

MANAGING THE POLICY PROCESS: FROM LEGITIMACY TO EFFECTIVENESS AND BACK

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Abstract. The article assumes that the search for legitimacy (politics) and the demand for public governance efficiency and effectiveness (policies) are closely intertwined and cannot be separated either structurally or substantively. The legitimacy of policies is not simply a consequence of the legitimacy of political power, but is created by bringing stakeholders together in the process of policy making and implementing. Therefor policy needs to be managed in order to restrict unpredictability when formulating and implementing collective choices. We argue that the policy initiator should act as policy manager binding the whole process from the idea to the results.

Keywords: policy process; policy process management; legitimacy and effectiveness binding

Policy science has become an independent discipline in order to provide grounds for necessary public measures and to plan their implementation (Lasswell 1970). These are essentially research activities, based on the assumption that the policy process takes place in a relatively stable environment, in which organization prevails over chaos. Policy-making is a kind of social engineering that takes into account the particularities of the spontaneous processes occurring in a given community of people, and corrects and changes those particularities. In this view, policy has nothing in common with legitimacy, which is a characteristic of political power. Powerful representatives have the right to formulate the collective will in considering the formal principles and rules. Policy consists of expertise more than of interests, of technique more than of ideas. Politics deals with the legitimacy, policies - with the effectiveness and efficiency. This largely simplistic understanding underlies the distinction between traditional political science and policy studies. And although the reciprocal relationship between politics and policies has never been denied, this idea remains rather marginal in scholarship.

The distinction between politics and policy gave the new research field the opportunity to be developed. However, the policy science challenged the politics

raising questions that confused classical views. Who makes policy and what the role of legislature and political parties in this process? Do the policy networks erode the democratic politics or contrary – support it? Is the implementation technical process and could the legislation be interpreted or even supplemented at this stage? Weather the policy paradigm change could start through the implementation? Is the expertise matter more than the political will? And how they could be act together without contradictions and in the same direction? All these questions answers lie in the intersection of politics and policies and their complex reciprocity.

The policy researches make evident the current democracy weaknesses to organize politically the human communities. Harold Lasswell used the same argument for proving the need of policy science development. He stressed out the fact that political interests and their representation is not relevant ground for rationality search in governance. At least 4 decades Lasswell's approach worked. The main raison that made the policies and policy analysis worked is the postwar democracy stability built on the afterwar social consensus. The politics legitimated the political power that gave the managerial rights to influential experts. In this situation the technical approach to policy became possible. The traditional political science stayed unchangeable although the practical inclusion of societal actors in the policy process.

The actual politics, and especially the disputed legitimacy of the decisions, regardless of the existence of a legitimate right to adopt them, changes the theoretical framework described above. Currently the power legitimacy is nothing but the base for the policy process run. The policy effectiveness and efficiency, even proven, are not enough. Policy needs additional legitimization and greater efforts to reach agreement on the collective will.

Policy process, generally, is largely characterized by unpredictability. This is true even when the policies are adequately developed using well-chosen methods, and are based on reliable information. The policy process takes place in time, and the longer the time, the smaller the probability the desired results will be achieved. Due to the distance in time between the decision and the planned results, there is a great probability the environment of the policy process will change in such a way as to make impossible the achievement of the collective goals for which it was initiated.

The professional analyses of policies entail the use of methods for identifying and managing risks in order to reduce the number of failures. Moreover, these analyses take into account the risks and propose collective choice according to their probability: the research goal is to make the proposed policy design stable over time (Howlett et al. 2018).

However, the problem of unpredictability remains. For a number of reasons, the problem has even grown in the last few decades (Bentley, David 2021). The world pandemic in 2019 and the war in Ukraine have strengthened the feeling that the

world and its societies are becoming increasingly unmanageable. The attempts to explain this feeling in terms of deviations and violation of the principles of liberal democracy, market capitalism or the international order are not convincing enough. This is because, on the one hand, these are ideal types, which in reality appear in different ways. On the other hand, as real types, they are the product of a past historical period and their restored form (even if we knew what that should be) is hardly possible. Development always advances, even if we qualify it as a regress from a past state of social relations.

Revealing the grounds for increasing unpredictability in policies is related to an assertion that is as philosophical as it is metaphorical: “We live in a quantum world, not a Newtonian world” (Paquet 1996). At first glance, this idea seems unrelated to policy-making. But in fact it is.

