Written evidence from Hugh Bochel and Anouk Berthier - RIS0014

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This evidence is presented in a personal capacity.

Summary

1. Interest in the characteristics and social representativeness of legislatures has generally primarily focused on their members, but appears more recently to be spreading to a broader consideration of how and to what extent they engage with and relate to wider society. Where committees are concerned, while their membership is likely to be one area of interest, perhaps just as important may be the voices that they hear from when collecting evidence, including in oral evidence sessions.

2. Research across the UK’s legislatures suggests that in many respects committee witnesses are far from representative of wider society. There may sometimes be good reasons for that. The priority for committees is, understandably, likely to be a concern with accessing the best evidence available to them, although there may be less agreement on what might constitute that. However, at a minimum, it may be appropriate for legislatures themselves to be aware of the characteristics of witnesses, and potentially to seek, where appropriate, to hear from different voices. It is possible that, done well, such developments can enhance both scrutiny and legitimacy.

3. The Liaison Committee might wish to consider monitoring the characteristics of witnesses and how committees might potentially expand the range of witnesses from whom they receive oral evidence.

Evidence

4. This submission is primarily concerned with the ways in which committees operate in terms of engagement and the collection of evidence, and in particular oral evidence from witnesses. It may therefore be seen as contributing to the ‘key questions’ on developing a national conversation and maximising the impact of House of Lords committees, and to the ‘detailed questions’ on engagement with the public, and potentially to committee effectiveness. It draws upon a variety of sources, but in particular on work commissioned by the Scottish Parliament on the diversity of committee witnesses,¹ and gender in particular, published in February 2018.

5. Parliaments are themselves arguably under considerable scrutiny in a number of respects, including the quality and impact of their own scrutiny of governments’ actions and legislation, the degree to which they are representative of society (for example, in terms of gender or ethnicity), and the means by which they engage with wider society and the extent to which they do so. Recently, there has also been a particular focus on how elected
representatives and officials behave in respect of their cultures, and the
treatment of those working in legislatures, particularly women. Perhaps
unsurprisingly given these concerns, and others, such as over political
disengagement, recent years have seen a variety of attempts to open up
legislatures and parliamentary processes, including through enhanced outreach
activities, the introduction of new petitions systems, more open calls for
evidence, and greater use of technology, although, clearly, these are not
unproblematic for legislatures or the public. For example, there may be, firstly,
infrastructural constraints to this. For instance, the Scottish Parliament has only
one committee room with video-conferencing facilities, which limits the use of
such means of engagement. Secondly, on a conceptual level, while initiatives
such as social media may arguably provide views from a wider range of voices,
perhaps in particular in the early stages of evidence gathering, or even in setting
committee agendas, concerns have been raised about the representativeness
and reliability of such engagement, particularly when it is through potentially
anonymous means, such as online idea-generating platforms where people may
contribute without providing any information about themselves. In the Scottish
Parliament, for instance, among both MSPs and officers, questions were raised
about both the real value and the different possible uses of information
technology and social media for evidence collection, although its potential was
not dismissed, and in particular it was widely seen as helpful in allowing
committees to provide information to different publics.2 While the costs may be
relatively low, and the reach relatively high, concerns such as appealing
primarily to a subset of people from a particular demographic, and/or with
particular interests, and the risk that such methods may at present be less
useful for deep engagement, mean that there is arguably a need to further
explore the strengths and weaknesses of such initiatives for committees before
using them more widely. Thirdly, as with other initiatives that seek to involve
the public it is important that the parameters be clear and that the processes are
clear and transparent.3 And fourthly, there are likely to be tensions that arise
from attempts to bring together more participative mechanisms and traditional
representative democracy.

6. There are potential benefits to parliaments and to committees in achieving a
greater diversity of written and oral evidence. For example, it may: enhance
participation and the extent to which parliaments are seen as engaging with and
representing society; offer different and valuable perspectives on the actions of
governments and the actual and potential impacts of policies, including from
those who may not be well represented in parliaments, and those who have to
implement and who are affected by, government policies and legislation; provide
additional external voices to enhance the scrutiny of policy and legislation; and
potentially lead to improved outcomes and increased legitimacy.4

7. Where committees are concerned, in some of the United Kingdom’s
legislatures considerable attempts have been made, certainly by some
committees, to engage more with the public, to use different methods of
collecting evidence, and to access and gain the views of harder-to-reach groups.
There are now many examples of good practice,5 although the extent to which
this is consistently shared and disseminated within institutions perhaps at times
leaves something to be desired.
8. As noted above, there has been growing interest in the characteristics of those giving oral evidence to parliamentary committees, including among academics and in parliaments. There are clearly challenges in identifying the social characteristics of those giving oral evidence to committees, and in particular in doing so retrospectively. However, some work has been done in this area. The evidence suggests that in the United Kingdom’s devolved legislatures women are considerably less likely than men to appear as committee witnesses (with more than 60 per cent of witnesses in the Scottish Parliament being male, for example)\(^6\). In the Scottish Parliament there are also significant differences in the gender of witnesses associated with different types of organisation, with not-for-profit bodies tending to provide significant proportions of witnesses who are women, while the Scottish Government, trade unions, local authorities, private companies and Police Scotland have tended to send more men.\(^7\)

