercise these rights;
 - international treaties and programmes of international cultural, educational and other cooperation when this is of interest to individual national minorities in the Republic of Croatia and to Croatian minorities in European countries;
 - the financing of specific needs of national minorities;
 - other activities established by these Standing Orders.
- The Committee on Human and National Minority Rights shall co-operate with scholarly and professional, governmental and non-governmental organisations

that operate in the field of the protection of human and ethnic rights, with the relevant working bodies of parliaments in other countries and with foreign and international bodies that operate in the field of the protection of human and ethnic rights.

The Committee on Human and National Minority Rights shall co-operate with working bodies entrusted with petitions and appeals and with other working bodies of Parliament and may additionally consider matters under the competence of these working bodies if it assesses that they are of significance to the protection of human and ethnic rights. (Croatian Parliament n.d.)

Parliamentary human rights bodies should have a broad mandate in terms of both their functions and the rights they cover.

Portugal's Human Rights Committee covers rights and freedoms in the Constitution, namely personality rights, equality and non-discrimination, issues related to domestic violence and the fight against trafficking in human beings, the rights of children and older people, the legal framework on the right to petition and citizen's legislative initiatives; justice and prison affairs; internal administration, including certain electoral matters, namely those relating to the exercise of voting and referendum rights, and certain local government and civil protection matters; legal frameworks related to immigration, asylum and refugees; integration policies and intercultural dialogue; and certain EU matters, including border control (see Assembleia da República n.d.a).⁵

Competencies should be set out in law and include all that are needed to allow the committee to function properly.

The OHCHR 2018 draft principles (OHCHR 2018b: 14–15) set out 11 responsibilities and functions, including:

- encouraging the ratification of or accession to human rights instruments;
- reviewing the compatibility of legislation with international human rights obligations;

⁵ However, the Committee does not discuss issues under Chapter III of the Constitution 'Workers' rights and rights relating to the media'.

- leading parliamentary oversight of the government in fulfilling its human rights obligations;
- providing human rights–related information to members of parliament during debates;
- reviewing draft national budgets for implications on the enjoyment of human rights;
- calling for a national human rights action plan and overseeing its implementation;
- engaging and consulting with the national human rights institution (NHRI) and civil society representatives on human rights issues, developments, concerns and cases;
- leading parliamentary action in response to national human rights developments and issues, including through legislative initiatives, parliamentary inquiries, public hearings, public debates and the issuing of reports on national human rights issues and developments;
- holding public hearings, requesting information and documentation, summoning and hearing witnesses, providing reports and recommendations to the plenary of the parliament, and initiating parliamentary debate on its reports or subjects of its choosing;
- conducting training and raising parliamentarians’ awareness on human rights–related issues.

3.1.2. How can parliamentary human rights bodies plan their work?

With the volume of work parliaments face, planning and prioritization are important for the functioning of parliamentary committees. This includes using work plans and strategic planning.

Parliamentary mechanisms may also need to prioritize their work owing to resource constraints.

When considering what legislation should be selected for review, the United Kingdom Parliament’s Joint Committee on Human Rights has a dedicated legal advisor who reviews all legislation at an early stage, and brings those considered ‘significant’ to the attention of the Committee. To determine what is ‘significant’, several criteria are used, including ‘how important is the right affected, how serious is the interference with it and, in the case of qualified rights, how strong

is the justification for the interference, how many people are likely to be affected by it, and how vulnerable they are' (Joint Committee on Human Rights 2005).

3.1.3. What expertise, training and capacity-building are needed?

The availability of expertise, as well as the opportunities for training and capacity-building for parliamentary human rights bodies, is critical to support their functioning.

Although it is beneficial to human rights bodies if members have prior human rights experience or expertise, this is not usually the case. This makes the availability of such expertise all the more important: 'The importance of developing within national parliaments a permanent body of professional staff capable of providing independent and expert advice on human rights and the rule of law has been repeatedly underscored by the Parliamentary Assembly, for example in Resolution 1823 (2011), and is reflected in its own capacity-building work with parliamentary staff' (Council of Europe 2018: 55). Furthermore, this information should be independent because human rights violations may be caused by the government's actions, and the executive may not be a reliable source of independent information or advice.

The OHCHR draft principles suggest:

A parliamentary human rights committee shall have access to external independent human rights advice, as required, including from the national human rights institution, legal professionals with expertise in human rights, academic experts, representatives of civil society organizations, international or regional organizations, or other relevant professionals with expertise in the area.
(OHCHR 2018b: 16)

Research support can come in the form of a general research service (IPU 2020a). A 2016 EU report found that 'The majority of the responding Parliaments did not initiate research on the rule of law and human rights in their own countries. Around two thirds had supporting research services and expert advice on human rights and

rule of law issues at their disposal, mostly available through in-house specialised research staff' (COSAC 2016: 7).

In Portugal:

Parliamentary committees may request the taking of, or may themselves take, any steps needed for the proper exercise of their functions, particularly as regards:

- (a) Conducting studies;
 - (b) Requesting information or opinions;
 - (c) Asking any citizens to give evidence;
 - (d) Holding parliamentary hearings;
 - (e) Requisitioning and contracting specialists to assist them in their work;
 - (f) Undertaking information or study missions.
- (Assembleia da República 2007, article 103 (1))

Several parliaments, for example the UK's, have advisors dedicated to assisting the human rights committee in their work. Research and/or expert support can also be obtained on an ad hoc basis. For example, the Australian Parliamentary Joint Committee on Human Rights (PJCHR) utilizes the expertise of an academic to support their work (PJCHR 2020). Academics researching issues relevant to the mechanism can provide useful testimony, information and support for their work. In this regard, the Venice Commission recommends that 'Committees should have sufficient resources for the payment of [services of the external experts]' (Venice Commission 2021).

National bodies such as NHRIs can also provide valuable information to parliamentary human rights bodies. First, as independent expert institutions, their reports provide credible information on human rights situations. Second, by developing a strong relationship with the human rights institution, a parliament's human rights mechanism may be able to request advice, information or testimony from the NHRI to support its work.

International organizations, such as the International Institute for Democracy and Electoral Assistance, may also be a source of expertise and capacity-building training. Interparliamentary capacity-building missions can provide an excellent means of building

relationships and benefiting from the experiences of colleagues in other countries.

3.1.4. Does the parliamentary human rights body need rules of procedure?

Clear rules of procedure are essential in helping parliamentary human rights bodies to function, and to be transparent in their functioning.

The OHCHR draft principles suggest:

A parliamentary human rights committee shall develop and publish terms of reference to define, inter alia, its working methods, the frequency of its meetings, its quorum, a procedure for agenda setting, means of communication, involvement in other fora such as the national mechanisms for reporting and follow-up, secretariat services, and modalities of consultations with stakeholders such as the national human rights institution, civil society or individuals. (OHCHR 2018b: 16)

Many parliaments have well-elaborated rules of procedure that have been developed over time, such as in the case of Portugal. Parliamentary committees should additionally have rules or terms of reference that relate to their specific work and mandate.

In addition to clear and transparent working procedures, parliamentary mechanisms should take a human rights-based approach to their work. A human rights-based approach requires participation, accountability, non-discrimination and equality, the empowerment of rights holders and legality (Scottish Human Rights Commission n.d.).

Subcommittees and working groups are also effective means of working for parliamentary committees, allowing improved use of resources, and a thematic focus.

Portugal's Committee on Constitutional Affairs, Rights, Freedoms and Guarantees was established in 1976, with an exclusive human rights mandate (see Assembleia da República n.d.b). The committee has 25 permanent and 22 substitute members (Assembleia da República n.d.c). There are two subcommittees, one on equality

and non-discrimination and another on resocialization and prison affairs (Assembleia da República n.d.d). The two subcommittees for 2015–2019 were the Ethics Subcommittee and the Subcommittee on Equality and Non-Discrimination (Assembleia da República n.d.d). At the time of writing there were 10 working groups. There were 21 working groups in total for 2015–2019 (Assembleia da República n.d.e).

