



Law-making as a Component of the Rule of Law

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The state of the rule of law has raised concerns in recent years, including in Finland. The debate has shifted from the challenges faced by countries such as Poland and Hungary, and the European Union's rule-of-law mechanisms, to our own constitutional system and its ability to withstand political pressure, polarisation, and an increasingly heated public discourse.

Against this background of growing concern about the resilience of constitutional safeguards, it becomes necessary to examine more closely the everyday practices within the rule-of-law system, including law-making as one of its central components. In this post, drawing on and synthesising my previous research, I present key points that demonstrate that the law-making process is not merely a technical procedure but a central component of the rule of law in Finland.

In discussions of the state of the rule of law, the quality and functioning of law-making are important concerns that have so far received relatively little attention. In its recently updated Rule of Law Checklist (2025), the Venice Commission of the Council of Europe identified the quality of the legislative process, particularly its transparency and inclusiveness, as one element of the rule of law. Similarly, the European Commission's annual Rule of Law Reports assess the quality of the legislative process as a component of the rule of law. These international standards highlight the importance of the processes by which laws are made and offer a normative framework for evaluating domestic practices from a rule-of-law perspective.

Domestic law-making is further guided by international and national Better Regulation guidelines, such as the Guide to Consultation in Statute Drafting of the Ministry of Justice. In my recent research, together with my co-authors (see [here](#), [here](#), and [here](#)), I have identified the constitutional frameworks of law-making that underpin those guidelines. Our research suggests that the legal frames of law-making are, at a principled level, anchored in the Constitution and in the framework of fundamental and human rights.

Public debate on challenges of law-making processes from a rule-of-law perspective often centres on the constitutional control of individual laws—such as the so-called Border Security Act (formally, the Act on Temporary Measures to Combat Instrumentalised Migration), which is often cited as an extreme example.

As important, however, are the procedural standards of the pre-parliamentary phase of law-making that rarely attract the same public attention from a rule-of-law perspective.

Within law-making processes, the rule of law is reflected in the reasoning behind government proposals, the thoroughness of impact assessments, stakeholder consultation, and the transparent presentation of alternatives and risks for parliamentary scrutiny. When legislative processes are rushed, decisions are made with inadequate information, or complex legal questions are set aside to advance political objectives, the principle of the rule of law is tested—often without full recognition.

Information is essential for the balance of power

A key aspect of the procedural safeguards in law-making is access to information, which underpins parliament's ability to exercise effective oversight. Section 47 of the Constitution grants parliament a general right of access to information. Parliament is entitled to all information necessary for considering matters before it, and its ability to exercise power depends on this informational foundation. The issue is not merely whether parliament formally receives documents, but how comprehensively, promptly and openly the relevant information is conveyed. My research illustrates that the provision also applies to law-making.

The government bills originate in the executive branch's preparatory materials, which shape and inform parliamentary deliberations. The government's control over these materials could lead to parliament's scrutiny being based on incomplete or selectively framed information. By controlling the flow of information, the government can shape the framework within which legal proposals are assessed. As a result, although the parliament formally holds legislative authority, the executive branch can effectively shape the informational basis on which that authority is exercised.

This asymmetrical dynamic undermines the rule of law by weakening accountability, transparency, and informed decision-making, core procedural elements of lawful governance. Thus, sound law-making not only improves the quality of decision-making but also reinforces constitutional legitimacy by ensuring that parliament, as the ultimate holder of public authority, has the necessary informational foundation to exercise its powers.

Legal frameworks and political goals

Law-making is, as a process, both political and legal. For this reason, it inevitably involves balancing these two dimensions. The legal frameworks governing law-making serve as constitutional safeguards, ensuring that the law-making process remains consistent with the rule of law. At the same time, they provide boundaries within which political choices about the content of regulation are made.

From that perspective, for example, a short consultation period cannot be justified by political time pressure. Nor can the procedural standard for impact assessments be bypassed because the course of action has been determined in a political programme. This has nevertheless occurred in recent practice.

The Finnish system has traditionally relied on the assumption that the political actors respect the law-making standards. If this culture of respect were to erode and the legal frameworks of law-making were perceived merely as political obstacles, the legitimacy of law-making from a rule-of-law perspective would be undermined. As demonstrated by pandemic-era regulations, some procedural flexibility is necessary in response to circumstances, but it is not without limits.

The rule of law is realised through everyday legislative practices

The legal framework of law-making is more than just administrative guidance. It is a fundamental part of the constitutional structure. When preparation is comprehensive, impact assessments are transparent, alternatives are clearly presented, and participation is inclusive, parliamentary scrutiny can work effectively. On the other hand, when schedules are tight, preparation is limited, or consultation is minimal, the conditions for informed decision-making become weaker. From a constitutional perspective, what ultimately counts is how the principles of the rule of law are operationalised in daily practices.

Our constitutional system does not operate automatically. It requires sound structures — but also actors who take legal norms seriously and engage with them. In the context of law-making, this primarily concerns political decision-makers and senior civil servants within ministries.

The rule of law does not collapse overnight or because of a single problematic law-making process. It erodes gradually when its limits are no longer regarded as binding. That is why the quality of law-making matters. It is not merely a set of technical procedures but a fundamental component of the structural foundations of Finnish constitutionalism.

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