

Policy Formulation for Transforming the Economy at the State Level in India

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Abstract: Over the decades, in spite of sustained efforts, stakeholders continue to express concerns about the policy is made and how it will meet future challenges. There are no obvious common measures that could capture the range of effects policies produce; the timescale over which any judgment should be made is contested; and there would be serious difficulties in making causal links between policies and outcomes. This paper explains how policy is made at a state level in India. Its focus is primarily on policy making in the state government, taking place in the interaction between ministers, civil servants and stakeholders. Relatively few studies have tried to do this for government as a whole. It maps the process of policy formulation at the state level and its critical dimensions.

Key words: policy; transformation; formulation; economy; state; India; Karnataka

JEL codes: E6, H7

1. Introduction

Policy making has been traditionally seen as main function of the Parliament at the national level and the Assembly at the state level in India. In spite of sustained efforts, over the decades, to improve policy making, civil servants, politicians, academics and stakeholders continue to express concerns about the way policy is made, and whether it is ready to meet future challenges. These concerns need to be taken seriously. The strength of policy making is integral to the strength of government as a whole, and that of the country at large. Michael Hallsworth et al. (2011), based on their 14 years of study indicate that, when policies fail, the costs (whether monetary or otherwise) can be significant. The task of improving policy will not be accomplished overnight. In a recent speech, Tony Blair recommended that the Institute should “*provide a continual education about the process of policy making*”¹. Those who observe and analyze policy making are often even more critical. As a recent overview of the topic argued, “*policy scientists have documented time and again that policy makers fail to accomplish their objectives; that policies can have serious unintended effects; and that efficiency is not exactly the guiding principle in many public sector programmes and organizations.*” (Mark Bovens, Paul T. Hart, & B. Guy Peters,

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¹ Tony Blair's speech to the Institute for Government, 28 June 2010, available online at: http://www.instituteforgovernment.org.uk/pdfs/tony_blair_addresses_institute_for_government_transcript.pdf.

2001, pp. 7-8).

Many would argue that to assess the quality of policy making one must examine the outcomes it achieves. Undoubtedly, policies should be judged by their effects rather than their intent, and there are many studies of individual policy failures and (to a lesser extent) successes which attempt to do exactly that.² Harold Lasswell (1936) famously defined politics as “*who gets what, when, and how*” (Harold D. Lasswell, 1936). But, Hallsworth et al. (2011) argue that these four aspects represent the “what, how, who, and why” of the policy process.

But when it comes to making an *aggregate* assessment of policy making outcomes, the problems quickly mount up. There are no obvious common measures that could capture the range of effects policies produce; the timescale over which any judgment should be made is contested; and there would be serious difficulties in making causal links between policies and outcomes.³ Even where studies have been conducted, they have struggled to develop objective and widely accepted measures of policy making quality.⁴ “Policy making” is often understood to mean the formal expression of activities undertaken by government to achieve outcomes, often through legislation.⁵ The strength of policy making is integral to the strength of government as a whole, and that of the country at large (Hallsworth et al., 2011).

For all these reasons, this paper explains how policy is made at a state level in India. Its focus is primarily on policy making in the state government, taking place in the interaction between ministers, civil servants and stakeholders. Relatively few studies have tried to do this for government as a whole.⁶

The important role of states in the development process of the country was recognized by the Government of India in setting up the NITI⁷ Aayog: “States do not want to be mere appendages of the Centre. They seek a decisive say in determining the architecture of economic growth and development”. Since, most economic action had shifted to states, it observed that the “Centre-to-State” one way flow of policy had to be replaced by continuing partnership of states. Now that the Policy Commission is announced by the Government of India, in place of its earlier Planning Commission, the country focus is shifting from planning process to policy formulation. It also indicates that India strongly needs better policy forming process, due to its multidimensional implications.

