

## **Sourcing and incorporating policy and law in to your conference paper analysis**

Dr Carl Middleton

# Purpose

- 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!

|   |                                   |  |                                   |  |
|---|-----------------------------------|--|-----------------------------------|--|
| provide primary education                               | control inflation                 | prescribe how public officials should behave | regulate safe building methods    | guide and manage donor relations         |
| give people access to clean water                       | categorise and regulate medicines | protect children from abuse                  | combat the spread of HIV and AIDS | set development priorities               |
| regulate foreign lending and borrowing                  | attract foreign investment        | keep account of public finances              | control pollution levels          | coordinate public spending               |
| provide support to farmers                              | promote equality and equity       | coordinate different policies                | regulate who has access to credit | advance cooperation with other countries |
| give roles and responsibilities to government officials | regulate imports and exports      | procure goods and services                   | protect endangered species        | combat corruption                        |

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.

- Constitution of Thailand (2007):  
Section 56 and 57

**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.

# Environmental Impact Assessment in Thailand

## Contents



|   |           |
|---|-----------|
| <b>1 Environmental Impact Assessment in Thailand</b>  | <b>4</b>  |
| 1.1 Definitions   | 4         |
| 1.2 Basic questions about EIA   | 5         |
| <b>2 General Guidelines in Preparing EIA Report</b>   | <b>16</b> |
| 2.1 Introduction  | 16        |
| 2.2 Purpose of the EIA report   | 16        |
| 2.3 Important criteria of the EIA report  | 17        |
| 2.4 Present environmental condition   | 19        |
| 2.5 Environmental impacts from the project  | 22        |
| 2.6 Measures to prevent and correct impacts to the environment<br>and to compensate to the damage incurred  | 22        |
| 2.7 To consideration of the alternative   | 22        |
| 2.8 Coordination with other government agencies   | 23        |
| 2.9 Monitoring program  | 23        |
| 2.10 Summary  | 23        |
| <b>Appendix I</b> Enhancement and Conservation of the National Environmental<br>Quality Act, B.E. 2535 (1992)   | <b>24</b> |
| <b>Appendix II</b> Types and Sizes of Projects or Activities requiring preparation<br>of Environmental Impact Assessment reports  | <b>74</b> |
| <b>Appendix III</b> Types and Sizes of Projects or Activities which may seriously<br>affect community with respect to Quality of Environment,<br>Natural Resources and Health | <b>84</b> |
| <b>Appendix IV</b> Projects with in the Environmentally Protected Areas (EPA)   | <b>92</b> |
| <b>Appendix V</b> Types and Sizes of Projects in Forest Conservation Area<br>that required EIA report, IEE report, Environmental Checklist                                    | <b>94</b> |
| <b>Appendix VI</b> Qualification of EIA specialist, rules and procedures to obtain<br>EIA consultant license and control of licensee  | <b>96</b> |

# Many laws can now be found online

THAILAND LAW FORUM  
Established 1997

NEVER Do This Exercise  
Here's why >>

Home | Thailand Lawyer Blog | Thailand Law News | Court Opinions | Thailand Law Journal | Thailand Laws Database | Thailand Lawyers | Articles

Quick Links: Thailand Law Seminars and Conference | Thai Law Forum Past Issues | About Thailand Law Forum | Advertising Guidelines | Publishing Guidelines

Attention:  
This website is maintained and edited by Thailand Lawyers Chanut & Leeds.

