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# PARLIAMENTARY HUMAN RIGHTS MECHANISMS

*A RULE OF LAW SERIES PAPER*

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## CHAPTER ONE

# INTRODUCTION

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### **The Development of International Human Rights Law**

*“Human beings are born free, but everywhere they are in chains.”* The famous proclamation which opens the first chapter of Rousseau’s “Social Contract” could be the epigraph to the long struggle for freedom from oppression and misery, a struggle which is probably as old as humanity and unfortunately far from being won.

Formulated in early history by few\*, the demands for rights of the individual vis-à-vis power grew in strength over the centuries and led, with the American and French revolutions, to the first proclamations of the “Rights of Man”. It is perhaps not coincidental that these texts, the French Declaration of the “Rights of Man” of 1789 and the US “Bill of Rights” of 1791, were adopted by parliaments. Subsequently, fundamental freedoms and human rights found their way into many national constitutions before finally being entrenched in international law.

The massive human rights violations perpetrated by states, especially in the first half of the 20<sup>th</sup> century, led not only to the establishment of the League of Nations after World War I and the United Nations after World War II, but also to

the codification at the international level of human rights and fundamental freedoms. Until 1945, international efforts to provide legal protection of human rights concerned mainly the protection of the rights of linguistic and ethnic minorities and the protection of industrial workers from gross exploitation. The first true international human rights treaty, the Slavery Convention, was adopted in 1926.

International human rights law saw an unprecedented development after World War II when, with the establishment of the United Nations in 1945, “*promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion*” (Article, 1 para 3 of the Charter of the United Nations) became a fundamental purpose of the international community.

The Universal Declaration of Human Rights, adopted in 1948, contains the first authoritative interpretation of the term “human rights” in the UN Charter. Since then, the United Nations and other inter-governmental organizations, particularly the Council of Europe, the Organization of American States and the African Union (formerly Organization of African Unity), have codified human rights in hundreds of universal and re-

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\* *Hammurabi, the founder of Babylon sought “to transform the judicial system in order to prevent those in power from dominating the weak”; the Confucian thinker Meng Tseu affirmed in 300 B.C. that “the individual is of utmost importance, the person of the sovereign is of least importance; Moses invoked before the pharaoh the right of peoples to self-determination, Antigone the right to disobedience and Spartacus the right to resist oppression.*

gional binding and non-binding instruments. These touch almost every aspect of human life and cover a broad range of political, civil, economic, social, cultural and collective rights such as the right of people to self-determination, development, the free disposal of wealth and natural resources and the right to a healthy environment.

The basis of the international human rights legal framework is the “International Bill of Human Rights.” It consists of the Universal Declaration, the International Covenant on Civil and Political Rights (ICCPR) and the Covenant on Economic, Social and Cultural Rights (ICESCR). The latter two were both adopted by the UN General Assembly in 1966.

The International Bill is complemented by a great number of more specific instruments or treaties which concern either specific categories of people or specific human rights.

Of particular importance are the treaties that provide for special expert bodies, such as treaty monitoring bodies, that review state compliance with treaties, make recommendations for further progress and, in some cases, receive individual complaints. Alongside the treaty monitoring bodies, UN expert working groups and special rapporteurs (appointed by the UN’s main human rights body, the Commission on Human Rights) investigate treaty violations in specific countries, as well as any serious human rights violations wherever they may occur. Moreover, on the regional level, many states have entered into binding human rights obligations and have subjected themselves to supra-national monitoring. For a detailed list of human rights treaties and regional agreements, see Appendices 1 and 2.

As a result of historical developments, human rights codes were initially directed against states and required them to refrain from interfering with those rights. International human rights law and

its interpretation, conversely, requires states to take action. States also have a duty to act and must take the necessary measures to ensure that people can indeed exercise their human rights; they have a duty to protect individuals and must ensure that they do not fall victim to abuses by non-state entities. Finally, states must provide an effective remedy in the case of human rights violations.

### **The Role of Parliament**

Today, international human rights law constitutes an all-encompassing web of norms, standards, principles, guidelines and jurisprudence that can provide guidance to the settlement of each human rights problem, including today’s major human rights challenges such as poverty, migration, trafficking and human security. If states lived up to their human rights commitments, we would indeed live in a world “free from want and fear.” Unfortunately, this is often not the case. The human rights of the great majority of the world’s people are violated on a daily basis, all too often in a gross and systematic manner.

The problem thus centres less on the setting of new human rights standards than on the implementation of existing legal instruments. How can we ensure that states live by the human rights commitments they have made at the national, regional and international levels?

It is in this context of implementation that parliaments have a part to play. Parliaments, which are themselves the embodiment of the human right to take part in the conduct of the public affairs of one’s country (Articles 21 and 25 of the UDHR and of the ICCPR, respectively), have a special responsibility to ensure respect for the human rights of the people they represent and are uniquely placed to do so. In contrast to the government, the judiciary and civil society groups, parliaments are the place where government policies are (or should be) debated and scrutinised.

In parliament, competing policy objectives are balanced to ensure respect for human rights and thus the common good. By virtue of their constitutional mandate to represent the people, parliaments are vested with the necessary powers to fulfil their fundamental role as guardian of human rights.

First, parliaments legislate the legal framework for human rights at the national level. They ratify international treaties and must ensure that norms set forth in those treaties are translated into national law and implemented.

Second, parliaments approve the budget and thus set national policy priorities. They must ensure that sufficient funds are provided for human rights implementation and that these funds are used accordingly.

Third, parliaments oversee the action of the executive branch and so keep the policies and actions of the executive under constant scrutiny. They can therefore ensure that the government, the administration and other state bodies comply with human rights obligations.

Last but not least, members of parliament are opinion leaders and can do much to create a human rights culture in their countries.

### **Human Rights in the Structure of Parliament**

Parliamentary activity as a whole affects everyone's enjoyment of human rights. Whether one thinks of security, health, public transport, education, social security, agricultural or immigration policy, parliamentary decision making in each domain will have a direct or indirect effect on the extent to which people enjoy their human rights, be they political, civil, economic, social, cultural, or collective rights.

The way that human rights are integrated into daily parliamentary work has a strong influence on the extent to which parliaments live up to their role as guardians of human rights. Parliamentary work today is carried out mainly in committees,

which are the "engine rooms" of parliament. It is primarily in the different committees that legislative proposals are studied, government departments are scrutinised and recommendations are made to the House plenary.

Parliaments have adopted one of two basic approaches to integrate human rights into their committee work. The first takes human rights as a cross-cutting issue that should be taken into account by each parliamentary committee precisely because, in the last analysis, each parliamentary committee is a "human rights committee" and has to deal with human rights issues. This is, for example, the approach which the parliaments of South Africa, Denmark or New Zealand have followed, although such parliaments have often set up committees which deal with specific human rights issues, such as women's and children's rights.

The second approach is based on the belief that the establishment of a parliamentary committee with an exclusive human rights mandate is a strong political message not only to the people but also to the government and other State bodies. It provides an effective means of ensuring that human rights issues are indeed taken into account by all other parliamentary committees and that specific human rights knowledge exists within parliament, making it more independent from governmental expertise.

Apart from petition committees, which have a long parliamentary tradition and are in fact the first "human rights" committees, modern parliamentary committees with an exclusive human rights mandate were first created in the early 1980s in South America, beginning with Bolivia in October 1982. Since then, parliaments all over the world, and especially in Latin America, have slowly but steadily followed their example.

Most parliaments have opted for an intermediate solution by adding human rights to another issue, such as justice or constitutional affairs. From the surveys undertaken by the Inter-Parliamentary Un-



## *Why Establish a Parliamentary Human Rights Committee?*

### **Canada**

In his Foreword to the second report of the Senate Standing Committee on Human Rights, entitled *“Promises to Keep: Implementing Canada’s Human Rights Obligations”* of December 2001, the Committee’s chair outlines the reasons which led to the establishment of a Senate committee dealing exclusively with human rights. The Committee *“will provide a unique interface between government and non-governmental actors in the human rights field, and its work will allow parliamentarians to deepen their knowledge of human rights issues. It will thereby help to ensure that human rights issues receive the concentrated attention they merit and that all parliamentarians are better able to fulfil their responsibility to protect and promote such rights.”* In chapter II, the report states that *“because Parliament as a whole is a generalist body and must address a variety of policy imperatives, it is vital that any enhanced role for Parliament in human rights be structured so as to ensure that human rights do not get lost in the shuffle, but are instead the subject of focused attention.....”* The report further draws attention to the fact that *“the creation of a parliamentary committee for human rights also has the potential to give a greater sense of urgency to human rights issues and gives visible encouragement to those within and outside government who are working to give human rights a greater priority in the public policy agenda....”*

### **Gabon**

When, after 22 years of one-party rule, a multiparty parliament was re-established in Gabon in 1991, the opposition insisted on the creation of a committee responsible for all matters relating to communication and human rights. It wanted to make sure that the new government would not repeat the practices of the former regime, take over control of the national media and abuse human rights. It felt that, owing to its oversight function, a parliamentary committee would be an effective means to this end. For this reason, the Chairperson of the Committee was a member of the opposition. In the meantime, the Committee has been abolished. Human rights matters are now being dealt with by the Committee on Laws and Administrative Affairs and the communication issues have been entrusted to a Committee which is also competent to deal with social and cultural affairs.

### **Philippines**

The creation of the Human Rights Committee in the Philippine Parliament in 1987 is an offshoot of the strong public clamour for human rights protection and justice, which the Marcos Regime, especially under martial law rule from 1972 to 1986, had quashed. As enshrined in the 1987 Philippine Constitution, the purpose of the legislator then was to establish a favourable policy environment for the promotion of human rights and to ensure the compliance of various State agencies, especially the Armed Forces, the National Police and other law enforcement agencies.

### Petition Committees

The right to petition is at least as old as the institution of parliament itself. It has even been argued that the Parliament in the United Kingdom originated in meetings of the King's Council where petitions were considered. In France, the right to petition parliament for redress of grievances has existed almost permanently since the French Revolution. With the increase in the influence and importance of parliaments, petitioning parliament became one of the main methods of airing grievances, so that parliaments had to set up special committees to cope with the ever increasing number of petitions. These committees can be considered as the first "human rights" committees as their aim was and still is to redress injustice. Although today, redress for injustice is sought mainly before the courts, parliamentary petition committees continue to exist in many parliaments and have taken on a new role as "an interface between the Elector and the Elected,

ion since 1990, it appears the number of genuine human rights committees—that is, committees dealing exclusively with human rights—has remained relatively small, whereas the number of parliaments

in which committees are entrusted *inter alia* with human rights has steadily risen.

Committees are not the only means for parliaments to take explicit care of human rights. An increasing number of parliaments have set up the institution of Ombudsman. Normally responsible for ensuring fairness and legality in public administration, an ombudsman's office may also ensure government compliance with human rights laws. Often, ombudsmen report and are responsible to parliament and can thus be an important parliamentary tool to ensure compliance with human rights imperatives.

Apart from the committees, which are part of Parliament's formal structure, informal groups and caucuses exist in almost all parliaments around the world where MPs discuss and work on issues of particular interest to them, including human rights. Likewise, in some countries, political groups in parliaments have created spokespersons for matters relating to human rights. This has occurred in the Lower Chamber of the Austrian Parliament, for example.

This paper deals only with formal committees and informal groups of MPs that have an explicit human rights mandate or terms of reference explicitly including human rights.

