

STRENGTHENING GOVERNMENT POLICYMAKING IN MYANMAR



The Asia Foundation

Improving Lives, Expanding Opportunities

February 2016

This note asks how Myanmar's democratically elected government can improve policymaking processes. It summarizes internationally recognized properties of good policies before considering how policymaking happens in Myanmar and proposing measures to adopt in the future.

What is public policy?

Policymaking involves government actions and decisions on issues of public concern. It covers many processes that lead to decisions made by politicians and sometimes civil servants: new or amended laws, decrees, bills, and regulations; long-term and annual plans; budgets and funding allocation.

In all countries, the shape of policy processes depends on the political system. Parliaments and the justice system help to define and structure how much power presidents or prime ministers have to define policies. Democratic systems typically promote participation by offering space for different groups to engage in policy decisions. A free mass media and open access to government information enable people to know what policy processes are under way and enable policymakers to assess the potential impact of policies on the public.

Over time, more people are likely to become involved in policymaking in Myanmar. Some decisions are already made in regions and states, and even in townships and municipalities, rather than at the Union level. Further reforms to how government operates may also delegate authority away from a small number of senior leaders to members of Parliament, civil servants, and local representatives of the public.

What is good public policy?

Policies that make a genuine difference to people's lives share these three properties:

1. **Evidence based:** Good policies are almost always founded on good research that involves applying accurate information to identify problems and derive solutions to those problems.
2. **Implementable:** Good policies are practical. They lead to action and can be implemented.
3. **Effective:** Good policies must be able to achieve their goals and support the wider aims of government.

Making policies based on evidence involves finding and then applying accurate information to identify problems and derive solutions. An important initial step is finding up-to-date and objective data as a basis for assessment. At the same time, policymaking is a political and not just a scientific exercise. Policymakers need to consider the concerns of specific interest groups, take into account public opinion more widely, and understand the impact of policies on normal people. They need to consider existing experience, listen to the concerns of those people responsible for implementing policies, and ensure that proposals are realistic.

How does policymaking happen in Myanmar?

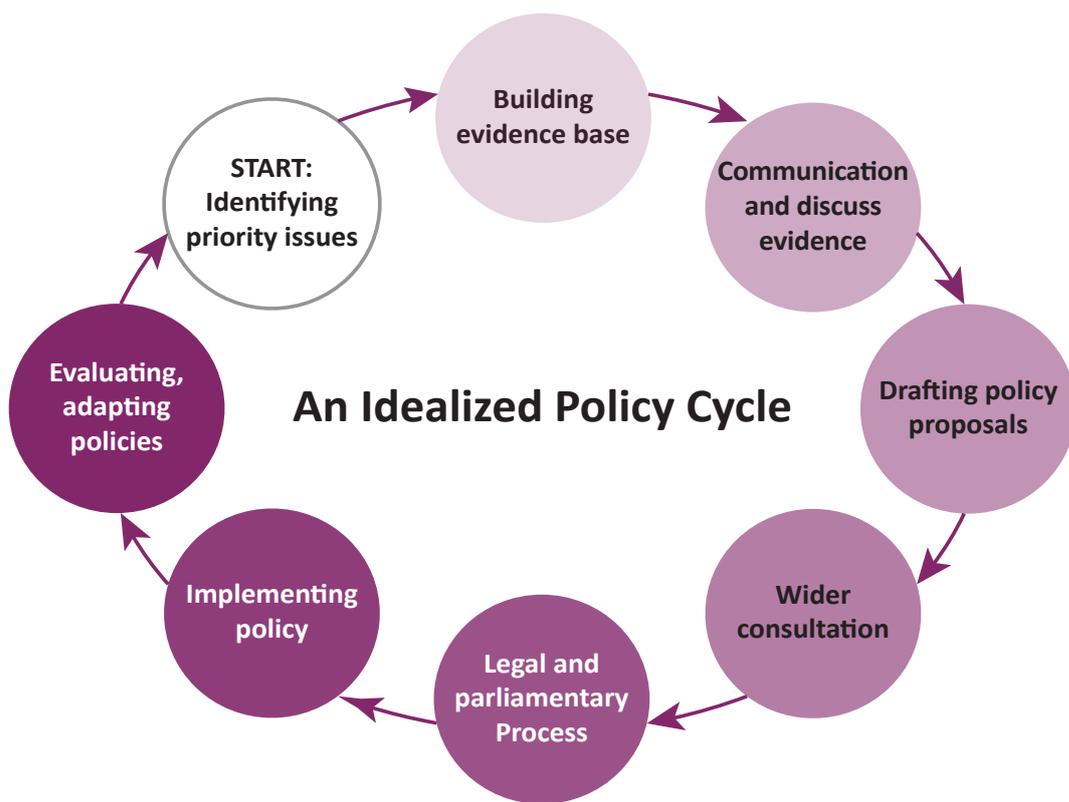
In Myanmar, the policy process is different from many other countries. Until recently, civil policymaking was dominated by military commanders making what were often individual or small-group decisions.

