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House of Lords

Joint Committee on Human
Rights

Human Rights Protections in International Agreements

Seventeenth Report of Session
2017–19

*Report, together with formal minutes
relating to the report*

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Publication

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Summary

Our modern globalised world is based on international agreements. Not only do they underpin the United Kingdom's relationships with other countries, over a wide range of areas, they also frequently set the parameters for domestic policy making.

Currently many, but not all, of these international agreements are negotiated at EU level. They are scrutinised by the European Parliament and the Committees set up in the House of Commons and House of Lords to scrutinise EU matters, but otherwise usually attract little parliamentary attention. The UK's withdrawal from the EU has prompted parliamentary consideration of the future scrutiny of agreements which were previously concluded at EU level. It should also prompt a wider consideration of parliamentary scrutiny of the treaty making process as a whole.

In this report, we look at one aspect of this: human rights in international agreements.

The Government needs to take action to ensure adequate consideration of human rights issues while international agreements are being negotiated. It needs to ensure negotiating teams have access to human rights expertise, and that there is clear information about human rights implications of such agreements in the internal sign off process. It should also ensure that future agreements contain clauses which protect human rights. They should include suspension clauses (which allow an agreement to be suspended if human rights are not adhered to) and exemption clauses (which prevent agreements being used to prevent state parties taking measures to protect or promote public morals, including human rights) as a matter of course. The Government should also consult on tailored standard clauses for particular types of agreement. It should be routine for all UK international agreements to contain such provisions.

Parliament's role should also be strengthened. The current system of scrutiny for non EU agreements only allows scrutiny after the event. There should be more information provided to Parliament, earlier in the process. We look forward to colleagues' views on how best to construct a parliamentary process to sift all international agreements and highlight those which require further consideration. Any such process will need to be properly resourced.

We consider the Government must inform Parliament of all international agreements that it intends to negotiate—at a minimum identifying the other party to the agreement and the subject matter and broad aims of the agreement. This information should also indicate any human rights issues that might be relevant to the negotiation as well as any human rights protections that might need to be sought.

The Government must provide a human rights memorandum for proposed international agreements once there is a draft text, unless the Minister has certified that no human rights issues could be engaged by the agreement. Such a memorandum could be very short for agreements raising few (if any) human rights issues. For those agreements raising more substantive human rights issues, such as complex trade or investment deals, extradition treaties, mutual legal assistance treaties or data sharing arrangements,

more detailed human rights analysis would be required. This should help to ensure that the human rights implications of the UK's international obligations are considered fully before the UK becomes bound by those obligations.

The Government should also report regularly to Parliament on the implementation of international agreements containing human rights protections, so that we can monitor compliance with human rights standards.

The Standing Order for the Joint Committee on Human Rights should be amended so that the remit covers "human rights relating to the UK's international obligations" as well as "matters relating to human rights in the UK".

The current restrictions on the export of arms and dual use items will remain in place immediately after Brexit, but the Government will have power to make changes by statutory instrument, or even by amending guidance. We recommend that the Government should consult the JCHR and the Committees on Arms Export Controls before making any such changes.

1 Introduction: Background

1. International agreements, covering everything from trade to cultural cooperation to law enforcement underpin our modern, globalised world. Indeed, there are very few areas where a country can set domestic policy without reference to international standards and agreements. Deals done in such agreements can impact on human rights—as the Northern Ireland Human Rights Commission has said in its evidence to us:

“International agreements entered into by the United Kingdom have the potential to impact on the protection of human rights in the UK and on the rights of others throughout the world”.¹

2. Justice or home affairs treaties, such as mutual legal cooperation or extradition treaties, or trade or investment deals allowing businesses special access to markets or the export of goods that could be used in human rights violations could all have the potential to impact human rights. The rights involved might be the rights of workers, the right to be free from servitude and forced labour, the right to a fair trial and the right to privacy of data as it passes across borders. However, different human rights considerations may apply to different types of agreement, so there could be a benefit in having tailored approaches to protecting rights in specific areas.

3. Currently, many of the international agreements binding the United Kingdom are made by the EU, which includes human rights clauses in international agreements as a matter of routine. International agreements made by the EU are scrutinised during the negotiation process both by the European Parliament, and the UK Parliament, through the European Scrutiny Committee in the Commons and the European Union Committee in the Lords. When the United Kingdom leaves the EU, the UK will be responsible for negotiating all its international agreements, including in areas such as trade where such negotiations were previously conducted by the EU. In preparing for Brexit, there will be an increased need for scrutiny of UK international agreements. It is therefore imperative that we consider whether UK practices are adequate to ensure that the UK’s international agreements respect the human rights of people in the UK as well as international human rights standards more generally.

4. The JCHR therefore launched an inquiry into how best to ensure compliance with human rights standards in international agreements and whether the parliamentary scrutiny of human rights compliance of these agreements should be improved. There is little regular scrutiny of international agreements that the UK negotiates. Government is not currently providing Parliament with adequate information in relation to human rights compliance of these agreements and moreover, Parliament is not very active on this topic. But we now have an opportunity to improve this system. Specifically, we considered:

- a) The internal Government processes and safeguards that are needed to ensure that human rights are adequately protected when the Government is negotiating agreements;
- b) The level of information that the Government should provide to Parliament about human rights protections in international agreements to enable adequate parliamentary scrutiny;

1 NIHRC ([HIA0013](#))

- c) The parliamentary process for scrutinising international agreements for human rights compliance;
- d) Whether there should be standard human rights clauses to protect human rights in international agreements; and
- e) What processes are needed to monitor human rights compliance in the implementation of international agreements.

5. We issued a call for evidence on 13 December 2018 and received 21 written submissions. We also heard evidence from Dr Lorand Bartels, Dr Sam Fowles, Dr James Harrison, Richard Jones, and Lord Ahmad of Wimbledon. We are grateful to all those who responded to our call for evidence and those who gave evidence orally, as well as those who drew our attention to other information.² We are also grateful for the further information provided by the Minister in his letter of 3 February 2018 and which can also be found on the website.³

6. We are very much aware that there is ongoing wider parliamentary work relating to parliamentary scrutiny of international agreements and we wish to complement that other work. This work includes:

- a) The Foreign Affairs Committee's Recent Report, "Global Britain: Human Rights and the Rule of Law", which recommended at paragraph 33:

"The Government will face conflicting priorities between human rights and other Government policies, especially trade deals. This may create short term conflicts, but the prioritisation of human rights is in the UK's long-term commercial, as well as moral, interest. The Government should commit to including human rights clauses within future trade agreements. In its response, the Government should set out how this commitment could work in practice. It should also explain to us the steps it is taking to promote joined-up working between representatives from other Government departments within posts."⁴

- b) There is ongoing work by the House of Lords Constitution Committee into how Parliament should scrutinise international agreements post Brexit. Appendix 1 contains a letter we received from the Chair of the House of Lords Constitution Committee, informing us that they are undertaking an inquiry exploring how Parliament should scrutinise treaties after the UK leaves the European Union.
- c) The International Trade Committee has also been looking into how Parliament should scrutinise international agreements post Brexit in its Report "UK Trade Policy, Transparency and Scrutiny",⁵ as well as considering future UK trade policies with specific third countries. In addition, the International Trade

2 A list of those who contributed is included at the back of this Report and all written submissions we received can be found on our website.

3 Foreign and Commonwealth Office ([HIA0022](#))

4 Foreign Affairs Select Committee, Thirteenth Report of Session 2017–19, [Global Britain: Human rights and the rule of law](#), HC 874

5 International Trade Committee, Sixth Report of Session 2017–19, [UK trade policy transparency and scrutiny](#), HC 1043

Committee is currently undertaking two relevant inquiries: the “UK Investment Policy” Inquiry and the “UK Department for Trade’s Support for Exports” Inquiry.

- d) The Procedure Committee has corresponded with the Secretary of State for Exiting the European Union making the point that the Government “ought not to assume that existing arrangements will in all cases be sufficient to handle the requirements of treaty scrutiny”⁶ in future.
- e) As part of the inquiry into select committee effectiveness, the House of Commons Liaison Committee is looking at how the UK’s future relationship with the EU might have an impact on select committees, including consideration of treaty scrutiny. This also fulfils the request made of the Liaison Committee by the Exiting the EU Committee to “examine the role of parliamentary committees in scrutinising treaties after the UK leaves the EU and consider proposals for a dedicated committee on treaties”. In addition, the Prime Minister has told the Liaison Committee that it would be helpful to have its input into Parliament’s role in developing the negotiating mandate for future UK-EU relations.
- f) The JCHR itself has previously adopted a position on human rights provisions in international agreements in the Report “Human Rights and Business 2017: Promoting responsibility and ensuring accountability”:

“We welcome the Government’s commitment that new bilateral trade agreements will include human rights protections at least equal to those currently included in EU trade agreements. We look forward to seeing this adhered to and will monitor progress with interest.

We encourage the Government to use the opportunity of Brexit to set higher human rights standards in future trade agreements, to include workable provisions on enforcement, and to undertake human rights impact assessments before agreeing trade agreements.”⁷

7. There is, rightly, a great deal of parliamentary attention on how best to engage with scrutiny of international agreements. Other committees have interests, and there are bodies who are better placed to consider what system will meet the needs of Parliament as a whole. We do not wish to pre-empt their work by proposing an overarching system for Parliament, but focus instead on what is needed to ensure proper scrutiny of human rights. We have, however, included suggestions from our witnesses in the report, and all our evidence is published online, available to colleagues working on the wider picture. If Parliament is to do more, and more systematic, scrutiny of international agreements, that scrutiny will need to be properly resourced.

