

**YANGON UNIVERSITY OF ECONOMICS
MASTER OF PUBLIC ADMINISTRATION PROGRAMME**

**THE LEGISLATIVE SCRUTINY OF
YANGON REGION HLUTTAW
(Case Study: Yangon City Development Law 2018)**

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EMPA – 38 (16TH BATCH)**

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**A thesis submitted as partial fulfillment towards the requirements
for the degree of Master of Public Administration (MPA)**

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ABSTRACT

In 2010, after Union Peace and Development Council approved the Constitution of the Republic of the Union of Myanmar (2008), the Pyidaungsu Hluttaw, Pyithu Hluttaw, Amyotha Hluttaw and 14 State and Region Hluttaws are formed by 2010 General Election. There are three main duties of Parliament (Hluttaw), the legislative body, and they are representing the respective constituency, making the laws and checking and balancing the other pillars such as executive body and judicial body. Among them, this study focused on the second duty, making the laws, including the Pre, during and Post legislative scrutiny. This study analyzed how the Yangon City Development Council, Yangon region Hluttaw and civil society groups perform the pre, during and post legislative scrutiny for the Yangon City Development Law (2018) within the second term of the Yangon Region Hluttaw and it also examined the importance of the legislative scrutiny of the Yangon Region Hluttaw. To achieve these objectives, a qualitative, descriptive method was used. This study is mainly based on the primary data got from the 17 interviewees such as Yangon Region Government Authorities, the Yangon City Development Council Authorities, Yangon Region Hluttaw representatives, Civil Society Members and Hluttaw Office staffs. It was found that the practice of legislative scrutiny is very few and the Government, the Hluttaw, Civil Societies, experts and the people do not have the enough collaboration in the law making process. The knowledge got from this study can help our state building process to get the reliable and useful laws for the rule of law.

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LIST OF ABBREVIATIONS

ACDD	– Action Committee for Democracy Development
BKD	– The Parliamentary Expertise Support Agency (Baird Kurtz Dobson)
COMREG	– Community Response Group
DIM	– Inventory of Issues (Dewan Inventarisasi Masalah)
DIPD	– Danish Institute for Parties and Democracy
DPD	– House of Regional Representatives (Dewan Perwakilan Daerah)
DPR	– House of Representatives (Dewan Perwakilan Rakyat)
DPRD	– The sub-national parliaments (Dewan Perwakilan Rakyat Daerah)
DRI	– Democracy Reporting International
EU	– European Union
IDEA	– Institute for Democracy and Electoral Assistance
MoJ	– Minister of Justice and Human Rights
MPR	– People Consultative Assembly (Majelis Permusyawaratan Rakyat)
NMF	– New Myanmar Foundation
PACE	– People Alliance for Credible Elections
PBL	– Parliamentary Business and Legislation Committee of Cabinet
SPDC	– State Peace and Development Council
SLORC	– State Law and Order Restoration Council
UK	– United Kingdom of Great Britain and Northern Ireland
WFD	– Westminster Foundation for Democracy
YCDC	– Yangon City Development Committee
YSPS	– Yangon School of Political Science
YYN	– Yangon Youth Network

CHAPTER I

INTRODUCTION

1.1 Rationale of the study

After 2010 general election, the Amyotha Hluttaw (Upper House), Pyithu Hluttaw (Lower house) and 14 region and state Hluttaws are formed according to the Constitution of the Republic of the Union of Myanmar (2008). (Hluttaw = Parliament). Yangon Region Hluttaw is one of these Region or State Hluttaws and one in which most of the people are interested because of its uniqueness.

The term of all Hluttaws is five years and now it is the second term of Yangon Region Hluttaw. Myanmar democracy is still young and need to strengthen Parliamentary Democracy by reinforcing the Hluttaws. Hluttaws are the legislative bodies and have three functions; representing the electorate, making laws and overseeing the government. Among them, the main task of the Hluttaw is making laws and we can differentiate this task to three parts, to create the new laws, to amend the existing laws to be suitable with the time and changing society, and to abolish the unnecessary old laws.

To take this responsibility dutifully and to enact the laws which assure the wellbeing of the people, the legislative scrutiny is essential. Without enough legislative scrutiny in law making process, the laws will become the statements merely on the paper and cannot help to create the society with rule of laws.

In law making process, there must have three kinds of scrutiny; pre-legislative scrutiny, during-legislative scrutiny and post-legislative scrutiny. Hluttaw (Parliament) has responsibility to enact the laws which can guarantee the safety and wellbeing of the people's lives. As the parliament has to try to assure that the laws which is passed by the parliament can support the peaceful, live-worthy and safe environment for the people, the parliament need to perform the three stages, Pre-legislative scrutiny, During-legislative scrutiny and Post-legislative scrutiny in law making process. Therefore, Pre-Legislative Scrutiny is important to take this responsibility. Hluttaw (Parliament) is the only institution which can enact the laws in the democratic country.

So, During-Legislative Scrutiny is also important to do so. Hluttaw (Parliament) has a responsibility to monitor that the laws it has passed have been implemented as intended and have had the expected effects. So, Post-Legislative Scrutiny is important too.

Pre-legislative scrutiny can be done by the relevant ministry or relevant parliamentary committee. During-legislative scrutiny is totally made by the parliament and it consist of hearing with some experts, some authorities and relevant groups, discussing in the parliamentary side meetings, field studying for the further information and passing the laws in the parliament session. Post-legislative scrutiny consists of scrutinizing the pros and cons of the laws, highlighting the weak points of the law by accepting the feedback from the people who are using the law and by studying some cases of the judicial body, reviewing the laws with some recommendation.

All of the Stakeholders such as Hluttaw, Hluttaw Committee, Hluttaw Representatives, Government Ministries or Departments, Implementing agencies, Civil Societies, Academics and Experts, Think-Tanks or Lobbying Groups, Media, Public have the responsibility to perform these three steps of scrutiny.

Most of the people who are responsible for the legislation do not know clearly their role and importance of their participation. The Government and also the Hluttaw do not know that the scrutiny, the transparency and the public opinion are very important in the law making process. Therefore, by studying the importance of the pre-legislative scrutiny, during-legislative scrutiny and post-legislative scrutiny of the Yangon Region Hluttaw, the stakeholders in the law making process know more about the legislative-scrutiny and how crucial the scrutiny in legislation is and the strong collaboration within the stakeholders can be formed.

1.2 Objectives of the study

To study the importance of the scrutiny in Legislation and the pre-legislative scrutiny, during-legislative scrutiny and post-legislative scrutiny of the Yangon Region Hluttaw.

1.3 Method of the Study

This study uses the descriptive method and uses both primary data and secondary data. The study is mainly based on the primary data got from Yangon

Region Government Authorities, the Yangon City Development Council Authorities, Yangon Region Hluttaw representatives, Civil Society Members and Hluttaw Office staffs. The interviewees were selected as follow, one was Minister of Kayin Ethnic Affair, two members of YCDC including the vice secretary of YCDC, eight Hluttaw Representatives including secretary of Bill Committee and chairman of Social Affair & Management Committee, two from Hluttaw staffs, four from Civil Society Organizations. The questionnaires are different for three sectors and it included the questions such as “which pillar or which sector should take the main responsibility to do the Pre-Legislative/During-Legislative/Post-Legislative Scrutiny?”, “Is There any mechanism in Yangon Region Government/Yangon Region Hluttaw to do the Pre-Legislative Scrutiny/ During-Legislative Scrutiny/ Post-Legislative Scrutiny?” , “What did the cabinet or the respective department do to prepare the bill before submitting to Hluttaw?”, “In legislation process of Yangon City Development Bill, did the Hluttaw or the committee do any hearings or discussion for during-legislative scrutiny?”, “How did your civil society do the pre-legislative scrutiny for the Yangon City Development Bill?”. The secondary data is received from 2008 Constitution, Laws and by-laws related with Legislative body and other reliable sources.

1.4 Scope and Limitation of the Study

The pre-legislative scrutiny, during-legislative scrutiny and post-legislative scrutiny on 2018 Yangon City Development Law in the Yangon Region Hluttaw’s second term (2015 to 2019).

1.5 Organization of the study

Introductory of this thesis including the rationale of the study, objective of the study, scope and limitation of the study and method of the study is included in chapter One. Literature review is presented in chapter Two and it includes the meaning of Pre, During and Post Legislative Scrutiny and how important is the scrutiny in the law-making process together with one example from the country using the Common Law System and one example from the country using the Civil Law System and another one example from the ASEAN (Association of Southeast Asia Nations) country. In Chapter three, the Legal Background on legislative Scrutiny in Yangon Region Hluttaw is described and it includes the Constitution of the Republic of the Union of Myanmar (2008) , Region and State Hluttaw Law and Bylaw and Legislative

Scrutiny practices in Myanmar (Child Law 1993). In Chapter four, the analysis of the primary and secondary data of stakeholders (Yangon Region Hluttaw Representatives, Government Authorities, Civil Societies' Members) is included and the Comparison on City of Yangon Development Laws (1990)(2013)(2018) and the challenges in doing Pre-legislative Scrutiny, During-Legislative Scrutiny and Post-Legislative Scrutiny. Finally, Chapter Five is conclusion with findings and recommendations.

CHAPTER II

LITERATURE REVIEW

2.1 Legislative Scrutiny

As Hluttaws (Parliaments) put a large part of their human resources and financial resources to the process of adopting legislation, it is not uncommon that the aspect of reviewing the implementation of legislation may be overlooked. Implementation is a complex matter depending on the mobilization of resources and different actors, as well as the commitment to the policies and legislation, coordination and cooperation among all parties involved.

Implementation does not happen automatically and several incidents 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 and policies may also be undermined by power asymmetries, exclusion, state capture and clientelism.

Despite these challenges there are four overarching reasons why parliaments should prioritize monitoring and evaluating the implementation of legislation:

1. to ensure the requirements of democratic governance and the need to implement legislation in accordance to the principles of legality and legal certainty are being met;
2. to enable the adverse effects of new legislation to be apprehended more timely and readily;
3. to improve the focus on implementation and delivery of policy aims; and
4. to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by this scrutiny work.

(Franklin De Verieze.2018)

Therefore, Legislative Scrutiny is an important tool for increasing government accountability, and is part of the oversight role of parliament. The legislative scrutiny can be divided into three stages, Pre-legislative scrutiny, During-legislative scrutiny and Post-legislative scrutiny in the law making process.

Pre-legislative scrutiny consists of discussing with the ministry or department which is related with the laws, asking for the advices form the related scholars, think-tanks, and civil societies groups, studying the similar laws which is using the other developed countries, and doing some research or public survey. It can be done by the relevant ministry or relevant parliamentary committee.

