E7: Policy Analysis and Implementation

Module 6 - Instruments of Government Policy

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Module 6

Introduction

The purpose of Module Six is to introduce you to different types of government policies and the various policy instruments used to implement government policy. The following topics will be discussed:

- The role of legislatures
- Public policy typologies
- Public policy instruments

By the end of this module you should be able to:

Outcomes

- *describe* the role of legislatures and their impact on the policy-making process.
- *compare* different typologies of public policy.
- *identify* the variety of instruments available to government to deliver public policy.
- *analyse* authentic case studies in light of the information presented in this module.

The role of legislatures

Legislatures

Legislatures are found in nearly all societies, albeit in different forms. They serve to provide even nominally representative institutions legitimacy in lawmaking by discussing and passing public policies.

Legislatures have some common characteristics, which can be used to define them. These include: a claim on legitimacy based on representing the public or publics, some power (formal or symbolic) over lawmaking, nominal equality of membership and processes for collective decision-making (A Concept Paper, 1999).

Legislatures serve three central functions:

1. representation,
2. law-making, and
3. oversight.

Representation

Legislatures are often the branch of government in which popular complaints, dissatisfactions and demands for action are first articulated. Johnson and Nakamura (1999) state that legislatures typically operate with greater transparency (or at least with less secrecy) compared with either the judicial or executive agencies of the government. They are also more diverse in their memberships, often designed to represent various different groups and regions. In a democratic system, the public has greater access to the legislature through their elected representative, over whom they have a larger claim for action and accountability than they do on other government officials. Legislative proceedings are often also organised to include debate and discussion with the public, such as through advisory committees and hearings.

Law-making

Law-making is an important tool that formally articulates and translates citizen preferences into policy through enacting legislation. Law-making can be a difficult process and usually requires that the differences in public preferences as articulated by various representatives are reconciled. In most legislative bodies, reconciliation of various public interests is carried out through committees. Committee systems provide forums for different groups to express their differences, as well as environments that foster compromise and decision.

Oversight

Oversight occurs after a law is passed. It involves monitoring executive activities for efficiency, probity and fidelity. Most legislatures have some formal oversight powers, but effective oversight is difficult to exercise because it requires; information about executive branch activities (which is often secret), the legislative capacity to process that information, the legislative will to act and the power to back up demands for change (Johnson and Nakamura, 1999). Thus, oversight puts the legislature into an adversarial relationship with at least some portion of the executive branch. In parliamentary systems with a dominant majority (for example, the United Kingdom and Canada), oversight tends to be less developed than in presidential systems, where different parties can control a branch of the government (such as the United States).

Useful oversight powers include:

1. the ability to remove executives,
2. the power to get information from the executive,
3. control of appropriations and expenditures, and
4. a system of monitoring and assessing the executive branch.

Other functions

Legislatures can also serve the following purposes:

1. serving as an electoral college to put governments into power in parliamentary systems, such as in the United Kingdom,

2. making decisions when election results are inconclusive or in dispute in presidential systems, such as in the United States,

3. implementing apportionment formulae recognising ethnic, religious, language, gender, economic and geographic differences for representation in the legislature for national integration, such as in India, and

4. providing an arena in which policy ideas might be "incubated," such as in the United States (Johnson and Nakamura, 1999).

Causes of variations in legislatures

Johnson and Nakamura also list causes of variations in the activities of a legislature. These can be systematic in nature (for example, the representation system employed, the extent of formal powers and the capacity of the legislature as determined by its procedures, structures and supports). Alternatively, causes can be attributed more to the intervention of other players (such as the amount of political discretion allowed by other power-holders such as the executive and political parties, and the goals of the members and leaders of the legislative bodies).

In Westminster-based administrative systems, the executive branch includes the prime minister, cabinet and the public service. The legislative branch includes the House of Commons and the Senate. Cabinet ministers are elected to the parliament, but then are appointed by the prime minister to manage portfolios or government departments, such as labour, justice, foreign affairs and revenue.

In summary, it is clear that the legislative system within which the government operates plays a central role in the policy-making process.

Public policy typologies

A number of different general typologies for categorising public policies exist. Table 1 shows the traditional view used to generalise policies:

Table 1: Traditional typology of policies

Substantive policies	Institutional policies	Time period policies
• labour • welfare • civil rights • foreign affairs	• legislative • judicial • departmental	• policies for a particular era, such as post-World War II

Examination of policies using this classification system has been superceded by more useful typologies that attempt to get at the basic characteristics that separate policy categories. In this next section, you will examine four typologies.

