

National Policy Making Process

Some reflections on Processes of Policy Making

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Introduction: This presentation is prepared from the premise that many actors in the area of policy advocacy lack sufficient understanding on how policy making and implementation processes work, and which points optimal leverage can be obtained from policy advocacy efforts. Proper targeting of decision makers in areas concerned is important as that will facilitate smoother response to advocacy work. Policy making passes through different levels, which have different legal mandates in the area of public administration. Broadly speaking, these areas are divided into five broad categories, a) routine technical functions, b) strategic technical functions, c) routine policy functions, d) strategic policy functions and e) strategic legislative functions. The Local Government system has a corresponding function (up to routine policy functions) but is not explicitly discussed in this presentation. Also, the routine legislative function which falls under the domain of the judicial system is not discussed in this paper.

Analysis of functionaries and broad legal mandates: The schematic drawing attached as Appendix A illustrates the different functionaries in the policy making arena which this paper attempts to discuss. It should be noted that the discussions been made here are purely for analytical reasons, as there is a considerable degree of variation between 'desired' arrangements and actual implementation. This analysis therefore goes into abstraction by describing the ideal type.

Routine technical: These include desk officers, Directors and Commissioners in Government MDAs.¹ These functionaries are charged with the responsibility to implement directives issued at strategic technical level. These functionaries have expertise in the relevant area and are able to mobilise a variety of inputs to make certain directives operational. The Directors supervise and monitor the implementation of routine technical issues and sometimes issue strategic guidance.² There is a minor variation however between Directors and Commissioners (with Commissioners being given powers to establish by-laws).

Strategic technical: These function typically lie with Permanent Secretaries (or Deputy Permanent Secretaries where applicable)³ PSs are responsible to make strategic decisions on issues which are technical in nature. They are mandated to give overall direction on optimal ways to make certain desired policy goals realised. PSs are also the Accounting Officers of Ministries. PSs are assisted in making decisions with the Inter-ministerial Management Team which consists of all Heads of Departments.

Depending on the gravity of the issue, and need for inter-ministerial collaboration, strategic technical issues are referred to the Inter-ministerial Technical Committee (IMTC) which is chaired by the Chief Secretary. All issues that are to be submitted to

¹ Ministries, Departments and Agencies

² It is often difficult to demarcate the boundaries of mandates as they are often subjectively interpreted

³ Deputy PSs are also vested with same powers

Cabinet are first discussed by the IMTC. Important strategic policy issues are often discussed by the IMTC as well. PSs are also in frequent contact with the Chief Secretary for bilateral consultation. The PS of the Prime Minister's Office also plays a crucial role because the portfolio on Co-ordination of Government Business lies in this Ministry.

Routine policy: Each Ministry has a Minister, who is an integral part of the Cabinet. Ministerial functions should therefore not be seen in isolation of the Cabinet. As the saying goes, "the Cabinet is one". However, the Cabinet designates its members to oversee/supervise/monitor the implementation of Cabinet directives at Ministerial level. The Minister therefore acts on behalf of the Cabinet, reports to the Cabinet and submits to the Cabinet Cabinet papers that may advise the Cabinet to provide strategic guidance that a Minister may feel are strategic and therefore beyond the mandate of a Minister to endorse.

When a Sector Ministry submits a Cabinet paper, the Cabinet discusses it as one. Any Minister from any sector can make contributions and the decisions of the Cabinet become binding to all.

The Prime Minister plays the function of the "Chief whip" of the Cabinet. The Prime Minister ensures that Ministers comply with Cabinet directives, monitors, supervises and holds frequent consultations with Ministers or bilaterally with sector Ministers to facilitate smooth implementation of policy directives from the Cabinet. The Chief Secretary can refer to the Prime Minister some issues where a Minister overrules a PS and violates regulations, Government standing orders or Cabinet decisions.

Strategic policy: The Cabinet therefore takes a position, which becomes a blue print for implementation at sector level.

Strategic legislative: The Cabinet may however feel that certain necessary policy decisions contravene existing laws. The Attorney General is a member of the Cabinet and advises the Cabinet on the legal implications of its decisions. The Cabinet may then decide to refer a matter to the Parliament to either enact or amend a law. The Parliament will then debate the motion submitted by the Government and either approve or reject it. The Cabinet cannot change a law.

Routine legislative: Once the Parliament has enacted a law, it is the judiciary that interprets that law. The judiciary can declare a Cabinet decision as unlawful (or even an Act of Parliament unconstitutional!!). Anyway, it is not the intention of this paper to go into that debate.

Implications for policy advocacy: As earlier mentioned, it is important to know which decisions are taken at what level in order for policy advocacy efforts to be directed where they are supposed to be taken. It is for example important to know what a Cabinet position on a certain issue is before one engages a Minister on policy advocacy.