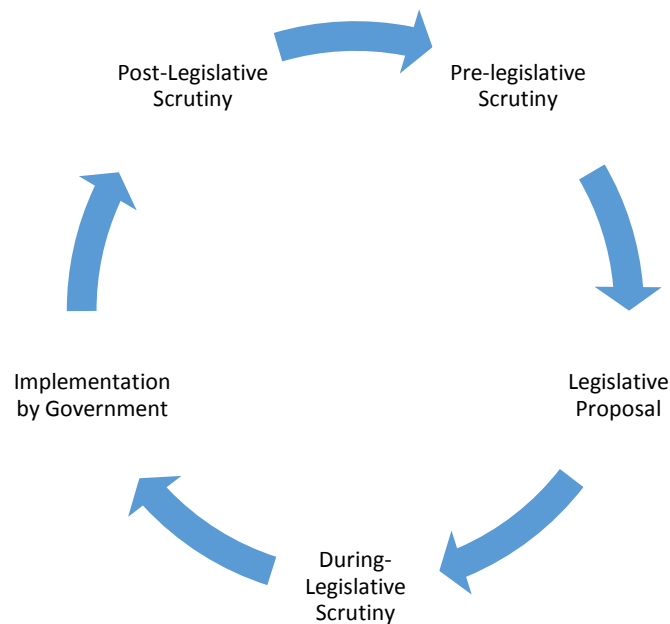
During-legislative scrutiny is totally made by the parliament and it consist of hearing and consultation with some experts, some authorities and relevant groups, discussing in the parliamentary side meetings, field studying for the further information and passing the laws in the parliament session.

Post-legislative scrutiny can be done by the parliament, relevant ministry or department, think-tanks, civil society groups separately or collectively. It consists of scrutinizing the pros and cons of the laws, highlighting the weak points of the law by accepting the feedback from the people who are using the law and by studying some cases of the judicial body, reviewing the laws with some recommendation.

In all three stages, the act of consultation is necessary and there are five Minimum Standards that all consultations with stakeholders should respect:

- (a) Clear content of the consultation process: All communication and the consultation documents should be clear, concise and include all necessary information to facilitate responses;
- (b) Consultation of target groups: When defining the target group(s) in a consultation process, the parliament should ensure that all relevant parties have an opportunity to express their opinions;
- (c) Publication: The parliament should ensure adequate awareness-raising publicity and adapt its communication channels to meet the needs of all target audiences;
- (d) Time limits: The parliament should provide sufficient time for planning and responses to invitations and written contributions;
- (e) Acknowledgement of feedback: Receipt of contributions should be acknowledged and contributions published. (Franklin De Verieze.2017).

Figure 2.1 Cycle approach to the legislative process



2.2 Legislative Scrutiny Practices in other countries

Legal systems in countries around the world generally fall into one of two main categories: common law systems and civil law systems. There are roughly 150 countries that have what can be described as primarily civil law systems, whereas there are about 80 common law countries.

The main difference between the two systems is that in common law countries, case law – in the form of published judicial opinions – is of primary importance, whereas in civil law systems, codified statutes predominate. But these divisions are not as clear-cut as they might seem. In fact, many countries use a mix of features from common and civil law systems (Piyali Syam.2014).

Broadly speaking, a common law system is based on the concept of judicial precedent. Judges take an active role in shaping the law here, since the decisions a court makes are then used as a precedent for future cases. Whilst common law systems have laws that are created by legislators, it is up to judges to rely on precedents set by previous courts to interpret those laws and apply them to individual cases.

In certain common law countries, courts (such as the Supreme Court of the United States) have the ability to strike down laws that were passed by legislators if

those laws are deemed unconstitutional in violation of federal law. By contrast, in the United Kingdom, the concept of parliamentary sovereignty means that legislation can only be amended or revoked by Parliament, not the courts.

Civil law systems, on the other hand, place much less emphasis on precedent than they do on the codification of the law. Civil law systems rely on written statutes and other legal codes that are constantly updated and which establish legal procedures, punishments, and what can and cannot be brought before a court. In a civil law system, a judge merely establishes the facts of a case and applies remedies found in the codified law. As a result, lawmakers, scholars, and legal experts hold much more influence over how the legal system is administered than judges (Victoria Cromwell.2019).

Here are a few examples of countries that primarily practice common law or civil law.

Common Law Countries: The United States, England, India, Canada

Civil Law Countries: China, Japan, Germany, France, Spain

2.2.1 Legislative Scrutiny Practices in UK (Common Law System)

The House of Commons is one of the oldest and foremost legislatures in the world, yet its select committee system has grown in influence only recently. The select committee system has provided an ever more influential mechanism for ‘shadowing’ each department and bringing legislators’ views to bear.

In the United Kingdom (UK), the legislative agenda is dominated by the government. This means that there is very little time for non-government Bills to be debated: there are only 13 Friday sittings in House of Commons plenary each year (annual Session). Although non-government Bills (also called Private Members’ Bills) are more numerous than government Bills they are far less likely to become law.

Parliament's acts are the primary legislation. Parliamentary sovereignty means that it is impossible for the courts to cancel Parliament's acts. There are two exceptions to this general rule, however. First, until the United Kingdom leaves the EU, EU law takes precedence, so if there is any discrepancy between a UK Parliament Act and EU law, then EU law applied. Secondly, under the Human Rights Act, the UK courts may declare an incompatibility between a UK Act of Parliament and the UK’s international obligations under the European

Convention of Human Rights, which the UK adheres to as a member state of the Council of Europe (1949) and which will continue to apply after the UK leaves the EU. In the case of finding an incompatibility, the UK law continues to apply but Parliament is expected to legislate to resolve the incompatibility.

Another fundamental aspect of the legislative process is that parliamentary acts, which are primary legislation, can only be amended by another parliamentary act. Some legislative acts delegate power on ministers to amend primary legislation to provide for subsequent provisions. Nevertheless, delegated legislation introducing a new parliamentary law may sometimes include minor changes to older parliamentary acts in order to implement the new law.

I - Pre-Legislative Scrutiny

Policy development: The government prepares legislative proposals for a wide variety of purposes; for example, annual budget Bills, to implement a party programme or to respond to an emergency.

Green Paper: The Ministry often but not always publishes an outline description of alternative proposals for legislation and invites comments from stakeholders with a deadline of about 8-12 weeks.

White Paper: The Ministry often but not always publishes its decision on proposals for legislation with an explanation of the policy.

Cabinet approval: The Parliamentary Business and Legislation Committee of Cabinet (PBL) meets in private to decide which Bills should be given priority to be included in the government's legislative programme announced in the annual Queen's Speech (usually in May). With PBL approval, the Ministry may instruct the expert lawyers in the government's Office of Parliamentary Counsel to prepare a draft of the Bill, to meet the necessary legislative standards of clarity, effectiveness and consistency with existing law.

House authorities: Parliamentary Counsel seeks advice in confidence from the parliamentary authorities (the Clerks of Legislation in each House) on any aspects of parliamentary procedure applicable to the proposed Government Bill.

Draft Bill: In a few cases the government may publish a complete drafted Bill for scrutiny by Parliament. Normally, owing to political urgency, a Government Bill is introduced in Parliament and begins its passage as soon as its drafting is completed.

Select committee scrutiny: When a draft Bill is published, it may be referred for stakeholder hearings and an advisory report to either a specially appointed joint committee of Members representative of the parties in both Houses, or to one of the permanent advisory select committees (Defense, Education, Foreign Affairs, Health, Transport, etc)(WFD,2018).

II – During-Legislative Scrutiny: Parliamentary Stages of Passing a Bill

The government decides which House a Government Bill will start in. However, budget bills always start in the House of Commons: Finance Bills to authorize taxation, and Supply and Appropriation Bills to authorize annual spending totals for each Ministry. Only Members of Parliament (and in the UK Ministers are all Members of either the House of Commons or the House of Lords) can introduce Bills.

First Reading

Every Bill must be published when it is read the first time. Bills passed by the other House (Commons or Lords) are read for the first time when they are received in the second House (Lords or Commons).

Explanatory Material: Each Government Bill is accompanied by the following material:

- Explanatory Notes prepared by the Ministry with a clear description in ordinary language of the background to and contents of the Bill;
- Impact Assessments carried out by the Ministry of the expected effects of the Bill;
- An assessment carried out by the Ministry for the Human Rights Joint Committee of both Houses of Parliament on the compatibility of the Bill with the European Convention of Human Rights;
- An assessment carried out by the Ministry for the House of Lords Select Committee on Delegated Powers of the Bill's proposals to delegate power to Ministers to make secondary or subordinate legislation;
- Reports from Parliamentary select committees listed on the plenary Order Paper or in the Explanatory Notes as relevant to the Bill; and
- Briefing Paper by the House of Commons (or House of Lords) Library Research Service (this is the document which Members find most useful).

Second Reading

After a debate lasting a whole day, usually four to six hours, in a plenary session, normally about two weeks after the Bill's First Reading, the main principles of a Bill are approved on Second Reading. At the end of the debate, the Member in charge opens the debate and answers, which ends with a recorded vote. There are four exceptions, however. (a)The House of Lords normally gives government Bills an unopposed Second Reading.(b)The House of Commons sometimes gives government Bills an unopposed Second Reading.(c)In the House of Commons, most non- government Bills are not reached for a decision on Second Reading because the debate on Second Reading has not concluded before the Friday plenary ends after a maximum of five hours.(d)Minor and uncontroversial Bills may be referred by the House of Commons to a Second Reading Committee for a debate, followed later by a formal decision on Second Reading without further debate in a plenary sitting of the House of Commons.

Committal

After Second Reading a Bill is committed to a Public Bill Committee for detailed approval of every clause of the Bill. However, the House of Commons sometimes commits Bills to the plenary (Committee of the whole House) for the committee stage of government Bills which are either (a) urgent, (b) of constitutional importance or (c) very uncontroversial. The House of Lords always commits Bills to the plenary (Committee of the whole House or Grand Committee) for the Bill's committee stage.

The composition of Public Bill Committees reflects the proportions of party representation in the whole House of Commons. Appointments are made by the Selection Committee. The Public Bill Committee ceases to exist when it has considered every clause of the Bill and reported the Bill to the House. If the Bill has been amended by the Committee, it is published. A pair of senior Members of the Panel of Chairs is appointed to preside over sittings of the Committee, exercising the authority of the Chair with the same impartiality as applied by the Speaker in the Chamber.

Committee hearings: Commons Public Bill Committees hold up to three sittings of public hearings with stakeholders, about two weeks after the Second

Reading debate, before beginning the debates on consideration of the Bill. All stakeholder hearings are open to the public; proceedings are streamed on the internet at www.parliamentlive.tv and are sometimes televised; and a complete transcript is published the following day on www.parliament.uk. The House of Lords does not hold hearings on Bills except in the very few cases when a Bill is committed to a select committee after Second Reading. The House of Commons does not hold public hearings on Bills which have been passed by the House of Lords, or which have been committed to the plenary (Committee of the whole House) for the Bill's committee stage.

The Public Bill Committee takes a decision on every clause of the Bill. Before each clause is approved, the Committee debates any amendments which have been tabled in writing at least two days in advance and which are selected by the Chair for debate. Any amendments made by the committee take effect unless reversed at a later stage by the plenary or in the second House of Parliament.

Amendments which have been tabled in writing at least two days in advance and which are selected by the Speaker for debate are considered in plenary sittings for up to about four hours. The Speaker's selection of amendments is conducted impartially and mainly on technical grounds taking into accounts the relevance of the amendment to the Bill. There is no selection of amendments or programming of debate in the House of Lords, although the government suggests how amendments on a similar subject may be grouped for debate.

Third Reading

A short debate takes place in plenary immediately after the end of the report stage debate. In the House of Lords further amendments may be made to the Bill by the plenary at the Third Reading stage.