Romania's Committee for Human Rights, Cults and National Minorities has subcommittees on the protection and promotion of the rights of older people, anti-discrimination, defending the rights and freedoms of Romanian citizens of the Roma minority, monitoring the respect of the rights of people deprived of their liberty and the Hungarian minority (Chamber of Deputies n.d.).

3.1.5. How can parliamentary human rights bodies make themselves visible and accountable?

Parliamentary human rights bodies should function transparently and be visible to the public. Not only is this important in publicizing their work but it also underlines the human rights functions of parliament and raises awareness of human rights.

As regards operations, the OHCHR draft principles state:

A parliamentary human rights committee shall be transparent in its operations, including decision making. It shall publicise its work and hold hearings in public, except where there is a clear, stated and justifiable reason not to do so.

(OHCHR 2018b: 16)

Parliamentary committees should seek ways to make their work visible and accessible.

The Irish Parliament streams committee hearings live on its website (see Oireachtas n.d.a), and committees issue press releases about their work (see Oireachtas n.d.b).

The Portuguese Human Rights Committee has a dedicated web page, where relevant legislation and documents are uploaded, including the report tracking the presence of ministers at meetings of all

parliamentary committees since 1976 (Assembleia da República 2015; n.d.b).

Slovakia's committee's website provides information about the list of legislative initiatives that MPs have initiated together or with others, (Národná Rada Slovenskej Republiky n.d.a). Scotland's parliament publishes an annual report on its activities (Scottish Parliament 2021).

Transparency and visibility are also important components of accountability.

The Portuguese committee is subject to procedures that are aimed at increasing its accountability. Activity plans and activity reports are available on the website for 2015–2019 (Assembleia da República n.d.f). Under the activity plan for the fourth legislative term, the committee published certain expenditures. The website lists activity plans and reports for the first legislative session post-2019, and an activity plan for the second legislative session. For 2015–2019 and post-2019 (Assembleia da República n.d.g), there are separate sections on the website's 'Travel and events' page, in which MP visits as representatives of the assembly and events, such as conferences and award ceremonies, are listed.

3.1.6. Who should be on the parliamentary human rights body?

The OHCHR draft principles provide: 'A parliamentary human rights committee shall be comprised of members of Parliament with human rights expertise, having due regard to the principle of pluralism, non-partisanship, respect for all human rights, and gender-balance' (OHCHR 2018b: 16).

There are special concerns regarding the composition of parliamentary human rights bodies, given the importance and sensitivity of the issues that come before them, and to ensure their credibility. Special attention should be given to ensuring that these committees are independent from the government (as well as non-state actors). Particularly important is a transparent appointments process, and the selection of a chair of proven integrity and independence (Council of Europe 2018: 61).

Committees should look for ways to enhance their membership. The Croatian parliamentary committee developed a particularly innovative approach to composition: ‘The Croatian *Hrvatski sabor* explained that the Committee on Human and National Minority Rights had four so called appointed members, representatives from the ranks of religious communities and NGOs [non-governmental organizations] dealing with human rights with the same rights and duties as the MPs, who were members of the Committee, except the right to vote and enact decisions’ (COSAC 2016: 25).

3.1.7. What resources should parliamentary human rights bodies have?

Parliamentary human rights bodies must have sufficient resources to fulfil their mandate.

The OHCHR draft principles provide: ‘A parliamentary human rights committee shall be provided with sufficient financial and human resources by the Parliament to enable it to carry out its functions effectively’ (OHCHR 2018b: 16).

Giving exact figures is challenging because resource allocation depends on the parliament overall, and needs to be determined on a case-by-case basis.

3.2. WHO SHOULD PARLIAMENTARY HUMAN RIGHTS BODIES WORK WITH?

Parliamentary human rights bodies operate in a complex national environment. They must engage with a range of stakeholders in the parliament itself, as well as nationally and internationally, as illustrated in Figure 2.

These are two-way relationships, with each stakeholder potentially engaging with the parliamentary body, as well as the body engaging with the stakeholder—often in various ways. For example, the parliamentary body may receive information from the NHRI on the human rights situation in the country, and be involved in reviewing candidates for NHRI leadership.

Figure 2. Range of stakeholders engaging with parliamentary human rights bodies



National Human Rights Institutions play an important role as rule of law safeguards and can provide an independent check on the system in a rule of law crisis. (European Commission 2020a: 23; see also FRA 2020; PACE 2014)

As will be discussed in Chapter 4, stakeholders can provide important inputs into a committee's work. Of particular relevance to the parliamentary human rights body is the work of the NHRI,⁶ and that of non-governmental organizations (NGOs)/civil societies working on human rights. The 2018 OHCHR draft principles provide that 'A parliamentary human rights committee should conduct its work in such a way as to provide opportunities for meaningful civil society participation' (OHCHR 2018b: 16).

⁶ The list of global NHRIs can be found on the Global Alliance of National Human Rights Institutions (GANHRI) website (<https://www.ganhri.org>).

There are specific standards in relation to parliaments and NHRIs, called the Belgrade Principles. These set out specific modes of engagement between the parliament and the NHRI:

Forms of cooperation between Parliaments and NHRIs

(20) NHRIs and Parliaments should agree the basis for cooperation, including by establishing a formal framework to discuss human rights issues of common interest.

(21) Parliaments should identify or establish an appropriate parliamentary committee which will be the NHRI's main point of contact within Parliament.

(22) NHRIs should develop a strong working relationship with the relevant specialised Parliamentary committee including, if appropriate, through a memorandum of understanding. NHRIs and parliamentary committees should also develop formalized relationships where relevant to their work.

(23) Members of the relevant specialised parliamentary committee and the NHRI should meet regularly and maintain a constant dialogue, in order to strengthen the interchange of information and identify areas of possible collaboration in the protection and promotion of human rights.

(24) Parliaments should ensure participation of NHRIs and seek their expert advice in relation to human rights during meetings and proceedings of various parliamentary committees.

(25) NHRIs should advise and/or make recommendations to Parliaments on issues related to human rights, including the State's international human rights obligations.

(26) NHRIs may provide information and advice to Parliaments to assist in the exercise of their oversight and scrutiny functions.

(UN Human Rights Council 2012: 19, Annex: Belgrade Principles)

Chapter 4

IN PRACTICE: PARLIAMENTS AS HUMAN RIGHTS ACTORS

4.1. SOURCES OF HUMAN RIGHTS INFORMATION

4.1.1. Where can information on human rights standards be found?

The most important international human rights treaties globally are the nine core UN human rights treaties listed in Box 1, which derive from the [Universal Declaration of Human Rights](#).

The OHCHR website (<http://www.ohchr.org>) is a useful and authoritative source of human rights information. The [IPU handbook on human rights for parliamentarians](#) is an excellent source of information on human rights standards, mechanisms and processes aimed at MPs. The IPU has published other support materials for parliamentarians, including the 2016 *International Humanitarian Law*

Box 1. International human rights treaties

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- International Convention for the Protection of All Persons from Enforced Disappearance

handbook (IPU 2016b), the *Migration, Human Rights and Governance* handbook (IPU 2016c), a summary report on the seminar ‘Law and Justice: The Case for Parliamentary Scrutiny’ (IPU 2016d), and materials on freedom of expression (IPU 2018b), and human rights and Covid-19 (IPU n.d.c).

4.1.2. Where can information on the commitments and obligations of a country be found?

One of the easiest places to find comprehensive information about the UN-level commitments a country has made, and the recommendations that have been made for the country by the UN human rights mechanisms, is on the OHCHR’s dedicated country page. The example of Ireland’s page can be found on <https://www.ohchr.org/en/countries/Ireland>.

