

in armed conflict abroad on a statutory footing, with safeguards that would preserve a necessary flexibility in practice; to bring forward proposals that will give Parliament a genuine right to debate and vote upon foreign treaties as its members choose; to begin the complex task of placing the other prerogative powers on which it relies for the conduct of external policies on a statutory footing; and to take forward existing parliamentary proposals to improve the scrutiny of European business.

2 Parliament must also seize the initiative. Two important resources within the grasp of parliamentary committees are neglected – MPs and time. We agree with the Hansard Society Commission on Parliamentary Scrutiny that select committees should be enlarged so that so that they can perform their duties more effectively; and that the great majority of MPs should therefore be expected to serve on at least one select committee. Thus Parliament would be “mainstreaming” committee service and raising the profile and status of scrutiny among MPs and the media. Larger committees would facilitate our other recommendations that involve joint working and the use of sub-committees.

3 Parliament’s long summer break of around two and a half months from late July to October is wasteful. Parliament is often in recess when an emergency, foreign or domestic, occurs and therefore MPs and peers are not sitting to hold government to account. Time that could be devoted to Parliament’s ongoing legislative and oversight activity is lost. The prolonged recess belongs to an earlier era when the role of an MP was not full-time and scrutiny of government was

less demanding. In our view, the accountability gap and loss of parliamentary time are unjustifiable.

4 We recommend that select committees should collaborate more in cross-departmental scrutiny of government policies, with a view to achieving “joined-up” strategic oversight of external policies. They should also make systematic use of Public Service Agreements, departmental reports and other such documents as a framework for continuing scrutiny. The government should also produce further regular reports on broad issues requiring strategic oversight and review, such as Britain’s responses to conflict worldwide.

5 We recommend that ministers and committees should develop what we describe as a British form of “soft mandating”, whereby government ministers would be obliged to state a possible range of outcomes in forthcoming negotiations and indeed to set out the government’s intended positions to the European Scrutiny Committee for EU actions and to the appropriate select committee in advance of other major international negotiations. If such reform proved insufficient to re-balance satisfactorily the relationship between ministers and committees, a case could be made for a “harder” form of mandating, allowing committees a degree of control over the matters on which it would be necessary for the government to elucidate its position.

6 Parliament should “mainstream” scrutiny of the all-important EU legislative and non-legislative business by shifting it to select committees instead of the special European committee.

7 Committees should have highly qualified and knowledgeable experts at their disposal rather than (as is mostly

the case) able young persons at the beginning of their careers. We also recommend that there should be an experiment in the appointment of *rappoteurs* to monitor specific developments on their behalf, producing regular reports and raising issues with them when required.

8 Two new institutions, a Legal Counsel’s Office in Parliament and a Parliamentary External Audit Office, should be created to provide authoritative information and advice on which Parliament could base its judgments on government policies.

9 Parliament should continue to work closely with relevant non-governmental organisations and outside experts, especially in the kinds of partnerships which the Foreign Affairs Committee has with Amnesty International and Human Rights Watch over the government’s human rights policy. Civil society organisations and MPs both benefit from this interaction, as does policy formation and ultimately the public interest within the UK and internationally.

About the Organisations

Democratic Audit is a research organisation, attached to the Human Rights Centre, University of Essex, that audits democracy and human rights in the UK and internationally



The Federal Trust promotes studies in the principles of international relations, international justice and supranational government and has a particular interest in the European Union and Britain’s place within it



The One World Trust was formed by the All Party Group for World Government in Parliament and researches and publishes on the workings and accountability of major intergovernmental organisations



• The authors of *A World of Difference* are Andrew Blick, Brendan Donnelly, Jonathan Church, Michael Hammer, Stuart Weir and Claire Wren. Additional research by Jenny Stevens.

A World of Difference

Parliamentary Oversight of British Foreign Policy

A Report by Democratic Audit, the Federal Trust and One World Trust

In the past two years British troops were engaged in a fierce war in Afghanistan and a perilous holding operation in southern Iraq. The government negotiated the EU Reform Treaty. Tensions grew over Iran’s nuclear programme that may provoke military action from the United States. While Parliament was in recess, the British government remained silent over the violence against civilians during the Israeli invasion of southern Lebanon. With other nations, Britain tried to end humanitarian abuses round the world, from systematic murder and rape in Darfur to the bloody suppression of popular protest in Burma.

