



Academic seminar and Call for Papers: Post-Legislative Scrutiny

Co-organised by the Institute of Advanced Legal Studies of the University of London
and the Westminster Foundation for Democracy (WFD)

London, Tuesday 10 July 2018

Introduction

Parliament has a responsibility to monitor the extent to which the laws it has passed are implemented as intended and have the expected impact. Therefore, Post-Legislative Scrutiny is an important tool for increasing government accountability and is part of the oversight role of parliament.

Despite its importance for the respect of the rule of law, it is not uncommon for the process of reviewing the implementation of legislation to be overlooked. In several countries, there is the risk that laws are passed but not applied, that secondary legislation is not adopted, or that there is insufficient information to assess the actual state of a law's implementation and its effects.

Implementation is a complex matter depending on the mobilisation of mechanisms, funds and different actors. Implementation does not happen automatically, and several factors can affect its course, including: changes in facts on the ground, diversion of resources, deflection of goals, resistance from stakeholders and changes in the legal framework of related policy fields.

Implementation of legislation depends on the clarity of the legislative text, the compatibility with other laws, constitution and international obligations, the resources (human, financial) accessible to implement the law, the availability of secondary legislation, and the accessibility of laws to those in charge of its enforcement.

As parliaments start to pay more attention to implementation and begin to create specific procedures to oversee it, three main benefits emerge from the process of Post-Legislative Scrutiny:

1. It strengthens democratic governance: legislation adopted by parliament should be implemented and applied in accordance to the principles of legality and legal certainty.
2. It allows the identification of potentially adverse effects of new legislation and the opportunity to act to prevent these.
3. It enables the consistent appraisal of the how laws respond to the issues they intend to regulate. It enables the legislator to learn from experience both in terms of what works and what does not and how effective implementation is in meeting objectives, with an eye to making better legislation in future and reducing the need for corrective action.

Post-Legislative Scrutiny is a broad concept, consisting of two dimensions. First, it looks at the enactment of the law, whether the legal provisions of the law have been brought into force. Second, it looks at the impact of legislation, whether intended policy objectives have been met, if implementation and delivery can be improved, and if lessons can be learnt and best practices identified. It is recommended that parliaments look at both dimensions of Post-Legislative Scrutiny.

Throughout 2017, the Westminster Foundation for Democracy (WFD) worked with partnering parliaments to help expand their internal capacity to review how a new law has worked in practice. WFD developed three tools on Post Legislative Scrutiny: [Comparative Study on Post-Legislative Scrutiny](#) in parliaments in 10 countries; [Principles for Post-Legislative Scrutiny by Parliament](#); and, a [Guide for Parliaments on Post-Legislative Scrutiny](#). WFD supported emerging practices in the conduct of Post-Legislative Scrutiny in the parliaments of Indonesia, Myanmar, Pakistan, Lebanon and Algeria, and deepened its cooperation on Post-Legislative Scrutiny with the UK House of Commons, the Scottish Parliament and the Swiss Parliament.

For 2018, the Institute of Advanced Legal Studies of the University of London and the Westminster Foundation for Democracy (WFD) are cooperating on the organization of an academic seminar on Post-Legislative Scrutiny, which will result in the publication of a Special Issue of the European Journal on Law Reform on Post-Legislative Scrutiny, published by the Institute of Advanced Legal Studies of the University of London.

Objectives of the academic seminar

- 1. Discuss Post-Legislative Scrutiny (in terms of the legal enactment and policy impact aspects of law implementation) as a substantial dimension of the oversight role of parliament, within different political systems;**
- 2. Analyse which structures, procedures, emerging methodologies and resources are shaping parliaments' ability to conduct Post-Legislative Scrutiny, including parliaments' interaction with executive and implementing agencies;**
- 3. Analyse lessons learned from established ex-ante legislative processes (incorporating review/sunset clauses in bills, Regulatory Impact Assessments, gender analysis) for the ex-post review process of impact of legislation.**

Themes and agenda

The one-day seminar will be structured around three panel discussions, covering the following issues:

1. The law's enactment and the legal aspects of Post-Legislative Scrutiny

- Bringing the primary legislation into force; issuing of secondary legislation, criteria for reviewing its compatibility with the primary legislation and fundamental rights and freedoms, and parliament role on secondary legislation [in Westminster parliaments, this might go through delegated legislation laid before parliament, negative resolution procedure or affirmative resolution procedure]
- Court proceedings and court challenges to legislation, and its impact on the effective implementation of legislation; role of legal precedents in implementation
- Review clauses and sunset clauses in legislation

2. How to conduct the ex-post assessment of the policy impact of legislation?

- Methodologies for mid-term and long-term impact assessment of legislation
- Ex-ante and ex-post impact assessment, Regulatory Impact Assessment; baselines, indicators and criteria for impact assessments of draft legislation and how to use that information for ex-post assessment of impact
- Structures, procedures, emerging methodologies and resources which are shaping parliaments' ability to conduct Post-Legislative Scrutiny
- Institutional approaches to impact assessment by parliament and government in varying institutional and political contexts; roles, responsibility, partnerships and resources of ministries, semi-autonomous institutions and parliaments in conducting Post-Legislative Scrutiny of legislation

3. Using Post-Legislative Scrutiny to conduct thematic review of impact of legislation: [example - gender analysis]

- Relevance and opportunities of Post-Legislative Scrutiny to conduct a thematic review of the impact of legislation
- How incorporating gender equality and equality impact assessment into the legislative process affects the framework for Post-Legislative Scrutiny
- Lessons learned from gender budgeting and auditing for gender-sensitized Post-Legislative Scrutiny
- Necessary or complimentary systems and structures of parliaments to facilitate gender-informed Post-Legislative Scrutiny

It is proposed that each session be chaired by a parliamentary representative (one session chaired by UK Westminster parliament, two sessions chaired by another parliament)

Participants

- Members and staff of parliaments and legislatures in the UK and other selected countries
- Academics and students from the University of London and other academic institutions
- WFD staff, parliamentary development practitioners and legal / governance experts.