There are several key sources of easily accessible information. One example is the UN Human Rights Council’s Universal Periodic Review (UPR) process, which assesses the entirety of a state’s human rights commitments every four to five years, including the obligations set out in the Universal Declaration of Human Rights, and issues a set of comprehensive recommendations covering a wide range of human rights. Another is the UN treaty bodies, which are tasked with monitoring the implementation of specific conventions listed in Box 1.

When a state has committed itself to (ratified) an international human rights convention, it must periodically submit information to the treaty body tasked with monitoring the implementation of that convention. Following a monitoring process (see OHCHR n.d.a for more information), the treaty body issues a set of detailed recommendations to the state, called ‘concluding observations’. These can be found on each country’s dedicated page on the OHCHR website.

The OHCHR also has a Universal Human Rights Index, which is designed to provide access to human rights recommendations that the UN treaty bodies have issued, as well as the UPR and special procedures (OHCHR n.d.b).

4.2. ENGAGING WITH INTERNATIONAL AND REGIONAL HUMAN RIGHTS BODIES

Parliaments are critical to ensuring that recommendations from the international and regional human rights mechanisms become a reality.⁷

4.2.1. How can the parliamentary human rights body engage with the UN human rights mechanisms?

The UN Human Rights Council has acknowledged the ‘crucial role that parliaments play, inter alia, in translating international commitments into national policies and laws’ (OHCHR 2013).

As the IPU Secretary-General stated, ‘taking parliaments into account is therefore also about making sure that those [international] recommendations do not become a dead letter’ (cited in UPR Info 2016).

The OHCHR draft principles set out the following roles for parliamentary human rights bodies in the international system.

A parliamentary human rights committee shall, inter alia, have the following roles regarding the international human rights system:

- (a) To participate in the national consultations held in preparation of and during the drafting process of reports to the international and regional human rights mechanisms;
- (b) To review and comment on the Government draft reports which the State is required to submit to the international and regional human rights mechanisms, such as the universal periodic review;
- (c) To participate in the UPR and in sessions of the treaty bodies, either as part of the Government delegation or on its own;
- (d) To participate, through a designated focal point, in the national mechanism for reporting and follow-up, and ensure that recommendations of international and regional human rights mechanisms that require legislative reform,

⁷ On this topic, see generally Universal Rights Group (2018). There have been interesting initiatives in the work of the Ugandan Parliament and its dedicated human rights committee in this area (IPU 2019b), but these are outside of the geographical scope of this toolkit.

the adoption of new laws, or budgetary adjustments are identified and given priority consideration;

(e) To lead the parliamentary oversight of the work of the Government in implementing recommendations of international and regional human rights mechanisms;

(f) To meet separately from the Government with special procedure mandate holders of the Human Rights Council, treaty body members, or UN officials dealing with human rights and regional human rights bodies when they conduct a country visit.

(OHCHR 2018b: 15)

The issuance of reports from international human rights bodies can provide an opportunity for parliamentary human rights bodies to discuss and consider the situation in the country. Most of the monitoring reports at the international level are periodical/cyclical, meaning that the schedules can be tracked, particularly where the parliamentary body has research support staff. Alternatively, a schedule can be requested from the relevant government department (ministry).

Monitoring government commitments systematically through a matrix of recommendations can help to support parliamentary human rights bodies in monitoring the fulfilment of government obligations. Such a matrix is prepared by the OHCHR for the UPR recommendations, which are grouped thematically.⁸

Parliament can also directly engage with the state reporting process. For example, in Georgia:

The Parliament's role begins when the Government of Georgia submits its national [UPR] report. Before providing the final report on the implementation of recommendations to the HRC [Human Rights Council], the Government submits the draft document to the Parliament for further review and discussion in the Plenary, according to the procedure prescribed in the parliamentary Rules of Procedure. The Parliament also has a role to play once the outcome of the review is adopted in the UN Human Rights Council.

⁸ For example, Finland's matrix can be found at <<https://www.ohchr.org/EN/HRBodies/UPR/Pages/fiindex.aspx>>.

Additionally, the Parliament receives a mid-term report on the status of implementation of recommendations from the government.

(UPR Info 2021: 15)

The OHCHR has prepared a useful ‘tip sheet’ on what parliaments can do as part of the UPR cycle (OHCHR n.d.c; see also IPU 2016a: 95–97, ‘Ratifying human rights treaties’ and checklist ‘What you can do as a parliamentarian’).⁹ This includes encouraging and contributing to a broad consultation on the executive’s national report; encouraging NGOs, the NHRI and other stakeholders to make their own submissions to the UPR process; raising awareness of human rights; and participating in the Human Rights Council session during the discussion and during the adoption of the report as part of the government delegation or as an observer. It can also request a briefing to parliament on the process and outcome, and ensure parliamentary follow-up of the UPR recommendations.

UN special rapporteurs, who are independent experts elected by the UN with a mandate for a particular thematic or geographical focus, regularly meet with parliamentarians as part of their in-country visits, following which they issue a report and recommendations that the parliamentary human rights body can then examine (e.g. OHCHR 2019).

Frequently, the UN treaty bodies recommend that the government transmit the concluding observations to the parliament. Ministers can be asked both to provide these and to appear before the committee to discuss the plans for their implementation.

⁹ The OHCHR notes that it ‘makes available for each reviewed country—on its website (documentation by country): 1) A Letter by the High Commissioner for Human Rights to the Minister of Foreign Affairs with an Annex containing 10–15 areas which in the view of the High Commissioner require particular attention by the State over the next 4.5/5 years and before the next cycle of the UPR; 2) A Matrix of thematically clustered accepted and noted recommendations per State reviewed, which detail what the State in front of the international community and at the highest level has agreed to act upon following the review immediately or at a later stage; and 3) An Infographic which shows trends between the 2nd and 3rd cycle in terms of received and accepted recommendations and linking recommendations to specific SDGs, most notably SDG 16, SDG 10, SDG 8, SDG 5 and SDG 4; These documents are presently available for 112 countries and could be relied upon for advocacy with respect to policies and actions in the field of human rights.’

Although parliaments have generally not engaged directly with the UPR or treaty body in Geneva, this option is available through the provision of an independent report.

In 2014, the Public Consultation Committee of the Irish Parliament (Oireachtas) made its own submission to the UN Human Rights Committee—the treaty body monitoring the implementation of the International Covenant on Civil and Political Rights (ICCPR). The committee wrote that it was ‘partaking in the UN Treaty Body system as part of its ongoing work to participate in parliamentary oversight of Ireland’s constitutional, European and international human rights obligations’ (Seanad Public Consultation Committee 2014). Prior to its submission, it had invited the public and stakeholders to submit written statements, and held a hearing on the ICCPR.

The committee identified the following positive outcomes from its engagement: raising awareness of the ICCPR, hearing public testimony directly, and increasing lawmakers’ understanding ‘of the importance of bringing a human rights analysis to law and policy on a wide range of issues’ (Seanad Public Consultation Committee 2014: 4).

The committee’s submission made recommendations on issues ranging from ensuring that the NHRI ‘was in compliance with the Paris Principles, to the establishment of a national implementation mechanism, to specific requests to the Human Rights Committee to address a particular issue with the government’ (Roberts Lyer 2019: 200).¹⁰

The Sámi parliaments, elected bodies representing the Sámi Indigenous people in Finland (Sámi Parliament of Finland n.d.), Norway (Sámi Parliament of Norway n.d.) and Sweden (Sámi Parliament of Sweden n.d.), regularly provide written submissions to the UN treaty bodies in relation to the periodic reviews of Finland, Norway and Sweden. These range from submissions at an early stage of the process (‘list of issues’) (e.g. Saami Council 2019) to full alternative/shadow reports (e.g. Sámi Parliament of Norway 2018).