6 Correspondence with Mr Charles Walker OBE MP, Chair of the Procedure Committee, and Rt Hon Steve Barclay MP, Secretary of State for Exiting the European Union, [regarding House of Commons scrutiny of International Agreements](#)

7 Joint Committee on Human Rights, Sixth Report of Session 2016–17, [Human Rights and Business 2017: Promoting responsibility and ensuring accountability](#), HC 443 / HL Paper 153, paras 238 and 239. The Government Response to these recommendations can be found in Appendix 2 and committed to supporting human rights.

2 Negotiation of International Agreements: Government process

8. International agreements are negotiated by the Government—usually by officials in the first instance, before requiring signature by a duly authorised Minister. The negotiating stage is therefore key—both the decision to enter into negotiations with a given country on a given subject, and the negotiating objectives to achieve (including any “red lines” in any negotiation). Human rights need to be considered at the outset of such negotiations.

9. Many commentators have highlighted the importance of ensuring that adequate human rights awareness and expertise are available during the negotiation of international agreements, and that such expertise is embedded within the negotiating teams. The Institute for Human Rights and Business said the Government should include:

“Human rights capacity within future trade missions. Understanding human rights due diligence is increasingly necessary for all UK companies overseas [...].”⁸

10. However, we were concerned to note that the Minister for Human Rights had not been involved in the negotiation or preparation of the UK-Israel Agreement and did not know what human rights protections were (or were not) in the UK-Israel Agreement which was announced on the same day as our evidence session. **We consider that the human rights Minister and his team should know about such agreements so as to be satisfied about the human rights protections contained in such agreements.**

11. *The Government must ensure that human rights expertise is embedded into the negotiating teams working on all international agreements.*

12. *The Government must undertake adequate human rights analysis of all international agreements as part of its internal sign-off process. For simpler agreements there should be a memorandum. For more complex agreements (such as complex trade agreements) a human rights impact assessment might be more appropriate.*

3 Human Rights Issues in Different Types of Agreements

13. There is a strong case for requiring minimum standard processes, practices and clauses to protect and promote human rights in all international agreements—this would ensure that all agreements had the requisite scrutiny and content to prevent against international agreements facilitating human rights abuses. However, while some standardisation may be desirable, as we discuss below, a one-size-fits-all approach to international agreements—whether in terms of parliamentary scrutiny, standard human rights clauses, analysis/impact assessments or other requirements—is perhaps unwise.

14. The content and nature of international agreements can vary enormously. Generic clauses about mutual commitments to the international human rights framework and the Rule of Law might be suitable for a wide-ranging overarching political agreement, whereas a specific extradition agreement might need tailored protections, for example, relating to the use of the death penalty, the right to a fair trial, or torture (or evidence obtained by torture). Specific considerations might be appropriate for trade agreements to ensure that trade liberalisation does not prevent a state from maintaining or improving human rights and workers' rights standards—or is not used to facilitate modern slavery. Similarly there might be concerns that products exported should not be used in human rights abuses (such as torture, genocide, repression). Other agreements might raise very few human rights considerations and so warrant lesser focus from Parliament and not require clauses to protect or promote human rights.

15. The paragraphs below highlight some of the issues raised in our evidence in relation to trade agreements, data-sharing, extradition and mutual legal assistance.⁹ However, these are purely indicative—other areas exist that could also require a specific focus. **The FCO highlights the Government's normal practice in relation to different types of treaties; we consider it would be useful to ensure this practice is standardised and any departure from best practice is properly scrutinised by Parliament.**

Data Sharing

16. Data protection, data sharing and data flows were raised as a key human rights concern in future international agreements. The Institute for Human Rights and Business argued that the UK needed to ensure it had an adequacy agreement with the EU for data-sharing and data flows and that the UK should keep the data protection standards set out in the GDPR.¹⁰

17. Other submissions highlighted concerns around the lack of international data-sharing standards when it came to intelligence cooperation, arguing that specific guarantees should be put in place to ensure that agreements on this subject contain adequate protections, such as due diligence risk assessments when complying with a request for information under such arrangements.¹¹

9 See in particular Institute for Human Rights and Business ([HIA0005](#)) and Hong Kong Watch ([HIA0006](#))

10 Institute for Human Rights and Business ([HIA0005](#))

11 See for example the written evidence from Mrs Sybil Gilbert ([HIA0002](#))

18. The FCO's evidence said:

“The UK is committed to ensuring that personal data is protected, while enabling the exchange of data over international borders. The ability to collect, share, and process personal data is crucial for consumers, business and public sector, including law enforcement organisations... As an EU member state, the UK currently benefits from the free flow of data, including data collected for law enforcement purposes, with other EU MS and those third countries that the EU has deemed adequate. Once the UK has left the EU, we will need to establish our own regime for the international transfer of data. To the extent that these arrangements involve entering into new international agreements, the UK would ensure that they were consistent with our human rights obligations. The UK will remain able to share data with other states in relation to national security and counter-terrorism, subject to existing legal obligations and safeguards.”¹²

Extradition

19. Extradition agreements can obviously raise specific human rights issues, for example if an individual to be extradited might not face a fair trial, or might face mistreatment or death row phenomenon. Specific protections are therefore required in agreements establishing extradition procedures. In relation to extradition agreements, the FCO submission set out the background:

“Human rights considerations are and will continue to be an important aspect of the negotiation of extradition treaties. In our bilateral extradition agreements, it is common practice to include a specific reference to respect for human rights and the rule of law as part of the legal context against which the treaty must be interpreted. It is usual to provide that an extradition request can be refused where extradition would breach the human rights of the person sought. Additional protections, including in relation to the death penalty, are included where relevant. A decision on an extradition request will be subject to the protections set out in domestic law, including the Extradition Act 2003 and the Human Rights Act 1998. Every requested person has the ability to challenge extradition before the domestic courts.”¹³

Mutual Legal Assistance

20. Mutual Legal Assistance also requires specific human rights consideration. The FCO's evidence sets out some of the issues that need consideration in the negotiation and implementation of such Agreements:

“Human rights issues form an important part of the legal context against which MLA treaties should be interpreted. Human rights concerns will often be included in the grounds for refusal or postponement of assistance. These could include the risk of prosecution because of a person's characteristics such as race, gender, or sexual orientation. MLA agreements will also address confidentiality, limitations on use, and data protection. UK practice is to

12 Foreign and Commonwealth Office ([HIA0016](#))

13 Foreign and Commonwealth Office ([HIA0016](#))

specify in MLA treaties that the provision of assistance by the requested State is subject to its domestic law and therefore the provision of assistance by the UK will be subject to domestic human rights protections.”¹⁴

Trade, Investment, Supply Chain and Modern Slavery

21. Trade Agreements have the potential both to promote and to undermine human rights and there is strong evidence that these agreements require a specific human rights focus—not least given the wide variety of human rights affected by trade and investment agreements. As the Institute for Human Rights and Business noted:

“Cross-border trade in goods, services, and the movement of people across borders, can all have beneficial impacts for human rights. For the beneficial impacts to be realised and harmful impacts to be mitigated or eliminated, it is important that trade is rules-based. These rules should be consistent with international standards.”¹⁵

22. The Trade Justice Movement highlighted how trade agreements can interfere with the ability of a State to regulate domestically:

“They may affect human rights, since regulations can concern health standards, labour rights and data privacy. Indeed, these are all areas which modern trade agreements cover”.¹⁶

23. Moreover, as the Equality and Human Rights Commission noted:

“The UK’s National Action Plan on Business and Human Rights, last updated in 2016, contains a commitment to ‘consider the possible human rights impacts of free trade agreements, including where these include investment protection provisions, and take appropriate steps including through the incorporation of human rights clauses as appropriate’.”¹⁷

24. The Institute for Human Rights and Business also usefully highlighted the relationship between trade and business standards, modern slavery, supply chain and export credit rules:

“UK-based companies which are affected by international agreements, including trade agreements, may not have directly caused adverse human rights impacts abroad, but they may have enabled or facilitated abuses by their failure to exercise sufficient due diligence with regard to specific conduct of their partners, subsidiaries, associates, or suppliers located in other jurisdictions. This understanding is embodied in the UN Guiding

14 Foreign and Commonwealth Office ([HIA0016](#))

15 Institute for Human Rights and Business ([HIA0005](#))

16 Trade Justice Movement ([HIA0014](#))

17 Equality and Human Rights Commission ([HIA0017](#)); HM Government, Good Business, Implementing the UN Guiding Principles on Business and Human Rights, [Cm 9555](#), May 2016 [accessed: 8 January 2019].

Principles on Business and Human Rights as well as the OECD Guidelines for Multinational Enterprises, two standards which the UK Government has strongly supported since their inception.¹⁸

The UK Government already requires companies to undertake human rights due diligence and/or disclosure based on international standards—such as the requirements of the 2015 Modern Slavery Act, the rules governing export credit¹⁹ or new commitments announced relating to those businesses in the government’s own supply chain.”²⁰

Investor-State Dispute Settlement

25. Investor-State Dispute Settlement (ISDS) was a particular area of concern. Witnesses generally agreed that the current system was not working—it was extremely expensive and did not adequately ensure that human rights were protected.²¹ There was evidence that it was preferable to rely on recourse to the general court system to resolve disputes, although that in turn relies on good standards of the rule of law in the domestic courts.²²

26. The Trade Justice Movement explained:

“Modern trade agreements often include Investor-State Dispute Settlement (ISDS) mechanisms, which allow investors to sue host states for any actions which harm their profits. [...]