In a fast-changing world, one thing remains unchanged: British governments can make foreign policy as they see fit without being required to seek effective parliamentary or public approval. The public has principled views about Britain’s role abroad, on for example, the use of the armed forces in wars and operations abroad, complying with international law, the Special Relationship with the United States, ▶



arms exports, and trade policies.¹ Yet the government's policies and actions often run counter to the public's wishes – and even those of parliamentarians. MPs have little or no say in the government's decisions over the whole range of foreign policy.

In 2006, we published a ground-breaking study, *Not in Our Name: Democracy and Foreign Policy in the UK* (Politico's), that analysed the government's domination of foreign policy and Parliament's weakness in seeking to maintain oversight of this wide-ranging and disparate set of policies and actions.² This study identified the significant role that royal prerogative powers played in protecting the government's conduct of foreign affairs from effective parliamentary scrutiny and approval.

These powers, a pre-democratic relic of monarchical rule, give the Prime Minister, ministers and officials the power to make foreign policy without the approval, or even the knowledge, of Parliament. Among the decisions and actions that the government can take under prerogative powers and which are thus outside effective democratic control are:

- making war and deploying the armed forces
- ratifying treaties and other international agreements
- partnering the United States and choosing allies
- negotiating within the EU, in particular on legislative matters
- playing a role in international decisions on trade or climate change

- conducting all forms of diplomacy
- contributing to the policies of the World Bank, IMF and other international bodies
- playing a military role in Nato
- representing the UK on the UN Security Council.

We concluded that government had "a remarkable and undesirable degree of power over Parliament", especially in foreign policy.



We have now studied in detail Parliament's attempts to make the government accountable for its foreign policy during the last parliamentary session. Our report finds that in no sense have either House, any select committee or any MPs or peers

been able to hold the government accountable for policies and actions on any major issues. On the Reform Treaty, ministers refused point blank to discuss their negotiating position or even to release important information.³

The most that can be said is that committees and members did manage on more minor issues to put pressure on government ministers, to let them know that they were being watched – that they were under, as it were, parliamentary surveillance. One partial success was a tenacious campaign within Parliament, backed by human rights bodies, to persuade the government to stop using "dumb" cluster munitions in battle and to back an international treaty outlawing their use. However, "smart" cluster munitions will remain in service after "dumb" ones are removed.

The European Scrutiny Committee's judgment that the EU

Constitutional and Reform Treaties were basically the same – contradicting government claims – was a second example of parliamentary scrutiny bringing pressure to bear on the government. The committee chair made this judgment public very effectively on television and in the press and undeniably put the government's claims in doubt. But while the scrutiny committee was able to contribute to debate on an issue that was on the political agenda, there is little to suggest that it could, if it had wished, have influenced the government or led Parliament or the media on issues which had not already gained public momentum.

Gordon Brown's reform agenda

In July 2007 the government promised to redress the imbalance of power between government, Parliament and the people and to give Parliament power to determine how the most important prerogative powers would be exercised in future.⁴ A series of documents have since set out many of the government's plans and proposals; we analyse those that affect foreign policy in the panel.

Priorities for reform

The re-balancing of power between government, Parliament and the peoples of the United Kingdom depends upon fundamental reforms to the current constitutional arrangements that the government's promise of a wider "national conversation" upon those arrangements, citizenship and values must address. Public debate on reform of the House of Lords, voting systems and other reforms will, we hope, begin soon. In our view, this "conversation" should lead to the adoption of a written constitution, framed after popular debate and with popular approval.

