

Championing Parliamentary Oversight: The London Declaration on Post-Legislative Scrutiny

The London Declaration on Post-Legislative Scrutiny aims at raising awareness about the role of parliaments in overseeing the implementation of legislation and galvanising locally-appropriate action from legislators, experts and citizens.

The initiative is sponsored by Westminster Foundation for Democracy (WFD), the UK public body dedicated to supporting democracy around the world.

The Declaration is an outcome of the Academic Seminar on Post-Legislative Scrutiny held in London on 10 July 2018 and jointly organised by the Institute of Advanced Legal Studies of the University of London and WFD.

WFD will maintain a 'pledge bank', openly accessible online on www.wfd.org. It will also support signatories by providing advice and learning opportunities.

Background

The effective implementation of laws is a complex business and it depends on many elements including - to name a few - funding, compliance, commitment and cooperation from institutions and citizens. Implementation can also be affected by changes in politics, in the economy or in society.

Parliaments and elected representatives have often little information on what happens after a law is enacted. The focus is often on getting legislation made, not on checking how well it is being implemented and if it is effective at all.

Post-Legislative Scrutiny, or Ex-Post Evaluation of Legislation, consists of the body of mechanisms and practice used to monitor and evaluate the implementation of legislation, ensuring laws benefit constituents in the way originally intended by lawmakers.

The pledge

By signing up to the London Declaration on Post-Legislative Scrutiny, parliaments, institutions, NGOs and research organisations commit to promote, initiate, strengthen or support practices of Post-Legislative Scrutiny in a national or subnational parliament.

Signatories are also invited to add specific pledges: locally-appropriate actions they commit to take between now and 2022.

Signatures to the Declaration on Post-Legislative Scrutiny can be sent to
events@wfd.org

THE LONDON DECLARATION ON POST-LEGISLATIVE SCRUTINY

We, the signatories of this Declaration,

Recognize that the success of democracy rests on its capacity to improve the lives of citizens, in line with the commitments under the Sustainable Development Goals (SDGs);

Reaffirm that effective democracies adopt and implement legislation in accordance with the principles of legality, legal certainty and the rule of law;

Recognise that parliaments and legislators may play an important role in monitoring and evaluating if laws are benefiting citizens as originally intended;

Are conscious that implementation of legislation depends on a number of factors such as the clarity of the legislative texts; the compatibility with other laws and the constitution; the availability of human and financial resources to implement the law; timely issuing of secondary or delegated legislation; and full access to the legislation by enforcement authorities.

Recognize Post-Legislative Scrutiny, also called Ex-Post Evaluation of Legislation, as part of a full legislative cycle approach, defined as setting the agenda for legislation, followed by a legislative proposal, followed by the consideration and adoption of the law, followed by its implementation by the government; followed by Post-Legislative Scrutiny, followed by legislative amendments or new legislation if necessary.

Acknowledge the need to identify any adverse effects of legislation more quickly and frequently, particularly when it impacts people already experiencing disadvantage and inequality;

Commit to promote Post-Legislative Scrutiny (Ex-Post Evaluation of Legislation) to ensure laws are implemented as intended, to increase legislators' focus on implementation and delivery of policy aims and to identify and disseminate good practice, so that lessons may be drawn from the successes and challenges revealed by this oversight work;

Recognize the multiple forms and diverse nature of practices of Post-Legislative Scrutiny in different parliaments, national contexts, political traditions and constitutional systems;

Call upon Parliaments and other actors involved in the adoption and implementation of laws, including the executive, judiciary, civil society, independent oversight institutions, to commit and contribute to the quality and effectiveness of legislation and its implementation.