Agreement between the Houses

When the Bill has been passed by one House (Commons or Lords) it is passed to the other House (Lords or Commons) where the Bill must pass through the same stages: First Reading, Second Reading, Committee, Consideration and Third Reading. Any changes made by the second House come back to the first House which may accept, alter, reject or replace the

changes made by the second House. The second House then considers the changes which were not accepted by the first House, and may accept, alter, reject or replace the changes made to the second House's changes by the first House. Exchanges between the Houses continue until the final set of changes is accepted. It is possible, but very unusual for no agreement to be reached between the Houses, in which case the Bill cannot make any further progress.

Royal Assent

Bills passed by both Houses of Parliament always receive the Royal Assent and become law as Acts of Parliament. There is no veto or delay by the Head of State (the Queen). The exact date of Royal Assent is determined by the Government. It is normal for Royal Assent to be signified to several Acts at the same time, but possibly up to a few weeks after being passed. When Royal Assent is notified, the Royal Assent will always include at the same time all the Acts passed by both Houses of Parliament which are still waiting for Royal Assent.

Bills must be passed by both Houses before they can receive Royal Assent and become law. However, Bills certified as Money Bills by the Speaker of the House of Commons may be presented for Royal Assent under the Parliament Act if the House of Lords have not passed the Bill within one month. Other Bills passed by the House of Commons but not by the House of Lords may be presented for Royal Assent under the Parliament Act after a delay of at least 13 months: if the House of Lords has not passed the Bill within one month of the House of Commons passing the Bill a second time at least one year after the first time when House of Commons gave the Bill a Second Reading.

The two Houses of Parliament never hold a joint sitting. The only exception is the State Opening of Parliament each year, where the Head of State reads out the Government's programme in the House of Lords. The Speaker, Prime Minister and other Members of the House of Commons are invited to stand at the back of the Lords Chamber to hear the Speech being read out. By long tradition, the Head of State is never allowed to set foot in the House of Commons.

III - Post-Legislative Scrutiny

Secondary legislation

Secondary or subordinate or delegated legislation comprises regulations and orders made by Ministers using statutory powers in Acts of Parliament. Only Ministers can make delegated legislation, which is formally tabled in Parliament and published. All regulations are accompanied by an explanatory memorandum.

Role of the courts

Unlike Acts of Parliament, which are primary legislation, secondary/subordinate/ delegated legislation can be challenged in the courts if Ministers have exceeded their powers under an Act to make such regulations or orders.

Parliamentary scrutiny of secondary legislation

The Joint Committee on Statutory Instruments carries out technical scrutiny of secondary/ subordinate/ delegated legislation to check that it is correctly drafted and within the powers of the Minister. In the House of Commons, debates of up to 90 minutes take place in specially constituted Delegated Legislation Committees appointed by the Selection Committee on the minority, about 10 per cent, of regulations subject to the approval procedure, followed by a decision in the plenary without further debate. Regulations may be approved or rejected; they cannot be amended by either House of Parliament. Three related issues worth mentioning: (1.) A small number of approval debates (about 10 a year) take place in a House of Commons plenary session; (2): A small number of debates (about five a year) take place in a House of Commons Delegated Legislation Committee on regulations subject to the negative procedure; (3): In the House of Lords, all approval debates take place in plenary sessions either in the Grand Committee or in the main Chamber.

Other post-legislative scrutiny in Parliament

The permanent subject select committees in the House of Commons may decide to conduct a post- legislative review of an Act of Parliament, possibly based on a Ministry review paper published about three to five years

after the Act was passed, holding public stakeholder hearings before publishing an advisory report. The House of Lords occasionally appoints a select committee for the specific task of reviewing an Act of Parliament. Unsystematic post- legislative scrutiny includes starred and unstarred questions, plenary motions and select committee inquiries.

2.2.2 Legislative Scrutiny Practices in France (Civil Law System)

I - Pre-Legislative Scrutiny

There are four main types of law in France: “ordinary laws”, “constitutional laws”, that revise the Constitution, “organic laws”, that specify the methods of organization and operation of the public authorities, and finally the “laws of finance”.

Policy Development

Government Bills must first be accompanied by an impact study that also contains their objectives and rationale. These projects must then go through prior consultations such as that of the Council of State, before reaching the Council of Ministers for approval. Once approval has been granted, Bills can be tabled in the National Assembly or Senate Bureau before being placed on the agenda.

Impact study

These are public documents setting out the reasons and objectives of the project. Such studies present the potential impact of this project in most public areas such as the economy, finance, environment, and jurisdiction.

Prior consultations

Each bill must be examined by the Council of State but also by the Economic, Social and Environmental Council, as well as, if necessary, by independent institutions or agencies related to the project. The Council of State is the highest administrative jurisdiction in France, and as Articles 38 and 39 of the Constitution provide for it, it seizes Bills and draft orders before their submission in the Council of Ministers.

The Council of Ministers

After the advice of the Council of State, a Council of Ministers is organized to decide the final text of the draft law. The proposal of law emanates from one or more members of Parliament. Its development is less demanding because no consultation of the Council of State is mandatory, and no impact study is required. As provided for in Article 34 of the Constitution, the proposition law must deal with the same issues of draft laws. Nevertheless, the proposals of laws are framed: the Government can oppose a proposal to aim at increasing the expenditure of the State, and more generally, the budget of the State, like that of the social security, cannot be defined by any Bills, but by government- initiated Bills only.

II - During- Legislative Scrutiny / parliamentary stages of the passing of a Bill

The French legislative process is divided into three main stages: the tabling of the text, the parliamentary examination and the promulgation of the text by the President of the Republic.

The submission of the text

The government is free to table its Bill in the National Assembly or the Senate. Regarding the proposed law, it must be submitted by one or more deputies or senators, in the Bureau of the assembly. The Bureau of each assembly then decides on the admissibility of the proposal. Once submitted, any text is sent for review to a standing or special committee.

Examination in the committee

The committee charged with treating a text designates a “rapporteur” among its members. This rapporteur has an important role in the “instruction” of the project or the proposed law, because it meets the different organizations concerned with the text, and then presents its report to the other members. The commission then has the right to propose new legislation, to adopt the text as originally drafted or to reject the text. At the end of its work, it adopts the report which presents its conclusions.

Registration on the agenda

To be discussed in open session, a bill must be placed on the agenda of the meeting. The Constitution provides for a minimum period of six weeks between the tabling of a text and its discussion at the meeting.

Examination in session:

Divided into two phases, the examination procedure in session is very similar to that of the examination in committee. First of all, there is the minister's hearing, followed by that of the rapporteur, the general debate and the rapporteur's answers. This is the general examination phase. Then there is the examination of each article and the related amendments, the vote of each of them, explanations of the vote, and finally the vote on the whole. This is the detailed examination phase. The text adopted by the first assembly chosen is then transmitted to the other assembly which examines it in turn, according to the same modalities: examination by a commission, registration on the agenda, discussion in public session.

The shuttle between the two Houses

Any Bill is examined successively in the National Assembly and the Senate, with the aim of adopting an identical text.

First reading: the text is the subject of a first reading by the assembly chosen. The reading begins with a committee examination, then its inclusion in the agenda, and a discussion in public session. The text is then forwarded to the second assembly that performs the same review steps. If the second assembly adopts the text without modification, the text is definitively adopted, at first reading. Otherwise, the shuttle continues at the second reading.

Successive readings: if the two assemblies do not agree, the articles of the text are discussed again at a second reading, or even a third or more until the adoption of an identical text is agreed.

The conciliation procedure: to accelerate the final vote of a text, the government can initiate the creation of a "mixed and parity committee" (MPC). This commission brings together seven deputies and seven senators (with an equal number of substitute members), its goal is to reach consensus between the two chambers.

If no agreement is found, the National Assembly, resulting from direct universal suffrage, has the last word. If there is a compromise, the Government may submit the text for the approval of one and then of the other assembly.

III - Post-legislative process

Decrees and ordinances

It is possible for the executive to pass a text by decree or ordinance. Their fundamental difference is that the decree allows the government to intervene in the regulatory field, while remaining subordinate to the law in the hierarchy of standards. While on the other hand, the order allows the government to intervene in the legislative field. The decree is a written regulatory decision issued by the executive branch, not Parliament. It is an act of the application of a law, published in the Official Journal and which can introduce rules applicable to all, or concerning only one person. The ordinance is provided for in Article 38 of the Constitution and allows the Government to take measures in the field of law . The order must be authorized by Parliament. Parliamentarians vote a “law of empowerment” to delegate their power in a specific area and for a limited period. Once this law has been passed, the ordinance is issued by the Council of Ministers, signed by the President of the Republic, promulgated and enters into force. However, at the same time, this order takes the form of a “ratification Bill” which must be tabled in Parliament, which must approve it. If this order is not approved then it is cancelled and can no longer enter into force.

2.2.3 Legislative Scrutiny Practices in Indonesia (ASEAN Country)

Indonesia’s Constitution rules that the Indonesian House of Representatives (DPR - Dewan Perwakilan Rakyat) holds legislative powers.

The DPR passed Law 27/2014 on Parliaments to outline the detailed roles and responsibilities of the Lower House (DPR), the House of Regional Representatives or the Upper House (DPD - Dewan Perwakilan Daerah) and the sub-national parliaments (DPRD - Dewan Perwakilan Rakyat Daerah), including the roles and responsibility of each House in the legislation making processes. To guide its internal process, the DPR includes detailed step-by-step instructions for law-making within the Parliament in its rule of procedures.

The DPR must debate each Bill with the President for joint approval before

they can pass it into law. To exercise this legislative power, the DPR passed Law number 12/2011 on law-making processes to regulate the detailed legislation-making processes in Indonesia. During the Bill debates in the DPR, the President is represented by relevant Ministries or agencies. The DPR and Ministries or agencies must jointly agree on all the issues debated in the Bills, only then can DPR pass those Bills into laws. The President is then obliged to sign the passed laws and to promulgate them. If the President refuses to sign a passed law because they change their mind, the law will automatically become effective within 30 days, even though the President has not signed it.

Bills can originate from the DPR, the President or the Regional House of Representatives (DPD). If from the DPR or DPD, a Bill can be proposed by an individual Member of Parliament, a group of MPs, a Committee, or a group of Committees. The DPD, however, can only propose a Bill concerning regional autonomy, relation of central and local governments, establishment or dissolution of local government, balanced allocations of central and local government budgets and management of natural/mineral resources, including sharing of revenues obtained from extracting them. However, if a Bill comes from the President, it is prepared and proposed by relevant Ministries or agencies, on behalf of the President.

The following is a step-by-step overview of the law-making process in Indonesia.

Planning

The Law on law-making consists of five phases: planning, formulation, debate, passing and signing plus promulgation. The DPR then passes law onto Parliament which gives an additional role to the DPR's Legislation Committee to conduct monitoring, reviews and evaluation of the passed laws³⁰. When combined, the two steps outline the complete cycle of legislation-making in Indonesia.

In the planning phase, the DPR and the President develop the Agenda of the National Legislations which is a list of Bills to be debated within the next five-year parliamentary term. The planning process is conducted at the beginning of a parliamentary term, soon after the Parliament, the new President and his

cabinet ministers are sworn in. The DPR identifies its legislative needs through MPs, Committees, and various consultations with the society or citizens. Whereas the President determines the government's legislative needs based on their campaign vision and promises.