Research also shows that significant use is made of bodies that have some sort of representative mandate,\(^8\) or stakeholder groups,\(^9\) as opposed to members of the public. While the extensive use of such organisations can bring real benefits, including in hearing from bodies that represent a range of interests and increasing efficiency, it can also risk excluding other interests and voices, as well as portraying a somewhat exclusive picture of who legislatures hear from and listen to.

9. At Westminster, similar patterns have been identified, with Pedersen et al. finding that ‘institutions’ (among which they included governmental bodies, individual corporations, local authorities, universities and such like) and interest groups provided more than 80 per cent of oral evidence from 1 August 2010 to 31 July 2011,\(^10\) while, examining the 2013/14 session, Geddes noted a considerable reliance on charities and/or campaign groups, business and/or trade associations and professional associations by House of Commons select committees.\(^11\)

10. The Sessional Returns for the House of Commons have shown that around three-quarters of witnesses to select committees have been male.\(^12\) Less information appears to be available on the House of Lords, but Berry and Kippin found that from 8 October to 7 November 2013, 73 per cent of select committee witnesses were male.\(^13\) Berry and Kippin also noted the propensity of House of Lords committees to have parliamentarians as witnesses, and that academic witnesses at Westminster are drawn disproportionately from London. In addition, an examination for this submission of witnesses to House of Lords select committees, for the admittedly short period of January and February 2018, suggests that just over one-quarter were women.

11. Most research on witnesses recognises that committees do not have a completely free hand, for example, being driven by the needs of each inquiry and affected by the requirement to call on witnesses who may sometimes be ‘non-discretionary’ (such as ministers or heads of public bodies accountable to Parliament). However, it is noteworthy that very few committees in any of the UK legislatures hear from more female than male witnesses, while for some committees the proportion of women witnesses actually falls when ‘non-discretionary’ witnesses are excluded from the figures.\(^14\) In addition, across the UK legislatures there also appear to be considerable differences in the proportions of female and male witnesses appearing before committees considering different subject areas, with women more likely to appear before
committees looking at fields such as education, health and social care and equalities, and less likely to appear in front of committees dealing with topics such as agriculture, transport or finance. This may have implications not only for the type of evidence heard by committees, but may also be important symbolically, with one interviewee for research in the Scottish Parliament noting that, ‘If we start to get greater diversity of witnesses this sends out a message that we don’t just hear from “men in grey suits”’, while another highlighted this with the question, ‘If the Finance Committee is men hearing from men, what does that say about the way that we see women?’

Conclusions and potential recommendations

12. Clearly, for committees the priority will be that the most appropriate people provide the evidence required for a given inquiry. Nevertheless, particularly given the increased interest in how parliaments behave and look, there are a number of things that might be done to monitor and perhaps respond to this situation. Until relatively recently, information about the characteristics of committee witnesses has been, and sometimes remains, largely opaque. It may be appropriate for the House of Lords to record and monitor the characteristics of witnesses to its committees, perhaps initially focusing on protected characteristics and other important data, such as whether witnesses are ‘discretionary’ or ‘non-discretionary’ (although care would have to be taken on the exact meaning of ‘non-discretionary’, so that all committees record the same data), which would serve both to inform the House and provide more outward-facing information about who it hears from. That would increase transparency and perhaps contribute to further consideration of the nature of witnesses collectively. It would also allow the House to take action if a lack of witness diversity or gaps in representation were identified. For instance, on the demand side, it may be appropriate for committees to consider the full range of evidence that they need to acquire at the onset of an inquiry, and what this may mean for the collection of both written and oral evidence, including outreach work. The Scottish Parliament, for instance, is currently in the process of setting up a Committee Engagement Unit to assist committees in broadening the means by which they engage with the public in a manner that is tailored to each inquiry. On the supply side, as noted above, it may be useful to record where witnesses are effectively ‘discretionary’. In addition, where a particular perspective or a wider range of insights are being sought, it could be made clear to those who are invited to provide oral evidence that the House is seeking to hear from witnesses that are more representative of wider society, and that this should be borne in mind in the identification of witnesses. Similarly, activities designed to develop, support and provide feedback to (in particular first-time) witnesses may be valuable.

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3 For example, Bochel, C. (2016) ‘Process matters: petitions systems in Britain’s legislatures’, Journal of


