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Practice insights – Experimentation and design thinking in Public policy-making processes

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Abstract

Policy-making is a complex iterative process that requires engagement with a multiplicity of actors facing different incentives and constraints underpinned by differing structural and institutional variables. Design-thinking as a human-centred approach to problem solutioning offers valuable lessons that policy makers would find useful. This article, presented as a policy practise insight note, posits that the focus of policy design shouldn't be so much on what makes a technically superior alternative, but what makes an institutionally sound approach and crowds in policy implementers and recipients from the design stage. It presents an understanding that policy design is more about creating processes that elicit information and feedback on government interventions than about getting the objectives right at the beginning thus allowing for an experimentation approach to policy design. The paper concludes that for policy design to be effective, finding a contextual best fit is more desirable than blanket adoption of “global best practises”.

Introduction

Appreciating the complexities of achieving sustainable development outcomes, the UNDP launched a “cutting-edge” initiative called Accelerator Labs which seeks to establish Country Accelerator Labs in about 60 country offices. The promise of the initiative is to go beyond simplistic, linear and silver bullet responses to development but instead focus more on interdisciplinary approaches and non-linear

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solutions that tap into local insights of people closest to the problems and their potential solution². This follows an emerging trend of establishing policy design labs based on design thinking concepts within both academia, governments and development institutions³. The application of design thinking concepts has in the recent past emerged as a dominate debate in policy-making cycles. The promise of design thinking is cited as its human-centred approach-the discipline of designing solutions based on people's needs (Brown & Wyatt, 2010⁴; Efeogfu et.al., 2014⁵). Mintrom & Luetjens (2016⁶) posits that *by "promoting greater understanding of how citizens experience government services, design thinking can support public managers who desire to enhance public value"*.

But is the emergent design thinking concept different from common development approaches such as participatory rural appraisal (PRA), public participation etc. or is it just a new "catch phrase"? Does it promise anything different for the public policy-making process? There's no contestation that policy-making isn't rational and linear. It's a complex constellation of conflicting interests, worldviews, social constructs and value clashes⁷. It only makes sense that policy design adopts an approach that allows for consideration of multiple perspectives on what the problems are and what the solution could be.

In engineering, design thinking is advanced as a core skill across the program. From designing concrete structures to machine components, the final user was always promoted as the single most consideration in what goes into the design process. Two useful design concepts I learnt while in engineering school were *"maintenance-free design"* and *"failure mode analysis"*. Maintenance-free design was about building the system or the component such that it operates with the least maintenance requirements as long as is possible while failure mode analysis requires engineers to first understand how a machine component or engineered system will ultimately fail then build the components in such a way as to delay the failure as much as is possible. Crossing over to the public policy discipline, it appears it's a struggle to adopt such thinking while designing policies. The dominant trend has been a top-down approach to policy design by *"technopols"*, as Smith & Larimer (2013⁸) puts it. Technopols are basically a few *"policy-smart"* people

² <http://www.undp.org/content/undp/en/home/news-centre/speeches/2018/public-event-with-the-sdg-charter-signatories.html>; <http://www.undp.org/content/undp/en/home/our-focus/global-policy-network.html>

³ <https://www.designcouncil.org.uk/news-opinion/uk-cabinet-office-launches-new-policy-design-lab>; <https://www.aucklandco-lab.nz/policy-by-design/> ; <https://www.act.ipaa.org.au/brief-design-1> ; <https://openpolicy.blog.gov.uk/2018/02/07/whats-the-role-of-design-in-policy/>

⁴ Brown, T., & Wyatt, J. (2010). Design thinking for social innovation. *Stanford Social Innovation Review*, 8(1), 30-35.

⁵ Efeogfu, A., Moller, C., & Boer, H. (2014, September). Design thinking: Characteristics and promises. .

⁶ Mintrom, M., & Luetjens, J. (2016). Design Thinking in Policymaking Processes: Opportunities and Challenges. *Australian Journal of Public Administration*, 75(3), 391-402. doi:10.1111/1467-8500.12211

⁷ James Origa (2019), *The Public Policy process: A conceptual framework for understanding policy processes and opportunities for influencing policy outcome*.