The distinction between policy and planning often gets blurred. The broad policy goals such as elimination of poverty or providing affordable health care be generally accepted, whichever the party in power, at the center or in the states. What could be different is the strategy for achieving the goals. Whether the emphasis should be on

² Notable full-length studies include: Butler, Adonis and Travers, *Failure in British Government*; Irving L. Janis, *Victims of Groupthink*, Houghton Mifflin Company, 1972. Analyses can be found in the relevant academic journals, such as *Public Administration and Public Policy and Administration*; in the reports of the National Audit Office, Public Accounts Committee, Public Administration Select Committee and departmental select committees; in independent inquiries commissioned by government; in the outputs of think tanks and research institutes; and, of course, in newspapers and magazines.

³ For an overview of these problems, see Michael J. Hill, *The Public Policy Process*, Pearson Longman, 2005, pp. 6-22.

⁴ Some studies have argued against the concept of identifying ‘best’ government practices that can be applied across countries. See Matt Andrews, “Good government means different things in different countries”, *Governance: An International Journal of Policy, Administration, and Institutions*, Vol. 23, No.1, 2010, pp. 7-35.

⁵ This is the way that most policy makers understand policy. See: Edward C. Page and Bill Jenkins, *Policy Bureaucracy: Government with a Cast of Thousands*, Oxford University Press, 2005, pp. 56-59. It is also how most observers appear to perceive policy: the great vast majority of policies selected by members of the Political Studies Association in response to an Institute survey possessed these characteristics; for more details, see: www.instituteforgovernment.org.uk/betterpolicymaking.

⁶ Most academic policy analyses do not attempt to judge policy outcomes across government, but focus instead on discrete ‘policy sub-systems’. Peter John, *Analyzing Public Policy*, Pinter, 1998, p. 6. Those that attempt to take an aggregate view usually do so in order to make international comparisons, but even then rarely make a judgment on ‘policy making’ as such. One of the most useful of these studies is OECD, *Government at a Glance*, 2009.

⁷ National Institution for Transforming India (NITI). A restructured organization of the former Planning Commission of India.

economic growth or social justice has been a matter of endless debate. Here again, the center, depending on the political formation, sets the trend and the states, by and large, follow the same. Once the allocations are made under the Five Year Plans, it becomes a matter of implementation. Most of the central policies and programmes (except those pertaining to purely central subjects like defense or foreign affairs) are actually implemented by the state governments.

A good policy does not necessarily lead to good development, unless it is implemented in its intended spirits. It also demands professional capabilities at the implementation and monitoring levels. While the policy formulation happens both at national and state levels, the actual development will be in most development sectors at the state level to be implemented by the state agencies.

It is interesting to watch if the action taken at the national level of converting Planning Commission to Policy Commission will become a trend setter at state level to reengineer the State Level Planning Boards to Policy Boards. Indeed, with the advent of stronger and more professional bodies emerging in recent decades, outside the government arena, which also marshal quick analysis and policy briefs at sectoral and macro levels, the planning boards are losing their sheen. Hence, many states are hiring professional agencies (e.g., Price Water Coopers, Ernst and Young, Deloitte) at huge cost to prepare sectoral and analytical reports and Vision Documents (for example, Andhra Pradesh, Karnataka).

In this context, it would be useful to understand the process of policy formulation at the state level and its critical dimensions. To a large extent, this is also true at the national level. But the discussion here is focused on state level scenario.

2. Constitutional Framework

The Constitution of India provides for a federal structure of states but whether in reality, India is more federal or unitary in character, has been the subject of intense debate. According to the Constitution, India “shall be a Union of States”. The constitutional expert Durga Das (1987) opines that the constitutional system of India is basically federal but with striking unitary features. The salient federal and unitary features are summarized below.

Federal features:

- Dual Government: There are two governments-the national or federal government and the government of each component state.
- Distribution of Powers: There is distribution of powers between the federal government and the states.
- Supremacy of the Constitution: Every power-executive, legislative or judicial-is subordinate to and controlled by the constitution.
- Authority of Courts: The courts have the final power to interpret the constitution and to nullify any action of the federal or state government which violates the provisions of the constitution.

