

Expert seminar and Call for Papers

Legislative ex-post evaluation, legislative impact assessment and Post-Legislative Scrutiny

Co-organised by the Centre for Legislative Studies of the University of Hull and the
Westminster Foundation for Democracy (WFD)

London, 26 April 2019

As parliaments worldwide start to pay more attention to implementation of legislation and begin to create specific procedures for this, Post-Legislative Scrutiny (PLS) can be considered 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 are met, if implementation and delivery can be improved, and if lessons can be learnt and best practices identified.

Ex-ante impact assessments

National governments, ministries or executive agencies often put considerable efforts in drafting new legislation. In many countries, ex-ante Regulatory Impact Assessments (RIA) contribute to preparing the new legislation. Ex-ante RIA, often conducted by the sponsor of the law, may look at the anticipated impact of the law or regulation on public budgetary income and expenditures, at compliance costs to the public, industry and public administration, (depending on topic) costs to (small and medium) business, impact on equality between men and women and on vulnerable groups in society, environmental impact, etc. The ex-ante RIA can provide a valuable benchmark against which to evaluate the actual impact of the legislation after a number of years.

Legislative ex-post evaluation

Following the entry into force of the law, there is need for monitoring its implementation, reviewing its impact, and evaluating whether the law has achieved the intended outcomes. Implementation of legislation is a complex task which does not happen automatically.

In many countries, government departments or executive agencies hold most of the information on the impact of legislation. Legislative impact assessments can be helped by institutions such as Statistical Office in terms of empirical acquisition of concrete data and the National Audit Office or Supreme Audit Institution through performance auditing.

In many countries, national parliaments and elected representatives have little information on what happens after a law is adopted. Their focus is often on getting legislation passed, and only to a limited extent on checking how well it is being implemented or if it is being implemented at all. Nevertheless, parliament has a role to monitor the implementation of legislation. Legislative ex-post evaluation can be used as an instrument for accountability and oversight over the executive as well as a mechanism to improve the quality of new legislation and policies. Legislative evaluations may perform a key role in political systems as they provide a basis for parliaments to hold their executives accountable.

Post-Legislative Scrutiny by parliament

Legislative ex-post evaluation by parliament is often called Post-Legislative Scrutiny (PLS). It consists of the body of mechanisms and practices used to monitor the implementation of legislation, to evaluate whether the act has generated the intended policy outcomes and to ensure that laws benefit constituents in the way originally intended by MPs. PLS, often carried out by parliamentary committees, is a prominent feature of parliamentary democracy in UK and elsewhere.

Lord Norton of Louth (UK House of Lords) identified three main benefits emerge from the process of PLS: (1.) It strengthens democratic governance: legislation adopted by parliament should be implemented and applied in accordance to the principles of rule of law, 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 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.

Practices in different parliaments indicate various triggers to carry out legislative ex-post evaluations or PLS, such as a provision in the explanatory memorandum, a review or sunset clause in the law, when the law results in high compliance costs, when media reports or high-profile cases challenge the implementation of the policy underpinning the legislation.

A legislative ex-post evaluation or PLS often results in a report including findings and recommendations. The report, mostly adopted by a parliamentary committee, may also form the basis for parliamentary questions to the executive. While some of these parliamentary questions may serve accountability purposes, they may also be used for agenda-setting purposes, policy change and legislative amendments.

Evaluation criteria

When conducting a legislative ex-post evaluation, the evaluation criteria would include the progress made in achieving the objectives (main criterion), the side-effects of the law or regulation (positive or negative side-effects), the enactment of the law or regulation, the practical use of the law and regulation, consideration of whether the costs are proportionate to the results, and other criteria. It is recognized that legislation may have intended effects as well as unintended side effects. Consideration needs to be given as to the time needed after the entry into force of the legislation (for instance, between three to five years after the law entered into force) before conducting an impact evaluation.

Westminster Foundation for Democracy

Throughout 2017 and 2018, 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](#). The publications supported activities and meetings to engage parliamentary staff and legislators around the globe,

In July 2018, the Institute of Advanced Legal Studies of the University of London and the Westminster Foundation for Democracy (WFD) co-organized an academic seminar on Post-Legislative Scrutiny, which forms the basis of a Special Issue of the European Journal on Law Reform (EJLR) on Post-Legislative Scrutiny, published by the Institute of Advanced Legal Studies of the University of London.