⁸ Smith, K. B., & Larimer, C. W. (2013). *The Public Policy Theory Primer*. Boulder, CO: Westview Press.

with high policy issue expertise who sit at the top levels of government. They design policies, often with little interaction with the ultimate policy end users, then push these to the lower levels of government to be implemented by what Michael Lipsky call street-level bureaucrats⁹. Needless to emphasize further, such policies often end up marginally realizing the intended objectives. McConnell's (2010¹⁰) definition of a successful policy as one that *achieves the goals that proponents set out to achieve and attracts no criticism of any significance and/or support is virtually universal* provides a useful spring board for design thinking in policy-making. Such a definition of success demands of policy actors to focus beyond a linear rational perspective of proposing the most effective technical solutions to a deeper consideration of the intricate value-laden perspectives and social constructs around what constitutes the problem and how it should be solved from the end-user's perspective.

This article, drawing from various literature and practical examples, explores how "maintenance-free design" and "failure mode analysis" design thinking would look like in practical policy design, decision making and implementation.

The complexity and adaptive nature of policy-making

Cloete & Coning (2011)¹¹ in their book, *improving public policy: theory, practice and results*, acknowledges that while the ideal policy-making model is often presented as a linear process starting from identification of the problem and policy objectives, creating policy alternatives all the way to implementation and final evaluation, the real world policy design happens in a context full of constraints such as budgetary, political, organisational, technical capacity, informational, Legal and actor subjectivity. These constraints make policy making complex and not so rational. This recognition that policy is never made in a *tabula rasa* world is critical for ultimate realization of successful policy outcomes. Path dependence, that even what can be considered as "new" policy is always heavily constrained by past decisions, is a key determinant of the process outcome. For policy to be passed and legitimized, support from a multiplicity of actors is always necessary. The fact that cooperative action is necessary to optimise policy outcomes and mitigate failure risks necessitates multiple objectives for the same policy. Though highly desirable, this cooperative action is often elusive for several reasons; transaction costs are often high, timelines for cooperative

⁹ Lipsky, M. (2010). *Street-Level Bureaucracy*, 30th Ann. Ed.: Dilemmas of the Individual in Public Service. New York, NY: Russell Sage Foundation.

¹⁰ McConnell, A. (2010). Policy Success, Policy Failure and Grey Areas In-Between. *Journal of Public Policy*, 30(03), 345-362. doi:10.1017/s0143814x10000152

¹¹ Cloete, F., & Coning, C. D. (2011). *Improving Public Policy: Theory, Practice and Results* (3rd ed.). Pretoria, South Africa: Van Schaik Publishers.

processes are long, different stakeholders are motivated by differing drivers and access to information is imbalanced leading to informational asymmetry. In addition, budgetary constraints limits what can be reasonably achieved, and limited institutional and organisational coherence complicates decision making processes. Understanding of this political economy entanglement is what should inform the kind of solutions selected and how they are implemented. As mentioned earlier, policy making is more about re-shaping existing systems rather than creating “brand new” systems. A structured systematic analysis is then a precursor to policy design so as to first understand the dynamics that shape actors’ behaviours and interests, constraints; reveal what are the capacities and interventions that have produced pockets of effectiveness or successful cooperation and coordination in the past and also to reveal the underlying logic behind seemingly irrational past policy decisions or apparently dysfunctional institutional arrangements (Fritz, Levy, & Ort, 2014). The policy designer needs to be aware of the illusion of the broken system as asserted by Heifetz, Grashow, & Linsky (2009¹²) that *“It is a fallacy to think that we need to change organizations because they are “dysfunctional.” In reality, human systems are the way they are because the people in the system want them to operate that way”*.