Since policies are a kind of engineering aimed at communities, they achieve their objective through changes in the behavior of individuals, and not directly, through legitimate decision-making. If this correlation between the measures and the needed changes in the behavior of independent individuals were disregarded, there could practically be no path to success. The exception to this rule are the communities that are completely subordinated to a political leader, or that have a high social capital, thanks to which the individual thinks and acts through the collective. In all other cases, a simplistic or erroneous understanding as to how the individuals concerned adapt to the policies, or as to the interaction between the stakeholders, or as to the distribution of influence and power resources in the community, or as to dependencies external to the internal policies, would make it hard to achieve success and would greatly increase the probability of failure. Underlying the design of concrete policies is a certain idea as to the mediated connection between a series of public measures and their desired consequences.

The greatest simplification among those that can lead any policy process to failure is the perception of the process as a “Newtonian world” in which the impact of policies automatically turns into desired changes within the community involved. This amounts to thinking of concrete policies as causes, and of the implementation results as consequences. It is not a new idea that once formulated policy would be implemented (Smith 1973).

The policy process – from the idea to the social changes, contains whole series of connections that often are disregarded. The obvious disregarded connection, mentioned above, is related to the transformative power of the behavior of the individuals. If a change of regulations on labor income leads to reduction of employers’ labor costs, what would be the result: increased employment, or technological renewal, or better working conditions, or increased consumption among employers? In fact, the answer to the question lies in the attitudes and behavior of the employers involved. Similarly, if we reduced the VAT on concrete services, would this lead to reduced prices or to increased profit for those offering

the services? There is no general answer to these questions. The answer depends on the concrete situation. It largely depends on the attitudes of those who's independent behavior is mediating the production of policy results.

The professional analysis of policies seems to resolve this difficulty by comparing alternative solutions to the problem. Such analysis forecasts or prognosticates the eventual consequences of some measure or other and, by identifying the degree of match between the consequences and the introduced indicators of achievement of goals, justifies the necessary and possible choice between existing alternatives (Patton and Sawicki 1993). In practice, policy analysis compares alternative lines of movement from impact to result, from policies to changes in the community.

The policy analysis nowadays tries to deal with the uncertainty (Jensen et al. 2016). However, the failures persist (Howlett et al. 2015).

The notion of a "quantum world" leads to a different understanding of social processes. The latter are seen as unpredictable due to the impossibility of determining the place and behavior of the participants in those processes at any moment of their individual development.

Translated to policy process, the quantum view of the world entails the following assumptions.

1. It is impossible to foresee the development of the position of key and non-key stakeholders in policy process. Even if their positions are clear at the start of the process, over time they may change in ways that considerably influence the policies and their results.

2. Neither the interest, nor the influence of stakeholders is invariable. These are variables that depend on how a concrete participant in the process reflects the behavior of the other participants and the changes occurring in the environment.

3. The mutual recognition between key participants, which underlies the formation of policy networks, is an unforeseeable process. It depends much more on random factors than on some kind of social engineering aimed at creating sufficient resource for conducting the policies. The entry of a participant lacking formal authority in the network of policies depends much more on chance than on his purposeful behavior in this respect. The same is true for participants having formal authority, insofar as they need to prove themselves, to disseminate and create public support for their policies.

4. Public policies resemble, albeit approximately, "Schrödinger's cat". Whether they work or not, whether they achieve the aims for which they were initiated, can be established only by an external observer in the person of the individuals and groups affected. Even if the policy process achieves demonstrable results corresponding to the preliminary plan, the external observer might find that nothing has been achieved or that the thing achieved is not the right one.

It is hard to say why the world is a quantum world or whether this is a temporary condition. Very probably, deterritorialization, mobility, the open society, and,

related to these, the breakdown of the nation state are the causes of growing chaos at the expense of organization and management. At the same time, a return to closed social systems seems not only undesirable but also impossible. The question is what are we to do in a situation where random, unforeseeable factors are much more important than the causal connections discovered on the basis of past experience.

At least two factors create uncertainty and randomness of policies in nation states: the limited political stability and the lack of social capital that (based on values, beliefs and ideas) unites the communities of citizens.

