

ՀԱՄԱՌՈՏԱԳԻՐ

POLICY BRIEF



«Աջակցություն Հայաստանի Հանրապետության Ազգային ժողովին խորհրդարանական վերահսկողությունը և ընտրողների հետ հաղորդակցությունը բարելավելու նպատակով» ծրագիր

Support to the National Assembly of the Republic of Armenia in improving parliamentary oversight and communication with electorate



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Հանրապետության
Ազգային ժողով



British Embassy
Yerevan

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ղեսպանատան ֆինանսական
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Is the law working? Why Parliament should evaluate legislation



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Post-legislative oversight is what enables a parliament to ensure that the laws it passes are working and have the desired effect. Post-legislative oversight means that the parliament monitors and evaluates the implementation of a new legislation, based on the expected outcomes and makes changes to the laws if something went wrong during the implementation. Moreover, post-legislative oversight also identifies how coherent and consistent are the goals and regulations of the new legislation with the reality.

It should therefore be an immediate priority of the members of the NA to establish a functional post-legislative oversight system. If not, negative consequences of legislation and defective laws will easily go unattended, resulting in public discontent, ineffective governance and eventually a quagmire sucking all good intentions and efforts to reform.

Why is post-legislative oversight necessary?

Members of parliament might believe that they have adequately addressed a pressing problem with adoption of new legislation. The new legislation is an attempt to address the existing social issues and specific legal regulations forecast specific results. Whether these results have been achieved or not can be identified only if the legislation is evaluated.

Yet, if this new legislation is not evaluated, the parliament cannot know if the problem was actually solved. Hence, if there is not a system of evaluation in place, then there is a risk that legislation with the best intentions, but with malfunctioning features, is never detected, resulting in unfulfilled potential or outright bad consequences for the target group. Examples of this could be economic reforms that only benefit the largest corporations and not the small and medium sized firms or a pension reform that reinforces social inequalities between the poor and the rich. Without thorough evaluation, the NA deputies will be in a difficult position to recognise problems that occur after legislation is passed and take action on it.

In addition, post-legislative oversight can have other positive effects on the law-making process, from drafting to implementation. Knowing that a law will later be evaluated based on its stated objectives can aim the policy-makers' attention at clearly communicating the goals of the law so that it will be evaluated accordingly. Furthermore, all stakeholders involved in the implementation will be compelled to focus on a successful process, guaranteeing that the law works accordingly, because they know that their work will be scrutinised in the evaluation process. In essence, post-legislative oversight is about knowing the specific goals of a law, gathering knowledge about its implementation, and making sure that it works without having negative side-effects. Insights from the evaluation should be used to improve future drafting of laws and implementation practices.

Constructive criticism

Post-legislative oversight should not be regarded as a tool only for the opposition. It is a tool that should be used by members of the ruling faction as well, since it can help ensuring consistency between campaign promises and passed legislation. This aspect revolves around the parliament evaluating and monitoring the legislation programme that the government rolls out in the aftermath of its electoral victory. Engaging in such work enables members of parliament from the ruling party to assist their co-members in the government with valuable insight successes and persisting issues. It is important to note that post-legislative oversight is not a tool used to start debates about the



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political arguments surrounding a piece of legislation; these were already discussed in the drafting phase. Instead, it is about monitoring the implementation and evaluating the effects of the legislation.

The relationship between the executive and the parliament should in general be one that focuses on producing the best results to the people. A post-legislative oversight system helps with this by being an extra pair of eyes overseeing the government's actions, but also aiding it in making sure legislation is implemented efficiently and has a positive societal effect.

Moving forward

The road ahead includes a thorough discussion of how best to establish a post-legislative oversight system in the NA. The NA Rules of Procedure specifies that the standing committees are the institutions responsible for implementation of post-legislative oversight. It also provides deputies with important parliamentary tools, such as making inquiries and conducting hearings, which can also be used for post-legislative oversight. Still, post-legislative oversight also requires the technical capacity to collect and analyse data and to understand the legal ramifications.

Such capacity can be made available to the NA directly or indirectly. First, a direct method is to follow the Swedish approach and establish a research unit under the NA composed of policy experts. They will help with the evaluation itself and with engaging external stakeholders, for instance civil society organisations, in the process. Second, an indirect method used in the Westminster Parliament in the UK is to give the NA the right to request a relevant ministry to issue an evaluation report on a piece of legislation, with the opportunity to conduct further evaluation if the ministerial one is deemed insufficient. The final decision on what the consequences of the evaluation should be, e.g. amendments to the legislation, lies within the standing committees, regardless of whether a direct or indirect method is adopted. With a well-established committee structure in the NA, either trajectory should focus on post-legislative oversight work starting in the standing committees, before engaging with the entire NA.

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