The error in Skipping straight to weber

Pritchett & Woolcock (2004) while asserting that the role of the state is *“to ensure that the provision of key services such as clean water, education, sanitation, policing, safety/sanitary regulation, roads, and public health is assured by effective, rules-based, meritocratic, and politically accountable public agencies”*, faults a common policy-making model they term as *“skipping straight to weber”*. Skipping straight to weber basically involves developing countries relying on their large hierarchical bureaucracies to adopt and implement standard policies that are seen to have been successful in more developed western countries like “Denmark”. They single out four reasons why such a model has failed to deliver as intended. First is an overreliance on “expert” solutions (what was mentioned earlier as technopols) who give little regard for local concerns. Secondly is proposing solutions that are not informed by a clear demand from the service or product users and thirdly misuse of funds and authority by those tasked with policy implementation. A fourth reason for the failure in adopting standard “successful” policies they say is adopting policies without understanding the institutional creation myths around them. They posit that successful policies in “Denmark” were a result of a particular set of social conflicts which are often not well understand by the technopols “importing” these policies into their countries.

¹² Heifetz, R. A., Grashow, A., & Linsky, M. (2009). *The Practice of Adaptive Leadership: Tools and Tactics for Changing Your Organization and the World*. Brighton, MA: Harvard Business Press.

By proposing a typology of government services categorised as policies, programs and practises, Pritchett & Woolcock, suggest that policy designers need to think more carefully, in context, about the kind of solutions they are attempting to provide. They describe Policies as discretionary but not transaction intensive and can be carried out by small groups of experts; Programs as transaction intensive but not discretionary and can be implemented by large centralized bureaucracies easily and Practices as both discretionary and transaction intensive. The problem that emerges from this categorization is how to design practises that are both discretionary and transaction intensive. Drawing from the “Principle-Agent” problem as a key consideration in policy design, they assert that *“Policy must be based on structures that align agents’ incentives with those of the principal”*.

They go ahead to provide a list of eight possible approaches including contracting out which aligns the incentives of the agents, e.g. front-line service level public servants carrying out policy tasks with those of the principals, senior level public servants who design policies.

The limits of rationality in policy decision-making

The UK National Institute for Health & Clinical Excellence (NICE) has an established tradition of applying cost-benefit and cost effectiveness analysis (CEA) to make policy decisions whether to ‘cover’ or not “cover” access by patients to a particular technology (NICE,2014).¹³An analysis by Bryan, Williams, & McIver (2006¹⁴) of the NICE evidence-based approach for policy decision making makes explicit a number of challenges inherent in the use of scientific evidence to inform policy decisions. Analysing policy alternatives always involve trading off certain objectives against others, certain costs against others, and most often it is difficult to really compare them. Policy-makers are always looking at the costs of interventions and deciding what is feasible and what is reasonable to spend without any hard rules. Certain beneficiaries are often traded-off against others in ways that cannot be fully justified. In applying the Quality-Adjusted Life Year (QALY) and the Incremental Cost Effectiveness Ratio (ICER), there’s seldomly a “wide agreement” on the quality of life measure since these are subjective measures of life quality under widely divergent disease conditions. Another source of disagreement is on the threshold question. The threshold of three times GDP/capita applied by NICE economic analysis appears arbitrary and there’s no clear basis for it. And what about equity? The cost-effectiveness analysis (CEA) implicitly

¹³ <https://www.nice.org.uk/>

¹⁴ Bryan, S., Williams, I., & McIver, S. (2006). Seeing the NICE side of cost-effectiveness analysis: a qualitative investigation of the use of CEA in NICE technology appraisals. *Health Economics*, 16(2), 179-193. doi:10.1002/hec.1133

treats all people equally in calculating QALYs so it does not take into account potential differences among people who might need to be weighed differently.

The NICE example of applying economic analysis tools to make a policy choice points to a common challenge in policy-making; assuming complete rationality in decision making. Smith & Larimer (2013) highlights this in their portrayal of the constant conflict between rationalists and post-positivist thinkers in policy design. Generating evidence requires rationality, so the big question remains, is rationality too ideal? To what extent do policy makers and politicians, who often legitimize policy, apply rationality in assessing and accepting evidence? Rationality requires an ability to comprehensively assess alternatives; use of information that is relevant for the choice to make the choice rather than information that is unrelated (emotions, etc.) and also requires a consistency in preferences. The expected utility theory provides us with a way of anchoring this discussion on rational decision-making. The expected utility theory posits that a rational actor assesses three things in deciding: First the likely outcomes of a decision, secondly how desirable those outcomes are and lastly the probability of each outcome. An individual's utility is then based on the relative probability of favourable outcomes.