There was little engagement with the broader bureaucracy or the public. There is also little tradition of working through policy processes in an open, inclusive, or systematic manner. Reliable evidence rarely informed civil policymaking. Little accurate data was available, and statistics were universally mistrusted. As a result, policymakers have limited experience of basing major policy decisions on evidence rather than on personal and political interests.

The military has withdrawn from much of its political role in recent years, but government policymaking has remained concentrated at the highest level – in the President’s Office and with some trusted ministers and advisors. Typically, a senior figure – a minister, deputy minister, or advisor – receives policy advice from individual experts or institutions. Some policymaking is taken forward by government departments, especially on specific technical issues, but ministries are more typically limited to implementing instructions from higher levels. Many government departments have little devolved authority and feel disempowered. Decades of top-down governance by decrees has also led to a passive institutional culture within the bureaucracy. Officials are often unwilling or unable to make decisions, even on relatively minor issues, without explicit and detailed instructions from above.

How can policy processes be improved?

Policy cycles typically involve a series of steps that offer space to gather evidence, consider policy options, and consult widely.



In reality, policymaking rarely follows a perfect model. Political events and changing circumstances tend to interrupt the cycle. But the key steps before implementing a policy – identifying priorities, gathering evidence, assessing costs and benefits, debating proposals, seeking views, following parliamentary procedures – form an important basis for getting policies right.

How should policymakers access information?

One essential component of good policy is an evidence base that accurately describes the current context and explains the potential impact of policy options.

The need for good information applies to high-profile political issues such as constitutional reform or federalism, and to more specific, lower-profile issues such as changes to public service delivery or the design of infrastructure projects. Researchers and advisors can produce briefings and summaries that provide information rapidly to policymakers.

Governments then need to be able to absorb and use policy research. Otherwise, new information may end up making no impact regardless of its quality or relevance. Government departments need competent senior staff and advisors with experience of specialist issues to gather and assess data.

By making a strong, evidence-based case, good information can help the government to analyze the social and economic costs and benefits of a particular policy proposal and the likely impacts on different groups of people. Open, transparent data can help the government make difficult decisions with greater public awareness and support, such as raising taxes or managing natural resources like forests and marine stocks for future generations.

Do policy processes follow the rule of law?

Political processes can be complex and unpredictable, but they are still expected to follow agreed procedures and laws as defined by the constitution and legal codes. Policy processes typically follow a series of steps.

Most countries adopt specific, formal measures to ensure that policies are both fair and constitutional, such as judicial reviews, parliamentary committees or working groups, impact assessments, “green” or “white” papers documenting policy proposals, official inquiries, and legal commitments to public consultation. Practical steps are also taken to ensure good policymaking practice. These include setting up steering committees, working groups, and review panels.

What is the role of Parliament?

The Pyidaungsu Hluttaw (Union Parliament), established under the 2008 Constitution and active since 2010, is a bicameral legislative body comprised of the lower house (Pyithu Hluttaw) and upper house (Amyotha Hluttaw). The Parliament has three main functions: lawmaking, providing oversight of the government, and representing the public. In fulfillment

Policymaking: a hypothetical case study

If a president of Myanmar planned to decentralize the management of primary schools to states and regions, the following policy development and implementation steps might take place.

1. A senior minister in the Office of the President creates an interdepartmental committee, co-chaired by the minister of education, to prepare a policy paper that explains possible approaches.
2. Policy analysis is undertaken by civil servants in the Ministry of Education, perhaps supported by selected experts from Myanmar and elsewhere. The Ministry of Education consults civil servants from the Union Attorney General’s Office and the Ministry of Finance for advice on funding channels and what the constitution says about state and region government powers.
3. Draft proposals are shared and discussed with ministers from state and region governments, the parliamentary committee on education, teachers’ unions, and members of the public.
4. The senior minister presents the policy paper for debate at a meeting of the Union Cabinet.
5. The Attorney General’s Office is asked to draft legislation according to the Cabinet’s decisions, to be presented to the Union Parliament for debate and a vote.
6. If the Union Parliament approves the legislation according to constitutional voting procedures, the Ministry of Finance ensures that funds are allocated in future budgets for states and regions.

of these functions, Parliament reviews the annual budget, questions the government’s policies, and considers new laws or amendments to support the country’s democratic transition and market-oriented development.

