



Academic seminar and Call for Papers: Post-Legislative Scrutiny in Asia

Organised by the Westminster Foundation for Democracy (WFD)

in cooperation with the University of Jember (Indonesia)
and the University of Yangon (Myanmar)

with the support of UK Department for International Cooperation (DFID)
and the Union Hluttaw of the Republic of Myanmar

Yangon, 17-18 June 2019

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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 (PLS) is an important tool for increasing government accountability and is part of the oversight role of parliament.

Despite its importance for 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 complex, depending on the mobilisation of mechanisms, funds and actors. Implementation does not happen automatically, and several factors 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 area.

As parliaments start to pay more attention to implementation and begin to create procedures to oversee it, three main benefits emerge from the process of Post-Legislative Scrutiny. Firstly, it strengthens democratic governance: legislation adopted by parliament should be implemented and applied in accordance to the principles of legality and legal certainty. Secondly, it allows the identification of potentially adverse effects of new legislation and the opportunity to act to prevent these. Thirdly, it enables the consistent appraisal of how laws respond to the issues they intend to regulate. It enables the legislator to learn from experience 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.

PLS 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 PLS.

Within the last two years, the Westminster Foundation for Democracy (WFD) has worked with partnering parliaments to help expand their capacity to review how a law has worked in practice. WFD developed three tools: [Comparative Study on Post-Legislative Scrutiny](#); [Principles for Post-Legislative Scrutiny by Parliament](#); and, a [Guide for Parliaments on Post-Legislative Scrutiny](#). WFD supports emerging practices in the conduct of PLS in the parliaments of Indonesia, Myanmar, Pakistan and Nepal, and deepened its cooperation on Post-Legislative Scrutiny with the UK House of Commons and the Scottish Parliament.

Considering that Post Legislative Scrutiny is growing in importance in several Asian parliaments, WFD also sees the need to have deeper insights on how PLS is practiced by a wider group of parliaments in Asia. WFD in collaboration with the Centre for Human Rights, Multiculturalism and Migration (CHRM2) of the University of Jember (Indonesia) and the Law Department of the University of Yangon (Myanmar) will conduct a two day academic seminar on Post-Legislative

Scrutiny, focusing on practices and studies in Asian countries. The authors of the papers presented at the international seminar will be offered the possibility to submit an article for publication in the Journal of Southeast Asian Human Rights (SEAHR).

Objectives of the Asia 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 parliaments in Asia, within different political systems;
2. Analyse which structures, parliamentary procedures, emerging methodologies and resources are shaping Asian parliaments' ability to conduct Post-Legislative Scrutiny, including parliaments' interaction with the executive, implementing agencies and civil society;
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 the impact of legislation.
4. Encourage peer-to-peer parliamentary learning and knowledge building on Post-Legislative Scrutiny in Asia.
5. Identify good practices in terms of procedures, structures and institutionalization of Post-Legislative Scrutiny in Asia.
6. Highlight the importance of law implementation to accelerate the achievement of the Sustainable Developments Goals (SDGs) via parliamentary oversight practices.
7. Encourage cross-country research on requirements, obstacles and opportunities for accelerating achievements of the SDGs in Asia through law enactment and enforcement in selected goals.

Themes of the seminar

The two-day international seminar will cover the following themes:

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
- Constitutional/Supreme 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 assessment of the policy impact of legislation?

- Ex-ante and ex-post impact assessment, Regulatory Impact Assessment (RIA); 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 human and financial resources which are shaping parliaments' ability to conduct PLS

- Institutional approaches to impact assessment by parliament and government in varying institutional and political contexts; roles, responsibility, partnerships and resources of ministries, autonomous institutions and parliaments in conducting PLS of legislation

3. Using PLS to conduct thematic parliamentary oversight on impact of legislation to accelerate the achievements of Sustainable Development Goals.

- Relevance and opportunities of PLS to conduct a thematic review of the impact of legislation on selected Sustainable Development Goals
- How incorporating impact assessment on SDGs into the legislative process and PLS
- Developing a gender lens on assessing the impact of legislation and what are required data
- Lessons learned from practices of PLS to encourage achievements of SDGs.
- Necessary or complementary systems and structures of parliaments to facilitate Post-Legislative Scrutiny to encourage achievements of SDGs.