## CHAPTER TWO

# PARLIAMENTARY HUMAN RIGHTS COMMITTEES: THEIR POWERS AND MANDATE

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### **The Parliamentary Committee System**

The basic features of the powers, functioning and organisation of parliament are identified in national constitutions. They invariably give parliaments exclusive competence to organize their work and proceedings as they deem appropriate. The relevant rules of procedure are laid down in the Standing Orders, the main source of law when it comes to the parliamentary committee system.

Committees are organs of the House and function normally as “miniature parliaments” which enjoy, in principle at least, the same powers, immunities and privileges as the House Plenary. They fulfil legislative and oversight functions, prepare the work of the Plenary and submit recommendations.

There are basically two types of committees: permanent and non-permanent. The bulk of parliamentary business is carried out in permanent (sometimes also called standing) committees that, as their name indicates, are set up from one term of parliament to the next so as to enable them to operate on a continuing basis. Non-permanent committees (their names may be different: ad hoc committees, select, study or investigation committees), are created to inquire into, and report on, a particular matter. They may be established at any time by a resolution of parliament that outlines terms of reference and sometimes certain proce-

dural aspects. Such committees have a limited life and usually cease to exist upon the presentation of their final report to the House Plenary.

Parliaments composed of two chambers often also provide for the establishment of joint committees to study and report on questions concerning committees in both chambers.

Human rights are generally dealt with by standing committees. Ad hoc, select, study or inquiry committees may be set up to examine particular human rights problems or issues at a given time.

Parliamentary committees are open to contributions by the public, which can become part of the parliamentary decision-making process. Individuals are, therefore, crucial to democratic governance.

### **A Variety of Approaches**

#### *Standing Committees and Sub-Committees*

As briefly laid out above, parliaments that have decided to create human rights committees have adopted a range of approaches.

At present, only few parliaments have standing committees dealing exclusively with human rights. This is the case of Angola, Argentina, Austria, Azerbaijan, Belgium, Bolivia, Brazil, Burundi, Cambodia, Canada, Chad, Colombia, Cyprus, Ec-

cuador, Guatemala, Honduras, Lebanon, Lithuania, the former Yugoslav Republic of Macedonia, Mexico, Nigeria, Panama, Peru, Philippines, Surinam, Togo, Turkey, Uruguay and Yemen.

Sometimes, human rights committees are subcommittees of a standing committee, such as the Subcommittee on Human Rights of the Committee on Justice of the Parliament of Mongolia. The Subcommittee on Human Rights of the Irish Parliament was set up in 2002 by the Foreign Affairs Committee to discuss the human rights situation at home and abroad and to liaise with lobby groups. The Subcommittee of Justice and Prison Affairs of the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees of the Portuguese Parliament regularly visits prisons and institutions for young offenders.

In a number of cases, human rights standing committees are also entrusted with specific human rights questions or humanitarian issues. For example, the human rights committees of the Parliaments of Moldova and Croatia also deal with questions regarding national minorities. The human rights committee of the Slovak Parliament, in addition to minorities, is also responsible for women's rights. The human rights committee of the Hungarian Parliament handles minorities and religious affairs while the human rights committee of the Parliament of Paraguay encompasses indigenous affairs. The German Bundestag human rights committee is also responsible for humanitarian aid, and the human rights committee of the Greek Parliament for gender equality.

A number of parliaments have set up standing committees that deal exclusively with specific human rights questions, particularly children's rights and gender equality. Any standing committee, whatever its mandate, may establish subcommittees to study specific human rights issues.

The majority of parliaments have included human rights *inter alia* in the mandate of existing stand-

ing committees. To mention but a few examples: Belarus has a standing committee for human rights, national relations and mass media, Benin

### **The Subcommittee on Trade in Human Beings and Prostitution, set up the Belgian Senate**

In September 1999, when examining the general guidelines relating to the government's policies concerning immigration, the Belgian Senate Committee of the Interior and of Administrative Affairs decided to evaluate the government policies regarding foreigners and to put forward resolutions on this subject. The work of this Committee led to the report on "Government Policies Regarding Immigration" which was approved by the Senate on 3 May 2000. However, in the course of the Committee's debate, it soon became clear that questions concerning trade in human beings and related prostitution networks should be examined independently, outside the context of the Government immigration policies. On 17 October 1999, the Committee decided to create a Subcommittee on "Trade in Human Beings and Prostitution" to examine these issues. To fulfil its mandate, the Subcommittee had to analyse the organisation and functioning of criminal networks, the situation in the countries of origin of the victims and the circumstances of their entry into Belgium, the policies of the police and the judiciary and their collaboration at the international level.

The Subcommittee carried out many audits, visits and study tours and issued a set of recommendations for the Government. As the Sub-Committee has not been re-established after the last elections in May 2003, their implementation is being directly monitored by the Standing Committee.

has a committee on law, administration and human rights, the Canadian House of Commons has a committee on justice and human rights, Cameroon has a committee on constitutional affairs, human rights and liberties, justice, legislation and administration, Chile has a committee on human rights, nationality and citizenship, Thailand a committee on justice and human rights and Zambia a committee on legal affairs, governance, human rights and gender.

Sometimes human rights do not appear in the title of a committee even though it has a clear human rights mandate. This is the case of the Australian Senate Standing Committees on Regulations and Ordinances and on the Scrutiny of Bills which both safeguard personal liberties by ensuring that appropriate standards of fairness and equity are applied to delegated delegation as well as to bills introduced in parliament and to acts of parliament.

Another example is the Belgian House of Representatives where the Justice Committee has the explicit mandate to monitor the human rights situation in the country, or that of Luxembourg where Parliament's Legal Committee is responsible for examining general human rights questions.

Finally, as mentioned in the introduction, petition committees play a role in the protection of human rights.

There may also be more than one committee with a specific human rights mandate in a parliament. For example the Parliament of Slovenia has, at present, the following committees with an explicit, though not exclusive human rights mandate: the Committee for Supervision of the Work of the Security and Intelligence Service which supervises the activities of these bodies particularly in terms of respect of constitutionally guaranteed human rights and freedoms; the Petitions Committee, the Committee on Health, Labour, the Family, Social Policy and the Disabled, which monitors respect

**The Standing Committee on the Reports of the Ombudsman, Parliament of Namibia**

The Namibian Parliament established this committee as a result of the Ombudsman Act of 1990 and entrusted it with the following tasks:

- ☑ examine, consider and report on the annual and other reports laid before the National Assembly under the Ombudsman Act
- ☑ satisfy itself that the Office of the Ombudsman has been carrying out its mandate efficiently and effectively
- ☑ make recommendations to or through the National Assembly to improve the overall efficiency and effectiveness of the Ombudsman Office, should the Committee be of the opinion that such improvements are necessary
- ☑ confirm that Government offices, Ministries and Agencies are responding positively to queries and are duly cooperating with the Ombudsman Office
- ☑ recommend to the National Assembly whether specific cases need to be referred back to the Ombudsman Office for re-investigation
- ☑ examine the policies and methodologies followed during the investigation of complaints, so as to ensure that all complaints are investigated and not jeopardised because of a lack of resources.

of economic and social rights and the Committee on Home Affairs which coordinates human rights matters in Parliament.

### *Non-Permanent Committees*

Select, ad-hoc, study, fact finding or investigation committees are an extremely important tool for parliaments to address a particular human rights problem and propose solutions. The issues they deal with may encompass a whole range of human rights problems.

### *Informal Parliamentary Structures*

There is hardly a parliament in which MPs have not set up informal groups, often transcending political party affiliation, to pursue common interests. Human rights figure prominently among issues taken up by such groups. Although they do

not have the powers of formal parliamentary committees, their informal nature often enables them to be more outspoken. These groups have shown that they can become influential operators in promoting human rights issues.

As the long-standing Chairman of the Parliamentary Group of Amnesty International in the Australian Parliament, Senator Alan Missen, asserted in 1985 at the 18<sup>th</sup> World Conference of the Society for International Development, "*The existence and vigorous operation of such bodies strengthens the individual integrity and sense of personal responsibility of members of parliament often threatened by the arrogance of Executive power. They must proclaim*

### **The Study Committee for Enhancing the Prevention of HIV-AIDS and Drug Addiction**

#### **Parliament (Riigikogu) of Estonia**

In September 2003, the Parliament of Estonia set up a Study Committee for Enhancing the Prevention of AIDS and Drug Addiction. The Committee's mandate is (1) to study the present situation concerning the implementation of the State programme on HIV/AIDS and drug addiction and to make proposals for improving the situation, (2) to analyse the planning and expenditures of programmes, projects and financial resources of foreign aid and to make proposals, (3) to analyse and amend the Laws related to preventive measures and, if necessary, to draft new bills, including one prohibiting drug promotion and (4) to assess the sustainability of State HIV/AIDS and drug addiction programmes after their termination. The Committee has a one year term and will deliver a report upon completion of its activities.

### **The Parliamentary Inquiry Commission into Human Rights Abuses in Aceh**

#### **Legislature of Indonesia**

At the end of the 1990s, the Indonesian House of Representatives established a Commission of Inquiry into Human Rights Abuses in Aceh. The Commission drew up a list of thousands of cases of murder, disappearance, rape and torture, recommending that some of them be investigated and taken to court. These abuses occurred while Aceh was a "military operational zone" (DOM period), which means that in virtually all cases, members of the security forces were responsible for these crimes. In December 1999, the Commission's findings were discussed in the new Indonesian Parliament (elected in June 1999) and televised nation-wide. The Commission's Vice-President, Tengku Nashiruddin Daud, one of the most outspoken members who challenged the military officers regarding their activities was assassinated in January 2000 when returning from a visit to Aceh. His murder has so far not been elucidated.

*their message without fear or favour in this world where injustice thrives in the shadow of silence”.*

Informal human rights groups are manifold and—like formal committees—several such groups may exist in a single parliament. For example, in the Swedish Parliament the following groups exist: (1) the Human Rights Group of Parliament which cooperates with Amnesty International and protests against human rights violations in other countries (2) the Swedish Supporting Committee for Human Rights in Turkey (3) the Group of Parliamentarians for Human Rights in Iran (4) the Swedish Committee for Human Rights of the Kurds which also comprises non-parliamentarians (5) the Tibet Committee (6) the Committee for Human Rights in Cuba, (7) the Parliamentary Committee against Anti-Semitism which belongs to the International Council against Anti-Semitism and (8) the Parliamentary Coalition for a Humanitarian Refugee Policy. The former East Timor Committee which, like corresponding groups in some 30 other countries, worked for the independence of East Timor, has now attained its objective and is no longer in operation.

Another type of informal parliamentary group are Amnesty International (AI) Groups that have been established in only in a few parliaments. The Australian Parliament was the first to set up such a group in 1973, followed by New Zealand in the 1980s. The Australian AI Group was instrumental in the ratification of the United Nations Convention against Torture in 1989.

Informal groups may have a more or less elaborate structure. The All Party Parliamentary Human Rights Group of the Parliament of the United Kingdom is an example of a group that works on the basis of a well established procedure.

**All-Party Parliamentary Human Rights Group  
Parliament of the United Kingdom (PHRG)**

The PHRG was established in 1975 and officially registered with parliamentary authorities in 1986. The group is composed of interested backbench MPs from both Houses of Parliament who wish to join. It currently has 135 members. The Group is mandated by its members to raise awareness of international human rights issues in the Houses of Parliament, to work for the implementation of the International Bill of Rights by all governments and to encourage debate, research and further action on such matters.