The DPR's Legislation Committee leads the planning process. Within the DPR, the DPR's Legislation Committee will invite individual or groups of MPs and/or Committees to propose Bills. The individual MP or group of MPs must submit their proposal to the Legislation Committee via their party caucuses. Committees can only submit two Bill proposals per year or 10 proposals for five years relevant to their jurisdictions. The Upper House (DPD) also submits their Bill proposals to BALEG. In addition, it also welcomes Bill proposals from the public, often submitted by civil society organizations, interest groups, and so on. Its leadership will shortlist from the incoming proposals and select the most preferred at the DPR's Legislation Committee working and plenary meetings.

Within the Government, the planning process of national legislations is coordinated by the Ministry of Justice and Human Rights (MoJ). All other Ministries and government agencies must submit their Bill proposals to MoJ, which will select the Bills based on governmental priorities.

Bill proposals from MPs, Committees, Ministries/ agencies, and CSOs must be submitted in writing and include the title of the proposed Bill, completed with justifications explaining, but not limited to, the following: the urgency, objectives, expected impacts, scope and coverage of, and targeted beneficiaries of the Bills.

The MoJ will then send the final government shortlist of Bill proposals to the DPR's Legislation Committee. The MoJ, on behalf of the President, debate the final list with the DPR's Legislation Committee. It will then present this final five-year plan of legislations in the plenary to be officially adopted using the DPR's regulation. Every year, the DPR's Legislation Committee and MoJ evaluate and discuss this five year-year plan to agree and determine annual priorities. When urgent need for new law is identified, but the Bill is not yet listed, the DPR's Legislation Committee and MoJ can include a new proposal in the annual priority list.

I- Pre-legislative process

In this formulation phase, the MP, Committee, or Ministry whose proposal has been listed in the plan of national legislations must start preparing the next step by developing a detailed position paper on their proposed Bill. The paper should clearly present the identified problems and solutions offered by the proposed legislation based on theoretical and empirical evidence. The paper should be written in the following format: Title, Foreword, 1. Introduction, 2. Theoretical and Empirical Reviews, 3. Evaluation and Analysis of Related Legislations, 4. Philosophical, Sociological and Juridical Basis, 5. Affected Beneficiaries, Key Contents of Provisions in the Legislation, and 6. Closing. The paper should also include the cost and benefit analysis of the proposed Bill.

Based on the position paper, the MP, Committee and Ministry will then draft the detailed provisions of their Bill. To prepare the position paper and the Bill, the MP and Committee can request assistance from the Parliamentary Expertise Support Agency (BKD), particularly the Centre for Research and the Centre for Legislative Drafting. Alternatively, an MP or Committee can also seek external support from CSOs, interest groups, universities or think tanks which have interests or specialties in the proposed Bill subject. Whereas government ministries mostly have their own internal research centre and legal bureau to prepare the paper and draft Bill.

The MP and Committee will then submit their position papers and Bills to the DPR's Legislation Committee to be analyzed for pre-legislative scrutiny. The Legislation Committee will review the submitted draft Bills to check the compliance of the provisions in the draft Bills against the Constitution, including the nation's five principles and human rights principles. The Legislation Committee will scrutinize the draft Bill to ensure its fitting with the existing laws. The Legislation Committee will also refine the format, structure, wording, punctuations, and so on, in reference to the Law on law-making. The Legislation Committee has 20 days during a session period to conduct the pre-legislative scrutiny. If the BALEG finds the draft requires reformulation, it will present the case to the plenary. The Legislation Committee will have two session periods (with possible extension) to redraft the Bill involving the sponsoring MPs or Committees. When the pre- legislative scrutiny is completed, the Legislation

Committee will send the draft Bill back to the sponsoring committee to be presented in the DPR's plenary session. The Plenary will then declare the draft Bill as DPR's official Bill.

For government Bills, a similar process of pre- legislative scrutiny is conducted by the Ministry of Justice.

II - During-legislative process

DPR debates a Bill in two stages. The first debate is conducted at a subject committee with three sessions. If the committee cannot finish the debates within the given time, it can request an extension to the plenary session. Whereas, second stage debate is done at a plenary session.

After a draft is declared an official Bill in the plenary, within a maximum of seven days, the Speaker must send the Bill to the President with a covering letter. The President will assign the relevant Ministry to prepare a document called an Inventory of Issues (DIM) consisting of comments, objections, and proposed amendments to the Bill (clause-by-clause). Within a maximum of 60 days after receiving the letter from the Speaker, the President must send his DIM to the DPR with a covering letter addressed to the Speaker. In the letter, the President must detail which Ministry will debate the Bill with the DPR. Upon receiving the President's letter and the DIM, the DPR will announce the President's letter and the DIM to the plenary session. The Steering Committee will then convene to decide which committee will be assigned to debate the Bill with the Ministry.

The President sends a Bill originating from the government with a covering letter to the Speaker of the DPR. Upon receiving the letter, the DPR will present the Bill to the plenary. The Steering Committee will then convene to decide which committee will debate the Bill. The assigned committee must prepare the DIM within 60 days. The DPR will then send the DIM with a covering letter to the President and schedule a debate with relevant Ministry.

The Speaker of the DPD will send its proposed Bill with a covering letter to the DPR's Speaker. The DPR's Speaker will present the Bill to the plenary and take a decision on whether to accept with revision or reject the Bill. If the DPR's plenary accepts the Bill without revision, within a maximum of seven

days, the DPR's Speaker will send the Bill with a covering letter to the President, who will then assign a Ministry to prepare the DIM within a maximum of 60 days. When ready, the President will send this to the DPR, which will schedule debates with the Ministry. If the Bill is accepted with revision, the Steering Committee will refer the draft Bill to the BALEG for revision. The BALEG will have 30 days to revise the document with a possible extension of 20 days. When the Bill is ready, the DPR will send the DPR's Legislation Committee to the President. The DPR's MPs or Committee can also participate in DPR's committee debates. They, however, can only present their considerations to the Legislation Committee or other committees, but they do not have any decision-making power.

The Committee and relevant Ministry debate the Bill using the submitted DIM to reach a mutual agreement on all identified issues. As decisions within the DPR are made based on party lines, the Committee Members will debate the Bill along the line of the party decisions. When the committee and line ministry finish debating and reach an agreement on all issues listed in the DIM, the committee will present the final Bill to the Speaker for second stage debate in the plenary session. In this second stage, no actual debates take place as all issues have been mutually agreed by the committee and relevant Ministries. This stage, therefore, is often a session to pass the Bill into law. However, if Committee Members and the government failed to reach a joint agreement on any issues in the DIM, the committee will refer the Bill to the plenary for a vote.

Passing

After the DPR and the President (represented by the Minister) reach joint agreement, at the same plenary session, the DPR leadership presiding the plenary will call for a final decision from the plenary session through consensus. If the plenary fails to reach consensus, DPR will take the decision through a vote. When all or the majority of MPs agree to pass the Bill into law, the Speaker will then declare that the Bill is passed into law.

Within a maximum of seven days, the DPR must send the documents to the President to be signed. If the President has not signed the new law fifteen days after the DPR sends it, the DPR speaker will send a letter to remind the

President. If the President decides not to sign the new law, it will automatically become effective law within thirty days of the passing by the DPR and the President is obliged to promulgate it.

III - Post-legislative process

The Post-Legislative Scrutiny in Indonesia is conducted by the DPR's Legislation Committee and relevant subject committees. The DPR's Legislation Committee focuses on monitoring and reviewing the legal aspects of the passed law to assess whether or not: the government has enacted all the secondary legislations, the provisions of the law are applicable, the provisions of the law contradict other legislations, etc. It will then use the findings as inputs for its annual legislative planning. Post-Legislative Scrutiny in Indonesia is also carried out by subject committees overseeing the ministries/ agencies implementing the laws. The Committees, however, focus on different aspects than the DPR's Legislation Committee, namely on the effectiveness of the laws in achieving their objectives.

2.3 Reviews on Previous Studies

There is no similar study which studied the pre-legislative scrutiny, During-Legislative Scrutiny and Post-Legislative Scrutiny of Yangon Region Hluttaw by the case study of Yangon City Development Law(2018). But there are some studies which studied the Legislative System of Myanmar and the Function of Yangon City Development Committee.

Aung Than Win (2008) Studied on the functions and performance of Yangon City Development Committee (200-2007) at the time of State Law and Order Restoration Council. This study focus on the YCDC activities under the The City of Yangon Development Law - The State Law and Order Restoration Council Law No. 11/90 and it included the organization structure of YCDC under the old law, the major functions of YCDC, the performance of YCDC at that time and not focus on the Law making process and the legislative-scrutiny.

Kyawt Kyawt Hlaing (2013) Studied on Legislative Systems of the Republic of Union Of Myanmar under the three different Constitutions (1947, 1974, 2008). It included the evaluation of legislative system under three different constitutions. It concluded that the legislative system under The Constitution of the Union of

Myanmar (1947) is mainly based on the British System, the legislative system under the Constitution of the Socialist Republic of the Union of Myanmar (1974) is quite different from the former system and overwhelmed by Socialist Spirit. Under the Constitution of the Republic of Union of Myanmar (2008), the legislative power is vested in the Pyidaungsu Hluttaw relating to other matters not enumerated in the legislative list of the Union, Region or State and Self-Administered Division Leading Body or Self-Administered Zone Leading Body.

Enlightened Myanmar Research Foundation – EMReF (2017) studied the local legislatures in the Republic of Union of Myanmar in the report of the Region or State Hluttaws of Myanmar (2010-2015) . It included the outputs, legislative effectiveness and constraints and oversight roles of Region or State Hluttaws and it examined three States (Kayin State, Mon State, Shan State) and three Regions (Ayeyarwaddy Region, Sagaing Region, Tanintharyi Region). It concluded that the top factor undermining the roles and effectiveness of Region or State Hluttaws is the structural limitations.

CHAPTER III

THE ROLE OF REGION AND STATE HLUTTAWS ON LEGISLATIVE SCRUTINY

3.1 Legislative power under Constitution of the Republic of the Union of Myanmar (2008)

The Constitution of Republic of the Union of Myanmar(2008) precisely stated and affirmed the existence of the legislative body of the country, Hluttaws by the section 11(a) "The three branches of sovereign power namely, legislative power, executive power and judicial power are separated, to the possible, and exert reciprocal control, check and balance among themselves." And in section 11(b) "The three branches of sovereign powers so separated are shared among the Union, Regions, States and Self-Administered Areas."

The constitution also stated clearly the formation of legislative body by article 12 and 13. And in section 12(a) stated that "The legislative power of the Union is shared among the Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws. Legislative power stipulated by this constitution shall be shared to Self-Administered Areas" and section 12(b) stated that "the Pyidaungsu Hluttaw consisting of two Hluttaws, one hluttaw elected on the basis of township as well as population, and the other on an equal number of representatives elected from Regions and States". The section 13 stated that "there shall be a Region Hluttaw in each of the seven Regions, and a State Hluttaw in each of the seven States."