Organisation of the academic seminar

- Date: Tuesday 10 July 2018
- Venue: Council Chamber of the Institute of Advanced Legal Studies of the University of London, Charles Clore House, 17 Russell Square, Bloomsbury, London WC1B 5DR
- The working language of the seminar is English.¹

¹ On a case by case basis, and depending upon the financial resources, interpretation into one other language might be considered.

- There is free accommodation available for 2 to 3 nights (around the seminar dates) at students' residencies at the University of London. This will be open to registered seminar participants travelling from abroad and for UK-based participants who have submitted a paper. Free accommodation can be requested when completing the online registration for the seminar.
- There is no registration fee, though online registration of all participants prior to the seminar is required. Registration for the seminar opens on 5 April 2018 through the websites of WFD² and the Institute for Advanced Legal Studies.³
- Participants (paper-presenters, discussants and chairs) for the three panels will be invited to an informal dinner on Monday evening 9 July.

Call for Papers

As part of the preparatory process for the seminar, there is a Call for Papers.

- Academics, parliamentarians and senior parliamentary staff, WFD staff and other parliamentary development practitioners, and legal / governance experts are invited to respond to the Call for Papers.
- We invite submissions of abstracts (approx. 2 pages or 1,200 – 1,400 words) and full papers (8 to 12 pages or 4,500 to 6,000 words).
- Abstracts should be submitted by 5 April 2018. Abstracts will be reviewed, and the authors of accepted proposals will be notified by 15 April 2018. They will be expected to submit full papers by 15 June 2018.
- The abstract should specify and motivate the research question, describe the methods and data used, and give an indication of the findings. Submission of the abstract should be accompanied by a cover letter describing the author's research interests, a CV and list of publications.
- Papers should focus on one or more issues mentioned above under any of the following three themes: the enactment of laws and the legal aspects of Post-Legislative Scrutiny, how to conduct ex-post assessment of the policy impact of legislation, thematic review of impact of legislation.
- Papers about these issues are welcome from diverse methodological approaches, regions and cases. Paper proposals should ideally specify (i) the importance of the core topic and questions to be addressed, (ii) the theory and propositions to be investigated, (iii) the evidence and example(s) from parliament(s) researched, along with (iv) brief citations to the key literatures.
- Registered participants for the seminar will receive electronic access to a dedicated section of the seminar's website where they can access all abstracts and papers as soon as they are received.
- From the papers received, up to 10 papers will be selected for presentation at the seminar.
- Authors of the papers presented at the seminar will be invited to submit an article for publication in the Special issue of the *European Journal on Law Reform*.

² <http://www.wfd.org/>

³ <http://ials.sas.ac.uk/research/research-centres/sir-william-dale-centre-legislative-studies>

- In addition to the Papers, WFD also welcomes a short blog text of 500 to 700 words related to legislative processes and Post-Legislative Scrutiny. In the weeks prior to the seminar, and following a grammar and style review, WFD will publish the blogs on its public website, and thus give wider recognition to the analysis by the author. Blogs can be submitted between 5 February and 15 June 2018. Persons submitting a blog only, without the full paper, won't be shortlisted to publish in the Special Issue.
- Papers, abstracts, blogs, cover letters and CVs need to be submitted electronically to WFD at Events@wfd.org

Academic publication

- The academic seminar will result in a dedicated publication, a special issue of the *European Journal on Law Reform on Post-Legislative Scrutiny* (published by the Institute of Advanced Legal Studies of the University of London).
- It will include 6 to 7 solid articles of around 8,000 words (total: 55,000 words).
- The 6 to 7 articles will be selected after the seminar, taking into consideration their presentation at the seminar.
- Research assistants of the University of London will be asked to assist authors in preparing a solid article which stands the test of academic peer-review.
- The process of academic peer-reviewed will be led by the Institute for Legal Studies of the University of London.
- WFD will serve as guest co-editor of the Special Issue.
- The publisher has agreed to free, open access for one article of the publication.
- Author's Manuscript versions of the articles will be published on the WFD-website.
- Timing of publication of the Special Issue: end of 2018 or early 2019.

Important dates

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| ➤ Launch of Call for Papers: | 5 February 2018 |
| ➤ Abstract submission deadline: | 5 April 2018 |
| ➤ Start online registration for all participants: | 5 April 2018 |
| ➤ Decisions on abstracts: | 15 April 2018 |
| ➤ Full paper deadline (for accepted abstracts): | 15 June 2018 |
| ➤ Deadline for blogs: | 15 June 2018 |
| ➤ Deadline for seminar online registration: | 30 June 2018 |
| ➤ Seminar date: | 10 July 2018 |

For further information

Queries about the Academic Seminar and Call for Papers can be addressed to: Events@wfd.org