The Group fulfils its objectives by receiving verbal and written reports concerning human rights violations throughout the world, organizing missions to collect evidence from areas of concern, communicating the Group’s concerns about human rights violations to governments, their representatives in the UK and visiting delegations; requesting the Government to explain foreign policy in the light of human rights objectives, establishing contacts with intergovernmental agencies and other parliamentary groups in order to widen the debate on human rights, coordinating approaches made to MPs by NGOs, and organizing regular meetings on human rights matters in both Houses of Parliament.

In the past year, the Group has highlighted grave and widespread human rights violations in Chechnya, Indonesia, Afghanistan, Burma, Iraq, Palestine, Israel, Turkey, Colombia, Western Sahara, Guatemala, Zimbabwe and Saudi Arabia, the detention of prisoners in Guantanamo Bay and the prosecution of human rights violators.

**Mandate and Terms of Reference**

Parliamentary human rights committees have a variety of attributes that determine the extent to which they can be instrumental in the promotion and protection of human rights. A parliamentary committee that may only discuss human rights bills or issues referred to it by the House plenary, for example, has less margin for manoeuvre than committees that may independently determine

*Parliamentary Groups of*

*Amnesty International*

The Australian AI Group, which has invited other parliaments to follow its example, has identified the following features as essential if such groups are to maximise their impact:

- It must adhere to the Amnesty International Charter
- Its membership and executive must span all political parties and if possible party leaders should be patrons
- It must achieve a balance in the causes it adopts and be seen to be even-handed in its criticisms of human rights violations wherever they occur.
- It should use the Parliamentary forum to publicise AI concerns.
- It should liaise closely with the National AI section and with the Department of Foreign Affairs
- It should use its access to the Governments of other countries to raise AI issues, both in embassy visits and during overseas delegations in which members of the Group are involved.

their own agenda. This is the case in the human rights committees of Panama and Canada

In principle, human rights committees can have legislative and/or oversight functions.

They are normally entrusted with the examination of bills from a human rights angle and delegated legislation; sometimes with the specific order to exercise their scrutiny with due regard to

the international human rights obligations of their countries.

If entrusted with an oversight function, human rights committees examine, discuss and monitor the human rights situation or specific human rights issue at the national and/or international level.

They may also supervise government programmes, State institutions dealing with human rights and more generally the Government's progress toward and compliance with human rights norms. They may even be asked to evaluate government progress in light of international instruments and on the recommendation from various international monitoring bodies.

The "*Joint Monitoring Committee on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons*" of the South African Parliament, monitors and evaluates progress in this field with special reference to the government's commitments with respect to any applicable international instruments and applicable legislation. In rare instances, such as in the case the Joint Human Rights Committee of the British Parliament, committees examine national reports that are then transmitted to treaty oversight bodies.

Many human rights committees are able to consider individual complaints, but some may be specifically barred from doing so, as is the case of the Joint Human Rights Committee of the British Parliament.

Occasionally, a human rights committee's mandate empowers it to provide assistance and take preventative action on behalf of victims of human rights violations and their families. This is the case of the Committee on Civil, Political and Human Rights of the Philippine House of Representatives.

Committees may also be empowered to provide



**The Zambian National Assembly**

**Committee on Legal Affairs, Governance,  
Human Rights and Gender Matters**

***Committee Mandate***

- (a) oversee the activities of the Ministry of Legal Affairs, Gender in Development Division at Cabinet Office, the Permanent Human Rights Commission and other Governments departments or agencies directly related to its operations;
- (b) carry out a detailed scrutiny of certain activities being undertaken by the Government ministries, department/agencies and make appropriate recommendations to the House for ultimate consideration by the Government;
- (c) study reports and make recommendations to the Government through the House on the mandate, management and operations of the Government ministries, departments and/or agencies on issues related to the Committee;
- (d) make, if deemed necessary, recommendations to the Government on the need to review certain Government policies and/or existing legislation; and
- (e) consider any bill(s) the House may refer to them.

citizens and NGOs with legal aid in cases of human rights violations. In some cases they may even have a specific warning function. For example, the Human Rights Subcommittee of the Human and National Minority Rights Committee of the Parliament of Croatia considers matters in which citizens warn of incidents of human rights violations and it informs the standing Committee of the emergence of human rights violations and the need to take preventive measures.

Similarly, the Committee on Human Rights and Hearings of the Colombian Senate also has an early warning function. It issued three early warnings in the year 2002 concerning the possible invasion and take-over of the “Plan-Tolima” region by paramili-

taries, the possible forced displacement of the inhabitants of 27 villages by the FARC-EP guerrilla and paramilitaries and the activities of the FARC-EP guerrilla in an indigenous community.

Petition committees, on the other hand, deal exclusively with petitions and complaints. The subject of petitions may be matters of general concern, proposals for improving the public administration and individual grievances.

Human rights committees are sometimes also empowered to appoint or dismiss public officers and participate in impeachment proceedings. Thus, the Committee on Human Rights of the Azerbaijan Parliament, upon recommendation from the President of the Republic, considers issues relating to the dismissal of judges and of the President and Vice-President of the Chamber of Accounts and of the Chamber of Audits of the Republic and reports thereon. The Human Rights Committee of the Parliament of Guatemala may propose the House remove the Human Rights Prosecutor, while the Committee on Justice and Human Rights of the Philippine Senate has jurisdiction over impeachment proceedings against all officers removable

**United Kingdom**

**Joint Committee on Human Rights**

The Committee was set up in January 2001 as a consequence of the 1998 Human Rights Act which incorporated the European Convention on Human Rights into national law. It is empowered to “consider matters relating to human rights in the United Kingdom” and to consider remedial orders under the UK Human Rights Act. It interprets this to include (a) scrutiny of all bills presented to Parliament for their compliance with the Human Rights Act and other international human rights instruments to which the UK is signatory, (b) examination of reports made by the UK Government under such instruments and (c) the examination of the performance of public authorities in relation to their duties under the Human Rights Act.

by impeachment.

With the increase in the number of Ombudsman institutions—in great part due to parliamentary initiatives—human rights committees have been attributed the responsibility, if not always of appointing them, at least of examining reports and proposing or taking appropriate action. Thus, the Committee on Human Rights of the Parliament of Lithuania (Seimas) is empowered to submit proposals concerning the structure, staff and funding of the Seimas ombudsmen, and to consider complaints, opinions and proposals referred to the Seimas regarding work of the ombudsmen. And, if necessary, the Seimas may prepare a draft resolution on a vote of no-confidence in an ombudsman and refer it to the plenary for consideration. The Seimas may also consider material submitted by the ombudsmen concerning a breach of law by ministers of State or other officers answerable to the Seimas and submit its conclusions to the

House. As mentioned earlier, some parliaments have set up committees which deal exclusively with ombudsman related matters.

Another important function of parliamentary human rights committees is the dissemination of information, education and advocacy. The Committee for Human Rights and Complaints of the Cambodian Senate is, for example, tasked with the promotion and encouragement of human rights education for citizens, reaching those in remote areas as well as the illiterate, and with the promotion and encouragement of public dissemination of human rights through the media.

Human rights committees may also carry out studies and research for the purpose of public dissemination, as is the case of the Human Rights Committees of Belgium, the Canadian Senate which requires authorisation from the Senate to undertake a study, and of the House of Deputies of Brazil.

### ***The Ukrainian Parliament Commissioner for Human Rights***

In April 1998, the Parliament of the Ukraine set up the office of a “Parliament Commissioner (Ombudsman) for Human Rights” The Commissioner is elected by Parliament for a five year term and is responsible for monitoring respect of human rights in Ukraine, including supervising Parliament’s compliance with the constitutionally entrenched human rights and freedoms. The Commissioner contributes also to the preparation of national reports to the appropriate United Nations treaty bodies and prepares appeals to the Ukrainian Constitutional Court.

The Commissioner, currently Ms. Nina Karpachova, acts either on her own initiative or upon receiving appeals from individuals or MPs who mainly act on behalf of their voters. In the period April 1998 to December 1999, the majority of appeals submitted to the Commissioner by MPs on behalf of their voters concerned violations of civil rights (failure to implement court rulings), economic rights (failure of employers to pay wages and social benefits) and violations of social rights (housing, education, free medical care).

To fulfil her mandate, the Commissioner has the power to organise on-site enquiries, summon government officials and other persons and ask for written reports. In cases of extensive and gross violations, the Commissioner carries out public inquiries. She works closely with parliamentary committees, may attend Cabinet meetings and cooperates with the Auditing Chamber of Ukraine as well as with NGOs with which she organises joint events such as monitoring missions, seminars and round table discussions.

The Commissioner issues recommendations and presents an annual public report on the human rights situation

### Commissioner Cooperation with Parliament

In her report on the period April 1998 to December 1999, the Commissioner analyzed in detail the cases she had to deal with and provides, *inter alia*, a report to Parliament. The following is an excerpt: Throughout 1998, the Commissioner and the Parliamentary Committee on Issues of Health Care, Motherhood and Childhood received a number of appeals by employees of medical establishments who complained against excessive reductions in medical personnel and in the network of medical establishments. Having examined the issues raised, the Commissioner and the Committee arrived at the conclusion that the reductions would destroy the sector and violate the rights of many citizens employed in the health system. As a result, an open letter was addressed to the President, the Speaker of Parliament and the Prime Minister of Ukraine and meetings with the Trade Union of Medical Workers were held. The Ministry of Health finally took the necessary measures to settle the problem.

Human rights committees may also be entrusted with financial tasks, such as funding approval for certain human rights related issues and monitoring the efficiency of implementation, or advice on funding and financial review of human rights institutions. For example, the Committee on Human Rights, Minorities and Religious Affairs of the Hungarian Parliament prepares parliamentary resolutions on financial assistance to national and ethnic minority organizations. Likewise, the National Minority Rights Subcommittee of the Human Rights and National Minority Committee of the Croatian Parliament considers matters of financing specific needs of national minorities.

Terms of reference sometimes explicitly entrust human rights committees with a specific coordination or expertise function. For example, the Committee on Home Affairs of the Slovenian Parliament is mandated with coordinating issues related to the exercise of human rights among all the other committees. The Human Rights Committee of the Parliament of Ecuador provides technical assis-

tance to the National Congress in all human rights related matters and the task of the joint Human Rights Committee of the Belgian Parliament is to promote a continuing dialogue between the legislative power, the executive power and society.

In some parliaments, human rights committees have a purely advisory function. This is the case of the joint Human Rights Committee of the Belgian Parliament, which has no oversight function but may make recommendations; or, of the Human Rights Committee of the Chamber of Representatives of the Parliament of Uruguay. The latter advises the Chamber on matters pertaining to individual human rights, prevention of abuses and violence against women and children, racial, religious or cultural discrimination issues and the prison system.

### The Composition of Human Rights Committees

#### *Selection of Members*

Generally, the composition of parliamentary committees follows the principle of proportional representation based on the political parties represented in the parliament. In most cases, at the beginning of a legislature, each parliamentary group presents a list of candidates for the different committees to the Bureau (presidency) of the Parliament, the size of each committee being proportional to the group's representation in Parliament. The list is published by the Bureau and must be ratified by the Assembly. The composition of committees therefore reflects that of the parliament or of the chamber in question.