Act in English Act in Thai

Thailand Financial, Economic

- Financial Institution Business Act B.E. 2551
- Foreign Business Act Amendments
- Credit Information Business Act B.E. 2545
- Act Determining Offences Relating to Partnerships, Companies, Associations and Foundations 1956
- Derivatives Act B.E. 2546
- Foreign Business Act Amendments Question and Answer
- Draft Amendments to Foreign Business Act
- Money Laundering Control Act. (No. 2), B.E. 2551
- Buying a Condominium in Thailand
- Securities and Exchange Act B.E. 2535
- The Trust for Transactions in Capital Market Act B.E. 2550 (2007)
- Thai Public Broadcasting Service Act B.E. 2551 (2008)
- Accounting Professions Act. B.E. 2547 (2004)
- Employment and Job-Seeker Protection Act. B.E. 2528 (1985)
- Insurance Business Regulation and Promotion Committee Act. B.E. 2550 (2007)
- Commercial Banking Act B.E. 2505

OpenDevelopment  
CAMBODIA

Home About Briefings Maps Company Profiles Laws & Regulations Natural Resources Census Data News Archives Blog Library Job

Open Development Cambodia (ODC) is in the progress of migrating all the contents onto the new website. We will stop updating news summaries and press announcements on this website from 19 March 2016 onwards. News summaries, press announcements and other types of the contents can be found at our new website: <https://cambodia.opendevopmentmekong.net>

The Laws & Regulations page is under maintenance. We apologize if the resource you are looking for has been moved. Please send the error link to [contact@opendevopmentmekong.net](mailto:contact@opendevopmentmekong.net) and we will relocate the resource for you. Thank you!

## Laws & Regulations

### CONSTITUTION

Cambodia's Constitution was adopted by the Constitutional Assembly on September 21, 1993. It is the supreme law of the Kingdom of Cambodia and organizes Cambodia's government and institutions. All laws and regulations derive from the Constitution's provisions and must conform to it. The Constitution addresses questions of sovereignty, the role and status of the king, the fundamental rights of the Khmer citizens, the economy, education, culture and social affairs, the functioning of the National Assembly, the Senate, congress and the government, the functioning of the judiciary, Constitutional Council and the administration.

Click here for more details about Cambodia's Constitution and Constitutional Council

SUB-DECREE  
Click here for Sub-Decree No. 205 on the Grant of Normal Passport to Cambodian Workers and Students (20 June 2014)

SEARCH  
Search Law... Search

LAW COMPENDIUM

World-Wide Web Virtual Library  
Data | WWW.VL search

Donations  
to the Online Burma Library

## Online Burma/Myanmar Library

Full-Text Search | Database Search | What's New | Alphabetical List of Subjects | Main Library | Reading Room | Burma Press Summary

Home > Main Library > Law and Constitution

Show Links

### Law and Constitution

The Burmese legal material in this section is divided into Texts and Commentary. Texts are (1) adopted laws ("Laws", "Acts"); (2) Bills (legislation proposed but not yet adopted); (3) implementing instruments ("rules", "regulations", "procedures", "by(e)-laws" etc.) all of which we call "Regulations"... (4) Orders, notifications, announcements, orders etc. we call Decrees... Most commentaries are by the Government, the UN, NGOs, scholars or journalists.

- Reviews  
Some of the documents here are illegible with Firefox - use Google Chrome or download and read offline
- Legal resources - commentary (1)
- On sources and translations (1)
- Links to online locations of Burma/Myanmar laws, decrees, bills, regulations etc. (21)  
If you cannot find a particular item in OBL or these links, copy the title into a google search. Burmese versions of laws can sometimes be found in the "Mirror" (Kyemon) and "Myanmar Alin" shortly after they are adopted.
- International Law

LIBRARY OF CONGRESS  
ASK A LIBRARIAN DIGITAL COLLECTIONS LIBRARY CATALOGS Search Search Loc.gov GO

The Library of Congress > Law Library > Research & Reports > Guide to Law Online

## LAW.gov

Search this site

### Vietnam

Socialist Republic of Vietnam  
Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam

Research & Reports | Guide to Law Online | Legal Research Guides | Legal Reports | Guides to Our Collections  
International | Nations | Indigenous | U.S. Federal | U.S. States & Territories | About the Guide | Guide Index

- Constitution
- Executive
- Judicial
- Legislative
- Legal Guides
- General Sources

- Law Library Home
- About the Law Library
- Research & Reports
- Find Legal Resources
- Educational & Research Opportunities
- Visiting the Law Library
- News & Events
- Contact