Substantive or procedural policies

Policies can be categorised on the basis of whether they are substantive or procedural. Substantive policies involve what the government is going to do, such as subsidy payments to assist small farmers. Alternatively, procedural policies involve who (or what organisation) is going to take action and how things are going to be done. Procedural policies include Acts that lay out the processes for carrying out administrative functions for a given policy, which often help enforce the policy. For example, under environmental legislation, companies may be required to complete environmental impact statements about how their company's actions affect the environment.

As such, procedural policies can have substantive effects – how something is to be done and by whom – which impacts on what is actually done. Procedural policies, in fact, are often used to delay or prevent substantive decisions or policies. Here, challenges are made on procedural grounds to resist the substance of a given action or policy.

Distributive, regulatory, self-regulatory or redistributive policies

Policies can also be categorised as distributive, regulatory, self-regulatory or redistributive. This typology is based on the nature of the policy's impact on society and the relationships among the participants in the policy-making process.

Distributive policies are those that involve the distribution of services or benefits to particular segments of the population (individuals, groups, corporations, or communities). Distributive policies can provide benefit to one or more groups. For example, government subsidies and loan guarantees for large manufacturers benefit businesses and their owners first and foremost. Alternatively, broader distributive policies would include the provision of free public education for children. Distributive policies or programmes usually involve the use of public funds to assist particular groups within society. Those seeking benefits do not compete with each other and their benefits do not represent a direct cost to any one particular group either. Instead, all resources are pooled in the public treasury and the costs of distributing benefits to specific groups are shared. Distributive policies usually seek to increase the freedom of discretion among affected groups.

Regulatory policies impose restrictions or limitations on the behaviour of individuals and groups. Alternatively, they can be viewed as reducing the discretion available to individuals and groups to act. Although regulation is often thought of in terms of regulating the market, pollution, transport or telecommunications, the most extensive variety of regulation exists in dealing with criminal behaviour. When regulatory policies are being formulated, there is usually a conflict between groups where one side argues for regulation while the other disputes the need for it or the remedy proposed. In the end, there are clear winners and losers of regulatory policy. Finally, regulatory policies can set general rules of

behaviour, set standards of safety and efficacy for use and restrict entry into a particular business segment, such as telecommunications or energy.

Self-regulatory policies are similar to regulatory policies and involve restricting control of participants over some issue or group. Self-regulatory policies are usually sought and supported by a regulated group as a means of protecting and promoting their own interests. For example, this occurs frequently in occupational and professional licensing. Self-regulation of licensing by a profession, including the enforcement of its licensing terms, can eventually make it more difficult for those outside the group to enter the licensed occupation; at the same time, prices for specialised services offered by the professionals increase.

Redistributive policies are those that involve deliberate efforts by government to shift the allocation of resources – such as, wealth, income, property or rights – among broad groups of the population. For example, attempts may be made to reallocate resources among the haves and the have-nots in a society. The goal of such a policy is not equality, but rather one of equal possession, which confers equal opportunity. Redistributive policies are very difficult to secure because they reallocate power – including rights – through money and ownership. Those with existing money and power are likely to resist any reduction in their resources and powers.

Material or symbolic policies

Polices can also be characterised as material or symbolic, depending on the type of benefits they confer to those affected. Material policies are those that actually provide tangible benefits in the form of resources or substantive action for their beneficiaries, or alternatively, impose real disadvantages to those who are adversely affected. Symbolic policies are those that distribute advantages and disadvantages that have very little real impact on the people affected. For example, in Canada, the United States and United Kingdom, legislation prohibiting various activities on Sunday, the traditional Christian holiday, can be considered symbolic for two reasons: the rules are not enforced and the policy does not result in any real changes to people's behaviour. Other symbolic policies include those that outlaw war or recognise historical events or days.

In reality, most policies are neither entirely material nor entirely symbolic. Anderson (1984) suggests that policies should be viewed in the context of material and symbolic categories as opposite ends of the same continuum. A good example to illustrate this is tax law. While taxation laws and regulations exist, a variety of loopholes within the system alter the impact of the tax. Material policies can be reduced to symbolic policies by lack of administrative action or support.

Collective or private goods

Policies that can involve the provision of goods can be classified according to whether the goods are collective (or indivisible) or private (or divisible). Collective goods are those that if provided for one person,

must be provided for all. An example of this is national defence. Due to the enormous costs associated with national defence and often an unclear method of determining benefits for any one particular group within the nation, national defence is done in a collective fashion.