This system has more or less wide variations:

- Parliaments belonging to the common law tradition usually have a special selection committee or entrust the committee which is in charge of House affairs with the task of nominating the members of all other committees who are then appointed by the Parliament or the House in question. In some rare cases, the President

### Awareness Raising PORTUGAL

At the initiative of its Committee for Constitutional Affairs, Rights, Freedoms and Guarantees, the Parliament of Portugal created in 1998 a Human Rights Prize to commemorate the 50 year anniversary of the Universal Declaration of Human Rights. The prize - a sum of Euro 25.000 is attributed each year on 30 November to an NGO or individual having contributed to the dissemination and respect of human rights in Portugal, or having denounced human rights violations in Portugal or abroad. The Committee sets up a jury which studies the candidatures and makes a proposal. The prize is bestowed in Parliament during a solemn ceremony each year on 10 December, Human Rights Day. It was attributed for the first time in 1990 to the Committee for the Rights of the Maubere People (Indonesia). In 2003, it was attributed to "Ninho", an association that gives support to prostitutes who want to give up prostitution.

of a House may appoint a certain number of committee members. This is for example the case of the Committee on Human Rights of the Senate of Nigeria where the Senate President may appoint a certain number of committee members.

- Members of human rights committees may be elected by the House. This is for example the case of the Parliaments of Azerbaijan, Belarus and Bosnia & Herzegovina (the Committee for Human Rights, Immigration, Refugees and Asylum of the House of Representatives) which are elected by the House on the basis of candidatures put forward or of nomination by the majority and minority leaders.
- Some parliaments, such as Ghana, require (specifically) the selection of human rights committee members on the basis of educational background, profession and/or experience.
- Certain human rights committees comprise ex officio members, such as for example the Senate Committee on Justice and Human Rights of the Philippine Parliament: the Senate President and the majority and the minority leader are ex officio members of the Committee which consists of seven other elected members.

Depending on the Committee's mandate, rules of procedure sometimes provide reserved seats for representatives of social groups and/or the participation of non parliamentarians. The Human and National Minority Rights Committee of the Parliament of Croatia has five deputies who are elected from among the ranks of national minorities and four members appointed to the Committee, namely a representative of the Roman Catholic Church, a representative of the Orthodox Church, a representative of the Croatian Helsinki Committee and a representative of B.A.B.E., an association that promotes women's rights.

#### *Committee Chair (Bureau)*

The chairpersons of parliamentary committees play an important role in leading committee work. In the great majority of cases, they are elected by the committee from among its members at the first meeting in a legislature. Sometimes, informal agreements between the parties provide for the chair to be a member of the opposition. More rarely, party membership of the bureau is explicitly regulated, for example the chair and vice-chair of the Committee on Human Rights and Hearings of the Colombian Senate must not belong to the same political party or movement.

In some parliaments, committee chairs are elected by the plenary. This is the case of the Committee for Human Rights, National Relations and Mass Media of the House of Representatives of Belarus or of the Committee on Human Rights, Minorities and Status of Women of the

Slovak Parliament.

*Duration of Mandate*

Committee members are normally elected for the term of the legislature. In some cases, members are elected or appointed for a lesser term, for example the Human Rights Committee of the Parliament of Panama members are elected for a one year term.

**Functioning, Working Methods, Powers**

*Agenda Setting*

A human rights committee’s agenda depends closely on their mandate. Committees that may only deal with matters referred to them by the House are less in control of their own agenda than committees who may identify their own human rights issues to work on; they can take account of suggestions made by the public, other MPs or concerned human rights institutions.

Regardless, the agenda is normally determined by a majority vote of the committee. Determining the agenda, however, may also be the task of the Chair, as, for example, in the Angolan Human Rights Committee.

*Place of Meeting*

Committee meetings are not necessarily held in the parliament building. Human rights committees may meet in any venue, although such meetings may be of a more informal nature.

*Periodicity*

Frequency of meetings differ greatly and may range from only when necessary to several weekly meetings.

*Working Methods*

The working methods committees use, and the powers attributed to them, often determine the results the committee is able to achieve. Normally,

committees are empowered to employ the following working methods:

Committee may undertake inquiries into a given subject. To this effect, they normally, but not always, have the power “to send for persons, papers and records, to take evidence and make reports.” This means that they may call for written evidence and summon witnesses, including members of the government and other State officials. Committees will usually ask for written evidence from people and organizations with an interest in their inquiries. It will normally ask and may—in case of non-compliance—order the government department or institution concerned to produce a memorandum on the subject in question or other specific information/documents. Parliamentary Standing Orders often set time limits on the production of such information, for example 30 days in the Czech Republic.

Committees may also invite individuals and representatives of organizations to give oral evidence to

**Normal Process for a Committee Inquiry in the Parliament of the United Kingdom**

- Committee chooses own subjects of inquiry and announces them in press notice
- Written evidence sought from interested parties
- Oral evidence heard from key witnesses
- Study visits conducted at home and abroad
- Chairman’s draft report considered, amended, agreed and published
- Government replies within 60 days
- Report may be debated in House plenary

supplement written documentation and enable MPs, through question-and-answer sessions, to explore an issue, gain a greater insight into the problem and propose possible solutions.

Typically, committees are empowered to order the appearance of witnesses. However, this power rarely applies to members of the Government. For example, committees in Commonwealth countries often do not have the power to order the attendance of Ministers. Committees with a purely advisory character (such as the Joint Human Rights Committee of the Belgian Senate) also lack the power to summon Ministers. In practice, however, Ministers in these countries are likely to attend the hearing upon invitation. In New Zealand, the Minister in charge of a bill is entitled to participate in committee hearings. Where in the parliament of Gabon, the prime minister and ministers have the right to speak or attend committee meetings, if they so wish. Normally, committees may not summon members of the judiciary.

### CANADA

#### Parliamentary Fact Finding Mission

In October 2003, the Canadian Senate mandated its Human Rights Committee to conduct a fact-finding visit to Geneva and Strasbourg on the one hand to “inquire into Canada’s compliance with the UN International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and on the other, through a visit to the Human Rights Court of the Council of Europe in Strasbourg, to inquire into areas of application of the European Social Charter as a model in Canada. During its visit the delegation learned inter alia that UN rapporteurs come to Canada to meet with the government, private business and individuals, but never with Canadian parliamentarians. It expressed therefore the belief that it “*would be desirable that the special rapporteurs also meet with Canadian parliamentarians when they come to Canada*”

*Report of the delegation on its fact-finding mission, 10-17 October 2003*

### Visits to Police Detention Sites

The new French Criminal Code, entered into force in June 2000, authorises members of the French Parliament to visit police detention places at any time. There is no other restriction to this right than the secrecy of the investigation. Consequently, visits may even take place at night-time, during weekends and holidays and parliamentarians are not obliged to announce their visit. Only MPs are granted this right and they may consequently not be accompanied by any non-MP (members of local parliaments, defence counsel, journalists etc...)

MPs may, however, not enter into contact with detainees and - given the secrecy of the investigation - they may of course not be present at interrogations and are not entitled to examine records of investigators.

*Circulaire CRIM 00-13 F1 of 4 December 2000*

In the Israeli Knesset, any MP is entitled to visit any place, including prisons and they may also visit prisoners. Members of the Knesset have used this right very much, so that the Knesset’s House Committee established a Subcommittee for Knesset Member’s visits to prisons to regulate such visits.

Committees can hold a single evidence session to focus attention on a particular issue or organise special events to this effect, such as thematic days, special parliamentary hearings or conferences.

Committee members may also visit people and places in the country and abroad to observe how things work in practice as well as how other countries handle similar problems. Sometimes, the approval of the plenary is necessary to carry out on-site missions, as in the case of the Senate Canadian Senate Committee on Human Rights. It is very rare though for the conduct of on-site visits to be expressly prohibited as it is in Uruguay.

On-site visits are certainly among the most important means of a human rights committee to study

human rights issues and ensure government compliance with human rights norms. It allows them to visit prisons and detention centres, verify the living conditions of refugees, asylum seekers, displaced persons and disadvantaged groups in their society, visit schools, orphanages and to check working conditions in factories and mines. Additionally, this enables MPs to travel abroad and meet with international or regional human rights bodies or to inquire into human rights problems elsewhere.

Committees may establish working groups or sub-committees either to study specific issues or as a regular body looking at one aspect of a committee's remit. For example, the Human Rights Committee of the Mexican Senate has set up four Sub-Commissions: on Legislative Studies, on International Relations and Relations with Human Rights Organizations, on the Promotion and Dissemination of Human Rights and on Follow-up to the Recommendations of the National Human Rights Commission and International Organizations.

#### *Outcome of Work and Implementation*

In carrying out their mandate in the field of legislation, committees consider, debate and amend bills according to a well-defined procedure that normally consists of several stages. Any amendments proposed by the committee must first be adopted by the House before they become law. Normally, committees may also take legislative initiative. If a committee has been charged with examining whether legislation is in compliance with certain human rights standards and finds the legislation to not be in accordance, it may recommend that the House not allow the legislation. The Australian Senate Committee on the Scrutiny of Bills, for example, prepares an "Alert Digest" which is usually tabled in the Senate once each sitting week. Adverse comments on any bill are also formally drawn to the attention of the Minister responsible, who is invited to respond within a certain deadline.

#### **MP Immunity**

If parliamentarians are to carry out their work effectively, they must be able to exercise their freedom of expression without fear of retaliatory measures or politically motivated prosecution. This is known as immunity, and is enjoyed by MPs all over the world. Parliamentary immunity may be more or less wide in scope: in all parliaments, MPs enjoy "non-accountability"; that is, they cannot be held accountable for anything they say in the exercise of their parliamentary duties. In parliaments following the French tradition, moreover, MPs enjoy inviolability. They can only be prosecuted if parliament has lifted their immunity. Immunity, which is not impunity, is less a protection of the individual MP than a guarantee of independence and sovereignty of the institution of parliament as such.

Similarly, persons who give oral or written testimony to parliamentary committees in the course of inquiries normally also enjoy immunity for the statements or declarations they make on this occasion. In this respect, Article 9 of the United Kingdom's Bill of Rights of 1689 still applies. It provides that "*the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.*" This provision ensures that witnesses have absolute privilege in parliamentary proceedings and are not liable in court for the answers they give to the questions put to them.

The outcome of a committee inquiry or an on-site visit is normally a report with recommendations. Committees may also issue an opinion or adopt a resolution on the subject they have studied. Such documents may take different routes once adopted by the committee.

A number of committees refer their reports and recommendations to the House plenary for a final decision and take no further action afterwards. The Human Rights Committees of Belarus, Benin or Gabon, for example, do not carry out any implementation or specific follow-up activities. In the latter case, the Bureau of the House decides on

**The Human Rights Committee of the Parliament of Lithuania (The Seimas)**

*Working Methods and Follow-up*

Lithuania's Human Rights Committee works in accordance with a general work plan established by all of the Parliament's committees on the basis of the work programme of a parliamentary session. Such work plans specify the person responsible for implementation and the time limits which apply. Work plans of the committees and agendas of meetings are publicly announced and submitted to the Chairman and the Chancellor (Secretary General) of the Seimas.

Committee decisions are adopted by open, simple majority vote of the participating members. Minority opinions must be announced together with the Committee's decisions, which are referred to the Seimas in writing, as well as to concerned State institutions.

In order to prepare issues for consideration, committees may form preparatory working groups from among their members. These groups may include other Seimas members, as well as representatives of State institutions, parties and public organizations and experts. Likewise, the Committee may invite to its meetings other Seimas members, government officials, members of municipal councils and any other representatives of concerned or interested institutions and organizations.

Committee meetings are open to representatives of the media, with the exception of those meetings that have been specifically designated as closed. Following each committee meeting, a report is prepared for the Seimas Press Service in which the discussions and adopted decisions are summarized

Committee decisions are adopted by open, simple majority vote of the participating members. Minority opinions must be announced together with the Committee's decisions, which are referred to the Seimas in writing, as well as to concerned State institutions.