Whatever meaning we attach to political stability, whatever the indicators we use to identify it, this stability is rather lacking in the modern democratic world. The traditional parties are losing their influence and cannot find a new face for themselves. The new parties are mainly connected to past nationalism and, as they are unable to respond to topical problems, their behavior is in most cases unsystematic. Especially in the new democracies, nearly every political choice gives birth to a new political party, which occupies a newly opened electoral niche without creating conditions for effective public management. However, a constant problem accompanying the current development of democracies is the disputed legitimacy of political power and the inability of electoral procedures to guarantee that legitimacy. This problem has long ceased to be associated with the concrete political entity assuming power. It is a structural problem arising from the impossibility of attaining the kind of social consensus that enables a legitimate power to act – to formulate, express and realize the collective will.

The social capital and legitimacy of a political power are reciprocally connected. Each is the precondition of the other. Similarly, the lack of either one is a precondition for the lack of the other. At state level, the exhaustion of the uniting force of the national ideal is a great challenge. But this is not coincidental: the social, cultural and territorial differences and identifications within nations are far stronger than the feeling of national affiliation. That is why there is no obvious national ideal. The formulating of the ideal passes through the everyday course of public policies and collective choices made in dealing with concrete problems. Major topics that subsume and determine all other decisions rarely appear. Thus, every collective choice becomes questionable even when generally shared principles exist.

This does not imply that public governance is impossible. On the contrary, it becomes increasingly important because it can partially compensate for the lack of political stability or social capital. It may even create preconditions for regaining them.

Policy process management

Policy process is neither something obvious nor spontaneous. It is not obvious because it involves many actors with various social roles and various ideas about the development of the community. The process brings to the fore one of the competing

ideas and makes it legitimate. The application of this idea eventually leads to the desired social change.

Nor is the process spontaneous, because different configurations of actors participate at its various stages, and the conclusion of one stage does not automatically mean that the next stage will run its course in the expected way. Even some incentive – internal or external to the social organization – stimulates the policy process, that incentive may be interrupted at many points of its course, thereby failing to provoke the desired social change. At first glance the possibility of interruption refers to a specific stage of the policy process – the so-called implementation (DeLeon and DeLeon 2002). But in fact it pertains to the whole process. The policy incentive might not lead to putting the respective problem on the agenda of the public authorities. Even if the authorities commit to its solution, the formulation of socially acceptable goals might not occur. And even if they were eventually formulated, this does not necessarily mean the desired results will be achieved. And finally, achieving the results does not necessarily mean they will be assessed as favorable.

On the one hand, interruptions of the policy process, rather than being an exception, happen as a rule. Every stage of the policy cycle creates an intermediate result: a problem, a goal, a decision about the goal, instruments, results and assessment of results. The process advances when these intermediate results of the policy process become acceptable to the public, i.e., when the stakeholders accept them and adapt to them; hence the possibility of interruption necessarily accompanies the process. The development of the process in time and the inevitable changes taking place in the social environment additionally increase this possibility.

Thus, it is not enough to know what must be done. It is not enough that the stakeholders are convinced of the necessity of the measures propose. These are necessary but not sufficient conditions for a successful policy process. The process must be managed in such a way that the result – the desired social changes – be achieved. This means solving multiple problems that might arise in the course of the process.

The management of the policy process – as any other management – involves mostly making situational decisions for adaptation to newly arising problems so that the organizational goal remains achievable. At the same time, the policy process has obvious bottlenecks at which what was achieved in the previous stage either cannot be carried on to the following stage or must be reformulated in an unexpected direction.

The policy process has a vertical dimension going from principles and general lines to instruments and concrete practices (Page 2006). The process, however, cannot be interpreted and hence can be neither studied nor planned as a whole. This vertical dimension is provided through the structure of the public authorities and through the fact that the result achieved at the top level (public goals set down in the

normative document or the strategy) is realized at the following level through the formulation of more concrete goals. This is the logic of the shift from strategic to operative level in the structure of public management (Танев 2013). Following the structural approach, this vertical process is often explained in terms of the hierarchy where the direction is top-bottom and every consecutive level is due to implement the decision taken above. Having in mind the seminal literature on implementation starting with Pressman and Wildavsky (Pressman and Wildavsky, 1973) every level independently of its place in the hierarchical structure develops the decision that implement and search the effective tools for results achievement. This horizontal policy process is at least so important as the vertical shift from principals to concrete practices.

The vertical policy process goes on for a long time and its management is, as a whole, not possible. The translation of the principles and general lines into instruments and concrete practices transform the big intentions in small, seemingly insignificant, social changes: the goal of improving the quality of life turns into laying several kilometers of asphalt or changing the windows of several schools, or reducing – imperceptibly to people – the air's dust content. The connection between the initial goal and the final result is not made obvious.