¹⁰ In 2013, a German parliamentary group provided a submission to the Human Rights Committee in relation to the committee’s examination of the United States on issues of surveillance (The Greens 2013).

4.2.2. Can parliamentary committees focus on specific thematic issues?

Parliamentary committees may also wish to engage with thematic areas that are of interest or importance, such as torture prevention. The IPU encourages this role, and has identified how parliaments can be engaged:

The IPU calls on parliaments to bring about the universal ratification of the UN treaty to ensure that its provisions become domestic law, including by clearly enshrining torture as a crime in the criminal code and establishing appropriate punishment for perpetrators. Parliamentarians can use their oversight and budgetary powers to effectively enforce anti-torture laws. They can also help by visiting prisons themselves to inspect conditions in which people are detained, as many of them already do.

(IPU 2020b)

Their role in torture prevention can include hearing from those running the prison system and prisoners' rights groups, and engaging at the regional and international levels. The following example from the Portuguese committee (translated from original Portuguese) illustrates the type of engagement that a committee can have in one area:

28 March 2018—Hearing of the Minister of Justice following the release of the report of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (request from the Social Democratic Party).

18 April 2018—Hearing of the Inspector-General for Internal Administration, Dr Margarida Blasco, on the report of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

9 January 2019—Hearing of the Minister of Justice on the request presented by the Social Democratic Party Parliamentary Group regarding the events in the Lisbon prison, and the request presented by the Social Democratic Centre-Popular Party for clarification of motivations behind the protests that occurred in the Lisbon and

Custóias prisons and discussing the steps to be taken by the prison services to end these protests.

13 February 2019—Hearing of the Director of the Paços de Ferreira Prison on the incidence of complaints received from prisoners.

22 December 2020—Hearing of the Ombudsperson on the work of the National Preventive Mechanism and treatment in the temporary detention centre at Lisbon Airport.

15 December 2020—Hearing of the Minister of Internal Affairs on recent information on the death of a Ukrainian citizen (12 March 2020) in custody at the temporary detention centre at Lisbon Airport.

Common possible routes for monitoring torture prevention include the national preventative mechanism under the Optional Protocol to the Convention Against Torture presenting its annual report to the parliament, which occurs in Spain and many other countries (Defensor del Pueblo 2016, noting that ‘The NPM presents an annual activity report to the Spanish Parliament and to the SPT [UN Subcommittee for the Prevention of Torture].’). Visits from parliamentarians are also a commonly used tool (Council of Europe 2013, noting that care must be taken when undertaking this role not to undermine other bodies doing this function, for example the NHRI).

Torture prevention is not the only area of focus. For example, the Irish (Oireachtas n.d.c) and Spanish (Senado de España 2020) parliaments have established joint committees specifically on disability matters, with the aim of effectively implementing the Convention on the Rights of Persons with Disabilities.

Many parliaments have engaged with the UN Sustainable Development Goals, both discussing and debating their content and implementation, and receiving reports from government on their implementation, for example in Austria (see, for example, the Austrian Parliament, as reported in Republic of Austria 2020: 19–20, 103). Committees have an important role in this engagement—the Spanish Parliament has a Joint Parliamentary Committee for the 2030 Agenda (SDG Knowledge Hub 2019).

Networks of parliaments are also a valuable way for parliamentary human rights bodies to engage, such as the World Health Organization initiatives on regional parliamentary networks for health (see, for example, WHO 2019). At the EU level, for example, there is a platform for EU interparliamentary exchange (Interparliamentary EU Information Exchange).¹¹

The EU encourages national parliaments to engage with its human rights work on a range of levels.¹² For example, the European Commission encourages parliaments to engage with its human rights and rule of law reports: ‘The Commission also invites national Parliaments and national authorities to discuss this report, including its country chapters, and seek support from one another, as an encouragement to pursue reforms and an acceptance of European solidarity’ (European Commission 2020a: 27). The European Union Agency for Fundamental Rights (FRA) has national parliamentary focal points and presents its work to national parliaments (see FRA n.d.).

4.3. SUPPORTING A HEALTHY NATIONAL HUMAN RIGHTS ENVIRONMENT

4.3.1. How can the parliamentary human rights body support non-governmental organizations and civil society?

Parliamentary human rights bodies can support NGOs and civil society organizations (CSOs). They can do so both through promoting a healthy national environment—such as by ensuring the rights to freedom of association and freedom of assembly are upheld—and by actively including these organizations in their work (Together 2030 2018).

Parliaments can be critical to ensuring that civic space is not reduced, as has been seen in many countries around the world in recent years:

Parliaments play a critical role in shaping civic space
because governments often use legislation to close civic

¹¹ The website can be found at <<http://www.ipex.eu>>. See also ECPD (n.d.).

¹² It should be noted that national parliaments play a key role in the functioning of the EU system, although this is outside the scope of this toolkit. See, for example, European Commission (2016: 203–05; n.d.).

space. Restrictive laws are not the only way governments can do this: governments can also intimidate and harass civil society in non-legislative ways. However, legislative restrictions can be particularly effective because they allow governments to control civil society without outright repression. Indeed, these legislative proposals often look reasonable at first glance. For example, proposals may be framed in terms of improving the financial accountability of CSOs, combating money-laundering, protecting citizens from ‘scam’ NGOs, and ensuring that the work of civil society is in the national interest.

One reason why legislation is a popular tool for closing civic space is that parliamentary endorsement of these laws provides a veneer of legitimacy. Authoritarian rulers know this, and some use parliamentary votes very strategically to justify their actions as ‘democratic’.

(Dodsworth and Keutgen 2020: 12)

As discussed in other sections of this toolkit, parliamentary human rights bodies in the EU regularly hear the concerns, reports and expert testimony of NGOs and civil society.

4.3.2. How can the parliamentary human rights body support the national human rights institution?

As noted in Chapter 3, there are specific standards to guide parliaments in their engagement with independent NHRIs. In practice, many parliaments receive and debate annual and thematic reports from the NHRI, for example in Croatia, Denmark and Ireland. However, as the FRA noted, ‘while NHRIs usually address their annual reports to parliaments, these are not always the subject of parliamentary discussion, limiting their visibility and impact. Such discussion is obligatory in only a few countries’ (FRA 2020: 15). The FRA has also suggested a ‘formalised relationship’ with NHRIs (FRA 2020).¹³

Parliaments, through committees in particular, can have a role in monitoring and participating in the selection process for NHRI

¹³ FRA Opinion 7 states: ‘Parliaments could also have a formalized relationship with NHRIs and ensure that reports by NHRIs addressed to parliament are properly presented and discussed’.

leadership, for example, holding hearings with candidates, as is done in Portugal.

In addition to the Belgrade Principles, various recommendations have been made on how parliaments can support NHRIs, for example the Commonwealth's Abuja Guidelines:

The Abuja Guidelines on the relationship between parliaments, parliamentarians and Commonwealth national human rights institutions emphasized ... the development of a special working relationship between NHRIs and parliaments, considering their mutual contributions to the protection and realization of human rights. The Guidelines particularly encouraged parliaments to set up an appropriate legal framework for the establishment of NHRIs, ensure adequate resources are allocated, debate NHRI reports and ensure recommendations for action are followed-up and implemented. The Guidelines also called on parliamentarians to ensure that their constituents are made aware of the work of NHRIs.