ISDS uses a ‘parallel’ legal system of private arbitration courts, which unlike domestic courts, are not bound to recognise or take account of states’ obligations on human rights. As the UN’s Independent Expert concluded, ISDS does “not oblige the arbitrators to give priority to human rights treaty norms.”²³ This means that a state could be successfully sued for enacting legislation to protect human rights.”²⁴

27. There are significant concerns that not only do the arbitration courts used in ISDS not meet the standards required by the rule of law, but they are also expensive for the tax payer (since there is a high cost even if the state successfully defends a case against an investor). There is growing evidence that States are discouraged from introducing regulatory measures, for example to promote and protect human rights, labour rights and health due to the “regulatory chill” caused by the perceived threat of legal challenge under these investment rights. As the Trade Justice Movement noted:

18 Institute for Human Rights and Business ([HIA0005](#)). Human rights due diligence involves companies identifying actual and potential risks and impacts of their actions across their operations and their supply chains and services they use. Companies should assess risks; identify their leverage, responsibility, and actions; mitigate risks and devise remedies; and monitor, review, report, and improve performance.

19 Gov. UK, [UK Export Finance: Environmental, Social and Human Rights Policy](#). IHRB’s CEO, John Morrison, serves on the Advisory Council for UK Export Finance.

20 Gov UK, Speech: [PM G20 House of Commons statement](#): 3 December 2018

21 See, for example, evidence from Amnesty International UK ([HIA0015](#))

22 See, for example, [Q2](#)

23 United Nations, General Assembly, [Promotion of a democratic and equitable international order](#), 5 August 2015, p 4

24 Trade Justice Movement ([HIA0014](#))

“For example, a government might choose not to introduce popular anti-fracking legislation if foreign firms have already invested in fracking in that country, for fear of the financial repercussions. This can also affect human rights legislation: indeed, there are examples of ISDS being used to challenge discrimination laws in South Africa,²⁵ labour rights in Egypt²⁶ and health regulations in Australia.²⁷ These cases are all related to important human rights (non-discrimination, labour rights and health) which are under threat from ISDS challenges in trade agreements.”²⁸

28. Dr Sam Fowles said:

“The tribunals as they stand are incredibly problematic in terms of the rule of law. I am sure my colleagues will give many examples of that. In response to opposition to CETA, the EU has introduced the investment court system, the ICS, which is slightly better but not much better.”²⁹

Dr James Harrison said:

“The economic analysis for having investor-state dispute settlement is not compelling. There is no compelling reason to show that investors invest more because of the presence of these treaties. You would want compelling evidence before you signed up to them, because they give powerful rights to corporations to sue, as Sam was saying. I recently wrote a book with 12 other academics arguing that we should abolish ISDS. [...]

We are now at a period where the whole system of investor protection is under scrutiny. There are reform efforts going on around the world. There are different ideas about what should happen. The UK should pause very carefully before deciding what it does. [...]

You want to look very carefully at this: do we want international arbitration panels making decisions on these issues? Why in a country such as the UK, where we have very good judicial systems, would we want cases potentially decided outside our legal system? [...]

There are lots of different concerns. One of them is that these tribunals are ad hoc, so there is no system of appellate review, so you get divergent opinions about key legal principles. There are coherence arguments. Then you have more fundamental questions about whether investors should have the right to sue for very large amounts of money through these international processes and whether their rights should be privileged. Why can they not take out insurance to insure themselves against the political

25 See [Foresti v South Africa](#), Italian investors challenged a law designed to advantage disadvantaged ethnic groups

26 See [Veolia v Egypt](#), French multinational challenged minimum wage laws

27 See [Philip Morris v Australia](#), tobacco giant challenged cigarette packaging laws

28 Trade Justice Movement ([HIA0014](#))

29 [Q2](#)

risk of operating in risky countries? Why, in essence, does it come out of the public purse rather than the private purse of the companies that are operating there?”³⁰

29. Human rights must be protected in investment agreements and any litigation arising from those agreements. There are clear human rights and rule of law concerns with arbitration as a means of Investor-State dispute settlement. Investor rights should not be privileged over human rights. Any system established for dispute settlement must be fair, accessible and cost-efficient.

4 The Case for Standard Human Rights Clauses

30. As the Foreign and Commonwealth Office has set out in the letter from Lord Ahmad to the Chair:

“The UK’s exit from the EU provides us with an opportunity to explore how we can most appropriately use free trade agreements to pursue broader international objectives while recognising the need for a balanced and proportionate approach. The Government is exploring all options in the design of future trade and investment agreements, including relevant human rights provisions within these”.³¹

31. As the Institute for Human Rights and Business submission noted, human rights protections clauses, and clauses to protect labour standards (including against modern slavery) are increasingly the norm in international agreements:

“Increasingly, countries are relying on trade agreements to advance foreign policy goals, which include promotion and protection of human rights. Recent studies have shown that countries including the United States, Canada, New Zealand, Australia, Chile, Japan, and the European Union have incorporated clauses and sections in their trade agreements with many countries that support specific goals, in particular implementation of adequate labour conditions and protection of labour rights, transparency and anti-corruption measures, environmental standards, and in some instances, standards with respect to specific commodities whose trade bears an impact on human rights.

Labour rights protections are often part of bilateral agreements. One study shows that nearly half of the trade agreements signed since 2008 had labour provisions, and over 80% of agreements entering into force since 2013 have had labour provisions. Similarly, more than two-fifths of trade agreements concluded since 2000 have incorporated anti-corruption and anti-bribery components which go beyond WTO rules. Some agreements have also included guarantee for political participation and protection of indigenous and cultural rights.”³²

32. Following a stand-off between the European Parliament (EP), the European Commission and the Council of the EU in the early 1990s, an agreement was reached that all EU-third country agreements would contain “political clauses”, which the EP had insisted on. These “political clauses” would set out prerequisites for cooperation that related to human rights standards—as well as other prerequisites relating to democracy and non-proliferation (in particular of Weapons of Mass Destruction and Small Arms and Light Weapons). Were a party to such an Agreement to violate human rights or democratic principles, then the other party could take “appropriate measures” (counter-measures) under the Agreement. The relevant EU website reflects this position: “All agreements on

31 Foreign and Commonwealth Office ([HIA0022](#))

32 Institute for Human Rights and Business ([HIA0005](#)). Full references contained in this quotation can be found in the submission published online.

trade or cooperation with non-EU countries (over 120 now) include a human rights clause stipulating that human rights are central to relations with the EU. The EU has imposed sanctions for human rights breaches in a number of instances.”³³ A recent Study by the European Parliament provides useful background information.³⁴

33. As the Northern Ireland Human Rights Commission noted:

“The Commission supports the use of standard exemption clauses to ensure that commitments entered into under international agreements do not undermine the UK Government’s commitment to human rights [...]. The use of standard exemption clauses may provide mutual reassurance between the UK and potential signatories to agreements that the rights of their respective citizens will be protected when implementing international agreements.”³⁵

34. Many commentators consider that there is a strong case for standard exemption and suspension clauses, but that these need to work together as a package of human rights clauses and that, importantly, they need to be enforceable. Our witness Dr Sam Fowles noted three reasons why standard exemption and suspension clauses were important: (i) international agreements are legally self-contained, so human rights protections must be explicitly written into the text of that agreement; (ii) international agreements create special classes of rights, so human rights need equivalent protection under the agreement; and (iii) human rights arguments are rarely considered unless there is an explicit requirement to do so.³⁶ However, he expressed some caution at over-reliance on such clauses alone:

“An exclusion clause alone will have only limited impact in protecting human rights because it acts only as a “shield”. Other rights-protecting clauses, such as investment protection clauses, can also act as a ‘sword’ by creating a cause of action against the other party. This means that human rights remain less powerful (in terms of providing an incentive for action) than other rights protected by international agreements. This is an example of a wider issue of equality of arms in public international law. The rights of individuals (including human rights) are formally proclaimed in a manner similar to other rights (such as the rights of international investors) but cannot be enforced in an equivalent manner.

Suspension clauses may go some way to addressing this issue if they are drafted sufficiently strongly. The type of suspension clause used in many EU-third state trade agreements permits a party to adopt “appropriate measures” if the other party fails to adhere to a human rights clause. While this goes some way to creating a “sword” for human rights, it is not equivalent to that available for investment rights because (a) it does not offer comparable, specific sanctions and (b) it can only be enforced by states. If the UK is to ensure genuine human rights protections are included in international agreements it must include in those agreements both [an]

33 European Union, Development and Humanitarian Aid, Human Rights, [EU Charter of Fundamental Rights](#)

34 European Parliament, Director-General for External Policies, Policy Department, [The European Parliament’s role in relation to human rights in trade and investment agreements](#), 2014

35 NIHRC (HIA0013)

36 Dr Sam Fowles ([HIA0007](#))

exclusion clause and some form of positive human rights protection that is enforceable in a manner equivalent (although not necessarily the same) to the rights of investors.”³⁷

35. Amnesty International UK was clear on the need for an exemption clause:

“Human rights exemptions clauses are necessary to reflect the fact that international agreements can have widespread impacts, from working conditions to healthcare. Without such clauses, other States and parties to such agreements (e.g. multinational enterprises) might pursue conflicting objectives, such as hindering regulation designed to safeguard human rights in the public interest for the benefit of unscrupulous private sector operators.”³⁸

36. Other submissions argued the need for specific standard clauses in international agreements to protect specific human rights, such as requiring a specific reference to compliance with children’s rights as set out in the United Nations Convention on the Rights of the Child, as well as the rights of children set out in UK legislation.³⁹ Others highlighted the importance of standard clauses to require that the human rights of disabled people were respected, especially in relation to access to products.⁴⁰

37. However, for the reasons set out in the chapter above, there are reasons why a one-size-fits-all approach to standard clauses for all international agreements would not work. It might instead be better to have standard clauses for trade and investment agreements, standard “essential elements” clauses for overarching agreements (or indeed all agreements), and tailored clauses for other specific agreements such as those relating to extradition, mutual legal assistance and data-sharing.