Unitary features:

- While the division of powers has been specified under the central and state lists, the residuary power has been vested in the Union.
- In carrying out amendments to the constitution, the role assigned to the states is minor and in some matters, the states need not even be consulted.
- The Union exercises control over the states in various ways like appointment of Governors, certain laws passed by the state legislatures being subject to disallowance by the President and having the power to

redraw the boundaries of the states.

- Officers of the All India Services (IAS, IPS, IFS) serve the union and the state governments but are appointed by and can be removed only by the union government.
- In times of emergency, the Union can exercise enormous powers including the power of legislation in respect of subjects coming under the state list. It can bring any state under President's rule if it is satisfied that there is a constitutional breakdown.

To sum up, while the constitution of India has both federal and unitary features, there is a strong central bias in the distribution of powers.

Policy making in India, whether at central or state level, has to be guided by the above constitutional provisions. The subjects where central and state governments are competent to legislate are specified in List 2 and List 3 respectively in Schedule 7 of the constitution while subjects where they have concurrent powers are given in List 3. Part 3 of the constitution dealing with the "Government of the States" details the powers and functions of the State Executive and the State Legislature.

At the national or macro level, these are challenges for the central govt. Thus, although some subjects⁸ come under the State List or the Concurrent List (like Education) under the constitution, state policies are influenced by the national policies framed by the central ministries. In spite of greater devolution of funds to the states as envisaged by the 14th Finance Commission, the center still wields enormous financial clout through newly designed national programs⁹. All these programs are incorporated into the state budgets. Several development policies of the states are thus dictated, partially or substantially by the center.

3. Policy Making Process

Policymaking may be defined as "the process by which governments translate their visions into programs and actions to deliver 'outcomes' - desired changes in the real world" (Cabinet Office, UK, 1999). The ideal way of making a policy is to adopt the rational actor model which expects the government to act like a perfectly rational individual who always chooses the best policy in the interest of the nation. Under this model, the government would have total command over the external environment and the state machinery would faithfully implement the government policy. However, this is hardly the case in the real world. A more accepted concept is that of "incrementalism" propounded by Lindblom, i.e., the process by which decisions are *actually* made in government. In practice, not all the characteristics of a problem are analyzed and not all options are explored. An incremental approach is adopted which may yield satisfactory results. According to Herbert Simon, everyone is governed by "bounded rationality" which implies that none can gather all information and process it perfectly to arrive at a rational decision.

Theoretically, policy is laid down by the political authorities, i.e., the legislature and the political arm of the executive comprising the council of ministers and individual ministers. Laws passed by the legislature (Acts) provide the framework for detailed policy making by the executive. A policy may originate outside the law but cannot contravene any law or the constitution. As the ministers are assisted by the bureaucracy in performing their

⁸ Like, 1) Elimination of poverty, 2) Quality of education, 3) Affordable health care, 4) Revitalization of agriculture and farmers' welfare, 5) Managing urbanization, 6) Infrastructure development and provision of basic services-rural and urban, 7) Environmental protection, 8) Governance reforms.

⁹ Such as, the Swachh Bharat Mission, Smart Cities Mission, Skill India and Digital India as well as the earlier centrally sponsored schemes like the MNREGS and the Rural Health Mission.

functions, the latter plays an important role in the formulation of policy. Often, it is the secretary to government who initiates a policy and the final decision is taken by the minister or the cabinet. However, several factors and players may be involved directly or indirectly before a certain policy emerges. The policy may be influenced by players or forces inside or outside the government. Interest groups, lobbies or powerful individuals may exert influence or pressure and their views could play a part in the shaping of policy. Examples of such pressure groups include farmers, industry and trade associations, teachers and certain sections of civil society.

In a democracy, policy making may be said to start even prior to elections. During the pre-election phase, the political parties make promises which could get converted to policies during the post-election phase. Indeed, the winning party is obliged to fulfill the promises made in its election manifesto. However, a party in office is subject to several constraints and it may or may not translate all its promises into action. This is particularly so when a single party does not get a majority and a coalition government comes into being. The present government in Jammu and Kashmir is a shining example of the complexities of coalition politics where two political parties, with very different ideologies, have come together to form the government. Each party is forced to keep some of its major promises on the backburner and stick to a common agenda. Even a party with a clear majority is bound by the constitutional and legal requirements and limitations of funds and rules of expenditure.