For State institutions, the Committee's decisions are taken as recommendations. However, with the exception of the courts, institutions must consider the decisions and inform the committees about the result of such consideration and any measures which have been taken.

any follow-up action to be taken and may decide to debate a report in a plenary session and/or to refer it to the competent minister.

In the majority of cases, committees refer their reports and conclusions to the House and other concerned bodies, such as governmental departments and State institutions. Sometimes, follow-up action by the committee can only be taken once the House has adopted its recommendations, as is the case in South Africa. Owing to the principle of separation of powers, committee decisions or recommendations are not binding on the government or other executive authorities; however, these bodies are obliged to take action.

In most cases, the government must produce a response to a committee report. Under the Standing Orders of the House of Representatives of Canada, for example, the government must submit a global response to a report within 150 days of its submission. In the United Kingdom, government departments are expected to reply to committee reports within 60 days, unless a longer period has been agreed upon with the committee. Follow-up to a government's response may take on different forms: it may be debated in the House, or the committee may chose to follow up on its reports in other ways, such as asking the minister concerned to give further evidence.

In the Committee on Human Rights, National



Minorities and Inter-Ethnic Relations of the Ukrainian Parliament, the committee chair is in charge of follow-up to committee decisions and reports to the committee in this respect. In the Committee on Human Rights and Hearings of the Colombian Senate, a committee coordinator is appointed for this purpose. The committee coordinator must present a report on his or her activities if so requested by the committee.

*Petition Committees*

Petition committees use the same methods as other committees but, by the very nature of their work, may be led more frequently than other committees to cooperate with ombudsman institutions.

In the last analysis, it is the Parliament's responsibility to ensure implementation of committee recommendations by making use of its oversight function.

*Publicity*

Human rights committees, as other parliamentary committees, have some discretion as to whether their meetings, proceedings and reports are made public or not. Sometimes, rules of procedure provide for the publication of major committee documents in the Official Gazette or parliamentary publications. Generally speaking, the drive for more transparency in public administration has resulted in the opening up of committee proceedings to the public, although committees are and must be entitled to hold certain sittings or

**Zambia**

***Conducting Follow-up Committee's Recommendations***

The work program for the Committee on Legal Affairs, Governance, Human Rights and Gender Matters in 2002 included a tour of selected prisons in the country. This resulted in recommendations to the government regarding each prison. In 2003, the Committee considered the follow-up given to its recommendations. For example, the Committee had observed that a transport shortage at Lusaka Central Prison had resulted in inmates missing court cases, and had recommended that the Government address the problems as soon as possible. It had also called upon the Government to assist the prison by providing water, in order to improve sanitation and reduce the spread of water-borne diseases. In addition, upon learning that inmates were sometimes asked to pay for warrants for their release issued by a judiciary member of staff, the Committee had requested that the Deputy Registrar verify this serious allegation and submit a report.

In response, the Committee was informed that the Ministry of Home Affairs was in the process of procuring appropriate motor vehicles for the Prison's service. On the provision of water to the prison in order to improve sanitation, the Ministry reported that the rehabilitation of the water and sewage system at Lusaka Central and other Prisons had begun. Finally, the Committee was informed that the Judicial Department had examined the allegations of a court marshal demanding payment before issuing release warrants; this ultimately resulted in an investigation and appropriate disciplinary action taken against the man.

Having examined the government's response, the Committee has asked to be updated on the progress made in improving transportation, sewage and rehabilitation at Lusaka Prison. It further requested the judiciary to provide more information on the specific action taken against the erring officer.

**Article 90 of the Islamic Consultative  
Assembly**

According to Article 90 of the Standing Orders of the Majlis (Parliament) “*whoever has a complaint concerning the work of the Assembly or the executive power or the judicial power can forward a complaint in writing to the Assembly. The Assembly must investigate the complaint and give a satisfactory reply. In cases where the reply relates to the executive or the judiciary, the Assembly must demand proper investigation in the matter and an adequate explanation from them, and announce the results within a reasonable time. In cases, where the subject of the complaint is of public interest, the reply must be made public*”.

Any complaint from a person or a legal entity is examined by legal experts and the final verdict of the Committee is sent to the relevant authorities which are under a legal duty to cooperate with it.

**Parliamentary Committee Reform  
Zambia**

In 1999, the Parliament of Zambia introduced a fundamental change in its committee system in order to enhance its capacity to scrutinise the Executive and to allow for increased participation of the people in the affairs of the country. The reform aimed at taking Parliament much closer to the people. Under the reformed committee system, the public and the media may now attend committee sittings and the public may make written submissions relevant to the topics on the committee’s agenda. The Parliament’s Web site provides information on the committee sittings, the items to be discussed and a general guideline of how to make submissions.

**Sri Lanka  
Committee on Public Petitions**

The Committee examines and decides on petitions of individuals or groups of individuals, presented to Parliament by MPs regarding infringements of fundamental rights or other injustices by a public official or an official of a public corporation, local authority or other like institutions. After petitions are presented to Parliament, they are referred to the Committee which meets and decides on the action to be taken. They are normally referred to the ministry concerned for report.

The Committee has the power to call for oral evidence from the competent officials and for any document concerning the case. The petitioner is also summoned to give evidence. The Committee may also organise on-site inquiries and refer a case to the Ombudsman. The Committee’s final decision is conveyed to the petitioner through the MP who presented the petition to Parliament. The authority concerned is directed to take any remedial measures recommended by the Committee.

The Committee reports to Parliament on its findings and recommendations and its report is published by Parliament.

part of sittings *in camera*.

In many parliaments, committees' evidence-taking sessions are now public; in addition, ministers' statements given at hearings are published, as are committee reports and findings. An increasing number of parliaments publish these documents on their websites, where they also provide also other information facilitating interaction with the general public, such as calendars of meetings, topics to be discussed and guides for witnesses.

### **Parliamentary Human Rights Committees: Regional Parliamentary Assemblies and the Inter-Parliamentary Union**

The promotion and defence of democracy and human rights has been among the main objectives of some of the oldest inter-parliamentary organizations, including the Inter-Parliamentary Union, the World Organization of National Parliaments, the Council of Europe and the Latin American Parliament. These, however, have not remained the only inter-parliamentary organizations to establish human rights committees.

Other regional assemblies have set up committees to deal with human rights issues; these include the Parliamentary Assembly of the OSCE, the Central American Parliament, the Andean Parliament and the Amazonian Parliament. The OSCE *General Committee on Democracy, Human Rights and Humanitarian Questions* deals mainly with the issues of "Basket Three" of the Helsinki Final Act and prepares a report and draft resolution for presentation at the annual plenary session.

The human rights committees of the other three parliaments are entrusted with the promotion of human rights in member countries and the design of regional plans and programmes aimed at solving social problems of member countries. In the case of the Amazonian Parliament, the committee is also engaged in strengthening ethnic identity, protecting the historical and cultural patrimony of

native communities and peoples of Amazonia and promoting the use of ethno-historical knowledge in regional development programmes.

Although the powers of these committees are limited - they may not, for example, call for papers or persons - their work is nevertheless very important. Through their reports and various activities such as seminars, specialised conferences and missions, they draw the attention of member parliaments to important human rights issues and carry out lobbying work. For example, in a joint meeting held in October 2002, the Latin-American Inter-Parliamentary Human Rights Committee (CILDH) and the Human Rights Committee of the Latin American Parliament urged member states that had not already done so to ratify the Statute of the International Criminal Court. Moreover, these committees constitute a platform where MPs can exchange views, familiarise themselves with human rights policies in other countries and work together for solutions to some of the human rights problems in their region and internationally.

### *The European Parliament*

The European Parliament, together with the Parliamentary Assembly of the Council of Europe, is among the most important actors in Europe in the field of human rights. Its committees enjoy similar powers to those of national parliaments. The European Parliament has set up several committees with a specific human rights mandate, namely:

- The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, responsible for matters relating to human rights and democratisation in developing countries, as well as relations with international human rights organisations.
- The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, responsible for human rights and fundamental freedoms in the European Union; the measures needed to

combat all forms of discrimination on the grounds of sex, religion, racial or ethnic origin, disability or sexual orientation; the protection of individuals with regard to the processing of personal data; matters relating to the maintenance and development of an area of freedom; security and justice; and matters relating to drugs and drug addiction.

- The Committee on Development and Cooperation, responsible for the promotion, application and monitoring of the development and cooperation policy of the European Union. Since the early 1980s, it has also included in its mandate support for the process of democratisation, good governance and human rights in developing countries.
- The Committee on Women's Rights and Equal Opportunities, responsible for the definition, development and protection of women's rights in the EU and in developing countries; the implementation and further development of gender mainstreaming in all sectors; the establishment and evaluation of all policies and programmes for women; and the follow-up and implementation of international agreements and conventions involving the rights of women.
- The Petition Committee, responsible for the consideration of petitions and associated actions, and relations with the Ombudsman.

These committees may, with the agreement of the Bureau of Parliament, instruct one or more of its members to undertake a study or a fact-finding mission. Committees may put questions to the European Council or the Commission and any member may table questions for written answer to these bodies. They may also, without requiring authorisation, table a motion for a resolution concerning cases of human rights violations and may ask the President in writing for a debate to be held on an urgent case of a breach of human

### **Petitions Before the European Parliament**

Any citizen or resident of the European Union, or any company, organisation or association with its headquarters in a member state may submit a petition to the European Parliament, either individually or jointly, on a subject which falls within the EU's sphere of activities and concerns them directly. The subject may be a matter of general concern, an individual grievance or an appeal to the European Parliament to take a stance on a matter of public interest. The Petitions Committee is not a judicial body and it does not have enforcement powers, but acts by approaching other bodies of the Parliament or the EU. In recent years, the Commission has received approximately 1000 petitions annually, mainly concerning social affairs, environmental problems, freedom of movement and discrimination-related issues.

Petitions are an important means of enforcing European law. They may help settle problems in cases where courts, including the European Court of Human Rights, are not competent. For example, in the year 2000, the European Court of Human Rights denied admissibility in a case involving the nation of Denmark. The case concerned Danish workers who had been irradiated by plutonium when a US B-52 crashed at Thule, Greenland in 1968 with several nuclear bombs on board. A legal action the workers had brought in Denmark for compensation for radiation-induced cancers and illnesses failed.

The matter was referred in 2001 through a petition to the Petitions Committee of the European Parliament, which heard it in November 2003. The Committee accepted the petition and the Committee Chair directed Denmark to respond to the petition and has required it to hand over to the Committee its entire file on the Thule nuclear disaster.

rights, democracy and the rule of law.

### *Council of Europe Parliamentary Assembly*

The Parliamentary Assembly of the Council of Europe set up a Committee on Legal Affairs and Human Rights after its creation in 1949. The committee, which has a Subcommittee on Human Rights, is therefore the oldest human rights committee at the inter-parliamentary level. Its mandate covers a variety of human rights issues, among which are providing advice on accession requests and scrutinizing candidates for accession to their human rights record, giving opinions on draft conventions, drawing up proposals for the improvement of the functioning of the European Convention on Human Rights and examining candidatures of judges for the European Court. More generally, the Committee examines all human rights issues of concern in Europe.

The Committee regularly holds expert hearings on cyber crime, the legal status of the Roma in Europe, and the role and functioning of the institution of ombudsman in transition societies, to mention a few. One of the approximately fifteen yearly meetings is held in a member state, which enables the Committee to study the human rights situation within that state.

The Committee adopts reports, draft resolutions and recommendations which it submits to the Assembly. After debate, the Assembly adopts either a recommendation to be placed before the Committee of Ministers or a resolution in which the Assembly takes a position on the subject.