The Constitution differentiate the legislative power of the National Hluttaws and Region or State Hluttaws and it precisely stated the legislative power of the Region or State Hluttaw at Article 188 and it is stated that "The Region or State Hluttaw shall have the right to enact laws for the entire or any part of the Region or State related to matters prescribed in Schedule Two of the Region or State Hluttaw Legislative List. Also in the chapter (15) General Provisions, the constitution stated

that the Union Legislative List in Schedule One and the State and region Legislative List in Schedule Two. (Schedule Two is attached as Appendix 1)

There are eight sectors in Schedule Two as follow:

1. Finance and Planning Sector
2. Economic Sector
3. Agriculture and Livestock Breeding Sector
4. Energy, Electricity, Mining and Forestry Sector
5. Industrial Sector
6. Transport, Communication and Construction Sector
7. Social Sector
8. Management Sector

The matters of the Yangon City Development is under the Management Sector and so the Yangon Region Hluttaw has the right to pass the Yangon City Development Law according to Constitution of the Republic of the Union of Myanmar (2008).

3.2 Legislative power of Region or State Hluttaws

In Myanmar, the Constitution of the Republic of the Union of Myanmar(2008), introduced subnational governments (Regions or States), each with a legislature, Judiciary and Executive and the respective Region or State Hluttaws formed after the 2010 general election. Thus, Myanmar's Region or State Hluttaws are very young democratic institutions and they have operated since 2011 and currently halfway through their second parliamentary term.

The Region or State Hluttaws are important pillars of Myanmar's political infrastructure. They are critical for the development of a federal system in Myanmar. Although local legislatures are crucial to decentralization, inefficient attention has been paid to their current performances and the challenges they must overcome to strengthen as institutions. (EMReF, 2017).The internal functions of state and region Hluttaws including the role of the speaker, the functions of the plenary and committee, the role of the Members of Parliament, the role of Hluttaw administration and how Hluttaw perform their law making and oversight functions in cooperation with the region or state government and the Union government. There are external

functions of Hluttaw such as meeting with international community and NGOs, CSOs which support for Myanmar's democratization.

According to the Constitution of the Republic of the Union of Myanmar (2008), there are 7 State Hluttaws and 7 Region Hluttaws. Each Region or State hluttaw is formed with the following persons:

- (a) Representatives of the Region or State Hluttaw, two of each are elected from each township in the Regions or States;
- (b) Representatives of the Region or State Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained the respective Region or a Self-Administered Area in that Region;
- (c) Representatives of the Region or State Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained the respective State or a Self-Administered Area in that State;
- (d) Representatives of the Region or State Hluttaw who are the Defence Services personnel nominated by the Commander-in-chief of the Defence Services in accord with the law for an equal number of one-third of the total number of Hluttaw representatives elected under Sub-Section (a) and (b) or (a) and (c) .

So the number of parliament members in the Region or State Hluttaw is mostly depend on the number of townships in the Region or State. In Yangon Region Hluttaw, There are 90 elected representatives from 45 townships, 1 representative for Kayin Race and 1 for Rakhine Race and 31 representatives who are the Defence Services personnel nominated by the Commander-in-chief of the Defence Services, altogether 123 representatives.

The following functions shall be carried out at the Region or State Hluttaw session:

- (a) Reading and recording the addresses delivered by the President;
- (b) Reading and recording the message sent by President and other message permitted by the Speaker;
- (c) Recording the address delivered by the Chief Minister of the Region or the State;

- (d) Submitting, discussing and resolving on a Bill;
- (e) Discussing and resolving on the matters to be undertaken by the Region or State Hluttaw in accord with the provisions of the Constitution;
- (f) Discussing, resolving and recording the reports submitted to the Region or State Hluttaw;
- (g) Submitting proposal, discussing and resolving
- (h) Raising questions and replying;
- (i) Undertaking matters approved by the Speaker of the Region or State Hluttaw

The duties of the representatives

- (a) Safeguarding the constitution and the existing laws
- (b) Preservation of the National secret
- (c) Earnestly focus on the people interest when discussing the proposals and the bills submitted to Hluttaw
- (d) Focus to guarantee any citizens to get their fundamental rights
- (e) Work together with the local authorities in accordance with the constitution for the development of the respective constituency
- (f) Explain the hluttaw experience to the constituency
- (g) Convey the people desire to the Hluttaw
- (h) Serving the other duties given by the Hluttaw

The powers and rights of the representatives

- (a) Submitting the bills in accordance with constitution
- (b) Raising the questions and submitting the proposals with the approval of the Speaker of Hluttaw
- (c) Questioning , discussing and getting the facts regarding to the issues submitted to Hluttaw and the performance of the State and region level Government Organization , its members and individuals
- (d) Freedom of expression and right to vote in Hluttaw and committee, not in opposition of constitution and the related laws
- (e) Right to be a candidate for the chairperson or the speaker and the deputy speaker of the hluttaw elected by the Hluttaw or not to be
- (f) Right to be the member of the committees or bodies organized by hluttaw or not to be

(g) Right to resign as the Member of Parliament.

(h) Right to invite the people as the observers to Hluttaw Regular meetings with the approval of Speaker

The Hluttaw can form the committee with the respective MPs setting duration to study and report the legislative issues, ethnic issues and other issues as necessary vested by the Constitution of the Republic of the Union of Myanmar (2008). The Hluttaw may form these Committees and Bodies including suitable citizens. The Hluttaw shall prescribe the number of members, duties, powers, rights and terms of the Committees or Bodies.

There are two kinds of Hluttaw Committees, one is the standing committee and other is ad-hoc committees. In Yangon Region Hluttaw , there is the Bill Committee which duties are to report the legislative issues and it is the standing committee. There are other committees for the respective sectors at Schedule 2 of The Constitution of the Republic of the Union of Myanmar (2018) and these committees also have the responsibility to discuss and report the legislative issues which is related with its sector.

3.3 Law Making process of Region or State Hluttaws

The Region or State level organizations formed under the Constitution shall have the right to submit the Bills relating to matters they administered among the matters included in the Schedule Two of the Region or State Legislative List to the Region or State Hluttaw in accord with the prescribed procedures. The law making process of Region or State consists of the following stages;

(a) Submission of Bill

Bills relating to regional plans, annual budgets and taxation of the Region or State, which are to be submitted exclusively by the Region or State government, shall be submitted to the Region or State Hluttaw in accord with the prescribed procedures.

Representatives of the Region or State Hluttaw shall submit the Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted by the Region or State Government, stated in the Schedule Two of the Region or State Legislative List, to the Region or State Hluttaw in accord with the prescribed procedures.

Members, who are representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, are entitled to explain, converse, discuss and vote bill or matter relating to the organization at the Hluttaw Sessions.

Members, who are not representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, when they are attending Hluttaw session with the permission of the Speaker of the Hluttaw, are entitled to explain, converse and discuss bill or matter relating to the organizations.

The Representatives who have the right to submit the bills have to send the three copies of the Objectives of the Bill and the Statement of cause and effect to the Head of the Hluttaw Office.

(b) Setting the Duration to submit the bill

Normally, the bill have to be submitted 30 days before the first day of the Hluttaw regular meeting. The speaker can accept the late submission of bill, if he/she assume that it has suitable reason.

(c) Discussing the Bill

For the bills prescribed in the Constitution that the Bill was submitted by the Region or State Government, the Speaker have to hand over the bill to the Bill Committee and have to distribute the bill to the representatives.

For the bills submitted by the representative, firstly have to distribute to the representatives, and then get the decision of Hluttaw whether this bill shall be discussed or not and if yes, have to hand over to the Bill Committee. If no, the speaker has to declare that this bill will not discuss in Hluttaw.

After the Region or State Government submitted the bills prescribed in the Constitution that the Bill was submitted by the Region or State Government, the hluttaw office have to declare this bill in National Gazette.

After the Hluttaw approved the bill submitted by the representative, the Speaker have to order the hluttaw office to declare this bill in National Gazette.

(d) Setting the Priority

The bills submitted by the Region and State Government and scrutinized by the Bill Committee. The bills submitted by the representative and scrutinized by the Bill Committee

(Exception: The speaker can put in the first priority if the bill is needed to be approved urgently and submitted with the Bill Committee's scrutiny)

(e) Submission and discussion the Bill in Hluttaw Regular Meeting

On behalf of Region and State Government, the Prime Minister or the person assigned by Prime Minister and the respective representative of Hluttaw has to submit the bill to Hluttaw at the day of the Speaker set.

The chairman of the Bill Committee or the person who assigned by the committee chairman has to read out and explain the report of Bill Committee

The speaker has to declare that every representative of Hluttaw who want to discuss the bill can register on the list.

The representatives who registered on the list discuss about the bill at the date the Speaker set.

Any representative can submit the proposal of amendment 3 days before the discussion. But the Speaker can reduce this period if he assumed it is a suitable period.

If the Speaker did not decide in other ways, this amendment has to be discussed in respective paragraph of the Bill. Promulgation as Law

If there is no amendment, the person who submitted the bill can submit the proposal to approve the bill after the discussion at Hluttaw.

If there is some amendment, the person who submitted the bill must not submit the proposal to approve the bill in this day and have to wait the day the speaker set.

Everybody can submit the proposal to postpone the discussion of bill with the approval of Speaker regardless of the stages of discussion.

The Prime Minister shall sign the Bills approved or the Bills deemed to be approved by the Region or State Hluttaw, within 7 days after the day of receipt, and shall promulgate it as law.

Although the Prime Minister does not sign the Bills approved or the Bills deemed to be approved by the Region or State Hluttaw within this duration, the bills

have to be assumed as signed. After that the law has to be declared in National Gazette.

If the bill is disapproved, cease to operate from the day of its disapproval.

The proceedings and the records of the Region of State Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Region or State Hluttaw shall not be published. (The Constitution of the Republic of Union of Myanmar. 2018)

3.4 Legislative Scrutiny practices in Myanmar (Post-Legislative Scrutiny)

By the help of the experts from Westminster Foundation for Democracy (WFD), the women and child right committee from Amyotha Hluttaw had done the post-legislative scrutiny upon Child Law 1993. In this pilot project, the chair of Woman and child rights committee, the secretary led and the Assistant Director of the Committee office and the staff officer worked together.

They had done the site survey in Naypyitaw, Yangon, Insein and Taung Nguu by using the Key Informant interview and Focus group Discussion. In this interview and discussion, authorized persons from the related Union level Ministries, Township Child Right Committee members, the INGOs and Local NGOs working for the child right issues, the authorized persons from UNICEF, Mothers, Fathers, and children participated. There were (28) interviews and (6) discussion. In Site Survey, they asked about their point of view on pre-legislative scrutiny, during-legislative scrutiny, Law enforcement, Assessment on the ministry, Measurement on Law enforcement, rights and responsibilities of related persons, and access to justice.

After that they submitted their report with some recommendation and advices to the respective stakeholders.