38. As Dr James Harrison noted:

“[...] there are a number of reasons to be concerned about relying on standard clauses to address many of the human rights issues [...] including:

- The key human rights concerns in different trade relationships/partner countries will be different and so human rights provisions may benefit from being tailored to address those issues.
- Effective human rights clauses are about more than just text on a page. They normally require institutional structures, resources, political will etc. to make them effective. Recommendations which focus only on the clauses themselves rather than on actors, processes, resources etc. are unlikely to effectively address human rights issues on the ground.
- When considering the formulation of standard human rights clauses, officials will often rely on existing practice from which to derive their own models. Given that the UK is currently a signatory to EU trade and investment agreements, this is the most likely source of inspiration. The deficiencies of EU practice have been highlighted [...] Given the UK’s

37 Dr Sam Fowles ([HIA0007](#))

38 Amnesty International UK ([HIA0015](#))

39 Written submission from Dr Roger Morgan ([HIA0001](#))

40 See for example Business Disability Forum ([HIA0018](#))

heavily reduced post-Brexit economic leverage, even more careful scrutiny is required of what human rights clauses on paper will actually achieve in practice.”⁴¹

39. The Law Society of Scotland has recommended that the UK continues the EU’s system of using the Generalised System of Preferences (GSP)⁴² in the context of trade agreements to promote human rights in third countries, through making GSP preferences contingent on those countries meeting human rights conditions.⁴³

40. Current trade agreements binding on the UK through the EU contain specific clauses to promote and protect human rights, including suspension clauses to suspend an agreement if core human rights standards are not met. The habitual inclusion of standard clauses for human rights protections such as suspension clauses, and exemption clauses to prevent an agreement being misused to override human rights protections, should not slip following Brexit. Moreover, lessons should be learned from the EU experience as to how best to use and enforce such clauses.

41. It is clear that there are many human rights concerns that arise in different agreements and many different model clauses. Moreover, no standard clause is effective without an adequate enforcement mechanism. However, this does not mean that standard human rights protections cannot be effective. *Standard human rights protections should be included in all agreements, with exact clauses tailored depending on the subject-matter of the agreement.*

42. *Exemptions clauses should also be included in all agreements, providing that nothing in the agreement prevents a party to the agreement from taking measures to protect or promote public morals (including human rights standards).*

43. *Suspension clauses should be included in all framework agreements - and included in trade agreements where not otherwise covered by a framework agreement. Such suspension clauses should highlight the importance of respect for human rights, including the Universal Declaration of Human Rights and other international agreements binding on the parties, and should provide for suspension of the agreement in case of a significant breach of these standards.*

44. *Specialised human rights protections clauses should be included to protect human rights in specific sectoral agreements. This should include specific clauses in extradition agreements, mutual legal assistance agreements, data sharing agreements and agreements where labour rights or modern slavery could be at risk. The Government should consult on a set of standard clauses to be included in all relevant agreements.*

41 University of Warwick ([HIA0020](#)). One study of EU human rights clauses concluded that any results they produce in relation to third countries is restricted to countries over which the EU holds substantial economic leverage. See Velluti, above n.6. Instead of speaking on behalf of a potential market of more than 500 million consumers, the UK now government now speaks on behalf of a market of 65 million. This diminishes the UK’s bargaining power. Claims that this bargaining power will be used to protect and promote human rights rather than commercial interests should be scrutinised very carefully.

42 The EU’s Generalised System of Preferences allows vulnerable developing countries to pay fewer or no duties on exports to the EU, giving them vital access to the EU market and contributing to their growth. For further information see: European Commission, [Generalised Scheme of Preferences](#) (GSP)

43 The Law Society of Scotland ([HIA0021](#))

5 Parliamentary Scrutiny of International Agreements

The current system for parliamentary scrutiny of international agreements

45. Historically the Government has had wide prerogative powers concerning treaty negotiations and signature, with little parliamentary involvement, as compared to some other countries' systems. Indeed, even now, any parliamentary involvement in scrutinising international agreements is done late in the process, usually after a text is finalised. Moreover, treaties that require little to no change to UK laws often receive minimal scrutiny from Parliament (or indeed elsewhere).

46. In some countries international agreements have direct legal effect in domestic law ("monist" systems). The UK has a "dualist" constitutional system, whereby changes are needed to domestic law in order to give legal effect to an international agreement's provisions in domestic law. Therefore, if changes to domestic legislation are needed for the UK to be able to comply with the obligations in a treaty, then legislation is required (whether secondary or primary legislation). In such cases, while the Government can sign a treaty which would require changes in domestic law, the UK normally only ratifies an agreement once domestic legislation is in force (and therefore once the UK is in a position to be bound by and comply with those international obligations in that agreement).

47. The Constitutional Reform and Governance Act 2010 (CRaG) sought to clarify the parliamentary role in relation to international agreements. Under CRaG, before the Government can ratify a treaty it must be laid before Parliament for 21 sitting days. In principle, the House of Commons could block such a treaty but it would require repeated motions to do so; the House of Lords can express concern in debate, to which the Government must reply, but has no such blocking mechanism.

48. The FCO's submission sets out the current system for parliamentary oversight of international agreements under the Constitutional Reform and Government Act 2010 (CRaG):

"Under the UK constitution, making, amending and withdrawing from treaties are functions of the executive carried out in the exercise of the Royal Prerogative. The principal statutory framework providing for parliamentary scrutiny of treaties is the Constitutional Reform and Governance Act 2010 (CRaG) [...] human rights issues which may be of interest to Parliament will be highlighted within an Explanatory Memorandum which accompanies all treaties laid before Parliament pursuant to CRaG. As the Committee will be aware, if a treaty raises significant Human Rights issues, a copy of the Memorandum will be sent to the JCHR. In all cases, a copy will also be sent to the Foreign Affairs Committee, and to any other Select Committee which has expressed an interest, and the Government will engage with those Committees accordingly."⁴⁴

49. As this shows, treaties and Explanatory Memoranda are meant to be sent to the relevant Commons select committee(s), and any human rights engaged should be highlighted in the Explanatory Memorandum. Where human rights issues are engaged, the Explanatory Memorandum should be sent to the JCHR.

50. We have examined a sample of recent treaties and it is clear that this process is not being followed adequately—few Explanatory Memoranda contain a section on human rights analysis. Even international agreements on subjects such as extradition or mutual legal assistance, which would naturally raise human rights issues, do not contain the relevant analysis or information on human rights compatibility.⁴⁵ There is no flow of information to the JCHR.

51. A table of recent agreements and memoranda laid under CRaG shows the lack of analysis of human rights. Table 1 shows multilateral agreements for 2018. Table 2 shows bilateral agreements for 2018.

Table 1: Multilateral agreements and memoranda laid in 2018

Name of Agreement	Human rights analysis in EM:
[MS No.15/2018] Convention on the Simplification of Formalities in Trade in Goods and Council Decision	EM states: "Human Rights: There are no human rights considerations."
[MS No.14/2018] Convention on a Common Transit Procedure and Council Decision	EM states: "Human Rights: There are no human rights considerations."
[MS No.13/2018] UK/IAEA: Agreement for Application of Safeguards in Connection with Treaty on the Non-Proliferation of Nuclear Weapons	No reference to human rights
[MS No.12/2018] UK/IAEA: Protocol Additional to Agreement for Application of Safeguards in Connection Treaty on Non-Proliferation of Nuclear Weapons	No reference to human rights
[MS No.11/2018] Convention on Choice of Court Agreements	EM states: "(iii) Human Rights Accession to the Convention does not raise any human rights concerns."
[MS No.10/2018] Convention on International Recovery of Child Support and Other Forms of Family Maintenance	EM states: "(iii) Human Rights Ratification of the Convention does not raise any Human Rights concerns."

45 See for example the lack of any section on human rights compatibility in the Explanatory Memorandums for the recent UK/Kuwait Treaty on Mutual Legal Assistance in Criminal Matters: International treaty, [\[CS Kuwait No.2/2018\] UK/Kuwait: Treaty on Mutual Legal Assistance in Criminal Matters](#), 5 July 2018 or the UK/Kuwait Extradition Treaty: [International treaty, \[CS Kuwait No.1/2018\] UK/Kuwait: Extradition Treaty](#), 5 July 2018

Name of Agreement	Human rights analysis in EM:
[MS No.9/2018] Interbus Agreement with Protocol and Decision	No reference to human rights
[MS No.8/2018] Framework Agreement on the establishment of the International Solar Alliance	No reference to human rights
[MS No.7/2018] Agreement Establishing the Inter-American Investment Corporation	No reference to human rights
[MS No.6/2018] Amendments of the texts and annexes to the 1999 Protocol to Abate Acidification, Eutrophication and Ground-level Ozone	No reference to human rights
[MS No.5/2018] Protocol to Eliminate Illicit Trade in Tobacco Products	No reference to human rights
[MS No.4/2018] Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	No reference to human rights
[MS No.3/2018] Agreement extending the Framework Agreement for International Collaboration on Research and Development of Generation IV Nuclear Energy Systems	No reference to human rights
[MS No.2/2018] Amendments to texts and various annexes to 1998 Protocol on Persistent Organic Pollutants and 1998 Protocol on Heavy Metals	No reference to human rights
[MS No.1/2018] Convention on Road Traffic as amended	No reference to human rights

Source: Foreign and Commonwealth Office, Multilateral treaties published in the Miscellaneous Series. First published [17 April 2013](#)

Table 2: Bilateral agreements and memoranda laid in 2018

Name of Agreement	Human rights analysis in EM
[CS USA No.1/2018] UK/USA: Agreement for Cooperation in Peaceful Uses of Nuclear Energy	No reference to human rights
[CS Turkey No.1/2018] UK/Turkey: Agreement on the Establishment, Functioning and Activities of Cultural Centres	No reference to human rights
[CS Poland No.1/2018] UK/Poland: Treaty on Defence and Security Cooperation	No reference to human rights
[CS Kuwait No.2/2018] UK/Kuwait: Treaty on Mutual Legal Assistance in Criminal Matters	No reference to human rights (or human rights section) despite obvious human rights issues in the content.