In contrast, private goods can be broken down into units and made available in the marketplace. A variety of social services have some aspect of private goods associated with them. Examples include fees to visit a museum, or nominal fees for postal service. In social service policies, charges can be levied against users for certain social services, which in many cases are dependent on the users' ability to pay for them.

Essentially, how the government provides these social services is dependent on public policy. The trend has been to convert more and more private goods into social goods through government action. For example, an issue such as environmental pollution may be viewed in the marketplace as a collective rather than an individual or group (company or industry) problem, and hence the public purse should be utilised to solve the issue.

Public policy instruments

Selection of policy instruments

Doern and Phidd (1983, p. 110) define governing instruments, which can also be called policy instruments, as the major ways by which governments attempt to achieve compliance, support and implementation of public policy. The type of instrument that a government chooses depends on the type of problem that a given policy seeks to address. A variety of measures is available to the government to implement a policy. Different theories have been developed about how governments select the policy instrument they will use to further a policy aim, including:

- coercion theory
- neo-Marxist theory
- public choice theory.

Coercion theory

Coercion theory was developed by Doern and Wilson. This theory is built upon the fundamental assumption that governments have complete freedom and control to make decisions about which instruments to use. Essentially, the coercion theory holds that in choosing government instruments, the government moves successively from using the least coercive to most coercive policy instruments. Doern and Wilson suggest that this is because the government is concerned about the ease with which the public accepts government interventions.

Neo-Marxist theory

Nicolas Baxter-Moore, who holds a neo-Marxist approach, explains government selection of policy instruments differently. Baxter-Moore argues that the state chooses different policy instruments based on the

whether the state is trying to have an impact on the dominant or subordinate class, or whether policies are aimed at accumulation or legitimation.

His two hypotheses are that: the state will generally use less intrusive or less coercive instruments when seeking to influence the dominant capitalist class, while employing more coercive instruments, such as legislation or the direct ownership of resources and the means of production, when trying to control the subordinate (or worker) classes; and the state will use less intrusive measures to foster capital accumulation (which occurs in the dominant class) but more coercive instruments for policies that legitimate state rule. A classic example of this is in the government's treatment of "white-collar crime", which potentially affects the lives of many, compared to crimes committed by the working or poorer classes.

While one or more policy instruments can be implemented by the government, such as legislation, regulation or suasion, to bring about a change in behaviour among targeted groups, the problem of compliance arises. Even if compliance to rules occurs, fundamental objectives of the policy or programme may not be achieved. For example, if compliance to weak laws regarding corporate polluters exists, the objective of improved health of the local community may not be achieved. The choice of policy instrument also determines whether new legislation will need to be passed or existing legislation amended, as well as what organisational types, structures and systems are needed to carry out the policy decision.

Public choice theory

Michael Trebilcock et al. (1982) developed the public choice theory to explain how governments select policy instruments. They argue that politicians choose governing instruments based upon how a particular instrument will improve their chances for re-election. For example, politicians will find creative ways, such as the use of independent agencies rather than government departments to administer expensive programmes, so that the actions of these programmes cannot directly be related to the politician.

This was seen most recently in Canada. An independent agency, The Canadian Firearms Centre (CFC), was established by the Federal Government under the Ministry of Justice to implement the Firearms Act. The Act was amended in 1995 to include mandatory re-licensing under new, more stringent application processes and the registration of all firearms to be collected and stored within a single national database. By the end of 2002, the Auditor General of Canada's independent audit of the programme indicated that the gun registry programme was expected to run a total of five years behind scheduled completion target at costs exceeding original budget estimates by $1 billion by 2004-2005 (Office of the Auditor General, 2002). Due to the creation of a separate agency to handle this responsibility, the Auditor General was unable to legally or politically hold any single one of the three different Ministers of Justices

who served during the very controversial policy implementation phase of the policy responsible for the mismanagement.

Types of policy instruments

Taylor et al. suggest that five factors shape governments' choice of policy. These are: deciding how much coercion will be necessary to change behaviour; determining who will benefit and who will pay the costs; deciding which groups (or publics) will be affected; determining whether the social problem or market deficiency is perceived or real; and assessing the level of urgency for government to appear to take action (Taylor, Warrick, & Baetz, 1999).

Taylor et al. (1999) note that where there is a desire to change private behaviour, governments have many policy instrument categories of options available to them, including:

- suasion,
- direct expenditure,
- taxation,
- regulation, and
- public ownership.

After you read about each of these in more detail below, you can refer to the graphical summary in Figure 1: Instruments of government policy.

Suasion

Taylor (1991) uses the term suasion to represent a category of policy instruments. Activities within this category include government actions such as speeches, conventions, dissemination of information, consultations, re-organisation, research, commissions, advocacy and similar activities outlined in Figure 1. Doern and Phidd refer to this same policy instrument as "exhortation and symbolic policy outputs". Of the five different types of policy instruments reviewed, suasion involves the lowest level of government coercion.

An example of suasion is the local, provincial and federal government response to the Severe Acute Respiratory Syndrome (SARS) outbreak in the Canadian province of Ontario in the spring of 2003. Suasion was used by way of the communication of information, including press conferences, in response to the demand for action. The information helped to address public health concerns by informing people about how to reduce risk of infection and spread of SARS through self-containment and personal hygiene measures such as increased hand washing. Furthermore, procedural changes took place at hospitals, which re-organised their patient in-take procedures to reduce the chances of the virus spreading to hospital staff and patients. Finally, procedures for processing people arriving on flights landing at Canadian airports were adjusted to incorporate the risk of the SARS virus being imported to Canada.

Direct expenditure

Direct expenditure as a category of policy instruments includes government spending on programmes, subsidies, loans, bailouts, social assistance payments and other similar activities. Refer to Figure 1 for other activities that fall into this category. Of the five different types of policy instruments discussed, direct expenditure involves a relatively low level of government coercion.

An example of direct expenditure through programmes is evident in the way the United States government is trying to preserve, restore and enhance its national wetlands. Wetlands are essential for a healthy environment, in particular to filter water. The United States government has applied a variety of different policy instruments, including direct funding and technical assistance to individuals and organisations for the rehabilitation of both public and privately owned wetlands (Norton & Veneman, 2003).

Taxation

Another category of policy instruments available to governments to implement a given policy is taxation. Taxes can be collected on personal or corporate earnings, on the sale of goods and services and on real estate. Taxation as a category also includes the use or non-use of tariffs, royalties and programme-user fees. Tax credits or tax expenditures are also included in this category. Among other policy instrument options, taxation involves a medium level of government coercion.

A relevant example of the manipulation of the taxation structure by government as a method of furthering policy aims is India's planned introduction of a new nationwide, harmonised, value-added tax (VAT) to run alongside the state-level VAT. The federal government believes this will boost India's international manufacturing competitiveness by simplifying India's complex federal-level tax system, a demand for which has been made by both domestic and foreign experts. Although the new federal VAT was planned to take effect in June 2003, the government of India started its implementation on April 1, 2005 (http:/finance.indiamart.com/taxation/value assessed September 9, 2010).

Regulation

Regulation as a category of policy instruments includes government guidelines, rationing, standards, licensing and prohibition. Regulation can be direct or indirect and economic or social in nature. Regulation involves a higher level of government coercion than does suasion, direct expenditure or taxation.

There are numerous examples of government regulation in the economic environment. For example, an organisation such as The Telecommunications Regulatory Commission of Sri Lanka (TRCSL), established under the Sri Lanka Telecommunication Act, serves as the national regulatory agency for telecommunications in Sri Lanka with the stated goal "to promote sustained development in the telecommunication

industry". It shapes the regulatory process, protects public interest and is supposed to be responsive to challenges in an increasingly competitive market. TRCSL seeks to ensure that competition in the market is open, fair and effective. Responsibilities of TRCSL as the regulator include: enforcement of the provisions in the Act and conditions in the licences by the licensed operators, fostering fair and sustainable competition among the licensed operators, pricing, consumer protection and social regulation for universal access/services, regulation of bottleneck facilities and scarce resources, and promoting good governance (The Telecommunications Regulatory Commission of Sri Lanka).

Public ownership

Public ownership as a category of policy instruments includes the use of state corporations, joint ventures, private-public partnerships, mixed enterprises, contracting out, and the production and distribution of goods and services. Public ownership policy instruments involve the highest level of coercion since to some extent the state appropriates and exercises control over the means of production of goods and services produced by the said enterprise.
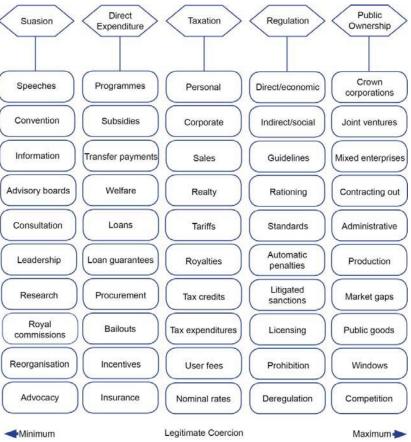
There are numerous examples of the provision of goods and services by governments. These include either full ownership or partnerships to provide electricity, telecommunications, water, and public transportation networks and highways.