CHAPTER IV
AN ANALYSIS ON LEGISLATIVE SCRUTINY OF YANGON
CITY DEVELOPMENT LAW (2018)

4.1 The pre-legislative scrutiny

In the second term of the Yangon Region Hluttaw (2016-19) , 17 routine laws such as annual budget laws, annual tax laws, annual regional projects laws , 4 non-routine laws (New) such as Yangon City Development law, Yangon Region Library Law 5 such as the Beverage Law(2016,2018), The Tax Law, The Yangon City Development Law(2018) , Fishery Law (2019) are passed. Routine law means the laws that have to submit by the State and Region government as a bill every year. Non routine laws are the other laws except the three laws mentioned in above. The number of non-routine laws is a key visible and tangible output indicator of legislative effectiveness (EMRef, 2017)

Table (4.1) Legislations in Yangon Region Hluttaw

	2010-2015 (five years)	2016-2019 (Three years)
Routine laws	14	17
Non-routine laws (New)	8	4
Non-routine laws (Amendment)	2	5
Total laws	24	26

Source: Yangon Region Hluttaw

In the second term of Yangon Region Hluttaw, 6th regular meeting, second day (02.02.2018), The Minister of Development, the Mayor submitted the Yangon City Development Bill (2018) to Hluttaw. And the second term of Yangon Region Hluttaw, 6th regular meeting, 50th day (25.06.2018), the Speaker took the Hluttaw decision to

approve the Yangon City Development Bill (2018). It is also amended in 2018 October 9.

Almost all of the interviewees told that the pre-legislative scrutiny is necessary and the respective ministry should take care of the bill drafting. Some civil society organizations suggest that the discussion with the civil societies and the international or local resource persons or groups, public hearing and consultation should be done in the very early state of the bill drafting process. Some of the Hluttaw representatives mention that the time given to the hluttaw to discuss about the law is not enough and if they get more time, the Bill Committee and the individual MP can do more studying, public hearing and consultation.

The Government Side

On January 18, 2017 The Yangon Region Government formed the working committee for re-drafting Yangon City Development Law (2013) with 22 members including Heads of the Department of Yangon City Development Council and some legal advisors. This working committee had done the 22 meetings. (Appendix 2)

On March 1, 2017 The Yangon City Development Committee ask for the representatives from Hluttaw to form the Task Force which will redraft the Yangon City Development Law by coordination with the Singapore Technicians based on 1922 Act and the Hluttaw assigned six Hluttaw representatives leaded by the Deputy Speaker of Yangon Region Hluttaw for the Task Force.

On June 5, 2017 the Yangon Region Government hold the workshop with the technicians from Singapore to study and discuss for drafting the Yangon City Development Law (2018).

On September 11, 2017 the Yangon Region Government formed the Yangon City Development Bill Vetting Committee with 31 members in which the vice speaker of Yangon Region Hluttaw included as a chair person, the chairman of Bill committee in yangon region Hluttaw included as a secretary.

Yangon Region Government don't have The Parliamentary Business and Legislation Committee of Cabinet (PBL) which main duty is to draft the bill by discussing with the parliamentary committee, the relevant experts, the think-tank groups and by hearing the people's voice before submitting the bill to Hluttaw like UK and also in the Region or State Government Law, there is no clear statement for how to do the pre-legislative scrutiny. The government shall form

the committee by letting the focal Minister lead or shall assign the focal minister to draft the bill. So the bill drafting by the Yangon Region Government totally depends on the Minister whom was assigned.

The Hluttaw side

The Social Affair and Management Committee of Yangon Region Hluttaw have the responsibility to amend the Yangon City Development Law according to its rights and responsibilities. So the management and social affair committee hold the Round Table Discussion with the retired officers of Yangon City Development Committee, Lawyers and Director of Yangon Heritage Trust in 28 September 2016.

The Yangon Region Hluttaw assigned (6) Hluttaw Representatives lead by U Lin Naing Myint, the Deputy Speaker of Yangon Region Hluttaw including one member of Social Affair and Management committee and four from bill committee for the Task Force to cooperate with the YCDC and Singapore Technicians for drafting the Yangon City Development Bill in 1 March 2017. At 6 March 2017, the Hluttaw Speaker replace one representative from Social Affair and Management Committee with the Chair Person of the Bill Committee in Task Force.

In the law making process of Yangon City Development Law, the main responsible committees are Social Affair and Management Committee and the Bill Committee in Hluttaw. In the right and responsibilities of the Committees, it is clearly stated that helping in the law making process of the Laws which is related with the City Development Affair is the responsibility of Social Affair and Management Committee and vetting the proposed Bills whether it is accordance with the Constitution of Republic of the Union of Myanmar (2008) and other existing Laws. But it become no representative from Social Affair and Management Committee after replacing on 2017 March 6.

Civil Society Organizations Side

There are so many Civil Society Organizations in Myanmar but it is not so much which focus on the Hluttaw and law making process compared with the other issues. But there is still exist and the following are some of them:

Table (4.2) List of Civil Society Organizations which work for the Yangon City Development Law

No	Name of the Civil Society Organization	Website
1	New Myanmar Foundation	https://en.newmyanmarfoundation.org/
2	Westminster Foundation for Democracy (WFD)	https://www.wfd.org/
3	Yangon Watch	-
4	People's Alliance for Credible (PACE)	https://www.pacemyanmar.org/my/
5	Yangon School of Political Science (YSPS)	https://www.ymps-ac.org/
6	Yangon Youth Network (YYN)	-
7	Action Committee for Democracy Development (ACDD)	-
8	Paung Kuu	https://paungkumyanmar.org/my/
9	Community Response Group (COMREG)	-
10	Danish Institute for Parties and Democracy (DIPD)	https://dipd.dk/en/
11	Institute for Democracy and Electoral Assistance (IDEA)	https://www.idea.int/
12	Democracy Reporting International (DRI)	https://democracy-reporting.org/my/

These Civil Society Organizations tried their best to coordinate with the Yangon Region Government and the Yangon Region Hluttaw for the Yangon City Development Bill in pre-legislative scrutiny process.

According to some interviewees, although they are not so satisfied completely, coordinating with the Yangon Region Hluttaw for advocacy is easy and have good result. But they told that the Yangon Region Government doesn't have enough collaboration with the civil society organizations in the bill drafting process.

NMF did a workshop of Yangon City Development Bill Discussion with 40 CSOs and had a conference with Yangon Region Hluttaw representatives. It also submitted our recommendation to Yangon Hluttaw.

The Advocacy Coordinator of Action Committee for Democracy Development – ACDD is the political coalition which was founded with farmers, workers, students, former political prisoners and the woman community leaders. It was founded in 2013 with 12 networks based in 9 Region or State and focused on the Peace, Democracy, the community activities which enforced the local administration system and the advocacy in Legislation Process. Advocacy Coordinator of Action Committee for Democracy Development – ACDD did the round table discussions and interviews about the Bill to raise the people awareness. It also collected the voices of the different groups such as the youth groups, women groups, disabled groups and published to all.

The Union Parliament of Myanmar and The Westminster Foundation for Democracy (WFD) have established a strategic partnership to assist in the development of parliamentary work and contribute to better practice and procedures within the union-level parliaments. The WFD supports in the field of the Post-Legislative Scrutiny, Pre/Legislative Scrutiny, Advisory and Technical Support to Strengthen Parliamentary Coordination at three levels and Institutional Reform.

4.2 The during-legislative scrutiny

The during-legislative scrutiny starts when the Yangon Region Government send the draft bill to Yangon Hluttaw via the Speaker. The Hluttaw's Speaker send this bill to the Bill committee.

The Bill committee hold the (21) committee meetings and (62) joint-meetings with other organizations and people for vetting the Yangon City Development Bill after it had got the bill from the Speaker. In these 62 joint-me etings, it met with some civil society organizations such as People's Alliance for Credible Election(PACE), New Myanmar Foundation, Myanmar Engineering Society and Global Famous. It hold 37 meetings with Legal Issues Studying Body of Yangon Region Hluttaw, 5 meetings with other Hluttaw Committees, 6 with Legal Issues Studying Body, and Hluttaw Committees, 6 with Legal Issues Studying Body and Yangon City Development Committee, 5 with Yangon City Development Committee, 2 with Legal Issues Studying Body, Yangon City Development Committee and Hluttaw Committees and 1 with the Hluttaw representatives who submitted the amendment proposal.

At The second term of Yangon Region Hluttaw, 6th regular meeting, second day (02.02.2018), The Minister of Development submitted the Yangon City Development Bill (2018) to Hluttaw.

At the second term of Yangon Region Hluttaw, 6th regular meeting, third day (07.02.2018), the Bill committee submitted the report on the Yangon City Development Bill (2018) to Hluttaw.

At the second term of Yangon Region Hluttaw, 6th regular meeting, 50th day (25.06.2018), the Speaker took the Hluttaw decision to enact the Yangon City Development Law (2018).

4.3 The post-legislative scrutiny

The post-legislative scrutiny is essential and has been familiar with the democratic countries. But Myanmar has no practice for it because Myanmar come from the oligarchy, the military rule and its democracy is still young. Most of the respondents said that the post-legislative scrutiny should be done not only by the government department but also by the hluttaw committee which is assigned by the Hluttaw to do so. The Civil Society Organizations also should cooperate with the Government and the Hluttaw.

In the consultation paper of the UK Law Commission, it stated the role of the Hluttaw for post-legislative scrutiny as follow; “ We see force in the argument that post-legislative scrutiny should be a more integral part of the Parliamentary process. There is potential to fill the gaps in the system by adopting a more systematic approach. We recognize that there is a tension between the desirability of an objective review within Parliament. We are also aware of the ever-present resource constraints and the need for flexibility of approach. We recognize the need, so far as possible, to build on existing scrutiny systems and procedures. Above all, post-legislative scrutiny mechanisms are ultimately for Parliament to decide”
(UK Law Commission.2006)

Government Side

The Yangon City Development Council reviewed the section related with the election in the Yangon City Development Law (2018) while they are preparing the bylaws for the YCDC election and proposed Hluttaw to amend two articles just before the election.

Based on the experience on the 2019 Yangon City Development Committee election, the YCDC reviews the some articles related with the YCDC election and has plan to propose to Hluttaw to amend some articles. There is no other action for post-legislative scrutiny.

Hluttaw Side

In the second term of Yangon Region Hluttaw, 7th regular meeting, 17th day (05.10.2018), U Nay Myo Kyaw @ Nay Phone Latt proposed to amend the Yangon City Development Law (2018) to Hluttaw based on the advice of Yangon City Development Committee. The article amended is related with the YCDC election.

In the second term of Yangon Region Hluttaw, 7th regular meeting, 18th day (08.10.2018), the Bill committee read the comment for the amendment.

In the second term of Yangon Region Hluttaw, 7th regular meeting, 19th day (09.10.2018), the Speaker took the Hluttaw decision to approve the proposal to amend the Yangon City Development Law.

There is no dedicated committee to do the post-legislative scrutiny for every law.

Civil Society Organization Side

Some of the Civil society Organizations did the public awareness raising for the Yangon City Development Law and they actively participated in the YCDC election processes such as Preparing Voter List, Checking Voter List, Voter Education and Election Monitoring. And according to their experiences in the election, they have a plan to advocate the government or hluttaw.

They also reviewed the positive changes of the law - Universal Suffrage , more people elected representatives , Election Dispute Process , Voter list process , Deputy Mayor Position and so on .

The Westminster Foundation for Democracy (WFD) organized International Academic Seminar on Post-Legislative Scrutiny in Asia 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-level Parliaments of the Republic of the Union Myanmar at Yangon, 17-18 June 2019.

New Myanmar Foundation intends to advocate YCDC first as they have to highly work with YCDC elected committee members, to accept the democratic reform and working together with elected persons. Secondly NMF intends to meet with the elected members - sometimes, the elected person may not aware the essence of law and their roles and responsibility. Thirdly, NMF want to do public survey about the law and then to meet with the Hluttaw again to advocate what section should be amended as the post-legislative scrutiny.