Name of Agreement	Human rights analysis in EM
[CS Kuwait No.1/2018] UK/Kuwait: Extradition Treaty	No reference to human rights (or human rights section) despite obvious human rights issues in the content.
[CS Canada No.1/2018] UK/Canada: Agreement for Cooperation in the Peaceful Uses of Nuclear Energy	No reference to human rights
[CS Australia No.1/2018] UK/Australia: Agreement for Cooperation in the Peaceful Uses of Nuclear Energy	No reference to human rights
[CS Albania No.1/2018] UK/Albania: Agreement with Albania supplementing the European Convention on Extradition	No reference to human rights (or human rights section) despite obvious human rights issues in the content.

Source: Foreign and Commonwealth Office, Bilateral treaties published in the Country Series. First published [October 2013](#)

52. The current system intended to ensure Parliament has information about the human rights implications of proposed agreements is not working. Parliament has not received adequate or timely information from Government about the potential human rights implications of international agreements being negotiated or those subject to CRaG scrutiny.

53. There is more parliamentary involvement where legislative change is required. As the FCO's submission explained:

“[...] Where a treaty requires changes to UK law, the necessary changes are made before the treaty is brought into force for the UK. It is Parliament which determines whether and how those changes are made. In the case of primary legislation, the relevant Government Department submits a report to the JCHR, with its introduction accompanied by a statement of the responsible Minister on the compatibility of the new instrument with Convention rights, within the meaning of the Human Rights Act 1998. In the case of secondary legislation, the Explanatory Memorandum highlights any human rights issues which may be of interest to Parliament.”⁴⁶

54. There is, therefore, little opportunity for Parliament to scrutinise international agreements negotiated by the Government, either before or after the UK has signed a treaty. The scrutiny required under CRaG is after signature, and therefore precludes any meaningful input into the provisions of a treaty, and is for such a short period of time as to undermine any meaningful scrutiny. Under international law, even without ratification, when a State signs an international agreement, it takes on an international obligation not to defeat the object and purpose of an agreement.⁴⁷ Yet, it is only after taking on this obligation by signing a treaty that, in those rare cases requiring legislation, Parliament will have some involvement. However, this involvement will be too late for any meaningful input into the agreement which has already been negotiated.

46 Foreign and Commonwealth Office ([HIA0016](#))

47 See Article 18 Vienna Convention on the Law of Treaties 1969.

How to improve parliamentary oversight of human rights protections in international agreements

55. The submissions that we have received overwhelmingly recommend that the current system of parliamentary oversight of human rights protections in international agreements should be strengthened and improved.

56. In explaining the current challenges, Dr Sam Fowles in his submission noted:

“At present, Parliament’s role in treaty-making, as (largely) defined by Part 2 of the Constitutional Reform and Governance Act 2010 (“CRAGA”), is based on outdated principles and is not fit for purpose. The present scheme was developed at a time when foreign policy had a relatively limited impact on the domestic rights of citizens. As a result of globalisation, that is no longer the case.

Parliament’s role in treaty-making should be updated based on the principle that the level of scrutiny to which a treaty is subjected should match the level of impact that treaty will have on citizens’ rights including, in particular, human rights (“the Accountability Principle”). This is particularly important in the case of human rights because (a) human rights are fundamental rights and therefore merit the most rigorous standard of protection, and (b) human rights are universal so the UK has a moral responsibility to take into account both the human rights of UK citizens and of foreign citizens.”⁴⁸

57. As the Institute for Human Rights and Business said:

“The case for UK Parliamentary oversight of human rights protections contained in international agreements contemplated by the UK is overwhelming [...] International trade and support for international human rights standards are two of the key “selling points” for the UK abroad—both are essential and neither should undermine the other.”

Such agreements are often devised by technical staff focused on specific issues relevant to the department, with limited regard to broader UK commitments on human rights, transparency, and the environment. Objectives of companies and industry associations may not always align with broader human rights goals of a government. Scrutiny by a parliamentary committee is therefore essential, as has been the case for EU trade agreements.”⁴⁹

58. The timing of parliamentary involvement is a particular issue: any new system must ensure parliamentary input into international agreements at the negotiating mandate stage as well as at the ratification stage, so that Parliament is not merely presented with a fait accompli.⁵⁰

48 Dr Sam Fowles ([HIA0007](#))

49 Institute for Human Rights and Business ([HIA0005](#))

50 See for example, The Law Society of Scotland ([HIA0021](#))

59. The Law Society of Scotland said:

“At a minimum, trade policy documents, including negotiation texts, should be made available to parliamentarians, both in Westminster and the devolved administrations and legislatures, to enhance transparency, facilitate scrutiny and strengthen democratic accountability. In an EU context, MEPs are able to consult such documents in so-called reading rooms, as was done in the case of EU-US TTIP negotiations. [...]

Similarly, we consider that human rights protections should also be included in other types of international agreements, and scrutiny might be better achieved through the same sorts of mechanisms as suggested for trade agreements.”⁵¹

We endorse the importance of including the devolved administrations and legislatures in the scrutiny process particularly as regards Human Rights. In terms of the devolved settlement, human rights are not reserved insofar as they apply to devolved competences (except save in so far as regards the amendment or repeal of the Human Rights Act 1998). We note the important work done by the First Ministers Advisory Group on Human Rights Leadership in this regard.⁵² We also note that the International Trade Committee report on UK trade policy transparency and scrutiny recommended a statutory role for the devolved administrations in the formulation of trade policy, the negotiation process and the scrutiny of agreements prior to ratification.⁵³

60. Witnesses presented different ideas for improving parliamentary scrutiny. Dr James Harrison suggested that parliamentary scrutiny might have five aims: (i) addressing the human rights situation in (future) trade partners; (ii) taking action to ensure that trade agreements do not lead to trade in human-rights-sensitive-goods (e.g. arms) between the UK and its trade partner causing human rights violations; (iii) taking action to ensure that trade in non-sensitive goods (e.g. chicken) does not negatively affect the human rights of people in the UK and/or trade partner; (iv) seeking to have positive human rights impacts through obligations in the trade or investment agreement itself (e.g. tackling slavery in supply chains); and (v) ensuring against negative human rights impact of obligations in the trade or investment agreements itself (e.g. investor protection provisions or intellectual property provisions). He considered that:

“The processes, information and analysis needed in relation to each of these five aims will be very different, as will any role for the JCHR. For instance, in relation to aim 1 above, the initial information required will be primarily in relation to the human rights situation in the potential trade partner country. In relation to aim 5, the most important initial information will be the negotiating text of the trade or investment agreement. Subsequent analysis undertaken will then be very different in nature, as will be the processes and mechanisms which would be needed to address any human rights issues arising.”⁵⁴

51 The Law Society of Scotland (HIA0021)

52 [First Minister's Advisory Group on Human Rights Leadership, Recommendations for a new human rights framework to improve people's lives - Report to the First Minister](#), 10 December 2018

53 International Trade Committee, Sixth Report of Session 2017–19, [UK trade policy transparency and scrutiny](#), HC 1043, paras 83–85 and Conclusions and Recommendations 9–11

54 University of Warwick ([HIA0020](#))

61. Some noted that there should be a way of concentrating parliamentary energy where it was most needed, so suggested a screening and scrutiny process for human rights concerns in international agreements. For example, Dr Sam Fowles said:

“Not all international agreements will impact on human rights to the same extent. Further, international agreements (particularly trade and investment agreements) are often highly complex and wide ranging, making adequate scrutiny by a whole house of parliament impractical. The JCHR can therefore play an important role in the scrutiny of international agreements in two ways:

- Acting as a part of a screening system, by identifying the likely impact of treaties on human rights and recommending an appropriate level of scrutiny.
- Undertaking in-depth scrutiny of the human rights implications of international agreements and making recommendations to the full house accordingly.”⁵⁵

Information supplied to Parliament

62. One challenge in undertaking both the sifting and scrutiny role is that much depends on the timing and quality of information supplied to Parliament by Government. Many submissions argued for better information to be provided to Parliament⁵⁶ and indeed submissions often argued for increased transparency more generally.⁵⁷ As noted above, the JCHR rarely receives Explanatory Memoranda on international agreements specifically addressing human rights compatibility or otherwise raising human rights concerns. This needs to be improved significantly if Parliament is to perform an adequate sifting and scrutiny role.