### *The Inter-Parliamentary Union*

Apart from its standing Committee on Democracy and Human Rights, which debates human rights issues and proposes draft resolutions for adoption by the IPU Assembly, in 1976 the IPU established a special mechanism to defend the human rights of members of parliament, titled the Committee on the Human Rights of Parliamen-

tarians. The fundamental idea is that MPs can only fulfil their roles as guardians of human rights if they themselves enjoy their human rights.

The Committee is composed of five titular members who represent the major geopolitical regions. They are elected by the IPU's Governing Council in their personal capacity for a five-year term and meet four times a year. The Committee's mandate is to examine complaints that are referred to it regarding human rights violations affecting members of parliament. By cross-checking with the authorities of the countries in question and meeting with the sources of information, the Committee seeks to obtain a settlement of the cases it has declared admissible in line with national and international applicable human rights law.

The Committee's procedure is confidential, but it may decide to make a case public by bringing it to the attention of the Governing Council. In such cases, it submits a public report and a draft resolution for adoption by the Council.

On the occasion of the bi-annual IPU Assemblies, the Committee regularly invites delegations for an exchange of views on the case or cases it is examining in a country in question. It may also carry out on-site missions, provided the authorities agree to such a mission. The Committee continues examining a case as long as it deems that a satisfactory settlement can be found. It has, therefore, been dealing with some cases for many years; for example, a case in Honduras concerning an MP who was assassinated in 1988 stayed open for 15 years. This crime remained unpunished until 2003, when his murderer was finally arrested and brought to justice.

### Special Cases

#### *New Types of Monitoring Instruments: Offices and Delegations in the French Parliament*

Very often, parliaments rely—often by necessity—on government expertise, data and information when examining certain issues. To gain greater autonomy and expertise, independent from the government, the French Parliament has set up new monitoring instruments, offices and delegations. These bodies do not intervene in the legislative process and remain distinct from the permanent committees. Their mandate is to “keep a legal and technological watch” on the domain entrusted to them, to inform parliamentarians and to evaluate the impact of decisions adopted by institutions operating in the domain of their mandate. These bodies are composed of members of both Houses of Parliament and matters are referred to them either by executive bureau or by a parliamentary committee.

One of the existing delegations deals with the rights of women. It is responsible for informing both Houses of the consequences of policies adopted by the government regarding the equality of opportunities between men and women. The delegation also monitors the implementation of laws in this field. Recent work of the delegation concerned the equality of remuneration of men and women, the monitoring of the TRACE (Trajectoire d'accès à l'emploi) programme concerning access to employment, and questions regarding the patronymic surname, abortion and contraception.

#### *Commission for Future Generations*

Legislation and the way it is implemented affect not only the life of the people today, but also the life of future generations. This is particularly true today: industrialized countries have the technological means to exploit resources in an unprecedented way and to effect changes which could have a negative impact on future generations' ability to exercise their rights.

The Israeli Knesset has decided to deal with this problem by creating a special parliamentary body, the Commission for Future Generations. The initiative came from an MP who presented a private member's bill in October 2000 that was enacted into law in March 2001. The Commission's main task is to ensure that the country's legislation takes account of the needs and rights of future generations. It is presided over by a commissioner who is chosen by an ad-hoc parliamentary committee and appointed by the Speaker.

The Commission's task is to present to the Knesset information and opinions on issues which are of special concern to future generations, and to raise public awareness about the importance of considering the long-term future. The Commission is authorized to review the agenda of parliamentary committees, to review bills and give an opinion on the possible impact of a bill or regulation on future generations, and to propose bills. The Commission may request any relevant information from governmental or other public institutions and is called upon to establish a council composed of experts in different fields that will determine its agenda and advise it on the most effective means of proceeding.

## CHAPTER THREE

# PARLIAMENTARY HUMAN RIGHTS BODIES AND OTHER HUMAN RIGHTS ACTORS

Only rarely do parliamentary human rights committees not entertain formal contacts with the other parliamentary committees. In some cases, such as the Australian Senate Committees on Regulations and Ordinances and on Scrutiny of Bills; the Human Rights Committee of the Lower Chamber of the Austrian Parliament; or the Committee on Human Rights of the Parliament of Cyprus, they report directly to the House plenary.

In the majority of parliaments, there is close interaction between committees. Normally, parliamentary committees may be invited, either through the House Bureau or by the committee directly, to provide an opinion on a given subject and may hold joint sessions. Bills are usually studied by several parliamentary committees before they are debated in the plenary.

Standing Orders may sometimes make special provision for regular meetings of all committees. For example, the Standing Orders of the National Assembly of Angola provide for periodic committee meetings at which information is exchanged and experiences are compared. Close contacts usually exist in a parliament between committees in both Houses which deal with the same issue. Petition committees will normally contact the committees which deal with issues directly or indirectly related to the subject matter of complaints.

In some parliaments, committee members are by law part of the Assembly Bureau or of another

committee. In the case of the Egyptian Parliament, for example, the Chairpersons of the Committee on Constitutional and Legislative Affairs and of the Committee on Complaints and Proposals are *de jure* members of the General Committee

## Israel

### *NGO Liaison Committee*

On 9 December 2003, in honour of the International Human Rights Day, the Law and Justice Committee of the Israeli Knesset, at the initiative of its Chairman, set up a special subcommittee to act as liaison between the Knesset, the Law and Justice Committee and human rights organisations. The purpose of this initiative is (1) to open the door of the Knesset to NGOs; (2) to examine legislative proposals of NGOs concerning human rights in Israel and (3) to broaden the understanding among MPs and the general public regarding human rights, including environmental and welfare rights.

Similarly, the Human Rights Committee of the Mexican Senate has set up a subcommittee responsible for relations with human rights NGOs.

of the Assembly and of the Ethics Committee. Similarly, the Chairperson and Vice-Chairperson of the Committee on Laws, Administrative Affairs and Human Rights of the Parliament of Gabon are members of the Conference of Chairpersons, which determines the National Assembly's agenda.

The majority of parliamentary human rights committees do not entertain a systematic and continuing relationship with their counterparts in other countries. Only in Latin America, mainly through the Latin American Parliament and the Latin American Inter-Parliamentary Union, have closer contacts between the national parliamentary human rights committees been developed.

### *At the National Level*

Parliamentary human rights bodies normally entertain a more or less close relationship with executive human rights bodies, such as human rights ministries or human rights departments within ministries. Regular meetings with government agencies may be organised. For example, the Petition Committee of the Parliament of Slovakia holds talks every year with the representatives of ministries on complaints by petitioners regarding the implementation of laws and respect of time limits in decision-making.

However, in some countries, the principle of the separation of powers and the necessity of safeguarding independence prohibits human rights committees from entering into any relationship with the government and executive offices apart from hearings and other parliamentary oversight mechanisms. This is the case for the Human Rights Committees of the Philippine Parliament and for the South African Joint Monitoring Committees on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons, and on Improvement of Quality of Life and Status of Women.

Parliaments and their human rights committees

### ***Joint activities between Human Rights Committees and National Human Rights Institutions***

The Human Rights Committee of the Mexican Senate and the National Human Rights Commission developed a programme of support to migrants. Its aim is to defend and promote the human, civil and labour rights of people of Mexican origin living in the United States. In the framework of this programme, several visits to the states of Florida and Arizona were carried out in 2002, during which meetings with affected individuals as well as political and social actors were held to determine problems and seek appropriate solutions.

normally entertain a close relationship with the institution of ombudsman. This relationship goes frequently beyond formal contacts, which exist due to the fact that Ombudsmen are usually appointed by parliament and report to it. Their reports are normally examined by parliament's human rights committees prior to submission to the House plenary and the executive.

The same is true for national human rights institutions; human rights committees are sometimes mandated to examine their reports.

For example, the Standing Committee on Justice and Human Rights in the Canadian House of Commons is competent to examine reports by the Canadian Human Rights Committee which are systematically referred to it. In Ethiopia, the Human Rights Commission (along with the Ombudsman) is accountable to the Committee on Legal and Administrative Affairs of the House of Representatives. In Ghana, the Commission on Human Rights and Administrative Justice and the Serious Fraud Office submit an annual report for discussion to the Committee on Constitutional, Legal and Parliamentary Affairs before they are debated in the plenary and submitted to the Executive.



The majority of parliamentary human rights committees entertain close contacts with NGOs, which may seek to engage in dialogue with committee members and provide information. Committees may consult and hear NGOs as witnesses and may cooperate with them on a permanent basis. For example, NGOs participate regularly in the sittings of the Committee on Human Rights and Religions of the Bulgarian Parliament; they may take the floor and distribute information material.

Close cooperation with NGOs may be instrumental in achieving concrete results; there are many examples to this effect.

**Successful Cooperation between Parliamentary Human Rights Bodies and NGOs**

The common efforts of the Committee for Equal Opportunity Policy of the Parliament of Slovenia and the NGO Klju led to the signing in October 2003 of a treaty on human trafficking whereby Slovenia will grant trafficked persons legal status.

The passage of the Clean Diamonds Act in April 2003 is an example of the successful result of NGO cooperation with the US Congress. Human rights groups, humanitarian advocates and faith-based organizations worked with Congress, the diamond industry and the international community for several years to develop a certification system and complementary U.S. legislation. The US branch of Amnesty International hailed the Act as *“a significant step toward protecting American consumers from underwriting the cost of warfare and human rights abuses in Africa...”*

The establishment of the International Criminal Court is another example of successful cooperation. Over 2,000 NGOs coalesced under the leadership of the Coalition for the International Criminal Court, among them the NGO Parliamentarians for Global Action (PGA). PGA conducted workshops for MPs and continues to support parliamentarians and parliamentary human rights committees lobbying within their parliaments to fully support the court.

*Cooperation at the International and Regional Levels*

Permanent contacts or consultations between parliamentary human rights committees and international or regional bodies are the exception rather than the rule. Such contacts have developed mainly in Europe and Latin America.

In order to strengthen cooperation with national parliaments in the field of human rights, the Committee on Citizens’ Freedoms and Rights, Justice and Home Affairs of the European Parliament has been organising an annual hearing of national parliament representatives with a special interest in the basic rights enshrined in the European Union Charter of Fundamental Rights. The latest hearing was held in April 2003 and was devoted to highlighting the violations and shortcomings of European policies in this area. The conference also examined and encouraged best practices as applied in some member states to create a genuine European area of freedom, security and justice.

In Latin America, cooperation between national parliaments and their human rights committees and regional parliamentary organizations exists mainly through the Latin American Inter-Parliamentary Committee on Human Rights (CILDH) and the Human Rights Committee of the Latin American Parliament. A national committee normally holds the Executive Secretariat of the CILDH; at present it is the Committee on Human Rights, Nationality and Citizenship of the Parliament of Chile.

The number of parliaments and human rights committees which take an interest in regional and international (especially UN) human rights activities is, however, increasing. More MPs (mostly members of human rights committees) are attending meetings of the UN Commission on Human Rights. Some parliaments, such as the German Bundestag, now regularly send delegations to attend part of the session. Human rights committees also appear to be taking an increasing interest in

how their governments vote at Commission meetings. Thus, the Human Rights Subcommittee of the Irish Parliament questioned the Minister of Justice as to why Ireland, contrary to usual practice, had not supported the resolution on the Human Rights of Persons with Disabilities that was tabled at the 59<sup>th</sup> session of the UN Commission on Human Rights. In a similar vein, the Human Rights Committee of the Mexican Senate exhorted the Government to instruct the Mexican delegation to the UN Commission on Human Rights not to

sponsor or co-sponsor any resolution against Cuba and to abstain from voting.