The true test of a policy or a plan lies in its implementation. And this is where role of the states becomes crucial. Effective implementation depends primarily on two factors, availability of resources and governance mechanism for service delivery. The track record of implementation of policies and programs varies from state to state. By and large, the record of southern and western states presents a better picture than that of the northern and eastern states. This is because of better resource mobilization and better governance on the part of the former than the latter. However, there are several bottlenecks in implementation of projects, particularly large infrastructure projects in all states. Glaring examples of enormous delays can be cited in executing irrigation and power projects resulting in huge cost and time overruns. The causes of poor implementation are many — faulty planning, lack of adequate funds or non-release of funds in time, opaque procedures, lack of well qualified and skilled manpower and poor monitoring systems. State monopolies, such as in water and power distribution sectors and the power of discretion to apportion resources have also led to clientelism and corruption.

Clientelism in policy making: Clientelism or large scale patronage refers to the exchange of goods and services for political support. It is based on the principle ‘take there, give here where voters trade political support for various outputs of the public decision making process (Richard Graham,...). In his analysis of clientelism in India, Weiner (1967) pointed out that the Congress party had become “a means of obtaining jobs for friends and relatives and of gaining access to the many services and material benefits which government at all levels can bestow”.

Subsidies for the rich or for those who can afford are one glaring example of clientelism. Interestingly, the Economic Survey of 2016 (ref....) brought out by the Ministry of Finance points out that the well-off sections enjoy subsidies to the tune of Rs one lakh crores. Fertilizer subsidy by the central government and free power for agricultural pump sets by state governments continue till this day as farmers are considered a solid vote bank. Huge investments are made in the irrigation sector to provide assured supply of water to boost agricultural production but water rates or user charges are minimal and hardly collected. Subsidies to industries are doled out in the form of tax exemptions and concessions. It may be argued, at times justifiably, that subsidies are essential to promote or encourage certain types of industry. Nonetheless, it also amounts to redistribution of public income in favour of the privileged. Offer of jobs or employment in the bureaucracy or the public sector is another powerful

tool of patronage. In any developing society, the increasing working age population drives the demand for more jobs. Employment in the public sector is particularly attractive because of the security it offers, irrespective of the degree of efficiency in the performance of an individual. Although at the federal level, institutions such as the UPSC have earned a reputation for fairness and impartiality in recruitment process, the same cannot be said of the Public Service Commissions or other recruiting agencies in states.

4. Policy Making at State Level

The essential features of policy making are broadly the same both at the central and state levels in India. The legislature makes laws, the executive implements the laws and the judiciary interprets them. Making policy based on laws enacted by the legislature or other considerations of development and welfare is the prerogative of the executive. Within the executive, several actors come into play in formulating a particular policy. In a department, the initiative may come from the Minister or the Secretary. In the Indian context, more often than not, the Minister seems more interested in administrative matters such as postings and transfers of officials or award of contracts leaving the burden of policymaking to the Secretary. The final say, however, rests with the minister and in some matters with the cabinet.

The Allocation of Business Rules of each state lay down the powers and responsibilities to be exercised by different authorities at various levels. Each department is responsible for developing its own policy but it cannot always take decisions independently. Rules require a consultative process to be adopted before a final decision is taken. Matters having financial implications need concurrence of the Finance department and those involving legal issues require opinion of the Law department. Where a major policy is to be formulated, views of various departments having a bearing on the subject would have to be obtained. For instance, while developing the industrial policy of a state, consultation with Finance department is essential if incentives are to be granted to any class of industries, Revenue department where government land is involved for setting up any industry and the Urban Development department in case the proposed policy has a bearing on the master plan of a city. A draft policy is then submitted to the cabinet in the form of a cabinet note setting out the position of different departments and seeking orders on the points of disagreement, if any. It is for the cabinet to reconcile different positions and approve the policy with whatever modifications deemed necessary. The cabinet may constitute a subcommittee to go into the details of the draft policy or a particular issue and then take a decision based on the recommendations of the latter. At times, constitution of a subcommittee becomes the route to delay, defer or avoid decision-making. Similarly, a minister may set up a committee for fresh light to be thrown on a subject.