63. There have been different solutions proposed to address this gap in adequate, timely information being provided to Parliament. The Northern Ireland Human Rights Commission has argued for an obligation for a Minister to make a statement of compatibility in relation to proposed international agreements, similar to those required for primary legislation:

“This requirement for a statement and accompanying analysis should go beyond a simple statement of compatibility to state the basis for such an assessment and any variance from international human rights standards and the rationale for any such variance. This would ensure that such a statement is meaningful and avoids becoming formulaic. This statement should also set out what mechanisms are in place to resolve disputes that arise within international agreements.”⁵⁸

55 Dr Sam Fowles ([HIA0007](#))

56 See for example, Amnesty International UK ([HIA0015](#)), the Equality and Human Rights Commission ([HIA0017](#)), and the Business Disability Forum ([HIA0018](#))

57 See for example, The Law Society of Scotland ([HIA0021](#))

58 NIHRC ([HIA0013](#))

64. Moreover, the Northern Ireland Human Rights Commission has argued the case for requiring the Government to conduct human rights impact assessments of trade agreements post-Brexit:

“The OHCHR Guiding principles on human rights impact assessments provide clear guidance on what should be included in such an assessment. [...] further elaboration is required as to the extent to which the UK Government will commit to conducting human rights impact assessments with respect to trade negotiations. The Commission suggests the Joint Committee seek clarity from Government as to the extent to which the proposed impact assessments will consider human rights compliance.”

“The OHCHR Guiding principles emphasise that impact assessments should be conducted on an ongoing and dynamic basis and the Commission considers that there is significant potential for Parliament to play an active role in monitoring the impact of trade policies. The Commission recommends that with respect to international trade agreements the proposed duty on a Minister of the Crown to provide a statement of compatibility should include a statement on how the proposed agreement will assist in the realisation of the United Nations sustainable development goals. The role of Parliament with respect to trade agreements should be ongoing and there should be specific stages at which Parliament will assess the impact of trade agreement on human rights and the realisation of the sustainable development goals in the UK and globally.”⁵⁹

65. It is clear that the current arrangements under the CRaG Act are not adequate and that much more timely information is required from Government in relation to the negotiation of international agreements and human rights compliance.

66. We consider that the Government must inform Parliament of all international agreements that it intends to negotiate—at a minimum identifying the other party to the agreement and the subject matter and broad aims of the agreement. This information should also indicate any human rights issues that might be relevant to the negotiation as well as any human rights protections that might need to be sought. For international agreements engaging human rights issues, the Government should keep the Committee regularly informed of progress in negotiations.

67. The Government must provide to Parliament a human rights memorandum for all proposed international Agreements once there is a draft text. This memorandum should be communicated to the Joint Committee on Human Rights. Such a memorandum could be very short for agreements raising few (if any) human rights issues, so need not be burdensome. For those agreements raising more substantive human rights issues, such as complex trade or investment deals, extradition treaties, mutual legal assistance treaties or data sharing arrangements, more detailed human rights analysis would be required. This should help to ensure that the human rights implications of the UK’s international obligations are considered fully before the UK becomes bound by those obligations.

68. *The Standing Order for the Joint Committee on Human Rights should be amended so that the remit covers “human rights relating to the UK’s international obligations (but excluding consideration of individual cases)” as well as “human rights in the UK (but excluding consideration of individual cases)”.*

69. *There should be a formal role, specifically covering human rights, for the devolved administrations and parliaments in the formulations of trade policy, the negotiations process and the scrutiny of agreements prior to ratification.*

70. **We have received many useful ideas for enhancing the parliamentary scrutiny of international agreements, which we commend to other Committees considering how the system as a whole should change. We look forward to colleagues’ views on how best to construct a parliamentary process to sift all international agreements and highlight those which require further consideration. Any such process should be properly resourced.**

The example of the Sino-British Joint Declaration of 1984: Human rights in Hong Kong

71. We have received many submissions stating concerns that the Sino-British Joint Declaration of 1984 either did not adequately protect human rights—or that the enforcement of it is inadequate to protect human rights for the people of Hong Kong.⁶⁰ There are particular concerns about breaches of the right to freedom of expression, freedom of the press and media, freedom of assembly and association, academic freedom, the prevention of democratically elected representatives from taking their seats, extra-judicial abductions, rule of law, interferences in business activities and clamp-downs on political speech and human rights defenders, notwithstanding the terms of the Joint Declaration.⁶¹

72. Lord Ahmad of Wimbledon in his letter of further information to the Committee, dated 3 February 2019, confirms “The Joint Declaration on the Question of Hong Kong remains as valid today as it did when it was signed over thirty years ago. It is legally binding treaty, registered with the UN, and continues to be in force”.⁶² Recent efforts by China seeking to claim that this International Agreement no longer applies have increased concerns about the erosion of freedoms in the Hong Kong Special Administrative Region. In its submission, Hong Kong Watch stated: “[...] in 2017, Lu Kang, the Foreign Ministry spokesperson of the People’s Republic of China, said that the Sino-British Joint Declaration was a ‘historical document’ which has no ‘practical significance’ and is ‘not binding’. This attitude has been reflected in China’s policy towards Hong Kong as the rights and freedoms guaranteed in the Joint Declaration have faced an unprecedented crackdown since 2014.”⁶³

60 See submissions from Emily Lau ([HIA0003](#)), Hong Kong Watch ([HIA0006](#)) Hong Kong Journalists Association ([HIA0008](#)), Hong Kong UPR Coalition ([HIA0009](#)), Mr Ted Chi-fung Hui ([HIA0010](#)), Civic Party ([HIA0011](#)), The Progressive Lawyers Group ([HIA0012](#)), and HONG KONG 2020 ([HIA0019](#)).

61 Paragraph 3(5) of the Joint Declaration provides “Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region.”

62 Foreign and Commonwealth Office ([HIA0022](#))

63 Hong Kong Watch ([HIA0006](#))

73. The Sino-British Joint Declaration is a very specific type of agreement (relating to hand over of territory). It highlights the difficulties of enforcing human rights protections even in an agreement which contains specific references to human rights. Although the UK Government undertakes a 6-monthly report on the implementation of the Agreement, this does not seem to be resulting in adequate maintenance of the required freedoms for people in Hong Kong. Indeed, in its submission Hong Kong Watch stated “it looks likely that in the coming years things will only worsen.”⁶⁴ In his letter of further information Lord Ahmad of Wimbledon makes clear the concerns that the Foreign and Commonwealth Office has in this regard, stating “there is continued pressure on Hong Kong’s high degree of autonomy and on the rights and freedoms guaranteed by the Joint Declaration and enshrined in basic law.”⁶⁵

74. Several Hong Kong-related submissions therefore suggested that in future, trade agreements should include “essential elements” clauses requiring respect for international human rights protections and should also ensure that there were strong enforcement mechanisms for such clauses.⁶⁶ Hong Kong Watch stated that “Parliament must ensure that the Government is held to account”⁶⁷ for its legal obligation to monitor the implementation of the Joint Declaration, a view which Dr Sam Fowles agreed with in his evidence to the Committee.⁶⁸ Some also suggested specific requirements for the Foreign Secretary to report regularly to Parliament on how the human rights protections in such agreements were working in practice.⁶⁹ As Lord Ahmad said in his evidence to the Committee, “where obligations have been signed up to it is, of course, incumbent upon us, as it would be for any Government who subscribe to human rights, to ensure those obligations are upheld.”⁷⁰

75. We note that the Foreign Affairs Committee is currently inquiring into China and the International Rules Based System. We hope that that Committee will address this issue and that the evidence we have received will provide further background for their consideration of the Sino-British Joint Declaration.

Parliamentary oversight on the implementation of Agreements

76. Other submissions have also addressed the need for regular reporting from Government, not only at the negotiation and ratification stages, but also on the implementation of international agreements. See, for example, the submission from the Progressive Lawyers Group, who argue that there should be a requirement for the Foreign Secretary to report regularly to Parliament (and in particular to the FAC and JCHR) on how human rights protections in international agreements were working.⁷¹ Similarly, the Equality and Human Rights Commission⁷² and the Business Disability Forum called for better post-ratification scrutiny mechanisms.⁷³

64 Hong Kong Watch ([HIA0006](#))

65 Foreign and Commonwealth Office ([HIA0022](#))

66 See Hong Kong UPR Coalition ([HIA0009](#)), Mr Ted Chi-fung Hui ([HIA0010](#)), Civic Party ([HIA0011](#)).

67 Hong Kong Watch ([HIA0006](#))

68 [Q6](#)

69 See, for example, Progressive Lawyers Group ([HIA0012](#))

70 [Q17](#)

71 The Progressive Lawyers Group ([HIA0012](#))

72 Equality and Human Rights Commission ([HIA0017](#))

73 Business Disability Forum ([HIA0018](#))

77. The Government should report regularly to Parliament on the implementation of international agreements containing human rights protections, so that we can monitor compliance with human rights standards. When an agreement is initially scrutinised by Parliament, Government and Parliament should agree an appropriate reporting timetable (which may only be once a Parliament in some cases). The Government should undertake a review of the measures available to it to take action where such human rights protections are not respected in practice. Where such human rights protections are not so respected, as reported to the Committee with reference to the Sino-British Joint Declaration, the Government should then take such measures as are appropriate. This should help to ensure that human rights protections contained in agreements are respected in practice and measures taken if this is not the case.