In 2019¹, WFD is partnering with the Centre for Legislative Studies of the University of Hull on a sequencing of three initiatives. Firstly, WFD, Lord Norton and the Centre for Legislative Studies of the University of Hull will co-host an expert seminar on legislative impact assessment. Secondly, Wroxton Workshop of Parliamentary Scholars and Parliamentarians

¹ In addition, WFD prepares a seminar on Post-Legislative Scrutiny in Asia, on 17-18 June 2019, in Yangon, in cooperation with the University of Yangon (Myanmar) and the University of Jember (Indonesia).

will host two dedicated panels on PLS. Thirdly, a Special Issue of the Journal of Legislative Studies, dedicated to PLS, will be published.

Objectives of the expert seminar

1. Analyse methodologies, indicators and criteria for legislative impact assessments;
2. Analyse approaches, procedures and lessons learned from established ex-ante legislative processes (review and sunset clauses, Regulatory Impact Assessment (RIA), impact statements in budget, socio-economic, environmental, gender and human rights areas for the ex-post review process on the impact of legislation;
3. Analyse the structures, procedures, triggers and outcomes of legislative impact assessments by government departments, independent state institutions and national parliaments, and current trends in institutionalization of legislative impact assessment;
4. Discuss Post-Legislative Scrutiny as a substantial dimension of the oversight role of national parliaments, with specific focus on reviewing the impact of legislation.

Themes

The expert seminar will address the following themes:

- How to conduct legislative ex-post impact assessments
- How to integrate impact assessments in parliamentary practice
- What are good examples of change coming from legislative impact assessments
- Which methodologies exist and have been tested for mid-term and long-term impact assessment of legislation
- How to use ex-ante impact assessment, RIA, baselines, indicators and criteria for impact assessments of draft legislation for conducting ex-post impact assessment of legislation
- What are institutional approaches to impact assessment by parliament and government in varying institutional and political contexts; what are roles, responsibility, partnerships and resources of ministries, independent state institutions and parliaments in conducting Post-Legislative Scrutiny and impact assessment of legislation. Analysis may focus on individual countries or on a comparative multi-country perspective.
- Thematic impact assessment, for instance assessment of gender dimension of legislation.

Participants

-  Authors and presenters of research papers on above mentioned themes
-  Academics, parliamentary researchers, think-tanks, legislative impact specialists
-  Parliamentary development practitioners and legal / governance experts.

Call for Papers

- Academics, parliamentary researchers, think-tanks, legislative impact specialists are invited to respond to the Call for Papers.
- We invite submissions of abstracts (300 words) and full papers (7,000 words, incl. of footnotes, bibliography and abstract) in English.
- Abstracts should be submitted by 15 March 2019. Authors of accepted proposals will be notified by 20 March 2019. They will be expected to submit full papers by 20 April 2019.
- The abstract should specify and motivate the research question, describe the methods and data used, and give an indication of the findings.

- Full papers should 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) researched, along with (iv) brief citations to the key literatures.
- Submission of the abstract should be accompanied by a cover letter describing the author's research interests, a CV and list of publications.
- Authors whose abstract has been accepted for full paper presentation at the seminar will receive electronic access to papers of the other presenters as well.
- Send abstract, full paper, cover letter and CV electronically to WFD: Events@wfd.org

Wroxton workshop of parliamentary scholars and parliamentarians



FDU
Wroxton

- The 14th Wroxton workshop will take place on 27-28 July 2019, bringing together parliamentary researchers and MPs from around the globe. See: <http://wroxtonworkshop.org/>
- From the papers received and discussed at the expert seminar, up to six papers will be selected for presentation and further discussion at the Wroxton workshop.

Journal of Legislative Studies

Authors of papers presented at the seminar and at the Wroxton workshop will be invited to submit an article for the Journal of Legislative Studies.

The Journal's Special Issue on PLS will be published in 2020 by the Centre for Legislative Studies of the University of Hull. See: <https://www.tandfonline.com/toc/fjls20/current>



Organisation of the expert seminar

- Date: Friday 26 April 2019
- Venue: WFD, Artillery House, 11/19 Artillery Row, London SW1P 1RT.
- The working language of the seminar is English.
- Participation is limited to authors of accepted papers, academics, parliamentary researchers, legislative impact specialists, legal / governance experts and WFD staff.
- If needed, WFD may cover accommodation in London for 2 nights for paper authors.

Important dates

- Launch of Call for Papers and abstracts: 1 February 2019
- Abstract submission deadline: 5 April 2019
- Decisions on abstracts: 10 April 2019
- Full paper deadline (for accepted abstracts): 22 April 2019
- Expert Seminar date: 26 April 2019
- Presentation of papers at Wroxton workshop 27-28 July 2019
- Decision on selection articles for Journal 31 July 2019
- Deadline for articles for Journal 15 September 2019
- Peer-review and publication Spring 2020

For further information

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