Therefore, we pledge to advance the following ten principles on Post-Legislative Scrutiny (Ex-Post Evaluation of Legislation):

- 1 Post-Legislative Scrutiny is a broad concept, including two main dimensions: (1) evaluating the introduction and enforcement of a piece of legislation, thus whether the legal provisions of the law have been brought into force; (2) evaluating the impact of legislation, thus if its intended policy outcomes have been met. Parliaments are invited to look at both aspects of Ex-Post Evaluation of Legislation.
- 2 Parliaments can undertake Post-Legislative Scrutiny on any matter that they so choose and at any given time. Trigger points for a parliament to initiate Post-Legislative Scrutiny include, among others, requests by citizens or organizations that a piece of legislation be reviewed, media reports, petitions, members of the judiciary highlighting gaps, loopholes or contradictions in legislation, and regular parliamentary committee work dealing with an issue.
- 3 Parliaments are invited to promote an open and consultative process for identifying the pieces of legislation that are selected for review, considering the time and resources available for Post-Legislative Scrutiny. If applicable to the national context, legislation affecting civil liberties and legislation adopted under fast-track procedures are best included in the list of legislation selected for review. To be as effective as possible, Post-Legislative Scrutiny may intend to review secondary or delegated legislation at the same time as reviewing the primary or parent act.
- 4 Parliament's role in Post-Legislative Scrutiny can benefit from the data and information on legislative implementation by the government. The availability of information by the government and by independent agencies affects the efficiency of Post-Legislative Scrutiny by parliament to a significant extent. While Post-Legislative Scrutiny can be instrumental in building effective relations between parliamentary committees and ministries, it also aims to make the executive more accountable before parliament for law implementation.
- 5 Post-Legislative Scrutiny provides an opportunity to assess the impact of legislation on the well-being of all citizens and to address any unforeseen disadvantages or inequalities that may have been created based on gender, education, geographic location, disability, sexuality, income, religion, ethnicity, language or other factors. A focus on inclusion supports greater monitoring and oversight of policy commitments to gender equality and human rights; and it furthers the SDG guiding principle of leaving no one behind.

- 6 Parliamentary committees play a key role in conducting Post-Legislative Scrutiny. While considering the appropriate structure to conduct Post-Legislative Scrutiny, Parliaments may assign the scrutiny to standing (permanent) sectorial committees, to a dedicated committee, to ad hoc committees or to a parliamentary unit. Where parliamentary committees play a key role, they often do the political follow-up of the draft technical ex-post scrutiny reports, usually prepared by parliamentary staff or experts.
- 7 To make Post-Legislative Scrutiny as efficient and sustainable as possible, parliaments are invited to conduct it in an inclusive process in which all party groups in parliament can participate.
- 8 Parliaments are invited to include outreach and public engagement as part of the Post-Legislative Scrutiny process as this enables the access to additional sources of information and evidence. Committee public hearings or consultations which are part of the Post-Legislative Scrutiny inquiry can enhance public trust in parliament and in other democratic institutions, and public participation in the decision-making within parliament. Best parliamentary practices make the Post-Legislative Scrutiny reports available to the public, whenever possible. It is useful that independent or autonomous agencies, in particular when established by legislation approved by parliament, report to parliament on how that legislation has been implemented, identifying any issues with implementation and whether it solved the problem that it was intended to address.
- 9 In drafting legislation, parliaments can resort when appropriate to sunset or review clauses as specific means for planning post-legislative scrutiny reviews. Parliaments are invited to consider putting processes in place to ensure consideration of the findings of Post-Legislative Scrutiny. Recommendations of Post-Legislative Scrutiny reviews are then tracked and followed through and, where necessary, changes to legislation and policy are made in a timely manner. In this way, Ex-Post Evaluation of legislation becomes part of a full-cycle approach to legislation.
- 10 Parliaments are invited to consider institutionalising their efforts in Post-Legislative Scrutiny through their potential inclusion in the parliamentary rules of procedures or other equivalent documents, in line with their respective parliamentary practices. This contributes to generating clarity, purpose and resources for Post-Legislative Scrutiny activities, and ensures its sustainability.

Organisation

Country

Authorised person

Role / function / title

E-mail address

Priority initiatives on Post-Legislative Scrutiny the signatory commits to undertake by 2022 [please list]: