Sourcing and incorporating policy and law into your conference paper analysis

Dr Carl Middleton
As our projects are “Research for Development”, it’s important to appreciate how our research relates to law and policy

- What is policy?
- What is law?
- Is justice important?
- Understanding policy as a living process
What is public policy?

- The dictionary definition of “policy” and “public policy”
  
  **Policy**: “A course of action, especially one based on some declared or respected principle”

  **Public Policy**: “A course of action adopted and pursued by a government, party, statesperson or ruler”

- There are different approaches to “policy analysis”:
  - Explanation *of* policy processes (positivist)
  - Prescription *for* policy processes (normative)
Types of public policy

- **Distributive policies**: Apply to everyone for the common good – e.g. provision of public infrastructure, health service

- **Promotional policies**: ‘Carrots’ to incentivize actors to do what they otherwise wouldn’t (subsidies, contracts, licences)

- **Redistributive policies**: Distribute from the “haves” to the “have nots” – e.g. Progressive taxes

- **Regulative policies**: ‘sticks’ e.g. crime policies

- **Procedural policies**: Explain how something will be done, or who will do it

- **Foreign policies, National defence policies**... 

May act at a particular scale: project, provincial, national, regional, global)
There are many different public policies!

<table>
<thead>
<tr>
<th>Provide primary education</th>
<th>Control inflation</th>
<th>Prescribe how public officials should behave</th>
<th>Regulate safe building methods</th>
<th>Guide and manage donor relations</th>
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<tr>
<td>Give people access to clean water</td>
<td>Categorise and regulate medicines</td>
<td>Protect children from abuse</td>
<td>Combat the spread of HIV and AIDS</td>
<td>Set development priorities</td>
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<td>Regulate foreign lending and borrowing</td>
<td>Attract foreign investment</td>
<td>Keep account of public finances</td>
<td>Control pollution levels</td>
<td>Coordinate public spending</td>
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<td>Provide support to farmers</td>
<td>Promote equality and equity</td>
<td>Coordinate different policies</td>
<td>Regulate who has access to credit</td>
<td>Advance cooperation with other countries</td>
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<tr>
<td>Give roles and responsibilities to government officials</td>
<td>Regulate imports and exports</td>
<td>Procure goods and services</td>
<td>Protect endangered species</td>
<td>Combat corruption</td>
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In your research, can you name the specific policy that is most important to your research topic? Did you *read it* yet? What are its key policy goals? What are its key strategies to achieve them?
What is law?

- Laws set out standards, procedures and principles that must be followed.
- If a law is not followed, those responsible for breaking them can be prosecuted in court.
- In most countries, the highest law is the constitution.
- Operationalization of law is often mandated to a particular ministry.

In your research, can you name the key Law that is most important to your research topic? Did you read it yet?

Which ministry does it mandate?
Public Participation in EIA/ HIA

- Thailand’s existing “Enhancement and Conservation of the National Environmental Quality Act, NEQA 1992,” which pre-dates the most recent constitution and provides the law on EIA, does not detail requirements for public participation.

- Constitution of Thailand (2007): Section 67 provided more details, but still required more details in practice.

- It also requires a Health Impact Assessment to be undertaken.

Article 67. The right of a person to participate, in conjunction with the State and communities, in the conservation, preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of environment for normal and sustained survival in the environment which causes no harm to his or her health, well-being or quality of life, shall be protected as the case may require.

Any project or activity which may seriously affect the community in the quality of environment, natural resource, and health shall not be permitted, unless its impact on the quality of environment and people’s health in the community have been studied and evaluated and the public hearing process to obtain the opinion of people and interested parties has been held, including to allow independent organization, consisting of representatives from private environmental and health organizations and representatives from higher education institutions providing education in environmental, natural resource or health to express their contributory opinions prior to the operation of such a project or activity.

The right of a community to sue a State agency, State enterprise, local government organization or other State authority which has a legal entity to require the performance under those duties as provided by this provision shall be protected.
Right of Access to Information

Part 10

Right to Information and Complaints

Article 56. A person shall have the right to get access to public information in possession of a State agency, State enterprise or local government organization, unless the disclosure of such information shall affect the security of the State, public safety, interests of other persons which shall be protected or private information as provided by law.

Article 57. A person shall have the right to receive information, explanation, and reason from a State agency, State enterprise or local government organization before permission is given for operation of any project or activity which may affect the quality of environment, health, and sanitary conditions, the quality of life or any other material interest concerning him or her or a local community and shall have the right to express his or her opinion on such matters to agencies concerned for consideration in that matters.

In undertaking any social, economic, political, and cultural development planning, appropriation of immovable property, city planning, land use zoning, and issuance of regulations which may affect the interests of the people, the State shall thoroughly hold public hearings procedure prior to implementation.

• Constitution of Thailand (2007): Section 56 and 57
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Appendix I  
  Enhancement and Conservation of the National Environmental  
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Appendix II  
  Types and Sizes of Projects or Activities requiring preparation  
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Appendix III  
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Appendix VI  
  Qualification of EIA specialist, rules and procedures to obtain  
  EIA consultant license and control of licensee
Many laws can now be found online. Current / planned policies may need to be collected through interviews with government agencies.
• Public policy often requires trade-offs
  • Resources are often scarce (or constructed to be so), and interests collide in their allocation

• At the heart of most public policies is a notion of “justice”
  • Equal distribution of resources among all constituents (egalitarianism);
  • Distribution of resources according to each person’s merits or input (proportionality to contribution);
  • Distribution of resources according to some priority principle, such as each person’s needs (distribution rule)
Different interest groups may use different notions of justice to support their claims.
“Actors” / (Stakeholders)

Who are the key primary/secondary stakeholders in your research? Who has more influence? Do they match who you said you would communicate your research to?

Whose involved, what are their interests and values, power (asymmetries)

Who are the key primary/secondary stakeholders in your research? Who has more influence?

Do they match who you said you would communicate your research to?
“A bed of nails”

https://www.youtube.com/watch?v=2B-Hw3y7AcM
For your policy, can you map out the key events in its creation and implementation?
How were/are decisions taken through formal and informal processes? Who was involved/excluded?
Summary

• The creation and implementation of policy is dynamic … and contested
  – A series of decisions being taken rather than a single decision
  – Reflects societal ethics and values
  – Emerge (in general) over a long period of time, and are a product of the legacies of history

• Any particular policy needs to be understood in the context of other laws and policies and (competing) actors/institutions