The technical assistance which the United Nations and its agencies provide to parliaments brings about closer cooperation between UN human rights monitoring bodies and human rights committees. However, much still needs to be done in this field.

### **Cooperation between the UNPD and Parliament Lithuania**

In Lithuania, Parliament, its Committee on Human Rights and the UNDP cooperated closely in developing a national human rights action plan. The development of the action plan was conducted in three phases. First, priority issues were identified through a participatory process and a baseline study on human rights in Lithuania was drafted by experts. The baseline study was then validated through a national conference and regional workshops. Finally, the plan was drafted, incorporating the findings of the baseline study and the broad process of consultation. The plan was debated in parliamentary committees and approved by Parliament on 7 November 2002. An analysis of the process carried out later concluded that the leading role which the parliamentary human rights committee played was instrumental in the process, as it ensured broad involvement of the public. Active facilitation by UNDP was perceived as important for initiating and sustaining the process in the early stages. The decreased intensity of UNDP involvement in later stages enabled the leadership and commitment of national entities to take root.

## CHAPTER FOUR

BEST PRACTICES REGARDING THE  
CONDUCT OF INVESTIGATIONS

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Effective investigations into any subject whatsoever inevitably comprise the gathering of written and/or oral evidence from all the government officials and agencies, national and international institutions and organisations, and national and international experts familiar with the subject to be studied, and, if appropriate, from concerned individuals. In most of the cases, a thorough investigation also requires on-site visits either in the country in question or abroad. The two examples below illustrate this.

**Canada**

In November 2002, the Canadian Senate mandated its Human Rights Committee to study and report on Canada's possible adherence to the American Convention on Human Rights.

The Committee studied the question throughout the year 2002 and released its report in May 2003. During the investigation of the question, the Committee heard representatives of the Department of Foreign Affairs and International Trade and the Department of Justice, representatives of non-governmental organisations such as Amnesty International, the National Action Committee on the Status of Women, the Grand Council of Crees and the Canadian Lawyers for International Human Rights as well as a great number of individual experts. It conducted a four-day fact finding mission to Costa Rica, during which it met with the Presi-

dent and judges of the Inter-American Court of Human Rights, the President and members of the Inter-American Commission on Human Rights, members of the Inter-American Institute of Human Rights and a number of representatives of local human rights institutions and NGOs. In addition, it received a wealth of documents relating to the issue.

It arrived at the conclusion that the Government's reluctance and concerns at the ratification of the Convention were unfounded and recommended, that "*Canada take all necessary action to ratify the American Convention on Human Rights, with a view to achieving this goal by 18 July 2008, the 30<sup>th</sup> anniversary of the Convention*".

**Belgium**

During the 1999-2003 legislature, the Sub-Committee on Trafficking of Human Beings, organised by the Standing Committee on Interior and Administrative Affairs of the Belgian Senate, examined the causes and mechanisms of the trafficking of persons. It dealt in particular with trafficking for the purpose of sexual exploitation, trafficking in sport (especially football), the death of immigrants on the occasion of their transfer in a container to Ireland, and visa fraud in relation with trafficking.

To examine the question of trafficking for the purpose of sexual exploitation, the Sub-Committee

heard representatives of the National Ukrainian Council Against the Trafficking of Human Beings, representatives of the Belgian Center for Equal Opportunities and the Fight Against Racism, representatives of the national prosecution offices and of the national police, a delegation of the Albanian police, representatives of the national Red Cross society, representatives of national and international NGOs, and a victim of trafficking.

It exchanged views with the Prime Minister, the Ministers of the Interior, of Justice, of Budget, Social Integration and Social Economy and the State Secretary for Development Cooperation of the Ministry of Foreign Affairs.

It conducted a study tour to Albania and Italy as well as to a number of French cities; it participated in the Rome Conference on the Trafficking of Women and Children for Purposes of Sexual Exploitation and in the Rome Conference on Cooperation. It visited the main Brussels police station and several NGOs dealing with trafficking and taking care of victims. Finally, it viewed several video films on the subject.

On each of the subjects studied, the Subcommittee, sometimes sharply criticising certain failures and practices of the national police, issued very specific recommendations. For example, the Subcommittee recommended increased cooperation with the home countries of victims of human trafficking, and the organisation of high-quality information and prevention campaigns in those countries. It also asked the government to present action plans with a budget included. It recommended the strengthening of the national reception centres and the provision of the necessary financial means to them, as well as the improvement of the legal status in Belgium of the victims of human trafficking. It also made recommendations aimed at improving cooperation at the European and international levels.

The Subcommittee's recommendations were adopted by the Standing Committee and conveyed to the Prime Minister, the Ministers of the Interior and Justice. The Standing Committee is currently monitoring the implementation of its recommendations.

## CHAPTER FIVE

# LEGISLATION PARLIAMENTARY HUMAN RIGHTS BODIES MAY HELP ADVANCE

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Given the variety and number of subjects with which parliamentary human rights bodies deal, it is impossible to provide a comprehensive picture of their overall achievements in the field of legislation. An evaluation of their impact on legislation could only be made on a country-by-country basis.

However, the replies to the survey on parliamentary human rights bodies which the Inter-Parliamentary Union conducted for the past two years indicate that legislative questions related to penal law and children's rights are high on the agenda of most human rights committees. The paragraph below provides some concrete examples of legislative initiatives taken by committees:

### (1) Penal law

In December 1999, the Justice Committee of the Belgian House of Representatives proposed a bill for insertion in the Penal Code asserting the universal condemnation and prosecution of certain violations of fundamental social rights. Because the bill was not adopted during the legislative session, it has become null and void. A new legislative initiative would be required to continue the debate in the new Parliament.

In September 2003, the Canadian House of Commons adopted, at the initiative of a member of its Committee on Justice and Human Rights, an amendment to the Criminal Code providing for the

punishment of incitement to hatred.

In 2001, the House of Representatives of the Philippines approved a bill proposed by the Chair of its Human Rights Committee prohibiting the public display of persons arrested, accused or under custodial investigation in a degrading manner. A committee-sponsored bill concerning the rights of accused persons and defendants and providing for penalties when those rights are violated is due for debate in the House plenary.

In July 2002, the Human Rights Committee of the Uruguayan Parliament adopted a law on the Protection of Victims of Domestic Violence; at present, one of its major objectives is the approval of a bill on crimes against humanity.

### (2) Death penalty

A number of parliaments, such as those in Belarus, Austria, Germany and the Philippines, reported on efforts to obtain a resolution abolishing the death penalty at the national or international level. The Human Rights Committee of the Philippine House of Representatives, for example, proposed in August 2002 a bill calling for the abolition of the death penalty which was signed by more than half of the members of the House. It was approved on Second Reading but the House finally failed to pass it on Third Reading, when it adjourned for Christmas break in December 2003.

### (3) Conditions of detention

Addressing conditions of detention is a high priority for most parliamentary human rights committees. For example, the Egyptian Parliament passed an amendment to a law on the organisation of prisons prohibiting the use of whipping as punishment for prisoners. The Human Rights Committee of the Parliament of Panama worked on a bill concerning prison reform, and the Human Rights Committee of the Uruguayan Parliament drafted working regulations for detainees. Following the visit of the Cypriot Human Rights Committee to Nicosia Central Prison, measures were taken to reduce the number of inmates per cell, improve hygiene, provide medical and psychological support, and separate minors from those serving a long sentence.

### (4) Children's rights

Although many parliaments have committees specifically charged with child protection, general human rights committees also devote considerable work to this issue. The Human Rights Committee of the Cypriot Parliament, for example, reviewed the Law on Children and proposed the establishment of an Ombudsman/Defence Council for Children, as did the Human and National Minority Committee of the Croatian Parliament. The General Affairs Committee of the Icelandic Parliament, which oversees human rights conditions in Iceland, has proposed a bill on a new family law taking account of children's rights.

Among other topics mentioned by parliaments in the survey are gender equality and equal opportunities (for example, adoption of a Law on equal opportunities for men and women in Slovenia), the right to health (discussion of a Charter of Patients Rights and a bill on safeguarding the rights of patients in Cyprus and, in Lithuania, the adoption of a Law on the Rights of Patients and Compensation of Damage to their Health); the right to privacy; the rights of refugees and migrants, minorities and

indigenous peoples; the rights of disabled persons; measures to prevent trafficking in persons; and issues related to reconciliation and reparation in countries such as in Argentina, Chile, Colombia and Ghana. Issues concerning the establishment or broadening of the powers of Ombudsman institutions or other human rights institutions are other issues that committees have studied or proposed legislative initiatives on. Thus, the recommendation of the Joint Human Rights Committee of the British Parliament regarding the establishment of a Commission on Human Rights and Equality was approved by the Government. Likewise, the recommendations of the Committee on Human Rights and Humanitarian Aid of the German Parliament resulted in the establishment of the German Institute of Human Rights in March 2001.

### **Human Rights Committee of the Philippine House of Representatives**

Legislative highlights in past parliamentary sessions:

- A bill declaring the week 4-10 December as “Human Rights Consciousness Week” in the Philippines, passed into law on 1 April 2003;
- A bill abolishing the death penalty, not yet adopted;
- Compensation for the victims of human rights violations during the Marcos regime, approved on second reading on 12 September 2003;
- Approval of the UN Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the House on 22 January 2002;
- A resolution on the promotion of international humanitarian law as an important tool in the resolution of internal armed conflict, adopted on 22 January 2002;
- A bill prohibiting public display of arrested persons in a degrading manner, adopted on third reading on 19 December 2001;
- A bill prohibiting discrimination on the basis of sexual orientation, adopted by the Committee and due for deliberation in the House plenary;
- A bill providing for the rights of accused persons and defendants and for penalties in the case of their violation, approved by the Committee and due for deliberation by the House; and
- A bill providing for a mandatory course on human rights for all officers, members and trainees of the Philippine Armed Forces and Law Enforcement Agencies and other state employees, approved by the Committee and due for deliberation by the House.

### **The Committee on Human Rights and Humanitarian Aid of the German Bundestag**

During the 14<sup>th</sup> term of Parliament (1998 - 2002), when it was established as a permanent committee and thus became the first body of this kind in a European Parliament, the Committee on Human Rights and Humanitarian Aid of the German Bundestag examined a broad range of issues relating to national and international matters. It dealt with 546 items involving human rights or humanitarian issues and acted as lead committee for 70 of these items. It deliberated on the following issues: non-state persecution; economic, social and cultural rights; instruments and measures to combat torture; human rights in the war against terrorism; the death penalty; women's rights (with particular emphasis on genital mutilation and honour killings); the reinforcement of children's rights (sex tourism and child prostitution); national immigration policy; racism; national and international conditions of custody; freedom of the press; and humanitarian aid in crisis regions (Afghanistan, Sudan, Kosovo and Macedonia). The Committee held public hearings on the first four issues mentioned above.

As a result of its activities and discussions, the German Bundestag adopted on 18 April 2002 a resolution on Human Rights and Developments in Tibet and a resolution on the Worldwide Fight Against and the Banning of Torture.

As a result of its mission to Afghanistan, the Committee was able to secure an increase in funding allocated for humanitarian aid to this country.

A resolution adopted by the Committee in the field of non-state and gender-specific persecution helped to ensure that a clause for hardship cases was included in the Immigration Act, and that this act recognised gender-specific persecution as grounds for asylum.