4.4 The Comparison on Yangon City Development Laws (1990)(2013)(2018)

The City of Yangon Development Law (14th May, 1990) is enacted by The State Law and Order Restoration Council. In the City of Yangon Development Law, the Chairman of the State Law and Order Restoration Council shall form the City of Yangon Development Committee comprising a minimum of 7 members and a maximum of 15 members. If necessary, the number of members may be increased. Such formation shall be made with suitable citizens in order to carry out the development works of the City of Yangon effectively. In forming the Committee, the Chairman of the State Law Order Restoration Council shall determine the Chairman and Secretary of the Committee. The Chairman of the Committee is the Mayor of Yangon and The Head of Office is the Joint Secretary of the Committee.

The Committee shall draw and confirm the necessary organizational set-up based on the duties and responsibilities. The Committee may, in preparing the organizational set-up include the following personnel contributing to the development works, after consultation with the departments concerned:

- (a) service personnel carrying out the duty of precautionary measures against disease;
- (b) service personnel carrying out the duty of precautionary measures against fire;
- (c) members of Municipal Police Force and other service personnel carrying out the duty of security and maintenance of discipline.

In appointing service personnel, the Committee shall not apply in excess of 30 per cent of the annual income accrued. In order that the Head of Office may manage the service personnel, the Committee shall confer as may be necessary powers relating to service affairs to the Head of Office.

(The City of Yangon Development Law - The State Law and Order Restoration Council Law No. 11/90)

Yangon City Development Law, 2013 is enacted by the State Peace and Development Council (SPDC). In these law, the Yangon Region Cabinet shall form Yangon City Development Committee (YCDC) with 9 members. In this committee, the Yangon Region Minister appointed as a Mayor by the President of the Republic of the Union of Myanmar shall serve as a chairman. There shall be (4) elected committee members elected from (4) districts of Yangon and (4) committee members appointed by the Yangon Region Government. The two appointed committee members shall be the secretary and assistant-secretary.

According to this law, there shall be the District Development Committees in (4) Districts and the person elected by the seniors at the District shall serve as the chairman and other two elected persons one elected by the technocrats and one elected by the civil societies. Deputy District Administrative Authority from the General Administrative Authority shall be one of the committee member and the District Development Executive Officer shall serve as a secretary of the committee. There shall be also the Township Development Committees in every townships and the formation is same as the District Development Committees for chairman and two elected members and one appointed member shall be the Deputy Township Administrative Authority and the Township Development Executive Officer shall be the secretary.

Compared with 1990 the City of Yangon Development Law, 2013 Yangon City Development Law become more democratic because there are some elected members in every stages of committees and the elected person serve as a chairman, in District Development Committee and Township Development Committee. But In YCDC, the appointed persons still take all of the Key Positions such as Chairman, Secretary, and assistant secretary.

In 2018 Yangon City Development Law, the Yangon Region Cabinet shall form Yangon City Development Committee (YCDC) with 11 members, 5 appointed persons and 6 elected persons. In this committee, the Yangon Region Minister

appointed as a Mayor by the President of the Republic of the Union of Myanmar shall serve as a chairman. There shall be (6) elected committee members and (4) committee members appointed by the Yangon Region Government. One of the (6) elected committee members shall be the Vice-Mayor and also the deputy chairman of the committee. The two appointed committee members shall be the secretary and assistant-secretary.

According to this law, there shall be no District Development Committees and the YCDC can directly work with the Township Development Committee. The formation of the Township Development Committee is as follow;

- | | | |
|-----|--|-------------|
| (1) | The person elected by the People | - Chairman |
| (2) | The person elected by the People | - Member |
| (3) | The person elected by the People | - Member |
| (4) | The deputy township administrative authority | - Member |
| (5) | The township Development Executive Officer | - Secretary |

2018 Yangon City Development Law become more democratic than other earlier laws. The number of the elected persons in every committee is more than the appointed person and one of the elected persons by the people can be the Vice-Mayor of Yangon. According to the new Yangon City Development Committee Elections Bylaw, the youths can be run for the YCDC election and also can be the vice-mayor of the Yangon City and the chairman of the township development committee because the age of the candidates for all of the committees are reduced to 25 years.

The act of legislative scrutiny on the law making process of Yangon City Development Law (2018) make the law to be more democratic. The people can raise their desire and wants via civil society organizations because there is the collaboration among the Hluttaw and the civil society organizations in during-legislative stage as the during-legislative scrutiny.

According to some civil society organization, people want to elect their mayor by themselves but it is impossible without amending the Yangon Region Government Law. But the people got the chance to elect the vice mayor by themselves. Most of the respondents from the civil society organization believed that most of their advice are respectfully considered by the Hluttaw and they are satisfied with the final outcome of Yangon City Development Law (2018). The more number of elected persons in YCDC and Township Development Committees, having a chance for the youths under 30 years to ran for the YCDC election and to be the vice mayor, the

elected committee member getting more power are the changes the people like most. That kind of changes is the result of the legislative scrutiny.

4.4 The Challenges on doing Legislative Scrutiny

One big challenge is that most of the people even the Hluttaw representatives do not know well about the role of the legislative pillar (Hluttaw), the main tasks of the Hluttaws and how the legislation process goes on since throughout the history of Myanmar Politics, the people passed through the eras in which there was only administrative pillar; not the legislative pillar. Most of the people think that the legislation process is only the task of the Hluttaw and the government and not related to them. Actually, people participation is very important in law making process.

Another challenge is that the age of the legislative pillar in Myanmar is only almost 2 terms (10 years) and most of the speakers, deputy speakers and the Hluttaw representatives do not have enough experiences in legislation since most of them are elected in the second term of Hluttaw.

How to do the pre-legislative scrutiny, during-legislative scrutiny and post-legislative scrutiny not being precisely defined in the law and bylaws related with the legislation is also a challenge. The lack of knowing that the collaboration is needed among the government, Hluttaw and the civil society and the lack of legal statement to do so is a challenge too.

Although there are so many civil societies which focus on the social affairs, there are very few civil societies to help the government and the Hluttaws in law making process. Even though some civil societies exist, they do not have strong and precise procedure to collaborate with government and Hluttaws, which becomes a challenge.

Some Civil Societies have some difficulties in finding a way to collaborate with the government and the Hluttaws since there is no clear and easy communication channels.

CHAPTER V

CONCLUSION

5.1 Findings

All the Hluttaw representatives, The Government Authorities and the civil society organizations accept that the legislative scrutiny is essential for the law making process.

Unlike UK, the Yangon Region Government does not have the procedure to publish the Green Paper which includes an outline description of alternative proposals for legislation and invites comments from stakeholders and also doesn't publish the White Paper which includes the decision on proposals for legislation with an explanation of the policy.

The focal committee or group such as The Parliamentary Business and Legislation Committee of Cabinet-PBL (UK) and the Council of State, the highest administrative jurisdiction (France) take a very crucial role in the pre-legislative scrutiny in law making process, but there is no such kind of committee in Yangon Region Government. It also doesn't have exact dedicated committee or group to do the Pre-legislative scrutiny and Post-legislative scrutiny. In the Region or State Government Law, there is no clear statement for how to do the pre-legislative scrutiny and post-legislative scrutiny.

Additionally, in Region and State Hluttaw Law and by-laws, it doesn't state clearly for the pre-legislative scrutiny and post-legislative scrutiny except the process for the during-legislative scrutiny. Even in the process of during-legislative scrutiny, it only states the formal procedure of how to discuss and pass the bill in the Region & State Hluttaw's regular meetings and does not clearly state for the public hearing, public consultation.

In the UK Parliaments, all stakeholder hearings are open to the public; proceedings are streamed on the internet at www.parliamentlive.tv a complete transcript is published the following day on www.parliament.uk at the state of

Committee hearing. But in Yangon Region Hluttaw, all of the stakeholder hearings are closed-door meetings.

There are some cooperation among the Government, the Hluttaw and Civil Societies but it is not enough. Especially, the government does not have enough effort to give the ways for the civil societies to do strong advocacy on law drafting process.

Although the Yangon Region Government assigned the secretary of YCDC as a chair of working group of re-drafting Yangon City Development Law (2018) altogether with the YCDC staffs and held the meetings, it was absent to do the enough coordination with the People, Experts and Civil Society Organizations in the process of pre-legislative scrutiny.

Moreover, although the Yangon Region Hluttaw held so many meetings with the respective stakeholders, Civil Society Organizations, it was absent to do the public hearing to get the public opinion in the process of pre-legislative scrutiny.

For Post-legislative scrutiny, the government did not have the clear mechanism to do it and the hluttaw also did not have the detailed instruction for it.

In UK Legislative System, the individual Member of Parliament or the committee does the post-legislative scrutiny by starred and un-starred questions, plenary motions and select committee inquiries. But the Yangon Region Hluttaw representatives are not so aware of it and most of their starred and un-starred questions are just only about their constituency and not related with any laws, and the committees also do not focus on the enquiries of the implementation of law as the post-legislative scrutiny.

Some of the Civil Society Organizations tried to advocate the Yangon Region Hluttaw and Government for the Yangon City Development Law (2018) but most focus on the election and there are few which focus on the Law Making Process.

5.2 Recommendations

Most of the Laws related with the legislative body are outdated and are needed to review and amend. Especially, the clear processes for the pre-legislative, during-legislative and post-legislative scrutiny should be in the laws and by-laws.

The Government, the Hluttaw and the civil society organizations should have the stronger cooperation in the process of pre-legislative, during-legislative and post-legislative scrutiny.

The Government should have the Parliamentary Business and Legislation Committee of Cabinet – PBL(UK) and the Council of State ,the highest administrative jurisdiction (France) which main duty is to draft the bill by discussing with the parliament, the relevant experts, the think-tank groups and by hearing the people’s voice before submitting the bill to Hluttaw.

The Bill Committee’s stakeholder hearings and meetings should have more transparency and the Yangon Region Hluttaw should have the clear mechanism to get the public opinion.

The Yangon Region Hluttaw should assign one committee like Bill Committee or form the new committee which can do the post-legislative scrutiny.

The Individual Hluttaw representative and the Hluttaw committees should focus on the Laws which was enacted by the Hluttaw and should ask the starred and un-starred questions as the action of the post-legislative scrutiny.

The government and the Hluttaw should use the modern technology to communicate with the people or civil societies in the process of law making.

The Hluttaw should build up a good relationship with Public via hearing and keep in touch with them by creating the easy and comfortable way to communicate to get the sound laws.

There should be more Civil Society Organizations which focus on the law making process and support the Legislative Body (Hluttaws). They should study and review the existing laws which need to be amended and should lobby to the Hluttaw. the Civil Society Organization should study the international laws and should lobby some new laws which should be enacted in the Hluttaw. (For Example, the Yangon Heritage Trust (YHT) prepared the Yangon Heritage Protection Law and submitted to Yangon Region Hluttaw via one of the Yangon Region Hluttaw Representative)

In the legislative-scrutiny process, all sectors such as Government Ministries or Departments, Implementing agencies, Civil Societies, Hluttaw/Hluttaw

Committee/Hluttaw Representatives, Academics and Experts, Think-Tanks Or Lobbying Groups, Public and Media should collaborate very well and the following is the table of processes in Legislation and related stakeholders.