(OHCHR 2018c; see also The Commonwealth 2004)

4.3.3. How can the parliamentary human rights body support other national bodies?

Parliamentary human rights bodies can also have an important role in overseeing the work of other relevant national bodies. For example, the committee in Croatia reviews the annual report of the State Attorney's Office, with a particular focus on relevant parts of its work, including hate speech, as well as the resources provided to the office (Hrvatski Sabor 2021), which of course is relevant to ensuring the conduct of fair trials and due process in the country. Some other examples are:

The [Slovakian] Committee pays special attention to the laws governing the activities of independent human rights institutions (Public Defender of Rights, Commissioner for Children and Commissioner for Persons with Disabilities, Slovak National Centre for Human Rights, Office for Personal Data Protection, Institute of the Memory of the Nation). As the responsible committee, it discusses the reports forwarded by these institutions to the National Council. In carrying out its control activities, the Committee also

cooperates with relevant non-governmental organizations, as well as with the Government Plenipotentiary for Roma Communities.

(Národná Rada Slovenskej Republiky n.d.b; translation)

The Lithuanian *Seimas* pointed out that relevant committees considered the reports of public and other human rights institutions established by the *Seimas*, as well as draft proposals on improving the work of those institutions. The Committee on Human Rights submitted proposals to the *Seimas*, for example on activities, of the Ombudsman institutions and in close cooperation with them, as well as collaborated with other quasi-judicial institutions of the State Data Protection Inspectorate and the State Consumer Rights Protection Authority.
(COSAC 2016: 27)

In Slovakia, the committee is involved in electing the heads of independent bodies:

[The Slovak Committee] prepares elections of the President of the Office for Personal Data Protection, the Ombudsman, the President and members of the Governing Board of the Nation's Memory Institute, members of the Supervisory Board of the Nation's Memory Institute, the elections of the Commissioner for Children, and the Commissioner for Persons with Disabilities.

(Národná Rada Slovenskej Republiky n.d.b; translation))

4.3.4. What about supporting the human rights of members of parliament?

An important aspect of a healthy national environment is a human rights-friendly situation for parliamentarians themselves. The IPU has long placed emphasis on protecting parliamentarians.

Since 1976, the IPU has had a Committee on the Human Rights of Parliamentarians, which has examined cases of national parliamentarians in over 100 countries. Comprising 10 members, it holds hearings, carries out missions and observes trials. It publishes mission reports and decisions, and maintains a map of the latest cases of MPs in danger on its website.

Every year, many MPs around the world face abuse, mistreatment or even death.
(IPU n.d.d)

[Parliaments] can only perform their functions in a democratic system of government if the rights of the elected parliamentarians are respected. (European Parliament 2021)

The most common human rights violations that this Committee found in 2019 were undue suspension and loss of parliamentary mandate, lack of fair trial and other unfair proceedings, violation of freedom of expression, and threats and acts of intimidation. In 2019, the Committee was notified of threats against 533 MPs in 40 countries (IPU 2019c).

Parliamentary human rights bodies can also take on a role in relation to the human rights of their fellow parliamentarians, including examining how the parliament can ensure mechanisms for human rights-compliant disciplinary procedures and responses to threats.

4.3.5. What is the role of parliaments in relation to legislation?

While one of the key roles of parliaments is, of course, as part of the legislative process, this toolkit focuses less on this role in relation to human rights because it is one of the most covered areas in other materials (see, for example, IPU 2016a: Chapter 10). This role may also fall outside of a human rights-specific committee—for example, in Finland, it falls on the Constitutional Law Committee (IPU 2016a: 99). Furthermore, the role of parliaments in this regard is widely understood.

The following analytical framework from the Australian PJCHR is useful in illustrating how scrutiny of the human rights compliance of legislation can be approached overall:

The committee's analytical framework

2.5 Australia has voluntarily accepted obligations under the seven core United Nations human rights treaties. It is a general principle of international human rights law that the rights protected by the human rights treaties are to be interpreted generously and any limitations on human rights are to be interpreted narrowly. Accordingly, the primary focus of the committee's reports is determining whether any identified limitation of a human right is permissible under international human rights law, and whether legislation could be applied in a way that may risk breaching human rights.

2.6 International human rights law recognises that permissible limits may be placed on most rights and freedoms—there are few absolute rights (that is, rights which

cannot be limited in any circumstances). All other rights may be limited as long as the limitation meets certain standards. In general, any measure that limits a human right must comply with the following criteria (the limitation criteria):

- be prescribed by law;
- be in pursuit of a legitimate objective;
- be rationally connected to (that is, effective to achieve) its stated objective; and
- be a proportionate way to achieve that objective.

2.7 Where a bill or instrument limits a human right, the statement of compatibility should provide a detailed and evidence-based assessment of the measures against these limitation criteria.

2.8 Where relevant, the committee takes into account the views of human rights treaty bodies, as well as international and comparative human rights jurisprudence. These sources are relevant to the interpretation of the human rights against which the committee is required to assess legislation.

(PJCHR 2020: 6)

Two other areas should be mentioned here—proactive scrutiny and incorporating stakeholders' views.

In Ireland, the Joint Committee on Justice holds 'pre-legislative scrutiny' on the general scheme of bills (that is, government proposals for future legislation). In this, it invites representatives both from NGOs and from the relevant government department (ministry) (e.g. Joint Committee on Justice 2021). Scotland's parliamentary committee issued a call for views from the public and organizations and other stakeholders on the proposal to incorporate the UN Convention on the Rights of the Child into Scottish law and received 138 responses (Equalities and Human Rights Committee 2021: 5). The parliamentary human rights committee in Uganda uses a checklist to assess the compliance of legislation with human rights (Parliament of the Republic of Uganda 2013).

Finally, in times of crisis, the role of parliaments becomes particularly critical, especially where emergency or 'fast-tracked' legislation is introduced. In such times, parliamentary human rights bodies can have an important brief. The importance of this role was highlighted

in the European Commission communication on the 2020 Rule of Law Report:

In all [EU] Member States, the normal legislative process gives supremacy to Parliament as legislator. However, fast-track legislative processes and absence of consultation are common features of rule of law crises. The Venice Commission and the Organization for Security and Co-operation in Europe (OSCE) have, on several occasions, underlined the importance of the Parliamentary procedure: thorough deliberations of legislative proposals and amendments, including meaningful consultations with stakeholders, experts and civil society, and a dialogue with the political opposition. In addition, bypassing Parliament in the legislative procedure skews the separation of powers, a key principle of the rule of law.

(European Commission 2020a: 22)

4.3.6. What can parliamentary human rights bodies do in relation to the national budget?

Human rights–proofing the national budget is a further important role for parliamentary human rights bodies, as noted in the preamble to the 2018 OHCHR draft principles, which recognize ‘parliament’s fundamental role in ... considering and approving national budgets bearing in mind human rights implications’ (OHCHR 2018b: 14; see also OHCHR 2010; 2012).

The following example from the Scotland Equalities and Human Rights Committee illustrates the type of actions available to a committee:

Draft Budget Scrutiny 2021–22

27. The Committee launched a call for views on Pre-budget Scrutiny 2021–22, with a closing date of 18 September 2020.

28. The purpose of the call for views was to focus on the budgetary impact of Covid-19 on equalities and human rights as we know the challenges faced by people in Scotland. The Committee wanted to hear how COVID-19 affected funding and to look at how the Scottish Government considers equalities and human rights when it makes budget decisions.

29. The Committee received a total of 13 submissions

varying from public authorities to third sector [14].

30. The Committee took evidence at its meetings on 1 and 8 October 2020 and wrote to the Minister for Older People and Equalities on 29 October 2020. The Minister replied on 2 February 2021, supported by an annex with responses to the points raised in the Committee's letter.