Spot the difference: Gordon Brown's reform proposals

Proposal	Comment	Spot the difference
Parliament to be given the vote on war-making (<i>Governance of Britain</i> Green Paper; <i>Limiting Executive Powers</i> , consultation paper).	The government will probably enshrine this reform in a "convention" rather than in statute law. This would give this and future governments "wriggle room" as conventions do not have the force of law and governments can change or evade them	It is important that this change is placed on a statutory footing and given the force of law. Parliament and the courts could then exercise real supervision of military action. The law would have to be flexible enough for a government to be able to react quickly when necessary
Statutory role for Parliament in oversight of treaties (<i>Governance of Britain</i> and <i>Limiting Executive Powers</i>)	The government plans to place another "convention" – the "Ponsonby Rule" – on a statutory basis. But the so-called rule does not guarantee a treaty will even be debated in Parliament, let alone voted on	As currently envisaged, there will be no noticeable difference
A National Security Strategy (<i>Governance of Britain</i> ; Jack Straw's statement, 25 October 2007)	Parliament does not have the mechanisms in place to carry out joined-up scrutiny of such a strategy.	If mechanisms for scrutiny are put in place, this change could improve oversight of the Afghan and Iraq conflicts and domestic counter terrorism strategy
Create a "convention" so that a Prime Minister must seek the approval of the House of Commons before dissolving Parliament (<i>Governance of Britain</i>)	Currently a Prime Minister may ask the monarch to dissolve Parliament at any time during its five-year term or when the House of Commons has passed a motion of no confidence in the government. The power to secure dissolution gives a Prime Minister significant control over Parliament	In most circumstances when the Prime Minister has a majority in the House, this proposal will make no difference at all
Amend Commons Standing Orders to enable a majority of MPs to request the Speaker to recall Parliament during a recess (<i>Governance of Britain</i>)	Currently only the government can request the Speaker to recall Parliament. This became an issue when many MPs wanted to recall Parliament in 2002 to discuss the run-up to the invasion of Iraq and the government at first refused to do so until Graham Allen MP organised a partial parliamentary debate at Church House, Westminster	This goes some way to meeting our proposal that MPs should be given the right to request a recall. But the green paper sets the threshold too high to be practicable; and where the government has a majority (as it will usually do) it will normally be able to block such a request. Further, the final decision remains at the discretion of the Speaker
Introduce debates on the annual objectives of major government departments on the floor of the House. (<i>Governance of Britain</i>)	A helpful proposal that could provide a framework for more systematic scrutiny by select committees of department annual and other government reports (as we recommend in our report, <i>A World of Difference</i>)	Could make a difference if debates were to be linked to the scrutiny work of select committees
Reform of the Intelligence and Security Committee (<i>Governance of Britain</i> ; Jack Straw's statement 25 October 2007).	Whether the ISC will become a full-blooded parliamentary committee, equivalent to existing select or joint committees, is not yet clear.	Could make oversight of the security forces more open and democratic
Pledge in Gordon Brown's Speech on Liberty to extend the Freedom of Information Act to facilitate "the daylight of public scrutiny" (25 October 2007)	As we pointed out in <i>Not in Our Name</i> , the existing Freedom of Information regime is highly restrictive over all aspects of foreign and external policy. Our current report, <i>A World of Difference</i> , also highlights the refusal of ministers to deal frankly and openly with select committees and of departments to provide information	Could be a turning point in the government's approach to freedom of information. For the first time since 1997, a Prime Minister has proposed to extend, rather than restrict, the FOI regime. More effective parliamentary oversight of external and EU policies depends upon ministers and departments dealing frankly and openly with select committees in the same spirit
More formalised responses to parliamentary petitions (<i>Governance of Britain</i> ; <i>The Governance of Britain – Petitions</i>)	This is not the bold initiative, based on the experience of the Scottish Parliament and other legislatures, that it seems to be. The government is cool on the idea of a committee on petitions and measures to ensure that Parliament takes petitions more seriously than it does now	Could lead to popular campaigns gaining access to Parliament, e.g., over cluster munitions or against the Iraq war or on other issues of foreign and domestic policy.

Our priority here, however, is to urge the government to strengthen and take further its governance reforms and to identify more modest reforms that could improve parliamentary scrutiny of Britain's foreign policy and strengthen Parliament's ability and resources

in order that it can better influence the policy openly in the democratic arena. Our recommendations for reform from *Not in Our Name* are already on the table. We found then that some of Parliament's own traditions and working practices reinforced the government's

autonomy in all areas of policy and our case studies reinforce those findings.

1 We urge Gordon Brown to put the government's duty to seek parliamentary approval for the deployment of the armed forces

¹ See the results of an ICM poll for Democratic Audit, the Federal Trust and One World Trust, January 2006. Further information from www.myforeignpolicytoo.org or www.icmresearch.co.uk

² Burall, S., Donnelly, B., and Weir, S., *Not in Our Name: Democracy and Foreign Policy in the UK, Politico's, 2006*. This was a joint report from Democratic Audit, the Federal Trust and One World Trust.

³ *A World of Difference: Parliamentary Oversight of British Foreign Policy*, a joint report by Democratic Audit, the Federal Trust and One World Trust; available at £10 P&P from One World Trust, 3 Whitehall Court, London SW1A 2EL, or on www.myforeignpolicytoo.org

⁴ Ministry of Justice, *The Governance of Britain*, Cm 7170, July 2007.