The vertical policy process actually consists of horizontal policy cycles connected through the structure. Precisely these are the managed elements. This is feasible at the separate level of public governance thanks to the easily traceable goal and result of the policy process. The separate level of public governance can be compared far more to an organization that can be managed – albeit with difficulty because of strong dependence on external factors.

The policy process manager

Despite the obvious need to travel the path from idea to social change, no one in fact manages the policy process. Everywhere in the democratic world, the very structure of public governance does not permit that the policy process be managed. The decision to do something is made in one place, the plan is designed in another, activities are conducted in yet another, and the results are accepted or rejected at still another. Thus, the different parts of the policy cycle are implemented by different people and structures. However, the process is a whole (Kingdon 1984; Howlett et al. 2009). The idea is meaningful if the decision to realize it is made; the decision is realized through certain activities that additionally shape it; the social change occurs only if individuals adapt their behavior to the new rules or services. Ultimately, what eventuates corresponds only relatively to the initial idea. That is because many individuals, with various interests, values and beliefs, participate in the idea's implementation in practice, especially since these people change over time.

But nevertheless, the process is not unmanageable. The problem is that it is not clear who should be managing it.

Such a management role exists both in Paul Sabatier's advocacy coalition (Sabatier 1987) and in John Kingdon's multiple streams (Kingdon 1984). According to Kingdon, the management function is carried out by the policy entrepreneur, who unites the three streams that, together and simultaneously, make policies possible. According to Sabatier, the person managing is the policy broker, who actively disseminates ideas on social development. In fact, this is one and the same role, although the concrete activities of those assuming it are different in the two theoretical frameworks. The role is the same because both Kingdon's entrepreneur and Sabatier's broker actively manage the policy process in order for it to take place and achieve the desired results. However, in the process, the broker and entrepreneur manage the bottlenecks, which is identified differently by the two theoretical frameworks.

Process management is necessary because the process cannot occur by itself. The main task of the process is to connect the independent sub-processes, which might be mutually discrepant and thus harm the process as a whole. As every sub-process is unique, a universal bottleneck cannot be identified for all. Identifying the bottleneck is one of the first tasks that the policy process management should perform. Both Kingdon's entrepreneur and Sabatier's broker have precisely defined functions, which are only part of the management process. Only the initiator of the policy (whoever he/she may be) is connected with the whole process, ranging from the idea through the idea's implementation and to the desired result. The reason why the initiator is connected with the process is not at all important – he/she may be positively connected with the result, or may simply share certain values and ideas, or may have a mission. If his/her idea travels the whole path and leads to social change, that means the community of citizens concerned has united around that idea and has chosen a certain course of development.

We thus come to a significant contradiction in modern practices. We are used to thinking that the representative power, or possibly the public administration, are at the start of the policy process. According to the classical Weberian logic, these representatives make policies thanks to the public position they have received. And while the non-governmental organizations, in putting pressure on the people in power, are forced to seek the consensus of the state and of society, the representative power and the public administration act by virtue of their own authority. Under such an interpretation, the success of the policy depends on the will, motivation, knowledge and skills of the elected representatives and the appointed state experts. But there is something more to be said.

Every policy initiator, even if he/she has political power and expertise, needs sufficient state and public support for his/her policy. Even if they know what to do, they might not succeed in doing it. And if the decision-making process depends on certain regulated majorities, the public attitudes and moods, the behavior of stakeholders, trust in power, and external factors do not depend on the policy initiator; what is

more, they do not even follow the established rules and laws. How can “organized chaos” (Kingdon 2001) be managed? And especially Who could do this?

There is an irreconcilable contradiction between the Weberian structure of the state and the need to achieve policy results effectively. The problem is not so much in formulating goals and making decisions, where entrepreneurs (according to Kingdon) and brokers (according to Sabatier) appear. The problem is mostly in the implementation and creation of desired results, where traditional administration, even professional, even non-corrupt, performs instead of achieving goals. And a change in the professional behavior and attitudes of the administration is not enough. The creation of flexible and independent administrative structures, whose work is evaluated by the results achieved and not by the fulfillment of the tasks set, is what can bring about lasting change. However, this suggests that we also recognize the fallacy of the last 3-4 decades that this change is possible through the transfer of public functions to private commercial companies. The administration must act as an entrepreneur, because the private entrepreneur does not serve the common goals, nor is it accountable to the community. We need to bind legitimacy and effectiveness simply because they are bound in the minds and attitudes of citizens.

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