Although the subjects within the domain of central and state governments are clearly specified in the constitution, the central government often tends to formulate policies on state subjects. The National Health Policy and the National Housing Policy are examples of this phenomenon. The centrally sponsored schemes are another way of exercising financial control over the states. Huge amounts are allocated under schemes like MNREGA, JNNURM and Rural Health Mission which indirectly dictate policies on areas under the state domain. The recent policy pronouncement of the Prime Minister on cooperative federalism promises greater autonomy to the states. By accepting the 14th Finance Commission's report and enhancing the state's share of divisible taxes from 32 percent to 42 percent, the Government of India has taken a major step towards fiscal decentralization. The states have now greater freedom to design policies with more resources in their kitty.

4.1 Steps in the Evolution of Policy Making

4.1.1 Step 1

At the outset, the seeds for new set of policies and programmes are generally sown much before the election and the voting date by any particular party. Each political party would like to profess and argue for a new set of governance and development measures they perceive to bring in, if they voted to power. In a way, it is a broad set of promises; the political parties are used to promise before the voting date. The process is quite interesting.

To begin with, a political party adopt the broader framework of their national party agenda (unless, a state level party). It includes the wide scale welfare measures for the public to take the country forward both in terms of economic and social development, in tune with the national agenda, why the national party prepares the manifesto at the national level with set of promises and in some cases, specific numbers. Similarly, the state-level party lists out both the general welfare measures and substantial portion of the state-level manifesto, which also focuses on state specific issues; for example, it may include regularization of the slums in the existing entrenched/non-entrenched lands, waiving off agricultural loans, providing free power supply to irrigated pump sets, providing full costs for a girl child education, introducing or enhancing old-age pension schemes and so on.

These schemes are generally focused on specific target groups (for example, girl child, old people, farmers, minorities, landless and so on). Hence, the political parties compete with each other in pronouncing the target group specific promises both in terms of likely coverage and the quantum of assistance. These promises are generally for all sections of people. On the path of converting these promises into targeted policies, a political party considers a few definite steps as shown in Figure 1.

Some key features of this process are:

- (1) The steps are in tune with the national level party manifesto.
- (2) Take care of the site specific social groups and weaker sections.
- (3) Both the national-level and state-level political parties constitute a group or a cell consisting of party seniors, Party sympathizing intellectuals for regular interactions and distilling the specific points.
- (4) Consultation process with the social group representatives, trade unions, former leaders, resident welfare associations, various trade unions and industrial and trade organizations. They also get formal memorandum/request by these organizations/groups to include the requests in the party manifesto. If the party wins and forms a government, the trade organizations/groups would like to ensure that their agenda translates into actual policy/program.

4.1.2 Step 2

Assuming a particular political party is voted to power and forms the government (either on its own majority or with other political parties), the political party/parties would like to pursue their promises made in the manifesto. Generally, these political parties will embark on their path of governance and to get a hold on their voters, they would try to fulfill (or formally announce) their promises in the first 100 days; further, they will try to conceptualize and incorporate their promises made in the manifesto into the existing process. A critical opportunity they get in the process is to convert their promises into schemes or special projects, in the earliest annual budget. This will be their first public document to set their path to walk for the rest of the year. In this annual budget speech, the Chief Minister and the Finance Minister in consultation with the respective government departments, stakeholder groups, their elected colleagues and the ministers initiate a series of consultations to discuss sector-wise/department-wise new policies. After being voted to power, each political party would like to show its fire power. Hence, they would like to energize itself by translating most of the promises made in the

manifesto into actual policies and introduce these policies/schemes in the very first annual budget.