While the Parliament is still new, it has proven to be active in debating issues facing the country and the appropriate policy responses. Outside the two houses, parliamentary committees have shown themselves to be valuable forums for more detailed scrutiny of government policies.

The state and regional parliaments were established under the 2008 constitution. They are also becoming more active, with many starting to pass local laws and policies. The leading bodies of Myanmar’s six self-administered areas have special authority within their respective zones. The policymaking roles of all subnational levels may expand in future if further decentralization takes place.

At all levels, members of parliament have a responsibility to represent the interests of their constituency. This offers another possible channel for people to access the government.

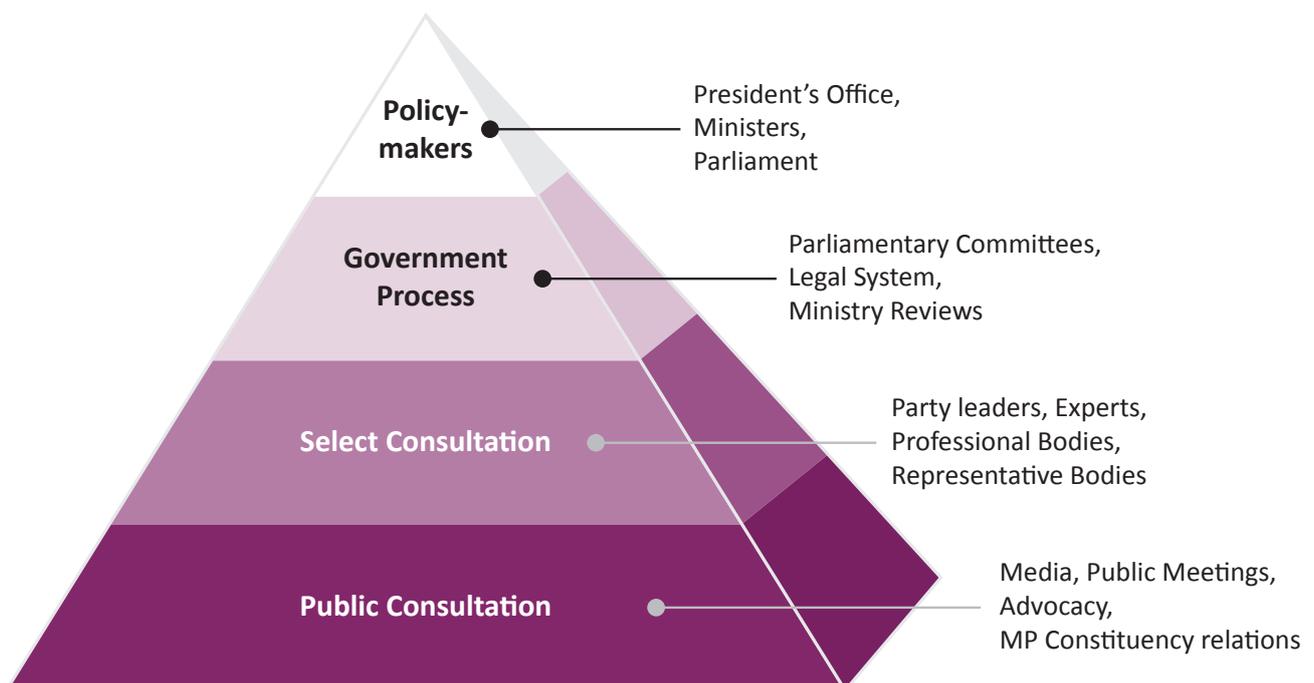
What about budget processes?

The national budget is particularly important in setting out revenues and expenditures, providing clear rationales for raising public funds and how they should be spent to meet specific policy goals. The budget needs to be accountable to the general public, but also has to reflect difficult choices over resource allocation based on policy decisions.

Budget oversight is a key mechanism through which Parliament can improve the policymaking process, policy outcomes, and government integrity. In Myanmar there is growing interest within national and state/region parliaments to have more detailed information on the budget and greater debate on how budget decisions are made.

Many parliaments around the world have developed specialized units to help them assess and analyze budgets proposed by the government. Called the National Assembly Budget Office in Korea or the Parliamentary Budget Office in Australia, these parliamentary budget offices are generally nonpartisan institutions providing analysis and supporting parliamentary oversight of the government.