(Equalities and Human Rights Committee 2021: 8)

4.3.7. How should parliamentary human rights bodies contribute to national human rights action plans?

The UN promotes national human rights action plans as tools for ensuring the implementation of human rights commitments at the national level, by detailing legislative and policy commitments, with specific time frames, and by assigning responsibilities. Parliamentary human rights bodies should encourage the establishment of national action plans, and engage with the process of drafting and monitoring. For example, the following engagement occurred in Finland:

In accordance with the independent assessment of the [Finnish] Government's first National Action Plan on Fundamental and Human Rights (2012–2013) and the recommendations of Parliament's Constitutional Law Committee, the National Action Plan will focus on promoting the implementation of fundamental and human rights in specific areas. The main areas the National Action Plan will focus on are fundamental and human rights, education, equality, the right to self-determination as well as fundamental rights and digitalisation. The Action Plan includes a total of 43 projects which are spread across the administrative branches of all ministries.

(Finnish Ministry of Justice 2017: 5)

4.3.8. How can parliamentary human rights bodies facilitate mainstreaming human rights in parliament?

In the introduction to this toolkit, the benefits of a specialized human rights committee were noted. Mainstreaming by that committee is important to ensure that human rights are not siloed into being dealt with by only one committee.

14 The list of questions asked, and responses, can be found at <<https://archive2021.parliament.scot/parliamentarybusiness/currentcommittees/115819.aspx>>.

Researchers conducting an analysis of the terms of reference of 59 UK committee inquiries on Covid-19-related issues since 30 January 2020 found that only two of the inquiries mentioned human rights. The Joint Committee on Human Rights carried out both of these inquiries (Lock, de Londras and Hidalgo 2021). This suggests a lack of mainstreaming and potential siloing of expertise and remit.

Human rights bodies can support the mainstreaming of human rights in the parliament. This support can include reporting to the parliament on a regular/scheduled basis, promoting awareness and encouraging debates: 'In the Netherlands, regular policy debates on the State of the rule of law are organised in both Chambers of Parliament' (European Commission 2020a: 21).

Parliamentary human rights bodies can also have a particularly important role in building capacity among all parliamentarians. The Australian PJCHR prepared a *Guide to Human Rights* 'to provide a short and accessible overview of the key rights' that the committee considers when examining legislation, and includes examples to illustrate how each right can be applied in practice and points to other information and sources that may assist those seeking a more comprehensive analysis of the rights discussed (PJCHR 2015).

4.4. TOOLS FOR DEALING WITH POTENTIAL HUMAN RIGHTS BREACHES

How a parliamentary body deals with potential breaches of human rights is fundamental to its operation. In addition to the areas discussed above in Section 4.3.8, this section considers some of the specific tools at the disposal of parliaments for dealing with human rights issues.

In practice, parliamentary committees can use various tools in combination, such as in this example from the Australian PJCHR:

As part of the approach to the scrutiny of COVID-19 related legislation, the committee took the following actions:

- published a specific report focusing on COVID-19 related bills and legislative instruments, which included

- an overview regarding the laws applicable to the protection of human rights in times of emergency;
- issued a media release on 15 April 2020, which set out the committee's proposed course of action regarding COVID-19 bills and legislative instruments, which was distributed via the Parliament's twitter accounts and to subscribers to the PJCHR mailing list;
 - updated the committee's website, devoting a special page to outlining the committee's scrutiny of COVID-19 related bills and legislative instruments;
 - wrote to civil society organisations advising them that the committee would accept submissions about a bill or legislative instrument at any time, and drew their attention to the committee's COVID-19 webpage;
 - wrote to all ministers and heads of departments explaining the committee's proposed course of action regarding COVID-19 related bills and instruments, and communicated the committee's scrutiny approach, and emphasised the importance of having a detailed statement of compatibility with human rights for all COVID-19 related legislation; and
 - wrote to the United Kingdom Joint Committee on Human Rights explaining the committee's approach to the scrutiny of COVID-19 related legislation.
- (PJCHR 2020: 14)

4.4.1. Hearings

Hearings are one of the most common tools available to parliamentary bodies in undertaking their work.¹⁵ Essentially, a hearing is a request for the presence of a relevant individual or group to discuss a specific issue. It is particularly useful for human rights committees to be able to call on public officials.

In Portugal, ministers must be heard at hearings of the parliamentary committees at least four times in each legislative session

¹⁵ As noted by the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE, 'Even in parliaments with a long-standing tradition of inquiries, the bulk of oversight is performed via routine committee hearings, plenary hearings, question time, and questions and interpellations. In the Netherlands, for example, the lower House of the Parliament has conducted only ten inquiries over the last thirty years' (ODIHR 2017: 15).

(Assembleia da República 2020, article 104 (2)), in accordance with a schedule set at a conference of leaders by the first week of each the legislative sessions.

The Portuguese committee holds frequent hearings on human rights issues; for example, in 2016 it held a hearing with the Director-General of Reintegration and Prison Services on the state of prisons (which the Left Bloc parliamentary group requested).

Parliamentary human rights bodies should have the power to compel the appearance of public officials: 'In Estonia, all parliamentary committees can demand that governmental officials appear before them and submit information' (Riigikogu 2003, Section 17; cited in ODIHR 2017: 17).

Hearings should include a broad range of stakeholders, including experts from NGOs and civil society, the NHRI, academia and independent state bodies, and this should be provided for in the rules of procedure (see, for example, German Bundestag 2020, Rule 70 (1)).

A parliamentary inquiry is one of the most powerful tools that parliaments have for scrutinizing governmental policies and activities and holding to account public officials in charge of implementing them. (ODIHR 2017: 15)

4.4.2. Inquiries

Many national parliaments have inquiry powers through parliamentary commissions of inquiry (PCIs):

in Greece, Investigative powers similar to those of the courts (Article 145 of the Rules of Procedure, which provides that PCIs have all powers of investigative judicial authorities as well as those of the public prosecutor); Ireland, PCIs have investigative powers similar to those of the courts; Italy, PCIs, whether consisting of members of one Chamber or both Chambers, conduct their investigations and examinations with the same powers and the same constraints as judicial authorities ... ; Portugal, Article 178 (5) of the Constitution of the Portuguese Republic, expressly states that PCIs have the investigative powers of the judicial authorities.

(ODIHR 2020, footnote 59; see also Consultative Council of European Judges 2015; European Parliament 2020; Venice Commission 2014)

A European Parliament report on committees of inquiry found that: 'PCIs have the common main purpose in all parliaments: to act as guardians of the public interest and to supervise the actions of the government and other administrative authorities. If vested with appropriate powers and tools, PCIs can be effective in obtaining information and exercising scrutiny. PCIs conclusions can also influence government action' (European Parliament 2020: 11).

Inquiries can cover a wide range of topics. Between March 2020 and January 2021, the UK Parliament's Joint Committee on Human Rights held five inquiries on the human rights implications of the government's response to Covid-19; black people, racism and human rights; freedom of expression; the human rights implications of a long lockdown as part of the government's response to Covid-19; and the government's independent Human Rights Act review (UK Parliament n.d.). The committee heard oral evidence during formal hearings from a range of practitioners, academics, NGOs, representatives of public bodies and government ministries. It also received written evidence. Outcomes from these hearings included reports (e.g. Joint Committee on Human Rights 2021a) and follow-up letters to government ministers seeking responses to particular issues raised (see, for example, Joint Committee on Human Rights 2021b). The UK Parliament has also previously held inquiries on the UK's implementation of international human rights standards (see, for example, Chang and Ramshaw 2016: 19).

The Council of Europe, in a study of a range of parliamentary human rights bodies, recommended that the bodies should carefully consider how they utilize their inquiry power:

Parliamentarians, and especially parliamentary human rights bodies, should develop a methodology for selecting topics for investigation in order to ensure that they only conduct inquiries where they are particularly well positioned to make a significant contribution to gathering evidence or raising public understanding about the issue, taking into account the work of other parliamentary committees and bodies such as national human rights institutions (NHRIs), non-governmental organisations (NGOs) and international organisations.