Table 5.1. Processes in Legislation and related stakeholders

	Pre-Legislative Scrutiny	Legislative Proposal	During-Legislative Scrutiny	Implementation by Government	Post Legislative Scrutiny
Government Ministries or Department	✓	✓	✓	✓	✓
Implementing Agencies	✓	✓	✓	✓	✓
Hluttaw/Hluttaw Committee			✓		✓
Hluttaw Representative		✓	✓		✓
Judiciary body/ Courts				✓	✓
Academics or Experts	✓	✓	✓		✓
Civil Society	✓	✓	✓		✓
Think-Tanks or Lobbying Groups	✓	✓	✓		✓
Media	✓		✓		✓
Public	✓	✓	✓		✓

REFERENCE

- Commission, U.K.L. (2016). *Post-Legislative Scrutiny- A consultation paper*. London: UK Law Commission.
- Council, S. P. (2009). *Constitution of the Republic of the Union of Myanmar(2008)*. Yangon: Minisrty of Information.
- EMReF. (2017). *Region or State Hluttaws (local legislature of Myanmar)*. Yangon: enlightened Myanmar research foundation .
- Hluttaw, Y. R. (2018). *Yangon City Development Law*. Yangon: Yangon Region Hluttaw.
- Hluttaw, Y. R. (2019). *The Implementation report of Yangon Region Hluttaw to Myanmar Parliamentary Unit(MPU)*. Yangon: Yangon Region Hluttaw.
- MCERP. (2016). *Indroduction of Yangon Region Hluttaw*. Yangon: Myanmar Center to Empower Regional Parliaments.
- SLORC. (1990). *The City of Yangon Development Law*. Yangon: The State Law and Order Restoration Council Law No. 11/90
- SPDC.(2013). *Yangon City Development Law*. Yangon: the State Peace and Development Council.
- SPDC. (2010). *Region or State Government Law*. Yangon: The State Peace and Development Council.
- Union Parlaiment. (2013). *Region or State Hluttaw law, rules and regulations*. Naypyitaw: Union Parliament Law No 22
- Verieze. F D. (2017). *Post-Legislative Scrutiny, Guide for Parliament*. London: WFD. Franklin De Verieze
- Verieze. F D. (2018). *Principle of Post-Legislative Scrutiny by Parliament*. London: WFD. Franklin De Verieze
- WFD. (2018). *Legislative Scrutiny*. London: Westminster Foundation for Democracy

APPENDICES

Appendix (1)

Schedule Two Region or State Legislative List

1. Finance and Planning Sector

- (a) The Region or State budget;
- (b) The Region or State Fund;
- (c) Land Revenue;
- (d) Excise duty (not including narcotic drugs and psychotropic substances);
- (e) Municipal Taxes such as taxes on buildings and lands, water, street lightings and wheels;
- (f) Services of the Region or State;
- (g) Sale, Lease and other means of execution of property of the Region or State;
- (h) Disbursement of loans in the country from the Region or State funds;
- (i) Investment in the country from the Region or State funds;
- (j) Local plan; and
- (k) Small loans business.

2. Economic Sector

- (a) Economic matters undertaken in the Region or State in accord with law enacted by the Union;
- (b) Commercial matters undertaken in the Region or State in accord with law enacted by the Union; and
- (c) Co-operative matters undertaken in the Region or State in accord with law enacted by the Union.

3. Agriculture and Livestock Breeding Sector

- (a) Agriculture;
- (b) Protection against and control of plants and crop pests and diseases;
- (c) Systematic use of chemical fertilizers and systematic production and use of natural fertilizers;
- (d) Agricultural loans and savings;
- (e) Dams, embankments, lakes, drains, irrigation works having the right to be managed by the Region or State;
- (f) Fresh water fisheries; and

(g) Livestock breeding and systematic herding in accord with the law enacted by the Union.

4. Energy, Electricity, Mining and Forestry Sector

(a) Medium and small scale electric power production and distribution that have the right to be managed by the Region or State not have any link with national power grid, except large scale electric power production and distribution having the right to be managed by the Union;

(b) Salt and salt products;

(c) Cutting and polishing of gemstones within the Region or State;

(d) Village firewood plantation ; and

(e) Recreation centers, zoological garden and botanical garden.

5. Industrial Sector

(a) Industries other than those prescribed to be undertaken by the Union level; and

(b) Cottage Industries.

6. Transport, Communication and Construction Sector

(a) Ports, jetties and pontoons having the right to be managed by the Region or State;

(b) Roads and bridges having the right to be managed by the Region or State; and

(c) Systematic running of private vehicles within the Region or State.

7. Social Sector

(a) Matters on traditional medicine not contrary to traditional medicine policies prescribed by the Union;

(b) Social welfare works within the Region or State;

(c) Preventive and precautionary measures against fire and natural disasters;

(d) Stevedoring;

(e) Having the right of management by the Region or State , the following: (i) preservation of cultural heritage; (ii) museums and libraries

(f) Theaters, cinemas and video houses; and

(g) Exhibitions such as photographs, paintings and sculptures.

8. Management Sector

(a) Development Matters;

(b) Town and housing development; and

(c) Honorary certificates and awards.

Appendix (2)

Working Committee for Re-Drafting Yangon City Development Law (2013)

- | | | |
|------|---|-----------------|
| (1) | Daw Hlaing Maw Oo, Secretary, YCDC | Chairperson |
| (2) | U Than, Joint Secretary, YCDC | Vice Chairman |
| (3) | U Maung Maung Zaw, Head, Administration Department | Member |
| (4) | U Kyaw Min, Head, Revenue Department | Member |
| (5) | U Than Lwin Oo, Head, City Planning & Land Department | Member |
| (6) | U Aung San Win, Head, Engineering Department
(Water & Sanitation) | Member |
| (7) | Daw Ni Ni Aye, Head, Budget & Accounts Department | Member |
| (8) | U Cho Tun Aung, Head, Pollution Control &
Cleaving Department | Member |
| (9) | U Aye Kyaw Aung, Head, Health Department | Member |
| (10) | Dr. Than Than Lwin,
Acting Head, Health Department | Member |
| (11) | U Kyi Tin, Director, Yangon Region Development | Member |
| (12) | Daw Tin Tin Kyi, Deputy Head,
City Planning & Land Administration Department | Member |
| (13) | Daw Aye Zin Soe, Legal Advisor, YCDC | Member |
| (14) | U San Win, Legal Advisor, YCDC | Member |
| (15) | U Kyaw Thet Linn, Legal Advisor, YCDC | Member |
| (16) | Daw Khin Thandar, Legal Advisor, YCDC | Member |
| (17) | U Maung Maung Khin, Legal Advisor, YCDC | Member |
| (18) | U Kyaw Shein, Retired Head, YCDC | Member |
| (19) | U Thaung, Retired Legal Advisor, YCDC | Member |
| (20) | U Win Maung, Retired Legal Advisor, YCDC | Member |
| (21) | U Sitt Min Han, Assistant Head,
Administration Department | Secretary |
| (22) | U Zin Min Hlaing, Division Head of Department
Administration Department | Joint Secretary |

Appendix (3)

Questionnaires

For Government Side

- (1) What did the cabinet or the respective department do to prepare the bill before submitting to Hluttaw?
- (2) Is there any committee or body like The Parliamentary Business and Legislation Committee of Cabinet (PBL)?
- (3) Is there any committee or group which prepare the draft of bill?
- (4) Is the Pre-legislative Scrutiny needed ? How important is it?
- (5) Which pillar or which sector should take the main responsibility to do the Pre-legislative Scrutiny?
- (6) What did the Yangon Region Government do for drafting the Yangon City Development Bill before submitting to Hluttaw?
- (7) Is there any mechanism in Yangon Region Government to do post-legislative Scrutiny over any laws which are already passed?
- (8) What did the Yangon Region Government do for Post-legislative Scrutiny over 2018 Yangon City Development Law?
- (9) Which pillar or which sector should take the main responsibility to do the Post-legislative Scrutiny?

For Parliament Side

- (1) What did the hluttaw do for pre-legislative scrutiny for Yangon City Development Bill before the Government had been submitted to Hluttaw?
- (2) Is the Pre-legislative Scrutiny needed ? How important is it?
- (3) Which pillar or which sector should take the main responsibility to do the Pre-legislative Scrutiny?
- (4) In legislation process of Yangon City Development Bill, did the Hluttaw or the committee do any hearings or discussion for during-legislative scrutiny?
- (5) Did the hluttaw have enough time to do during-legislative scrutiny ?
- (6) Is there any mechanism in Yangon Region Hluttaw to do post-legislative Scrutiny over any laws which are already passed?
- (7) What did the Yangon Region Hluttaw do for Post-legislative Scrutiny over 2018 Yangon City Development Law?
- (8) Which pillar or which sector should take the main responsibility to do the Post-legislative Scrutiny?

For Civil Society Side

- (1) What is the name of Civil Society you work for?
- (2) Is there any other civil societies which work on supporting and strengthening the Legislative Body?
- (3) Is the Pre-legislative Scrutiny needed? How important is it?
- (4) Which pillar or which sector should take the main responsibility to do the Pre-legislative Scrutiny?
- (5) Can the civil societies do the pre-legislative scrutiny freely and effectively for the Yangon City Development Bill?
- (6) Is it ok to communicate with the respective department to do the pre-legislative scrutiny for the Yangon City Development Bill?
- (7) How did your civil society do the pre-legislative scrutiny for the Yangon City Development Bill?
- (8) Do your organization have any collaboration with hluttaw for During-legislative scrutiny of Yangon City Development Bill?
- (9) Is there any mechanism in your civil Society to do post-legislative Scrutiny over any laws which are already passed?
- (10) What did the your civil society do for Post-legislative Scrutiny over 2018 Yangon City Development Law?
- (11) Which pillar or which sector should take the main responsibility to do the Post-legislative Scrutiny?

Appendix (4)

Interviewees

- Naw Pann Thinzar Myo (Minister of Kayin Ethnic Affairs)
- U Than – (Joint Secretary of Yangon City Development Committee, Vice Chairman of working committee for re-drafting Yangon City Development Law)
- U Zin Min Hlaing – (Joint Secretary of working committee for re-drafting Yangon City Development Law)
- U Thar Aung (Chair Person of Social Affair and Management Committee)
- U Nyein Chan Aung (Member of Social Affair and Management Committee)
- U Win Maung (Secretary of Bill Committee of Yangon Region Hluttaw)
- U Zaw Win Naing (Member of Bill Committee of Yangon Region Hluttaw)
- U Kaw Tun (Member of Bill Committee of Yangon Region Hluttaw)
- Daw Kyi Pyar (Representative of Yangon Region Hluttaw)
- U Wai Phyoo Han (Representative of Yangon Region Hluttaw)
- U Than Naing Oo (Representative of Yangon Region Hluttaw)
- Daw Nyo Nyo Han (Deputy Director)
- ED Zaw Thu (Deputy Staff Officer)
- Daw Thinzar Shunn Lei Yee (Advocacy Coordinator of Action Committee for Democracy Development - ACDD)
- U Myat Min (Member of ProAct Myanmar)
- Daw Mya Nandar (New Myanmar Foundation)
- U Tay zar (International Institute for Democracy and Electoral Assistance)