Levels of policymaking in Myanmar



As Myanmar develops and democracy is strengthened, an increasing number of institutions may be involved in policymaking. At the highest levels, decisions are likely to involve the President's Office, ministers, and the Parliament. The next levels involve other bodies within the government at the Union and state/region levels. Beyond that, consultation with experts, key representatives of interest groups, and the wider public is important.

Policy Reforms in the Telecoms Sector in Myanmar: A Case Study

Reforms in the telecoms sector are a recent example of successful policymaking. New regulations and major investments have revolutionized the sector in only a few years. SIM cards are now widely available, and new networks continue to be rolled out to remote areas.

Initial steps were taken primarily by one of the reform-minded technical experts appointed by President Thein Sein to advise his office. Advisors then used international evidence to show that Myanmar lagged behind almost all other countries in phone and internet access, and that improving telecommunications would have important economic and social benefits. They countered critics by showing that the government would increase its revenue by auctioning licenses.

The president's advisors proposed that the Ministry of Communication and Information Technology should become more like a regulating agency. With support from a World Bank team of international experts, telecommunications laws were updated. The government then engaged an international consulting firm to assist in conducting the tendering process for telecommunications licenses.

When the draft telecommunications law was submitted to Parliament for approval in October 2012, opponents used their influence to try and block the draft. In June 2013, one day before the ministry was to announce the winners of the tender, parliamentary opponents passed an emergency motion to block the licensees.

In response, the newly independent media accused opposing members of Parliament (MPs) of supporting the interests of cronies ahead of citizens. The president then warned Parliament that Myanmar's credibility with international investors was at risk. The new law was passed the next day with overwhelming support.

Policymaking during the administration of U Thein Sein

The government headed by U Thein Sein (2011-16) operated in an increasingly complex political environment. Policymakers had to consider the limited but increasingly active role of the new Parliament, a growing non-governmental sector including the emergence of an independent media, and greater interest in maintaining good international relations. Decentralization to states and regions has also increased the potential for local policymaking.

Over this period, policy processes remained focused on the President's Office and a few senior ministers. Given how closed the policymaking process was in earlier times, positive changes were made in response to the new environment, and some significant successes were achieved.

- President Thein Sein's government pioneered some new consultation initiatives. Policymakers engaged specialist advice on specific issues. Ministries also made greater use of international technical expertise through engaging outside agencies and in some cases by working with specialists seconded to government departments.
- Some wider public consultation was attempted, for instance using the media to publicize policy proposals and taking subsequent responses or complaints into account.

- Working groups were set up in many different sectors, from international trade to the environment. Some working groups were large and inclusive, while others involved a limited number of national and international organizations. They provided space for government ministries to engage with domestic civil society and international bodies, especially when responding to technical issues such as climate change.
- Data has gradually become more accurate and comprehensive. It was increasingly used as a basis for policymaking.

The new Government of Myanmar has significant opportunities to improve policymaking processes further, building on progress made to date.

How can government departments support policymaking?

Departments not only implement agreed policies and manage government activities, but also contribute to policymaking. When a president or a minister wishes to develop a new policy or adapt an existing one, the relevant department may be responsible for managing the process, including assessing the potential impacts and revising plans accordingly.

In order to support policymaking, senior civil servants (such as directors general and state/region executive secretaries) need the capacity and experience to understand policy issues. They must also work with other organizations and support wider consultation on new policy ideas. In Myanmar and elsewhere, government departments may employ experts or develop specialized, in-house units to address certain policy issues. Or they can seek advice by consulting external specialists when the need arises. Government departments are also able to check whether policy proposals that may sound like good political ideas can actually be implemented in practice.

For example, in 2013 the Ministry of Finance published its first Public Financial Management Performance Report. The report, supported by outside experts, provides an assessment of the effectiveness of the government of Myanmar's public financial management system and identifies how to improve the way the government raises revenue and spends its money. The minister of finance has started to implement the findings of this report.

Two trends are likely to reduce the amount of implementing work that central government departments have to do, leaving them better positioned to work on policy issues. First, some of their powers are likely to be decentralized over time to states and regions or to lower levels. Second, as Myanmar continues to encourage more economic growth and investment, some departments will gradually reduce their responsibility for implementation. Instead, they will concentrate on regulating and monitoring other bodies such as private companies and non-governmental associations.

How can policymakers use consultation to strengthen policymaking?