Increased Transparency

78. Some of those submitting evidence suggested that (in addition to parliamentary scrutiny) there should be increased transparency more generally.⁷⁴ Linked to this there were suggestions for an increased role for a human rights expert body or the EHRC to report annually on UK compliance with its international human rights obligations⁷⁵—including looking at international agreements. **Increased transparency in international agreements is sorely needed. The information publicly provided to Parliament under our proposals should help towards addressing these concerns, and in facilitating these discussions with civil society.**

74 See for example, The Law Society of Scotland ([HIA0021](#))

75 See Mr Miroslav Baros ([HIA0004](#))

6 Specific Provisions relating to existing EU Human Rights Protections for Export Controls - Arms Trade and the Torture Regulation

79. At present specific rules apply to ensure that certain exported goods, such as arms or items which could be used for repression, are not used to contribute to human rights violations. Many of these rules stem from EU obligations which will not bind the UK following Brexit. There is therefore some uncertainty as to the future UK rules and controls on the export of equipment that could be used for human rights violations.

80. Under section 3 of the European Union Withdrawal Act 2018, the Torture Regulation will continue to apply to the UK as retained EU legislation immediately following Brexit. Under the Export Control Act 2002, the EU Consolidated Criteria for Arms Exports⁷⁶ will continue to be the standard applied for the period after Brexit, although this can be changed by an announcement of amended guidance. The FCO's submission explains the situation and current intention but does not help to provide much reassurance that proper scrutiny and consideration will be given to any proposed changes in the future:

“The UK has a domestic legal basis for export controls in the form of the Export Control Act 2002. Our overall objective is to maintain the integrity of the export licensing system for the long term following the UK's exit from the EU.

After the UK leaves the EU, the Consolidated EU and National Arms Export Licensing Criteria will remain in force, until such time as new or amended guidance is announced to Parliament. Any such new or amended guidance will be consistent with the UK's obligations as a State Party to The Arms Trade Treaty, which requires an assessment, prior to export, of the potential that conventional weapons covered by the treaty could be used in the violation of international human rights law.

We examine every application rigorously on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria. We draw on all available information, including reports from NGOs, media and our overseas network. Risks relating to human rights abuses are a key part of our assessment. We do not export equipment where we assess there is a clear risk that it might be used for internal repression.

We will use the EU (Withdrawal) Bill to preserve EU export control regulations, and make subsequent amendments to relevant domestic legislation. In particular, the EU (Withdrawal) Bill will retain, as UK law, Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

76 This is statutory guidance which the International Trade Secretary is required to give to Parliament under section 9 of the Export Control Act 2002.

We will seek to maintain as much continuity as possible for the UK's export licensing system following EU exit, and to maintain close cooperation with the EU in this area."⁷⁷

81. This provides some reassurance as to the standards to be retained in relation to arms export controls. It is important that exports from the UK are not used in human rights violations. But it is unclear what would happen if policy were to change. In particular it is unclear what the role of Parliament would be given the wide-ranging powers given to Government to change these rules, whether by Statutory Instrument (in relation to the Torture Regulation) or simple policy announcement (in relation to arms export controls—which include dual use items that could be used for repression and other human rights abuses). We note that, the Commons already has the Committees on Arms Export Controls (CAEC) which looks at specific issues relating to arms export controls and consists of four select committees meeting and working together: Defence Committee; Foreign Affairs Committee; International Development Committee; International Trade Committee. These four committees work together because each has an interest in arms exports as part of their responsibility to scrutinise their respective Government department.

82. However, we have some remaining concerns as to adequate export controls for other goods. As noted in Lord Ahmad's letter to the Chair:

“Controls on export of goods usable for capital punishment or torture are currently contained in EU law (i.e. Council Regulation 1236/2005). These would become “retained EU law” under the EU (Withdrawal) Act 2018 in a No Deal Brexit. In regards to the legislative process through which changes would be made, there are powers in the Export Control Act 2002 which would allow the retained Regulation to be amended using secondary legislation.

Controls on export of military goods are set out in national law (the Export Control Order 2008, made under the Export Control Act 2002) and are unaffected by Brexit. Regarding the legislative process, any change to those controls would require secondary legislation amending the 2008 Order.”⁷⁸

83. Those who submitted evidence were keen to ensure continued UK commitment to human rights protections in export controls post-Brexit. The submission from Amnesty International UK calls on the UK formally to align “to all existing EU systems that currently form part of the UK export controls” and suggested that the system for parliamentary oversight of arms exports, CAEC (the Committee on Arms Export Controls) should be made more effective and should include “a nominated member of JCHR given the centrality of human rights considerations to the regulatory framework”.⁷⁹ We have some doubts as to whether the attendance of a member of JCHR will always be necessary. However, we note that the recent changes to Standing Orders allow members of one Committee to participate in proceedings of another so there is now welcome flexibility.

84. *The UK should maintain adequate systems and procedures to prevent exports from the UK from being used in human rights violations and there should be adequate parliamentary oversight and involvement in those processes.*

77 Foreign and Commonwealth Office ([HIA0016](#))

78 Foreign and Commonwealth Office ([HIA0022](#))

79 Amnesty International UK ([HIA0015](#))

85. The Government should consult this Committee and CAEC before making any changes to the rules relating to international trade and human rights, including export controls on certain goods such as those currently flowing from Council Regulation (EC) No 1236/2004 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, and the Consolidated EU and National Arms Exports Licensing Criteria.

Conclusions and recommendations

1. We consider that the human rights Minister and his team should know about such agreements so as to be satisfied about the human rights protections contained in such agreements. (Paragraph 10)
2. *The Government must ensure that human rights expertise is embedded into the negotiating teams working on all international agreements.* (Paragraph 11)
3. *The Government must undertake adequate human rights analysis of all international agreements as part of its internal sign-off process. For simpler agreements there should be a memorandum. For more complex agreements (such as complex trade agreements) a human rights impact assessment might be more appropriate.* (Paragraph 12)
4. The FCO highlights the Government's normal practice in relation to different types of treaties; we consider it would be useful to ensure this practice is standardised and any departure from best practice is properly scrutinised by Parliament. (Paragraph 15)
5. Human rights must be protected in investment agreements and any litigation arising from those agreements. There are clear human rights and rule of law concerns with arbitration as a means of Investor-State dispute settlement. Investor rights should not be privileged over human rights. Any system established for dispute settlement must be fair, accessible and cost-efficient. (Paragraph 29)
6. Current trade agreements binding on the UK through the EU contain specific clauses to promote and protect human rights, including suspension clauses to suspend an agreement if core human rights standards are not met. The habitual inclusion of standard clauses for human rights protections such as suspension clauses, and exemption clauses to prevent an agreement being misused to override human rights protections, should not slip following Brexit. Moreover, lessons should be learned from the EU experience as to how best to use and enforce such clauses. (Paragraph 40)
7. It is clear that there are many human rights concerns that arise in different agreements and many different model clauses. Moreover, no standard clause is effective without an adequate enforcement mechanism. However, this does not mean that standard human rights protections cannot be effective. *Standard human rights protections should be included in all agreements, with exact clauses tailored depending on the subject-matter of the agreement.* (Paragraph 41)
8. *Exemptions clauses should also be included in all agreements, providing that nothing in the agreement prevents a party to the agreement from taking measures to protect or promote public morals (including human rights standards).* (Paragraph 42)
9. *Suspension clauses should be included in all framework agreements—and included in trade agreements where not otherwise covered by a framework agreement. Such suspension clauses should highlight the importance of respect for human rights, including the Universal Declaration of Human Rights and other international agreements binding on the parties, and should provide for suspension of the agreement in case of a significant breach of these standards.* (Paragraph 43)

10. *Specialised human rights protections clauses should be included to protect human rights in specific sectoral agreements. This should include specific clauses in extradition agreements, mutual legal assistance agreements, data sharing agreements and agreements where labour rights or modern slavery could be at risk. The Government should consult on a set of standard clauses to be included in all relevant agreements. (Paragraph 44)*
11. The current system intended to ensure Parliament has information about the human rights implications of proposed agreements is not working. Parliament has not received adequate or timely information from Government about the potential human rights implications of international agreements being negotiated or those subject to CRaG scrutiny. (Paragraph 52)
12. It is clear that the current arrangements under the CRaG Act are not adequate and that much more timely information is required from Government in relation to the negotiation of international agreements and human rights compliance. (Paragraph 65)
13. *We consider that the Government must inform Parliament of all international agreements that it intends to negotiate - at a minimum identifying the other party to the agreement and the subject matter and broad aims of the agreement. This information should also indicate any human rights issues that might be relevant to the negotiation as well as any human rights protections that might need to be sought. For international agreements engaging human rights issues, the Government should keep the Committee regularly informed of progress in negotiations. (Paragraph 66)*
14. *The Government must provide to Parliament a human rights memorandum for all proposed international Agreements once there is a draft text. This memorandum should be communicated to the Joint Committee on Human Rights. Such a memorandum could be very short for agreements raising few (if any) human rights issues, so need not be burdensome. For those agreements raising more substantive human rights issues, such as complex trade or investment deals, extradition treaties, mutual legal assistance treaties or data sharing arrangements, more detailed human rights analysis would be required. This should help to ensure that the human rights implications of the UK's international obligations are considered fully before the UK becomes bound by those obligations. (Paragraph 67)*
15. *The Standing Order for the Joint Committee on Human Rights should be amended so that the remit covers "human rights relating to the UK's international obligations (but excluding consideration of individual cases)" as well as "human rights in the UK (but excluding consideration of individual cases)". (Paragraph 68)*
16. *There should be a formal role, specifically covering human rights, for the devolved administrations and parliaments in the formulations of trade policy, the negotiations process and the scrutiny of agreements prior to ratification. (Paragraph 69)*
17. We have received many useful ideas for enhancing the parliamentary scrutiny of international agreements, which we commend to other Committees considering how the system as a whole should change. We look forward to colleagues' views on

how best to construct a parliamentary process to sift all international agreements and highlight those which require further consideration. Any such process should be properly resourced. (Paragraph 70)