Figure 1 provides a summary of the different public policy instruments available to governments, organised from left to right by the level of coercion implied by the category of instruments.

Figure 1: Instruments of government policy

Source: (Taylor, 1999, p. 97)

Module summary

Summary

In this module, you have been exposed to different types of government policies and the various policy instruments available to the government to implement public policy.

The first section of the module discussed the role of legislatures in the policy process. The different functions of legislatures were outlined, which include representation, law-making, oversight and other functions. A number of causes for variations in legislatures were also identified.

The next section covered different public policy typologies. The policy typologies discussed were: substantive/procedural; distributive/regulatory/self-regulatory/redistributive; material/symbolic; and collective/private goods. You should now be able to see that there are a variety of ways of categorising and organising policies well beyond the traditional view first presented in this section.

The module then examined some aspects of policy control and delivery systems. The three different theories about how governments select the policy instrument they use to further policy aim described in the section were: coercion theory, neo-Marxist theory and public choice theory. Finally, the types of policy instruments available to governments were examined. These include: suasion, direct expenditure, taxation, regulation and public ownership.

Self-study questions

Study skills

1. In what ways can one use the public policy typologies to better understand why public policy exists? Explain the major differences between substantive and procedural public policies.

2. What are the major roles of the legislature in the policy-making processes of a democratic nation? What other function does the legislature perform?

3. What is a governing instrument? Discuss the different theories that can be used to explain how governments may select the policy instrument they wish use to further a policy goal.

4. Discuss at least five types of policy instruments. Why is joint venture, private-public partnership, contracting out, the production and distribution of goods and services, and mixed enterprises a very important policy instrument?

References and further reading

References

Anderson, J. E. (1984). *Public policy-making.* (3rd ed.). New York: CBC College Publishing, Holt, Rinehart and Winston.

Asia: Goodbye to all VAT; India. (2003, May 24). *The Economist*, 367 (8325); (p. 60).

Baxter-Moore, N. (1987). Policy implementation and the role of the state. In R. Jackson, D. Jackson and N. Baxter-Moore (Eds.), *Contemporary Canadian politics* (pp. 336-355). Scarborough, Ontario: Prentice-Hall Canada.

Cleaning up. (2003, October 27). *BusinessWeek Online*. http://www.businessweek.com.

Department of Justice – Costs of Implementing the Canadian Firearms Program. (2002, December). *2002 Report of the Auditor General of Canada to the House of Commons*, Chapter 10. Office of the Auditor General of Canada, Government of Canada.

Doern, B. G., & Phidd, R. W. (1983). *Canadian public policy: Ideas, structure, process.* Toronto: Methuen.

Dunsire, A. (1978). *Implementation in a bureaucracy*. Oxford: Martin Roberson.

Johnson, J. K., & Nakamura, R. T. (1999, July). *A Concept Paper on Legislatures and Good Governance*. United Nations Development Programme (UNDP).

Kernaghan, K., & Langford, J. (1990). *The responsible public servant.* Toronto: Institute of Public Administration of Canada, and Halifax: Institute for Research on Public Policy.

Kernaghan, K., & Siegel, D. (1999). *Public administration in Canada*. (4th ed.). Scarborough, Ontario: International Thomson Publishing.

Norton, G., & Veneman, A. (2003, March 12). More than one way to protect wetlands. *The Washington Post*.

Taylor, D. W. (1991). *Business and government relations: Partners in the 1990s.* Toronto: Gage Educational Publishing.

Taylor, D. W., Warrack, A. A., & Baetz, M. C. (1999). *Business and government in Canada: Partners for the future*. Toronto: Prentice-Hall Canada.

The Telecommunications Regulatory Commission of Sri Lanka (TRCSL):

http://www.trc.gov.lk/aboutus.htm.

Trebilcock, M. J., Hartle, D. G., Prichard, R. S., & Dewees, D. N. (1982). *The choice of governing instrument.* Ottawa: Minister of Supply and Services, Canada.