Policymakers (whether ministers, members of Parliament, or senior civil servants) can establish processes to consult important sources of information. National and foreign experts should usually be consulted. Depending on the specific policy under consideration, wider consultation that reaches beyond a small number of experts may be an opportunity to listen to the views of interest groups and representative organizations: trade unions, chambers of commerce, NGOs, professional trade associations, ethnic minority and religious leaders, other government departments, local government administrations and parliaments, and so on.

When conducted effectively, consultations can improve policymaking and help to manage the risk that a new policy will meet strong opposition at a later date. Consultation requires time and attention in order to ensure that valuable information feeds into the policy process, and to discourage powerful interests from manipulating consultations or limiting debate. Possible methods include:

- Peer review – sharing proposals with select expert groups and seeking feedback.
- Advisory groups or committees that form part of the policy process, often incorporating governmental and non-governmental representatives.
- Seminars, conferences, and meetings – either conducted confidentially or with open media access.
- Social media or web-based platforms – sharing draft laws or policies online for public comments.

Enhancing public participation and engagement

Closing the gap between government and the people is a new priority for the government. It involves finding ways for politicians and civil servants to listen to the varied views and concerns of people across Myanmar.

Two-way flows of information not only inform people of government decisions but also let the government know people's views. Listening to popular concerns can help to check available data, to test policy proposals, and to ensure that plans are in the public interest.

Public consultation can also help policymakers to negotiate the many obstacles that efforts to promote reforms often encounter. Broad public support and backing from radio, television, the Internet, and newspapers make it harder for powerful vested interests inside or outside the government to block proposed policy changes.

Consultation has its downsides, too. It risks slowing down reforms, and can be taken over by well-organized interest groups or political opposition. Consultation can also be costly. Careful management is needed in order to avoid these pitfalls. Consultations can come in many forms:

- Research – finding out the views of citizens through questionnaires, online surveys, focus groups, or interviews.
- Public events – open meetings, televised debates, stakeholder forums.
- Seeking the views of representatives of different groups including marginalized members of society such as landless farmers, ethnic or religious minorities, and women.

Who outside the government can provide support for policymaking processes?

In Myanmar, political advisors have tended to act as links between senior policymakers and experts, matching the supply of inputs to the policy process with demand for information. Their role has been vital, given limited policymaking experience within ministries and a lack of formal channels between the government and other organizations.

There is a need for more structured ways of working that enable policymakers to access both evidence and people's views. Government policymakers can make use of many potential partners including international agencies, policy institutes, NGOs, civil society and business networks, market research companies, and universities. Bodies within the government can also contribute usefully to policymaking: ministry research units, parliamentary staff, and other bodies.

Policy institutes – organizations that support government policymaking processes – exist across the world, including in many Southeast Asian countries. They tend to have some independence yet operate close to the government system. Some policy institutes have their roots in civil society. Others are based in universities or work directly with a particular government department.

Many new policy institutes have emerged in recent years in Myanmar. Often supported in part by foreign funding, these institutes address a range of issues from economic growth to peace building. Government policymakers can seek external support from policy institutes and other organizations for many tasks:

- Understanding important issues: conducting new or summarizing existing research, proposing policy options.

- International comparisons: explaining international guidelines and policy experiences from other countries.
- Testing policy proposals: expert reviews, public scorecards, and policy debate to test proposals.
- Communicating with interest groups and specialists: policy notes or informal briefings, reviews, and seminars involving mass media to communicate findings.
- Public consultations: explaining policy proposals and seeking public responses, local meetings to seek popular views including marginalized groups, opinion surveys.
- Evaluation and assessment: monitoring policy impact over time, establishing advisory groups, and training policymakers including MPs and civil servants.

About The Asia Foundation

The Asia Foundation is a nonprofit international development organization committed to improving lives across a dynamic and developing Asia. Informed by six decades of experience and deep local expertise, our programs address critical issues affecting Asia in the 21st century – governance and law, economic development, women’s empowerment, environment, and regional cooperation. In addition, our Books for Asia and professional exchanges are among the ways we encourage Asia’s continued development as a peaceful, just and thriving region of the world. Headquartered in San Francisco, The Asia Foundation works through a network of offices in 18 Asian countries and in Washington, DC. Working with public and private partners, the Foundation receives funding from diverse group of bilateral and multilateral development agencies, foundations, corporations, and individuals.



The Asia Foundation

Improving Lives, Expanding Opportunities

21, Bo Yar Zar Street | Ward 14, Kyauk Kone | Yankin Township | Yangon, Myanmar

Tel: (+95) 01 570 619 | Fax: (+95) 01 566 701

myanmar.general@asiafoundation.org

www.asiafoundation.org