18. *We note that the Foreign Affairs Committee is currently inquiring into China and the International Rules Based System. We hope that that Committee will address this issue and that the evidence we have received will provide further background for their consideration of the Sino-British Joint Declaration.* (Paragraph 75)
19. *The Government should report regularly to Parliament on the implementation of international agreements containing human rights protections, so that we can monitor compliance with human rights standards. When an agreement is initially scrutinised by Parliament, Government and Parliament should agree an appropriate reporting timetable (which may only be once a Parliament in some cases). The Government should undertake a review of the measures available to it to take action where such human rights protections are not respected in practice. Where such human rights protections are not so respected, as reported to the Committee with reference to the Sino-British Joint Declaration, the Government should then take such measures as are appropriate. This should help to ensure that human rights protections contained in agreements are respected in practice and measures taken if this is not the case.* (Paragraph 77)
20. Increased transparency in international agreements is sorely needed. The information publicly provided to Parliament under our proposals should help towards addressing these concerns, and in facilitating these discussions with civil society. (Paragraph 78)
21. *The UK should maintain adequate systems and procedures to prevent exports from the UK from being used in human rights violations and there should be adequate parliamentary oversight and involvement in those processes.* (Paragraph 84)
22. *The Government should consult this Committee and CAEC before making any changes to the rules relating to international trade and human rights, including export controls on certain goods such as those currently flowing from Council Regulation (EC) No 1236/2004 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, and the Consolidated EU and National Arms Exports Licensing Criteria.* (Paragraph 85)

Appendix 1: Letter from the Chair of the Lords Constitution Committee

Dear Harriet

The Constitution Committee is currently undertaking an inquiry exploring how Parliament should scrutinise treaties after the UK leaves the European Union. I have attached a copy of the call for evidence for the inquiry to this letter for reference.

The prospect of negotiating and agreeing a large number of new treaties post-Brexit presents an opportunity for Parliament to have a greater say in the policy approach the Government takes in future international agreements. On this subject, we are aware of the interest of the Joint Committee on Human Rights on human rights clauses in trade agreements, as noted in your report on ‘Human Rights and Business 2017: Promoting responsibility and ensuring accountability’.

I would be grateful to know whether, subsequent to that report, the JCHR has a view on the scope for including human rights protections in future treaty texts. It would also be valuable to know whether your committee has a view on how international agreements negotiated by the Government should be scrutinised for the inclusion and implementation of such provisions. The JCHR might wish to undertake that task itself. Alternatively, a new treaties scrutiny committee might undertake the task or sift treaties for referral to JCHR where relevant.

We would of course welcome the JCHR’s view on any other aspects of the Constitution Committee’s inquiry that are of interest to your members.

Yours sincerely,

Baroness Taylor of Bolton

Chairman of the Constitution Committee

Appendix 2: Excerpt from the Government's Response: Human rights and business 2017: promoting responsibility and ensuring accountability: Committee's Sixth Report of Session 2016–2017

Human rights clauses in trade deals

We welcome the Government's commitment that new bilateral trade agreements will include human rights protections at least equal to those currently included in EU trade agreements. We look forward to seeing this adhered to and will monitor progress with interest. (Paragraph 238)

The UK has a strong history in protecting human rights and promoting our values globally. We will continue to promote our values globally after we leave the EU. The UK is considering all options in the design of future bilateral trade negotiations.

We encourage the Government to use the opportunity of Brexit to set higher human rights standards in future trade agreements, to include workable provisions on enforcement, and to undertake human rights impact assessments before agreeing trade agreements. (Paragraph 239)

We are exploring all options in the design of future bilateral trade and investment agreements, including how we will monitor and enforce these. We are committed to upholding the UK's high standards. We will of course continue to encourage all states to uphold international human rights obligations.

Declaration of Lords' Interests¹

Baroness Hamwee

- No relevant interests to declare

Baroness Lawrence of Clarendon

- No interests declared

Baroness Nicholson of Winterbourne

- No interests declared

Baroness Prosser

- No relevant interests to declare

Lord Trimble

- No interests declared

Lord Woolf

- No interests declared

¹ A full list of Members' interests can be found in the Register of Lords' Interests: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards/registeroflords-interests/>

Formal minutes

Wednesday 6 March 2019

Members present:

Ms Harriet Harman MP, in the Chair

Fiona Bruce MP	Baroness Hamwee
Ms Karen Buck MP	Baroness Lawrence of Clarendon
Joanna Cherry QC MP	Baroness Prosser
Jeremy Lefroy MP	Baroness Nicholson of Winterbourne
Scott Mann MP	Lord Trimble
	Lord Woolf

Draft Report (*Human rights protections in international agreements*), proposed by the Chair, brought up and read.

Ordered, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 85 read and agreed to.

Summary read and agreed to.

Two papers were appended to the Report.

Resolved, That the Report be the Seventeenth Report of the Committee.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Ordered, That embargoed copies of the report be made available, in accordance with the provisions of House of Commons Standing Order no. 134.

[Adjourned till Wednesday 13 March 2019 at 3.00pm.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 23 January 2019

Question number

Dr Lorand Bartels, Reader in International Law and Fellow, Faculty of Law, University of Cambridge; **Dr Sam Fowles**, Barrister, Cornerstone Barristers; **Dr James Harrison**, Reader and Associate Professor, School of Law, University of Warwick.

[Q1–8](#)

Lord Ahmad of Wimbledon, Minister of State for the Commonwealth and UN, Foreign and Commonwealth Office and **Richard Jones**, Deputy Director, Human Rights and Democracy Department, Foreign and Commonwealth Office.

[Q9–18](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

HIA numbers are generated by the evidence processing system and so may not be complete.

- 1 Amnesty International UK ([HIA0015](#))
- 2 Business Disability Forum ([HIA0018](#))
- 3 Civic Party ([HIA0011](#))
- 4 Dr Roger Morgan ([HIA0001](#))
- 5 Dr Sam Fowles ([HIA0007](#))
- 6 Emily Lau ([HIA0003](#))
- 7 Equality and Human Rights Commission ([HIA0017](#))
- 8 Foreign and Commonwealth Office ([HIA0016](#), [HIA0022](#))
- 9 HONG KONG 2020 ([HIA0019](#))
- 10 Hong Kong Journalists Association ([HIA0008](#))
- 11 Hong Kong UPR Coalition ([HIA0009](#))
- 12 Hong Kong Watch ([HIA0006](#))
- 13 Institute for Human Rights and Business ([HIA0005](#))
- 14 Mr Miroslav Baros ([HIA0004](#))
- 15 Mr Ted Chi-fung Hui ([HIA0010](#))
- 16 Mrs Sybil Gilbert ([HIA0002](#))
- 17 NIHRC ([HIA0013](#))
- 18 The Law Society of Scotland ([HIA0021](#))
- 19 The Progressive Lawyers Group ([HIA0012](#))
- 20 Trade Justice Movement ([HIA0014](#))
- 21 University of Warwick ([HIA0020](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Legislative Scrutiny: The EU (Withdrawal) Bill: A Right by Right Analysis	HC 774 HL 70
Second Report	Proposal for a Draft Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018	HC 645 HL 86
Third Report	Legislative Scrutiny: The Sanctions and Anti-Money Laundering Bill	HC 568 HL 87
Fourth Report	Freedom of Speech in Universities	HC 589 HL 111
Fifth Report	Proposal for a draft British Nationality Act 1981 (Remedial) Order 2018	HC 926 HL 146
Sixth Report	Windrush generation detention	HC 1034 HL 160
Seventh Report	The Right to Freedom and Safety: Reform of the Deprivation of Liberty Safeguards	HC 890 HL 161
Eighth Report	Freedom of Speech in Universities: Responses	HC 1279 HL 162
Ninth Report	Legislative Scrutiny: Counter-Terrorism and Border Security Bill	HC 1208 HL 167 (HC 1827)
Tenth Report	Enforcing Human Rights	HC 669 HL 171
Eleventh Report	Second Legislative Scrutiny Report: Counter-Terrorism and Border Security Bill	HC 1616 HL 195
Twelfth Report	Legislative Scrutiny: Mental Capacity (Amendment) Bill	HC 1662 HL 208
Thirteenth Report	Proposal for a draft Jobseekers (Back to Work Schemes) Act 2013 (Remedial) Order 2018	HC 1451 HL 209
Fourteenth Report	Draft Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018	HC 1547 HL 227
Fifteenth Report	Proposal for a draft Human Rights Act 1998 (Remedial) Order 2019	HC 1457 HL 228
Sixteenth Report	Immigration Detention	HC 1484
First Special Report	Human Rights and Business 2017: Promoting responsibility and ensuring accountability: Government Response to the Committee's Sixth Report of Session 2016–17	HC 686

Second Special Report	Mental Health and Deaths in Prison: Interim Report: Government Response to the Committee's Seventh Report of Session 2016–17	HC 753
Third Special Report	Legislative Scrutiny: Counter-Terrorism and Border Security Bill: Government Response to the Committee's Ninth Report of Session 2017–19	HC 1578
Fourth Special Report	Windrush generation detention: Government Response to the Committee's Sixth Report of Session 2017–19	HC 1633
Fifth Special Report	Second Legislative Scrutiny Report: Counter-Terrorism and Border Security Bill: Government Response to the Committee's Eleventh Report of Session 2017–19	HC 1827