The Committee's recommendations were also fed into the parliamentary resolution regarding the deployment of the German Army in Macedonia. The original mandate did not adequately ensure the protection of civilians. The Committee's comments led to the inclusion of appropriate provisions in the mandate.

In its first report on arms export, the German Parliament, based on an opinion given by the Committee, called on the Federal Government to include in its report in the future information on the export of dual use goods and potential torture implements.

The Committee played a decisive role in the establishment of the German Institute of Human Rights

Finally, the Committee's efforts to achieve a memorandum on the deportation of Chechen refugees was successful: the competent authorities heeded its call to suspend deportations until the domestic situation in Chechnya had stabilized and more information had been found regarding inland alternatives for refugees.



## CHAPTER SIX

OTHER WAYS MPs CAN PURSUE  
HUMAN RIGHTS ISSUES

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Parliamentarians have a wealth of opportunities to discuss human rights problems at home and abroad, through both domestic institutions and regional or international organizations (except in Asia, where no regional human rights machinery currently exists.)

**At the National Level**

Parliamentarians, regardless of their committee membership, have procedures at their disposal to monitor human rights and promote human rights issues in general. In addition, there are a number of human rights initiatives they can take outside of parliament.

Every MP can make use of the normal oversight tools which exist in every parliament. One of the most useful is addressing oral and written questions to the Head of the Government, Ministers and other government officials. The procedures may be different from parliament to parliament, but questioning remains one of the best ways for MPs to hold the executive to account. Similarly, interpellations, where MPs ask the government to explain its policies in a certain domain, are an effective tool to this end. Moreover, any MP may take the initiative to request the establishment of a parliamentary inquiry committee; additionally, in all parliaments, MPs have the right to legislative initiative by submitting private Member Bills. Many human rights improvements

have arisen through these avenues. Even though such bills may not always be adopted, legislative initiatives bring human rights issues to the public eye, encourage debate and ultimately contribute to greater awareness.

Parliamentarians may also set up informal groups to pursue human rights issues, as mentioned earlier. Such groups can be very effective since MPs, through their parliamentary work and contacts, often have the necessary knowledge, access to documents and influence enabling them to push certain issues forward. Friendship groups may be a particularly helpful way of sharing concerns about human rights problems in a given country, as may be parliamentary bilateral visits. The discussions held during such visits could be subsequently followed up with the diplomatic missions of the countries concerned.

MPs are usually members of political parties and of the respective political party groups in parliament. Thus, it is an MP's responsibility to ensure that their parties are aware of human rights obligations and, in turn, consider them when conducting their work. MPs can also work to ensure that human rights are addressed within the structure of their political party and corresponding parliamentary group.

MPs are opinion leaders and what they say and do will influence the human rights culture in their countries. Through press conferences, inter-

views, articles in the press, or any other media work, they can help to create or strengthen human rights in their countries. They can also do so through the organization of seminars, workshops or other events in their regions and through their support of human rights NGOs.

Finally, in many countries (for example, Germany, Austria and France), a certain number of MPs may request that the Constitutional Court examine or contest the conformity of a bill or law with the Constitution. Opposition MPs may use this option if they consider that a law adopted by the majority infringes on constitutionally entrenched human rights guarantees. Moreover, in some countries, individuals are entitled to file human rights cases on behalf of others; MPs may use this possibility as well. In Sri Lanka, for example, an MP filed a fundamental human rights case with the Sri Lankan Supreme Court on behalf of his driver, who had been arrested and tortured by police. The Supreme Court declared that the driver's fundamental rights had been violated and awarded him compensation ( SC case N°861/98).

### At the Regional Level

MPs may address themselves to regional human rights organizations and parliamentary assemblies to raise human rights issues.

MPs can refer reports or petitions to the relevant committees of regional parliamentary assemblies, but regional human rights organizations also offer procedural avenues that allow MPs to bring human rights problems to their attention. Thus, under the African Charter of Human and People's Rights, complaints can be submitted by anyone so that the legal question of the standing of victims does not arise. There is no reason why MPs should not make use of this possibility. In Europe, the procedure of the European Court of Human Rights provides for third-party interventions, which MPs may use to refer their views to

the Court on certain human rights issues.

Needless to say, any MP may contact and submit information to the different Special Rapporteurs which exist at present at the regional levels ( such as the Special Rapporteurs on Freedom of Expression in Latin America, on Minorities in Europe, etc.).

### At the International Level

Any MP has the option of providing information to international human rights monitoring bodies or cooperating with NGOs in drafting "shadow" reports. Any MP may seek contact with the different United Nations Special Rapporteurs, submit information about their own countries or other countries, raise individual cases and seek help in pushing for improvements at the national level.

The Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination and the Convention Against Torture provide for inter-state complaints procedures. These are mandatory in the case of the CAT, which allows state parties to submit complaints to any of the respective treaty bodies claiming that another state party is not fulfilling its obligations. To date, no inter-state complaint procedure has been launched by any of the treaty bodies. MPs could well look into the possibility of using this mechanism to monitor human rights violations in other countries which are parties to these instruments. In its draft general comment on Article 2 of the ICCPR "*The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*", the Human Rights Committee reminds state parties that "...to draw attention to possible breaches of Covenant obligations by other state parties should not be regarded as an unfriendly act but as a reflection of legitimate community interest...". This section points out to state parties the desirability of ratifying the inter-state complaints procedure or, if

they already have done so, of availing themselves of that procedure.

MPs may also choose to take advantage of the know-how that international human rights NGOs offer and cooperate with them. They can, in particular, propose the creation of AI parliamentary groups.

Finally, if MPs themselves become victims of human rights violations, they, their families and their legal counsel may seek redress by referring a complaint to the IPU Committee on the Human Rights of Parliamentarians.

## CHAPTER SEVEN

# CONCLUSION

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Parliaments all over the world have become increasingly aware that they have a special responsibility to promote and protect human rights and to work towards the creation of a human rights culture in their countries. The establishment in many parliaments of committees mandated to deal with human rights, either in general or regarding specific issues, reflects this increasing awareness.

Specific human rights laws directly affect individuals' lives; however, in many parliaments, the existence of specialised human rights committees has also been an effective tool in helping to raise the awareness of the importance of human rights among other committees and individual MPs.

There are no major differences in the mandate, structure, working methods and powers of human rights committees in the world's parliaments. Committees with strong or weak mandates and powers may be found in the North as well in the South. However, fulfilling a certain number of criteria may enhance a committee's ability to ensure maximum effectiveness:

A broad overall mandate that encompasses legislative and oversight functions and includes the ability to advise other committees ensures that the committee can deal with all human rights issues it deems important, take legislative initiative and work with problems referred to it by third parties. A specific reference in the mandate to international or regional human rights treaties

that are binding on the country in question certainly will make it easier to ensure that recommendations of international or regional bodies are taken into consideration by parliament and all of its committees. Including human rights among many other issues does not seem to be the best way of giving human rights the central role they should play.

The power to send for persons and papers and to carry out on-site missions is essential for human rights committees, particularly if they are to effectively exercise an oversight function.

The obligation of the government and administrative authorities to respond in some manner to a committee's recommendations or conclusions is essential. It is important that committee reports and recommendations receive publicity; this enhances the general public's interest in parliament's work and facilitates stronger public involvement.

Parliamentary human rights committees, more than any other committees, should be as open to the public as possible and should maintain close ties with NGOs and other national and international human rights actors, including UN Special Rapporteurs and representatives of other human rights organizations. Close interaction between the people and their representatives is a vital means of strengthening democracy; in many countries, there is still much to be done in this area.

Human rights are not and should not be a partisan

issue. The opposition should be represented in human rights committees.

However, no matter how perfectly its mandate, working methods and powers are conceived, the effectiveness of a human rights committee ultimately depends on the political will of each committee member to “make it work”. A strong mandate and strong powers are useless if a committee remains inactive.

Even when a parliamentary human rights committee does little, however, its very existence is a sign of political commitment; this should encourage the public to bring before it human rights concerns and let its members know that they have a responsibility.

Clearly, the ideal situation would be a parliament in which all members are imbued with a sense of human rights and their own personal responsibility to ensure respect for them. Unfortunately, we are far from this situation: MPs often represent ideological positions, and parliaments sometimes adopt laws that are out of line with human rights principles and obligations. While such situations may at times be corrected by other state actors, particularly the judiciary, a body within parliament specifically designed to promote and protect human rights is an extremely important tool that can bring about a human rights culture within parliament and in society as a whole.

## *Appendix 1*

# *Major Universal Human Rights Instruments*

### United Nations Declarations

- Universal Declaration of Human Rights 1948
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981
- Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live 1985
- Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power 1985
- Declaration on the Right to Development 1986
- Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic and Religious Minorities 1992
- Declaration on the Protection of all Persons from Enforced Disappearance 1992
- Declaration on the Elimination of Violence against Women 1993
- Declaration on Human Rights Defenders 1999

### Core Human Rights Treaties

- International Covenant on Economic, Social and Cultural Rights 1966/76
- International Covenant on Civil and Political Rights 1966/76
- International Convention on the Elimination of All Forms of Racial Discrimination 1965/69
- International Convention on the Elimination of All Forms of Discrimination against Women 1979/81
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984/87
- Convention on the Rights of the Child 1989/90
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990

### Other United Nations Human Rights Treaties

- Slavery Convention 1926/55, with Additional Protocols
- Convention for the Prevention and Punishment of the Crime of Genocide 1948/51
- Convention relating to the Status of Refugees 1951/54

**Other United Nations Human Rights Treaties (continued)**

- Convention on the Political Rights of Women 1952/54
- Convention on the Reduction of Statelessness 1954/75
- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity 1968/70
- Rome Statute for an International Criminal Court 1998/2002
- Convention against Transnational Organised Crime, and Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children 2000

**International Labour Organization**

- Freedom of Association and Protection of the Right to Organise Convention (No. 87) 1948/50
- Right to Organise and Collective Bargaining Convention (No. 98) 1949/51
- Equal Remuneration Convention (No. 100) 1951/53
- Abolition of Forced Labour Convention (No. 105) 1957/59
- Discrimination (Employment and Occupation) Convention (No. 111) 1958/60
- Employment Policy Convention (No. 122) 1964/66
- Minimum Age Convention (No. 138) 1973/76
- Indigenous and Tribal Peoples Convention (No. 169) 1989/91
- Worst Forms of Child Labour Convention (No. 182) 1999/2000

**UNESCO**

- Convention against Discrimination in Education 1960/62

## *Appendix 2*

### *Regional Human Rights Treaties*

#### **Council of Europe**

- European Convention for the Protection of Human Rights and Fundamental Freedoms 1950/53, and Additional Protocols
- European Social Charter 1961/65, with Additional Protocols and Revised European Social Charter 1996/99
- European Convention on the Legal Status of Migrant Workers, 1977/83
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987/89
- European Charter for Regional or Minority Languages, 1992/98
- Framework Convention for the Protection of National Minorities, 1995/98
- European Convention on the Exercise of Children's Rights, 1996/2000
- Convention on Human Rights and Biomedicine, 1997/99
- European Convention on Nationality, 1997/2000

#### **Organisation of American States**

- American Convention on Human Rights ("Pact of San José), 1969/78, and Additional Protocols
- Inter-American Convention to Prevent and Punish Torture, 1985/87
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women 1994/95
- Inter-American Convention on Forced Disappearance of Persons, 1994/96
- Inter-American Convention on International Traffic in Minors 1994/97
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, 1999/2001



**Organisation of African Unity**

- African Charter on Human and Peoples' Rights, 1981/86
- OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969/74
- Convention on the Rights and Welfare of the African Child, 1990/99 *ϕ*