(Council of Europe 2018: 36)

The use of powerful tools such as inquiries comes with responsibilities.

Importantly, inquiries should be provided for in legislation and/or rules of procedure, and have clear, publicly available terms of reference (ODIHR 2020, paragraph 29). Equally, it must be clearly understood that these are not courts and do not establish criminal or civil responsibility (ODIHR 2020, paragraph 30). As an OSCE report notes:

in Slovenia, the distinctive roles of PCIs and court proceedings is emphasized in the Parliamentary Inquiry Act, which Article 1 defines the purpose of a parliamentary inquiry as to determine and assess the state of facts which can serve as the basis for the National Assembly to decide on the political responsibility of bearers of public functions, on amending legislation, or on other decisions within its constitutional power.
(ODIHR 2020: 16)

Inquiry powers may require the inclusion of sanctions for non-compliance:

in Bulgaria, Cyprus, Estonia, Greece, Hungary, Ireland, Latvia, Netherlands, Spain, Sweden, and the United Kingdom, PCIs can summon natural and legal persons. Some states provide PCIs with powers to sanction those entities which have not responded to the request for information or do not appear before the PCI, though applicable legislation may explicitly provide that certain persons may refuse to testify if this would otherwise expose them to prosecution if they would and/or they have a legally recognized obligation to observe secrecy.
(ODIHR 2020: 19)

In many parliaments, there are legal remedies in place for the situations where the committee of inquiry as a whole or its individual MPs or staff commit an act or omission violating either the rules of procedure or the rights of natural or legal persons concerned by an investigation.

In Latvia, for example, the PCIs Members and staff are administratively liable for the unauthorized disclosure of information obtained in closed session of the Parliamentary inquiry Committee. An administrative offense report shall be drawn up by the PCI Chair or the person replacing the Chair. The PCIs Members and staff shall be held criminally liable for any unauthorized disclosure of information that offends against the privacy of individuals.
(European Parliament 2020: 14)

As regards the outcomes of inquiries, these vary by country. For example:

France's Assemblée Nationale summarises three main consequences resulting from the activities of the parliamentary committees of inquiry: a) guiding the action of the government by proposing changes and asking for feedback on changes b) bringing legal action at least by forwarding the information and for the purpose of initiating a judicial investigation and c) prompting parliamentary activity, as standing committees may take up an issue considered by a PCI and complement its investigations.
(European Parliament 2020: 16)

4.4.3. Consultations and petitions

Public consultations are an important way for parliamentary committees to promote transparency and ensure engagement with stakeholders.

For example, Ireland's Joint Committee on Children, Equality, Disability, Integration and Youth invited 'written submissions from interested individuals or groups on the General Scheme of the Birth Information and Tracing Bill 2021'. On the basis of these submissions, 'The Committee will consider any suitable written submissions received and may decide to invite a number of contributors to public hearings, should it be considered necessary' (Oireachtas n.d.). On its website, the parliament also provides guidance for those appearing before parliamentary committees (Oireachtas 2021) and a 'Witness Protocol' to help them understand what appearing involves (Oireachtas 2020).

Petitions provide committees with the opportunity to hear from groups of concerned citizens regarding potential human rights violations or other issues relating to the promotion and protection of human rights in the country (Rosenberger et al. 2020). The Portuguese committee, for example, holds hearings in response to petitions. Based on suggestions from the committee members and the public, the Slovak committee may discuss current social problems related to human rights (Národná Rada Slovenskej Republiky n.d.b).

The Scottish committee has heard petitions on a range of issues:

Petitions

31. The Committee considered four public petitions at its meeting on 14 January 2021.

32. Petition PE1372—Access to justice in environmental matters: The Committee agreed to close the petition under Rule 15.7 of Standing Orders on the basis that there has been little progress on the action called for in the petition. In closing the petition, the Committee agreed to write to the Scottish Government to highlight the petitioners' concerns and desire to see progress on this issue.

33. Petition PE1695—Access to justice in Scotland: The Committee agreed to close the petition under Rule 15.7 of Standing Orders on the basis that the Scottish Government has indicated its intention to introduce legislative reform. The Committee also agreed to write to the Scottish Government for an update on the timescale for any legislative reform.

34. Petition PE1787—The use of Makaton sign language in the legal system: This petition calls on the Scottish Parliament to urge the Scottish Government to ensure that all parts of the legal system use Makaton sign language. It was referred to the Committee on 29 October 2020. The Committee agreed to keep the petition open and include in its legacy paper for its successor committee.

35. Petition PE1817—End Conversion Therapy: This petition calls on the Scottish Parliament to urge the Scottish Government to ban the provision or promotion of LGBT+ conversion therapy in Scotland. It was referred to the

Committee on 1 October 2020. The Committee agreed to keep the petition open and include in its legacy paper for its successor committee.

(Equalities and Human Rights Committee 2021: 9)

4.4.4. Reports

Reports are another means by which parliamentary committees can support human rights in the country.

Many examples exist of how committees approach reports.

For example, the Irish Parliament's Joint Committee on Justice, which follows the work of the government's Department of Justice, prepared a *Report on Victim's Testimony in cases of Rape and Sexual Assault* including 15 recommendations. In its foreword, the chairman (*cathaoirleach*) noted the rationale behind the report:

Recognising that legislation is only one element of reform, the Committee decided to hold a public meeting on 23rd March 2021 with relevant stakeholders to discuss in more detail areas for reform within the criminal justice system for victims of rape and sexual assault, in order to better understand the issues that need to be addressed, and where the system can be improved.

The witnesses provided the Committee with an insight into several areas for reform, where it appears that the current system, for a variety of reasons, fails to adequately support victims engaging with it, at what is an extremely difficult and emotive time in victim's lives. Among these key areas identified by the witnesses and Committee include the issue of delays in court trials proceeding, the need for specialist training of front-line professionals that interact with vulnerable victims and the need for improved court services and facilities to make them more suitable for victims.

(Houses of the Oireachtas Joint Committee on Justice 2021, 'Cathaoirleach's foreword')

It met with representatives from NGOs, the Irish Bar, and the Department of Justice, with the aim of allowing 'the stakeholders to present to the Committee the areas of reform they believed

were most urgent regarding the current criminal justice process for vulnerable victims in cases of sexual assault and rape' (Houses of the Oireachtas Joint Committee on Justice 2021: 10).

The Canadian Parliament's Justice Committee issued a report on intimate partner violence, based on stakeholder input, and produced a series of recommendations:

Entitled *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, the report is intended to raise the profile of this serious matter often referred to as a 'shadow pandemic' and to propose solutions to prevent such violence and better support victims every step of the way.

The report is based on testimony from survivors of domestic violence, experts and stakeholders from across the country. The committee also reviewed the experience of foreign jurisdictions where reforms have been implemented to recognize coercive and controlling behaviour in their criminal law systems.

The report highlights several areas which the committee believes require additional actions by all levels of government. Key recommendations include:

- Creating a taskforce of experts with a mandate to review existing federal criminal legislation applying GBA+ and other inclusive measures, consider the approach taken in Bill C-247, and make recommendations concerning the drafting of government legislation regarding adding a coercive and controlling behaviour offence in the *Criminal Code*.
- Implementing measures to combat the challenges presented by the justice system for victims of coercive and controlling behaviour in the context of domestic violence, with the clear objective of avoiding revictimization and unintended capture of victims in the charging process.
- Funding a public awareness campaign, training for judicial system actors and measures to support victims of domestic violence and coercive and controlling behaviour, including during court processes.
(House of Commons Canada 2021)

4.4.5. Monitoring, follow-up and government compliance

Effective human rights work requires follow-up. In particular, following up on conclusions and/or recommendations on human rights issues with the government. It is important that parliamentary human rights committees consider how they will undertake their follow-up activities.