Framing matters

Evidence by Tversky & Kahneman (1985) suggests that we are not rational in the way predicted by expected utility theory and that our choices are affected by framing. What Tversky & Kahneman's prospect theory tells us about decision making is that humans generally have a stronger aversion to losses than the pleasure from gains of similar amounts. The way choices are framed affects how own interests are perceived. The examples provided in Tversky & Kahneman's article highlights that low probabilities are "over-weighted" in our perception, while higher probabilities are under-weighted; we under-weight differences in low probabilities compared to high probabilities (we treat 10% and 20% as more similar than 40% and 80%); we treat the probability of a sure thing as a special case (such that the difference between 20% and 25% is less important to us than the difference between 80% and 100% and lastly that a gain or loss of a similar amount is more keenly felt when discussing smaller overall amounts than larger overall amounts (the loss of \$10 out of \$150 is not felt as keenly as the loss of \$10 out of \$20).

Why these matters for design thinking in policy is because every policy decision create losers and winners. Policymakers and the public are more sensitive to losses than to gains meaning losers are more likely to react than winners. This will be elaborated further in policy implementation. Combining or separating choices in the minds of policymakers and the public can change how they are evaluated. Policy which can create certainty over a small set of risks is more attractive than policy which reduces uncertainty over a

larger set of risks (property insurance versus fire/flood insurance. Framing matters in determining the “reference point” from which we lose or gain something.

Behavioural sciences in policy-design: The reliance on mental heuristics

In Weyland’s (2009)¹⁵ *Bounded Rationality and Policy Diffusion: Social Sector Reform in Latin America*, he attempts to answer three key questions; Do leaders in developing countries decide on policies or are they forced to follow dictates from international institutions? do leaders pursue policies primarily to suit their self-interest or in order to be perceived as legitimate or modern (symbolic), even when such policies run against their interests? And thirdly are leaders rational in a comprehensive or bounded sense?

Weyland distinguishes three heuristics (mental shortcuts) evidenced in the spread of social sector policy reforms in Latin America. These are availability, representativeness and anchoring. Weyland argues that we tend to draw from models we recognize from our locality and neighbours even when our circumstances differ considerably. He explains that this is how Chile’s pension reforms had such a great influence in Latin America. While considering policy reform, policy makers will most likely tend to give more weight to an idea tried and appearing to be successful in neighbouring context which are perceived to be of similar nature. In essence, what’s easily available to them.

Representativeness heuristic point to the use of limited data to make big assumptions. Weyland makes two arguments, first that policymakers tend to be attracted to models that show promise, even before they have been thoroughly tested. Secondly that there is a tendency to believe that early success is more representative of full rollout than it really is. Relating to the hunger for successful models, or a tendency to overweight low probability events as postulated by the prospect theory, Latin American policy makers gave disproportionate weight to the initial growth in private pension returns in justify mimicry of their policy reforms.

The anchoring heuristic shows that early information is weighted more heavily than later information. Policymakers tend to pick up on salient features of policy ideas and then stick to these, rather than adjusting them even when the evidence necessitates adjustment. This may be related to a phenomenon known as “confirmation bias” where while we may be initially open to new ideas, once we have decided on a course of action, we tend to only absorb information that confirms our initial decision. Weyland argues that this is why in pension reforms in Latin America, there was so much consistency across

¹⁵ Weyland, K. (2009). *Bounded Rationality and Policy Diffusion: Social Sector Reform in Latin America*. Princeton, NJ: Princeton University Press.

countries in the reform package rather than the higher level of diversity and adaptation one might expect from “rational” policymakers.

What these heuristics imply for design thinking is a recognition that decision-making will always involve short-cuts since there’s usually too much and many times full information doesn’t really exist making it impossible to evaluate everything comprehensively.

