

**STUDY ON THE LEGISLATIVE SCRUTINY**

**PHD DISSERTATION**

**KHIN MAUNG OO**

**DEPARTMENT OF LAW  
UNIVERSITY OF YANGON  
MYANMAR**

**MAY 2024**

## **Abstract**

Legislation is a crucial aspect of sovereignty, which encompasses legislative, executive, and judicial powers. Without the laws of a country, it is impossible to achieve the rule of law, peace, tranquility, and overall development. The quality of laws is dependent on the work of the legislature and the process of legislation. Legislative scrutiny refers to the process of evaluating the effectiveness of statutes. It is essential to not only create good laws but also enforce them. Consequently, the laws enacted by the legislature must be put into practice to accomplish their intended purposes. However, some laws remain dormant in legal books and are not practically applicable. The legislature bears the responsibility of adopting legislation as well as monitoring its implementation and evaluating its effectiveness in achieving its goals. The constitution, parliamentary laws, rules, and respective procedures outline various processes and steps that must be followed before a law is enacted. These include the drafting of the law, discussions, scrutiny, submitting a bill, and reading and debating in parliament, all constituting pre-legislative scrutiny and the legislative process. Pre-legislative scrutiny is crucial in order to produce effective and well-rounded laws. Enforcement and implementation are also vital to ensure the purpose and objectives of a law are realized. Therefore, post-legislative scrutiny is necessary to assess whether a law is fulfilling its aims. This paper highlights the importance of both pre-legislative scrutiny and post-legislative scrutiny for the development of good laws. Myanmar, in particular, should adopt systematic and comprehensive procedures for pre-legislative scrutiny and post-legislative scrutiny in order to produce more effective laws.

# STUDY ON THE LEGISLATIVE SCRUTINY

## Contents

Acknowledgement

Abstract

Abbreviations

Introduction

		<b>Page</b>
<b>Chapter 1</b>	<b>Legislation and Legislative Scrutiny</b>	
1.1	Legislation	1
1.1.1	Supreme Legislation	4
1.1.2	Subordinate Legislation	4
1.2	Legislature	6
1.2.1	Unicameral Legislatures	9
1.2.2	Bi-cameral Legislatures	17
1.3	Legislative Scrutiny	22
1.3.1	Pre-Legislative Scrutiny	23
1.3.2	Post-Legislative Scrutiny	24
<b>Chapter 2</b>	<b>Pre- Legislative Scrutiny</b>	
2.1	Process of Legislation in some countries	26
2.1.1	Legislative Process in Canada	28
2.1.2	Legislative Process in the United Kingdom	32
2.1.3	Legislative Process in the United States of America	35
2.1.4	Legislative Process in Japan	39
2.1.5	Legislative Process in India	42
2.1.6	Legislative Process in Indonesia	44
2.1.7	Legislative Process in Myanmar	47
<b>Chapter 3</b>	<b>Post-Legislative Scrutiny</b>	
3.1	Concept of Post Legislative Scrutiny	53
3.2	The Purpose of Post-Legislative Scrutiny	58
3.3	Steps of Post Legislative Scrutiny	59
3.3.1	Pre- planning Phase	60

	3.3.2	Planning Phase	61
	3.3.3	Implementation Phase	64
	3.3.4	Follow- up Phase	67
	3.4	Forms of Post Legislative Scrutiny	69
	3.4.1	Reviewed by Government Departments	69
	3.4.2	Reviewed by Parliamentary Committee	70
	3.4.3	Reviewed undertaken by Others Bodies	71
	3.4.4	Sunset or Review Clauses	77
	3.4.5	Comparative Study	80
<b>Chapter</b>	<b>4</b>	<b>Legislative Scrutiny in Myanmar</b>	
	4.1	Legislation and Legislature in Myanmar	83
	4.2	Role of Hluttaw Committees and Commissions	84
	4.3	Role of the Constitutional Tribunal	88
	4.4	Role of the Ministry of Legal Affairs	92
	4.5	Post Legislative Scrutiny on Some Laws of Myanmar	93
	4.5.1	Unconstitutionality	93
	4.5.2	Goals and Outcomes	95
	4.5.3	Conflict of Laws Issue	98
	4.5.4	Effectiveness	100
	4.5.5	Subordinate Legislation	103
	4.5.6	Necessity to Make New Modern Laws	104
	4.6	Way Forward the Legislative Scrutiny System in Myanmar	106
<b>Conclusion</b>			
<b>Bibliography</b>			