Current / planned policies may need to be collected through interviews with government agencies

# Public Policy, law and Justice

- 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)

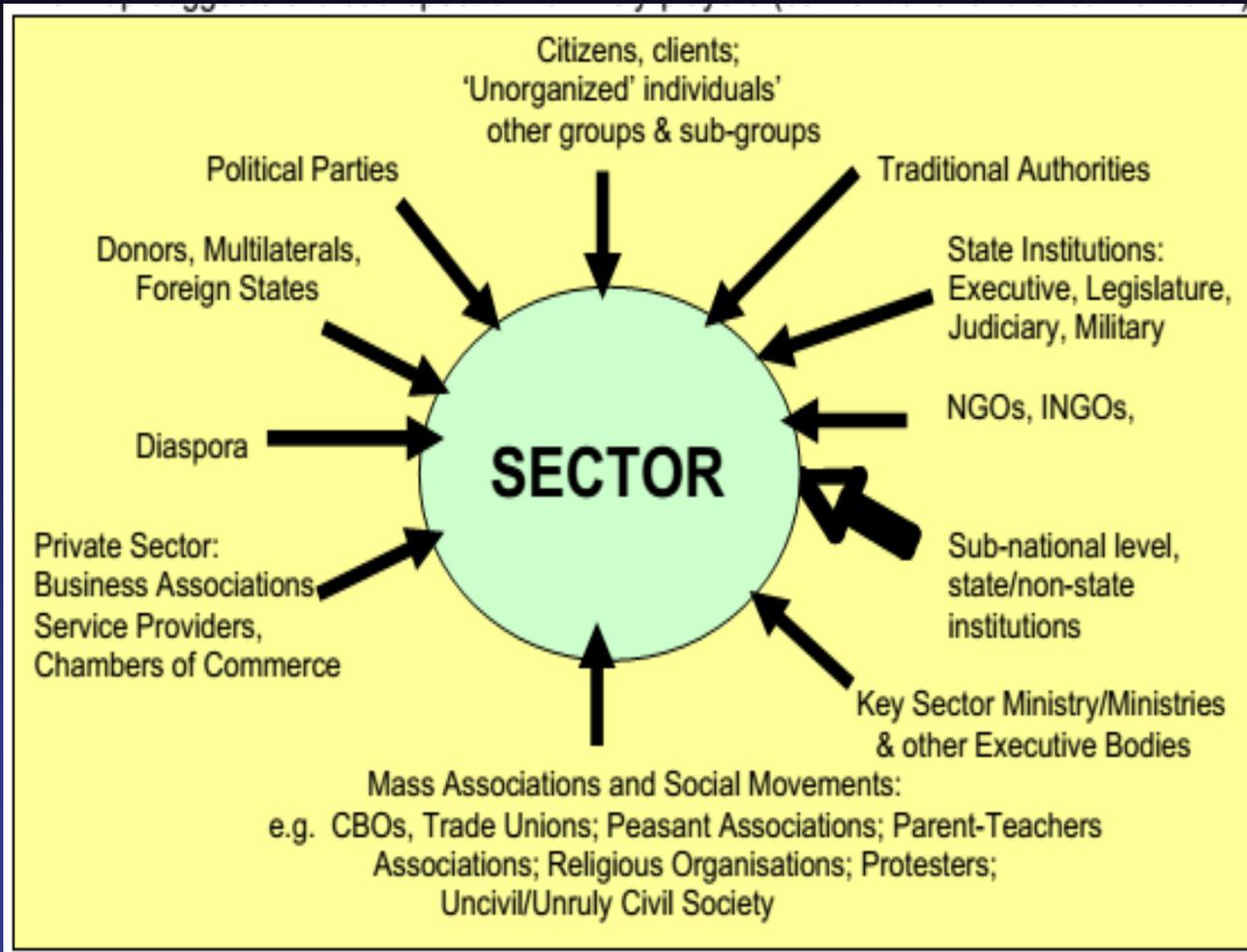


# Public Policy, law and Justice

- Different interest groups may use different notions of justice to support their claims