Policy implementation as control vs implementation as interaction

While emphasizing that policy implementation is often a complex political process, Cloete & Coning (2011)¹⁶ summarises five critical variables, what they call the 5-Cs protocol, which affect policy implementation. These are content, context, commitment, capacity and clients. Content refers to the type of policy which present different implications for implementation, who opposes or supports it and the level of actor involvement. Context matters as was highlighted earlier by the “illusion of the broken system”. Commitment relates to the understanding of the frontline service level implementers in realizing the intended policy objectives and aligning incentives from a principle-agent problem perspective. Capacity considers whether the state has or can acquire the skills and resources to implement the program while clients considers how policy recipients will respond to the policy demands.

Wildavsky & Majone (1984¹⁷) talk about policy implementation as “control” versus implementation as “interaction”. They ultimately settle on implementation as “evolution”. Implementation as control assumes that policy can be implemented as designed and the most important feature for understanding implementation is the policy content itself. On the other hand, Implementation as interaction assumes that policy is a blank slate and the implementers largely decide what implementation of the policy looks like, regardless of the design (“subordinates don’t know what their superiors want, they can’t do what their superiors want, or they refuse to do what their superiors want.”). The settlement, implementation as evolution, assumes that implementers have great weight on policy success, but so does the original policy designers as well. This takes us back to the discretion required in implementing highly discretionary and transaction intensive practises as described by Pritchett & Woolcock (2004). Wildavsky’s recommendation on how to design policy to ensure implementers use discretion well is for policy designers to provide a “specification of a variety of conditions that may occur, with instructions as to what to do under different circumstances”. This demands of the policy designer to anticipate that the policy

¹⁶ Cloete, F., & Coning, C. D. (2011). *Improving Public Policy: Theory, Practice and Results* (3rd ed.). Pretoria, South Africa: Van Schaik Publishers.

¹⁷ Wildavsky, A., & Majone, G. (1984). *Implementation as evolution*. In *Implementation* (3rd ed.). Berkeley, CA: University of California Press.

will be changed in a way during implementation, without knowing exactly how. This is easier said than done. Consider an example; a new policy on provision of crop insurance to small-scale farmers. The insurance requires a small enrolment fee as part of efforts to ensure that people value it. In practice, people will sign up for the insurance only when the fee is waived, despite all efforts to “frame,” persuade, cajole them. In designing this policy, has the designer anticipated this possibility and what discretion to allow on implementers (who could be local agricultural extension officers)? If they are allowed to waive the fee, they will most likely meet the design enrolment targets but at the cost of a key part of the policy design- ownership by recipients. If implementers are not allowed to waive the fee, they will not meet the enrolment targets, but they may be able to get a certain number of clients to follow the original policy design. One has to consider what is most important-have majority with little ownership enrolled or have a few who highly value the scheme enrolled.

Managing winners and losers; the politics of policy implementation

Implementing policy reforms will always create winners and losers. This is an important consideration for policy design thinking. Grindle (2004¹⁸) highlights a critical puzzle on this. That the losers tend to be more organized and more vocal than the winners. Grindle observes an interesting politically contentious reforms *“in which those opposed to reform were highly organized, very vocal, and politically important. In contrast, those who might benefit from change were generally unorganized, dispersed, and politically quiescent. Moreover, political institutions tended to be biased against changes in policies about education. Yet, in country after country, reform happened.”*

In Hellman’s (1998¹⁹), *Winners Take All: The Politics of Partial Reform in Post-communist Transitions*, he describes the “J” curve which premises that Economic reform is typically harsh at the beginning, and the economy only improves in the longer term. This generates a lot of losers in the short term that can in turn create a deadlock for further reforms. So, the losers in the early rounds of reform prevent countries from moving to later stages of reform, even if they will be better off after those stages. He says that the more radical the reforms at the start, the deeper the “valley” of despair before improvements can be seen. Therefore, the more radical the reform, the more resistance from losers. Hellman’s article seeks to answer the question-If there are many winners from reform, why do losers succeed in stopping it? He posits that losers from reforms are powerful, often concentrated/organized (elites, unions, parties) while winners

¹⁸ Grindle, M. S. (2004). *Despite the Odds: The Contentious Politics of Education Reform*. Princeton, NJ: Princeton University Press.