In Slovakia, committees can send opinions directly to state bodies, which must, unless otherwise specified, notify the committee within 30 days of the measures they have taken on its recommendation. If the committee has not received a reply within this period or if it does not agree with it, it may submit its recommendation to the National Council (Národná Rada Slovenskej Republiky 1996, section 47).

A useful means of following up on the activities of the government is through an annual human rights report.

The German parliamentary human rights committee, the Committee on Human Rights and Humanitarian Aid, regularly discusses the German Government's annual human rights report (German Bundestag n.d.a). In its discussions, it involves experts from civil society and academia. The committee also held a hearing on human rights and the climate crisis, hearing from the NHRI, civil society and academics (German Bundestag n.d.b).

Chapter 5

CONCLUSIONS AND RECOMMENDATIONS

5.1. RECOMMENDATIONS FOR STRENGTHENING PARLIAMENTS' WORK ON HUMAN RIGHTS

The examples from international standards, and from the experience of parliaments across the EU, show that parliaments can and do play an important role in the promotion and protection of human rights at the national level. In particular, the establishment of a strong parliamentary human rights body can be critical to ensuring parliaments can fulfil their role. With that in mind, parliaments should:

1. Establish a parliamentary body with a human rights mandate—preferably specialized—with powers clearly established in law and set out in the parliament's rules.
2. Have a clear mission statement for the promotion and protection of human rights to help ensure effectiveness and legitimacy.
3. Have powers that include oversight of government, oversight of budget, legislative scrutiny, hearings and inquiries. The parliamentary body should be able to exercise these without prior approval from the plenary or executive.
4. Ensure human and financial resources and support, including access to specialized human rights expertise.
5. Establish clear rules of procedure and make them publicly available.
6. Develop an agenda taking into account UN/regional human rights, pressing national human rights issues, and the government agenda (legislation and budget). Aim to be active, not reactive: identify issues that need attention, including through strong stakeholder relations.

7. Ensure working methods include consultation and engagement, particularly with the NHRI, other independent bodies, NGOs and civil society.
8. Find ways to ensure work is visible and transparent, including through annual reports, press releases, a dedicated website and regular meetings with stakeholders, particularly the NHRI and NGOs.
9. Identify capacity-building support for both the practical and the substantive part of the body's work.
10. Find ways to mainstream human rights throughout parliamentary business. This could be done by including a human rights focal point in all parliamentary committees that is responsible for ensuring human rights are considered in the work of that committee (Children and Young People's Commissioner of Scotland 2018). Work with the research service to provide more human rights input to all committees.

5.2. THE LIMITS AND CHALLENGES OF PARLIAMENTARY HUMAN RIGHTS ENGAGEMENT

There are several limits to parliamentary engagement with human rights in addition to the limits that parliaments already experience in relation to their oversight functions (see, for example, IPU 2017).

A Danish study examining parliamentary capacity-building identified a range of common factors impacting overall parliamentary performance, which also apply to the situation of committees:

The factors influencing parliamentary performance will be very context-specific and vary from one country to another. However, they usually fall into four categories:

- **Lack of resources**—in developing countries parliaments often suffer from limited infrastructure and resources, ranging from lack of IT equipment to few books in the research department, to insufficient office space for MPs.
- **Shortage of skills**—parliaments require staff and politicians to carry out often highly specialised functions. Tasks such as servicing a committee; drafting and scrutinising legislation, budgets and accounts; and

There [are] a range of potential limitations to parliamentary engagement with human rights ... 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. (Roberts Lyer and Webb 2017: 42)

running policy inquiries require a high level of procedural expertise which is often missing.

- **Inadequate rules of procedure**—By-laws, standing orders and rules of procedure provide the basis for all parliamentary activity. But in many cases these are unclear and contradictory or simply do not give parliament the necessary authority to carry out its tasks.
- **Political factors**—parliaments are, by definition, political bodies. Yet in many new parliaments there is a limited parliamentary tradition and no common democratic political culture. The extent to which the government dominates parliament, the MPs' understanding of their role, and the influence of political parties can all work against effective oversight.

(Danish Ministry of Foreign Affairs 2010)

Parliamentary autonomy (see generally Association of the Secretaries General of Parliaments 1998) is also an important component in ensuring that the committee can function effectively. This considers both financial and administrative autonomy.

The national environment in which the parliamentary human rights body operates is also critical. The executive does not always respect parliament's oversight powers (SGI 2020), as the following situation relating to the PJCHR illustrates:

In 2018 the Australian Human Rights Commission identified 'challenges' for the PJCHR, including that, due to time limitations, bills often pass through parliament before the PJCHR has released its view on a bill's human rights compatibility, thus denying members of parliament access to the committee's findings, which are often on complex human rights matters, during debate on the bill.

(Pretty 2019: 13)

A committee-specific issue that may arise is the level of dependency on the parliament as a whole for the committee's functioning.

For example, in Poland, the Justice and Human Rights Committee in the Sejm [Polish Parliament] established a subcommittee on the execution of the European Court of Human Rights' judgments in

2014, as a joint initiative with the Human Rights, the Rule of Law and Petitions Committee in the Senate. A new parliament was elected in October 2015. This parliament had not re-established the subcommittee (European Implementation Network 2016).

This connects to a broader issue, which is that ‘Even where a parliamentary committee is able and willing to take positive action for the improvement of human rights, it will struggle with this goal when the parliament itself is not promoting and protecting human rights in the country’ (Roberts Lyer 2019).

Freedom of expression and the related issue of the extent of parliamentary immunity can also place limitations on the ability of a committee to be effective—particularly a committee that is dealing with sensitive human rights issues. The IPU handbook emphasizes the importance of this issue:

Parliamentary immunities ensure the autonomy, independence and dignity of the representatives of the nation and of the institutions of parliament itself by protecting them against any threat, intimidation or arbitrary measure by public officials or other persons. The scope of immunities varies. The minimum guarantee, which applies to all parliaments, is non-accountability. Under this guarantee, parliamentarians in the exercise of their functions may express themselves freely without the risk of sanctions, other than that of being disavowed by the electorate, which may eventually not renew their mandates. In many countries, members of parliament also enjoy inviolability: it is only with the consent of parliament that they may be arrested, detained and subjected to civil or criminal proceedings. Inviolability is not equivalent to impunity. It merely entitles parliament to verify that proceedings brought against its members are legally well founded.

(IPU 2016a: 91)

5.3. CONCLUSION

Parliaments have the potential to be critically important human rights actors at the national level. Their role in the legislative process and their powers of oversight mean that they have the functions and authority to make a positive difference. This toolkit aimed to identify good practices in the establishment, functioning and practical engagement of parliamentary human rights bodies.

Although these are outside the scope of this toolkit, there are many steps that international and regional organizations can take to support parliamentary engagement on human rights, including capacity-building support for mechanisms, direct engagement of international and regional human rights mechanisms with parliaments (such as directly providing copies of reports and recommendations to the parliament, rather than requiring that these go through the executive), supporting networks for parliamentary engagement on human rights issues—as suggested by the European Commission¹⁶—and improving the availability of information on parliamentary human rights initiatives and good practices.

Finally, it must be noted that parliaments are not always a force for positive change in their countries. They can undermine human rights, and ‘rubber-stamp’ anti-human-rights initiatives of the executive; examples of this have been seen even in some EU Member States in recent years. A dedicated standing human rights body, with autonomy to function, the necessary powers, access to expertise, integrity and commitment to the goal of promoting and protecting human rights, can help to promote a society that respects human rights and to protect, respect and fulfil the human rights of everyone in the country.

¹⁶ ‘The Commission invites: ... The European Parliament and national parliaments to develop interparliamentary cooperation on issues related to the application of the Charter, to which the Commission stands ready to contribute’ (European Commission 2020b: 7).

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