# “Actors” / (Stakeholders)



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

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

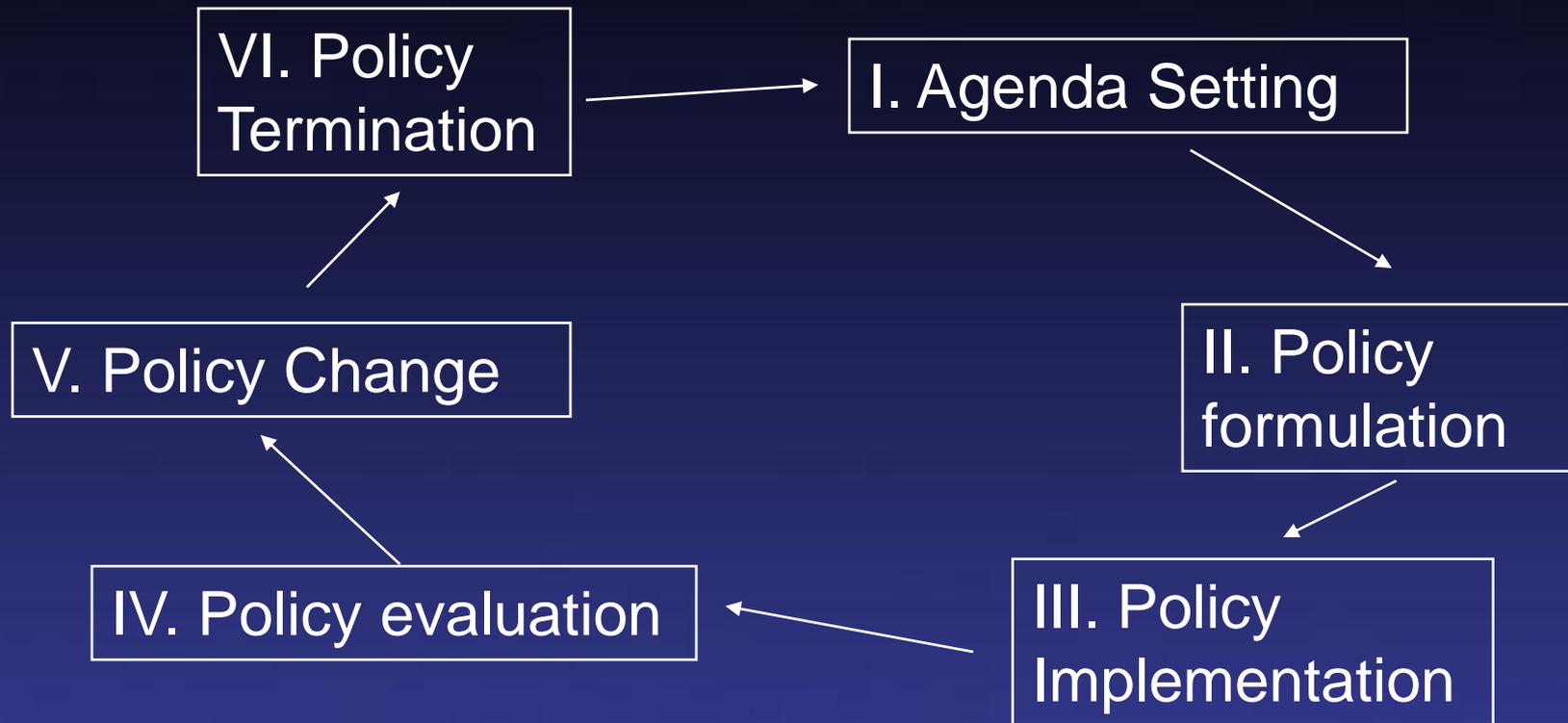
Do they match who you said you would communicate your research to?

# “A bed of nails”



<https://www.youtube.com/watch?v=2B-Hw3y7AcM>

# Dynamic process: The Public Policy “cycle”



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