¹⁹ Hellman, J. S. (1998). *Winners Take All: The Politics of Partial Reform in Post communist Transitions*. *World Politics*, 50(02), 203-234. doi:10.1017/s0043887100008091

are ordinary people who are not often organized. Prospect theory or negativity bias might also play a role, as losers are more likely to mobilize than winners since losses tend to appear more certain than gains. How winners and losers are engaged depends on several factors which can shape outcomes. First is institutional structure. Institutions shape how winners and losers interact and can empower reformers by insulating them from political pressures through measures such as creating autonomous state agencies or security of tenure for civil servants. Secondly are alliances. In some cases, alliances with potential opponents can help dampen opposition to a particular reform. Third is timing. An agenda pursued at a time of crisis or after an opponent has been weakened might be more successful. Fourth is framing. As alluded to earlier, tapping into behavioural sciences can help secure more support from winners or pacify losers by shaping perceptions of the reform purpose.

Aligning policy design with policy implementation

Certain group of people in policy practise have advanced that policy design should be carried out best by technocrats, insulated from political pressure and able to look rationally at policy options. The test of that position is the reality that when it comes to policy implementation, a wider set of actors downstream-what Andrews, Pritchett, & Woolcock (2015) call “deconcentrated” actors, Pritchett & Woolcock (2004) call “transactors,” and Grindle’s teachers are needed for the policy to be successful. The design challenge is then in determining how to balance between involving these “downstream actors” in design and potentially changing policy objectives, versus ignoring them at design phase and potentially undermining implementation. The effects of undermining implementation are way more ruinous than the impact of changing policy objectives at design.

Ownership by implementers and policy recipients’ demand as drivers of implementation are key for policy success. This is evidenced in Tendler & Freedheim’s (1994) article describing a preventive healthcare reforms program in Brazil’s remote Ceara state. The Ceara case has been extensively highlighted as a case of excellence in policy reforms in developing countries (Svitone et.al., 2000; Cohen, 2005; Sugiyama, 2012). In this case, both ownership by implementers and public demand were evident. Local community ownership was key to monitoring and ensuring normative commitment, but status or prestige of the job was also key to ownership by the lowest level workers. Enhanced ownership was also evident from nurse supervisors. What’s striking about Ceara is that ownership did not seem to have come from being involved in the original policy design but seems to relate more to ongoing decision making as implementation rolls out, creating ownership as the program progressed.

While the principle-agent problem emphasizes aligning incentives of implementers to designers and resolution through contracting to steer discretion towards alignment, the Brazil case had some salient features. While community monitoring was there to ensure accountability, emphasis was on enhancing discretion and autonomy. This led to greater commitment and doing more than the contract specified (job enlargement connected to satisfaction). The program had other carrots beyond the contract such as emphasis on prizes and training. It is also evident that how the hiring process was framed and creation of a sense of mission changed expectation of performance and led to more commitment coming from trust between health workers and clients.

Bringing it all together: Success lies in experimentation, feedback loops and ownership

Drawing from the literature cited above, the focus of policy design shouldn't be so much on what makes a technically superior alternative, but what makes an institutionally sound approach and crowds in policy implementers and recipients. An institutionally sound approach is driven by people who understand the problem, have in-built feedback mechanisms, takes into consideration the incentives of the implementers during design and appreciates that policy reforms creates winners and losers. An understanding that policy design is more about creating processes that elicit information and feedback on government interventions than about getting the objectives right at the beginning allows for an experimentation approach to policy design.

The most important areas of public policy require high levels of discretion that is difficult to routinize and therefore require structures that empower local actors while ensuring oversight and encourage collaboration without falling into cronyism but also pacifies reform opponents. Policy designers need to be aware of the dangers around non-structured importing of policy ideas across countries because key elements of policy are "discovered" through implementation and the interplay of local factors. Finding a contextual best fit is more desirable than blanket adoption of "global best practises".

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