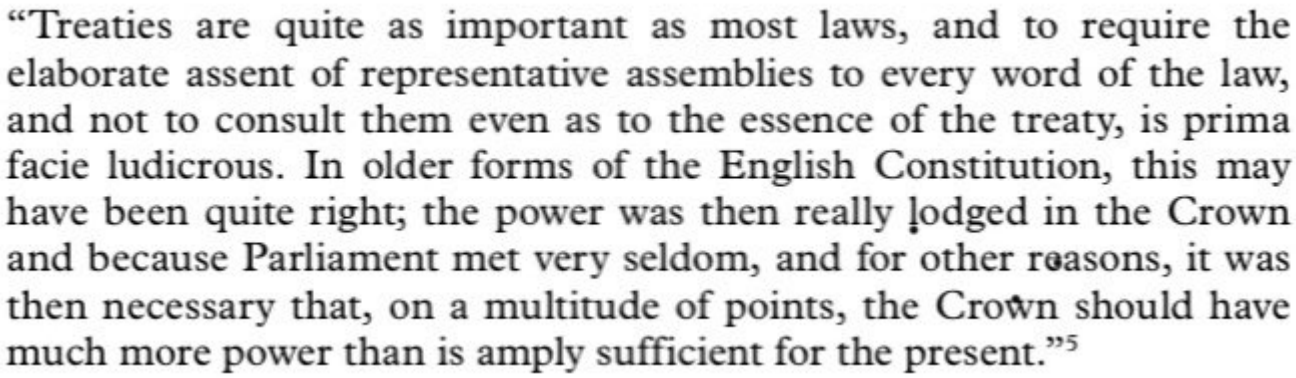
Twitter Thread by Alexander Horne

Alexander Horne
@AlexanderHorne1

Today marks the establishment of the House of Lords International Agreements Committee as a freestanding Committee of Parliament. So here is a thread on treaty scrutiny in the House of Lords to celebrate the occasion 1/16/

Parliament has never been very good at scrutinising treaties. Bagehot noted the problem in 1872 in the second edition of his seminal work The English Constitution 2/16


"Treaties are quite as important as most laws, and to require the elaborate assent of representative assemblies to every word of the law, and not to consult them even as to the essence of the treaty, is prima facie ludicrous. In older forms of the English Constitution, this may have been quite right; the power was then really lodged in the Crown and because Parliament met very seldom, and for other reasons, it was then necessary that, on a multitude of points, the Crown should have much more power than is amply sufficient for the present."[5]

I suspect the reasons for this are twofold: first the fact the negotiations of treaties are the responsibility of the Executive under the royal prerogative... 3/16

And second the UK's dualist legal system - which means that international agreements do not take effect in domestic law until they have been enacted in domestic legislation. 4/16

This sounds like a safeguard. But in fact agreements tend to be signed before any legislation (if it is necessary) is brought before Parliament. So Parliamentarians are left with a rather binary choice... 5/16

The Ponsonby Rule of 1924 established a convention that treaties would be laid before Parliament 21 days before ratification... 6/16

While the question of treaty scrutiny was considered again during the Governance of Britain review (and the Constitutional Reform and Governance Act 2010 put parts of the Ponsonby Rule on a statutory footing), Parliament still has no final say on international agreements... 7/16

Treaty scrutiny commenced in the House of Lords in the 2014-15 legislative session, when the Secondary Legislation Scrutiny Committee began to report on agreements. 8/16

But our story really starts with Brexit. In 2017, the Financial Times reported that post Brexit the UK would need to renegotiate 759 treaties. This was an exaggeration, but it meant that responsibility for scrutiny of Brexit related agreements moved to the Lords EU Committee 9/16

FINANCIAL TIMES

UK trade

After Brexit: the UK will need to renegotiate at least 759 treaties

FT research reveals that agreements with 168 countries must be redone just for Britain to stand still



May 30, 2017 2:32 pm by **Paul McClean** in Brussels

The @LordsEUCom started work in Jan 2019 and by the summer had completed 12 reports covering 42 agreements. In June 2019 it published a report: Treaty scrutiny: lessons learned, seeking to draw some conclusions from this experience. 10/16

HOUSE OF LORDS

European Union Committee

42nd Report of Session 2017–19

Scrutiny of international agreements: lessons learned

Ordered to be printed 19 June 2019 and published 27 June 2019

Published by the Authority of the House of Lords

HL Paper 387

In April 2020, following a restructure of the Lords European Union Committee, a new International Agreements Sub-Committee was established to consider *all* international agreements negotiated by HMG... 11/16

This Committee, Chaired by Lord Goldsmith QC, published a report on its proposed working practices in July 2020. These working practices are still current and the report can be read here: https://t.co/sqi9uAVCNy
12/16

HOUSE OF LORDS

European Union Committee

11th Report of Session 2019-21

Treaty scrutiny: working practices

Ordered to be printed 7 July 2020 and published 10 July 2020

Published by the Authority of the House of Lords

HL Paper 97

The report was debated in the House of Lords on 7 September 2020: https://t.co/RfEXkdPLOU
13/16

On the 28 Jan, following an agreement to further restructure the Lords EU Committee, the @HLIntAgreements was established in its own right. 14/16

Our first evidence session will be on the 1 Feb, looking at why the Government has still not ratified the Istanbul Convention (which seeks to prevent violence against women and girls) despite having signed it in 2012
15/16

Our work is only just starting. Do follow it here @HLIntAgreements and on the UK Parliament website. &, if you are interested in treaty scrutiny, you might also want to follow @hhesterm and @Arabella_Law who have both been a great help over the past few years! Wish us luck! 16/16