



Building Networks in Human Rights Policy Making – AHRC/MoJ 17/11/09 Public Policy Seminar report

Summary

- This meeting was organised by the AHRC and was well attended by a diverse combination of policy makers, senior academics and representatives from the AHRC, charities and NGO's in the field of human rights.
- These participants came together to discuss the research and analysis needs of the Ministry of Justice, and to assess practical and effective ways in which the relationship with human rights academics could be developed and improved. In addition, the role of organisations such as the Arts and Humanities Research Council in facilitating constructive exchange between Government and academia was also discussed.
- The seminar was designed to address several key points relating human rights policymaking, and how the national debate on Rights and Responsibilities might utilise academic expertise. This included (between academia and Government); differences in structure and culture; improving communication; the role of the AHRC; models of policymaking; and the relationship between research and policy.
- In addition to developing proposals and suggestions for the future, the event was aimed at the development of formal and informal networks between leading academics and senior government policy-makers.

View from the Ministry of Justice

Edward Adams started off the discussion by relaying the Human Rights Division's interests in finding a way of genuinely engaging with the academic community, and by laying out the background to the seminar. In particular, he discussed the national debate on a potential Bill of Rights and Responsibilities and how this might draw on concepts of rights in different areas (e.g. in health and employment). A new Bill of Rights and Responsibilities could have a potentially wide ranging effect, given the way in which rights and entitlements are distributed across differing areas of Government and society.

He detailed the gaps in knowledge in this 'deeply conceptual' area, and that there is little in the way of previously published research or legal cases to draw on. There was also the possibility of conducting a consultation on a possible extension to the Human Rights Act, considering the potential economic benefits to the UK of doing so.

Edward Adams was followed by Tina Golton who gave a presentation on 'What Policy Makers Want and Need – Research Criteria', covering the following points:

The research commissioning process at the MoJ. Describing the role of analysts at the MoJ, the remit of the MoJ and procedures of competitive multiple tendering for clearly pre-specified projects. Once commissioned, academics are required to deliver work of 'high quality'. This meant that the work had to be based on a robust and appropriate methodology, with logical coherent arguments, findings and recommendations which flow clearly from theoretical and empirical evidence presented.

Criteria for the production of evidence and outputs. The process of output production had to follow clear quality control processes, and had to be explicit about any assumptions or limitations in the production of evidence. The work had to be 'relevant to the decision', namely it had to answer the research questions posed, clearly explain the implications of the evidence to the policy/operational decision being considered and the findings had to relate to the outcomes/and decisions to be made. A final criterion was the accessibility of the material to interested parties. The outputs had to be in plain English, understandable by non-specialists and fully referenced.

Proposals for future changes in the commissioning of academic work. The possibility of a 'larger, single pool of research and analysis funds' which would allow the MOJ to commission larger projects and focus on more strategic, cross-cutting issues in partnership with the Research Councils. Another strategy was to 'improve MOJ analysts engagement with the academic community' to allow the transfer of knowledge between them, to focus on improving understanding of methodology and theoretical development on a wider evidence base. A longer term more ambitious desire of the MoJ was to set up 'multi-discipline research centres' to cover the whole MoJ remit.

View from academia

Liora Lazarus and Ben Goold then spoke about their direct experience as academics on working with government. Their reflections were based on two independent research projects they had completed for the Ministry of Justice, and covered the following key points:

Relationship between policy makers and academics. She identified three key objectives: a) that policy work should be informed by genuine independent expertise; b) that scholarship, in particular human rights scholarship, should be improved by an awareness of policy formation; c) that academic freedom be preserved to the greatest possible extent in order that policy can be informed by a 'genuinely critically reflective community'. The central challenges for academics were maintaining independence and credibility while engaging with the legitimate demands and constraints of policy makers, and overcoming practical and structural impediments.

Policy formation. In terms of policy formation, it was her view that Government policy in human rights would be enriched if it was tested, contested and verified by academic expertise. The process should take the form of 'constructive disagreement' that seeks to avoid creating tension between the values, concerns and needs of both policy makers and academics. She suggested that this was something the Arts and Humanities Research Council was particularly well placed to facilitate.

'Good' evidence. Because of the existence of these different systems of knowledge production and verification – it was not always clear what constituted a 'good' human rights argument in the context of policy formation. The inherently normative dimension of human rights meant that much of the arguments were not amenable to empirical verification. It was therefore very difficult to isolate what constituted 'good evidence' in the context of normative debate.