Based on the three main themes, the seminar organizers welcome abstracts submission on the following themes, but not limited to:

- Legal and political aspects of Post-Legislative Scrutiny in Asia
- Parliaments, legislation and Post-Legislative Scrutiny in Asia
- Comparative perspectives on Post-Legislative Scrutiny in Asia
- Constitutionalism, legislation and a dynamic mechanism of PLS in Asia
- State authority and fair assessment of legislation in democratic transition
- Institutional approaches toward Post-Legislative Scrutiny in Asia
- Gender analysis and Post-Legislative Scrutiny
- Lesson learned and best practices of Post-Legislative Scrutiny in Asia
- Post-Legislative Scrutiny and the acceleration of SDGs

Participants of the seminar

- Members and staff of parliaments across Asia and beyond
- Academics, researchers and students from universities across Asia and beyond
- WFD staff, parliamentary development practitioners and legal / governance experts.

Organisation of the seminar

- Date: 17-18 June 2019
- Venue: Yangon
- The papers will be presented in English.
- Authors of selected paper abstracts will be invited to present their full paper at the seminar.
- If requested, authors of selected papers and panellists will be offered an economy flight ticket to Yangon and accommodation during the seminar. Logistical notes will be provided later.
- Seminar participants which are not authors of selected papers nor panellists can apply for registration as regular participant of the seminar. Seminar participants which are not authors

of selected papers nor panellists need to arrange their own flight and accommodation in Yangon. In case a visa for Myanmar is needed, a visa invitation letter will be provided.

- Online registration for all seminar participants will open on 1 March 2019 on <https://www.wfd.org/> Applications for registration need confirmation by the organizers.
- The detailed seminar agenda, including panellists and chairpersons of panels from the University of Yangon and the University of Jember, will be published on the WFD website.
- There will be a separate panel with paper presentations for students of Myanmar universities.

Call for Papers

Preparing for the Asia academic seminar, a Call for Papers has been launched.

- 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 words) and full papers (8 to 12 pages or 4,500 to 6,000 words).
- Abstracts should be submitted by 20 March 2019. Abstracts will be reviewed, and the authors of accepted proposals will be notified by 30 March 2019. They will be expected to submit full papers by 30 May 2019.
- The abstract should specify and motivate the specific research question related to one or more themes mentioned above, 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 about these themes are welcome from diverse methodological approaches, regions and countries. Paper abstracts 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 all accepted abstracts and papers prior to the seminar.
- Papers, abstracts, cover letters and CVs need to be submitted electronically to WFD at events@wfd.org, with subject line: Asia seminar on PLS.

Academic publication

- Authors of the papers presented at the seminar will be invited to submit an article for academic peer-review and publication in the Journal of Southeast Asian Human Rights (JSEHR)¹, published by the Centre for Human Rights, Multiculturalism and Migration (CHRM2) of the University of Jember, Indonesia. Its editorial board includes academics from universities in Indonesia, Japan, Malaysia, Singapore, Thailand, UK and US.
- The Journal intends to accept up to 18 solid articles of around 8,000 words, published over several editions of the Journal.
- The articles will be selected after the seminar, taking into consideration possible updates of the seminar paper by the author following its presentation at the seminar.

¹ <https://jurnal.unej.ac.id/index.php/JSEHR/about/editorialTeam>

- The JSEAHR will provide guidance to the authors in preparing a solid article which stands the test of academic peer-review.
- The process of academic peer-review will be led by the CHRM2 of the University of Jember. WFD will serve as guest co-editor if needed.
- Timing of publication in the JSEAHR: end of 2019 and early 2020.

Important dates

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| ➤ Launch of call for paper abstracts: | 30 January 2019 |
| ➤ Online application for registration for all participants: | 1 March 2019 |
| ➤ Deadline for submission of paper abstracts: | 20 March 2019 |
| ➤ Decisions on paper abstracts: | 30 March 2019 |
| ➤ Deadline for submission of full papers: | 30 May 2019 |
| ➤ Deadline for seminar online registration: | 30 May 2019 |
| ➤ Seminar date: | 17-18 June 2019 |
| ➤ Publication of articles in Journal: | End 2019 – early 2020. |

For further information

Queries about the Asia Academic Seminar can be addressed to: agus.wijayanto@wfd.org (in Indonesia) and saosiri.rupa@wfd.org (in Myanmar).