Practical issues. He went on to explore the practical and logistical impediments to working with policy makers. He emphasized that human rights policy making requires a type of specific expertise different from that to be found within Government, however the difficulty was in assessing good quality within the context of normative debates. He observed that policy makers tended to require 'provable' normative positions – backed up by clearly identifiable evidence. Academics were used to producing contestable, open ended normative positions, and it was difficult to assess what constituted 'evidence' for human rights arguments, or what constituted a benchmark for success in the context of human rights. This left academics with a genuine dilemma – as they were drawn towards conducting work which was politically challenging, but constrained by the values and traditions of their own community.

Differences in the cultures of Government and academia. He emphasized that there were a number of additional practical disincentives to engaging with policymakers. Academics are judged by their peers mainly on the basis of publication and the time taken up in tendering and completing large public funded projects was enormous and the prospect of failing in that context was high, coupled with the risk of loss of control over the output (at worst no publication). It seemed that academics were required to respond to the research questions that policy makers set, and that it might be useful for academics and practitioners to be more directly involved in developing these questions together.

Constraints for academics. Political sign off on projects also meant there was some continuing risk that the publication would not be produced as planned. In addition, the strict application of policy maker's research criteria sometimes cut against the development of sophisticated or important normative arguments that are of particular importance to academics. This was particularly the case with respect to plain language requirements. It wasn't always clear who the non-expert reader was. Both Ben Gould and Liora Lazarus agreed that the projects they had conducted with the MoJ were on the whole very positive, however that there were some challenges of the kind indicated above which had to be resolved along the way.

View from the AHRC

Ben Gibbons followed these presentations with a perspective on the research councils, in particular the AHRC's role in facilitating human rights debate. He outlined the reasons for the involvement of the AHRC in the seminar, detailing the way in which the AHRC funds research in the field of human rights law (with approximately 20 projects previously funded by the AHRC). He discussed some of the major topics of discussion that are currently live between Government, the research councils and academia; particularly noting the how the funding mechanisms for higher education and research is currently being assessed, and the possible impact this will have for academics doing policy focussed research and analysis. Also detailed were two major reports in the field of academic/Government relations, namely those by the Council for Science and Technology on *How Academia and Government can work together*¹ and the British Academy's report *Punching our weight: the humanities and social sciences in public policy making*.²

The focus of the AHRC's work in this area is to broker relationships between policymakers and academics, drawing on its knowledge and experience of working with both Government and academia. This is intended to broaden the pool of knowledge upon which policymakers can draw on a range of issues, plus also developing and providing new opportunities for academics to expand their knowledge of how Government departments operate and communicate.

General discussion

Much of the general discussion centred on finding ways to resolve the structural and practical impediments to knowledge transfer, and to developing creative solutions. The solutions centred on the creation of networks which could be tapped into for the purpose of creating timely research centred on policy questions. One major topic of discussion centred on how government departments procure their work. Professor Chris McCrudden from the University of Oxford suggested alternative routes to the standard multiple competitive tendering process. He argued that the procurement route took up large amounts of time. The potential advantages of competitive bidding was arguably outweighed by the time taken in assessing the bids, and in elaborating on the criteria against which they were assessed.

¹ <http://www.cst.gov.uk/reports/files/academia-government.pdf>

² <http://www.britac.ac.uk/reports/wilson/>

He therefore suggested alternative routes to finding the best people to conduct policy research. An alternative model could be the development of centre or a series of centres which gather together expertise over a period of time (say 5 years) and which could be triggered to produce certain work or conduct certain research. That would mean that one off ad-hoc procurement processes could potentially be avoided. The model would also allow academics to feed into the production of the questions that policy makers want answered.

McCrudden noted that this model was followed by the European Commission which had set up networks which existed over longer periods and which could supply the Commission with the work required in a timely fashion. Professor McCrudden also pointed out that public procurement is normally followed by public bodies, and he noted the ease with which the Nuffield Foundation worked which was more streamlined and trusted the expertise of those involved.

Professor Gavin Phillipson from Durham University suggested that the Society of Legal Scholars (SLS) might be a useful starting point. One of the stated purposes of the SLS subject sections, one of which is Human Rights, is to stimulate discussion of reform proposals, such as those from the Law Commission, and coordinate responses. Thus the Subject Sections secretary could be added to the standard mailing list of consultees for the MoJ and other Ministries. He could then circulate the details via the relevant SLS email list: in that way, a very large number of academics with relevant expertise could be quickly and easily alerted through a single point of contact of an ongoing consultation or other project.

Another final point of action, suggested by Ben Goold and Liora Lazarus was the development of protocols through which to resolve some of the tensions expressed between academic and policy makers in the development of research, and in identifying research questions. They committed to starting to develop these with members of the group present.

Liora Lazarus, Ben Goold, Ben Gibbons 2010