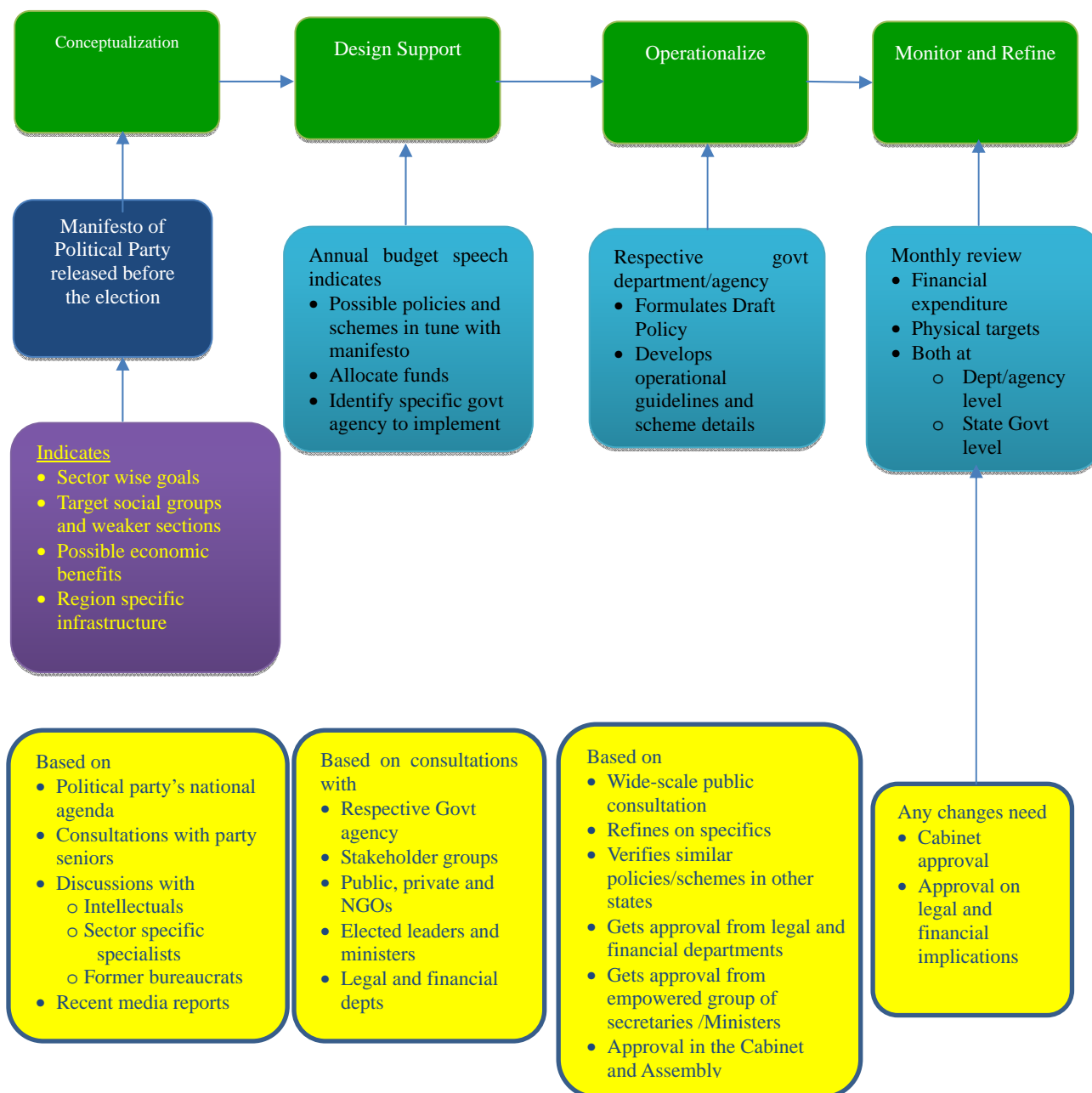


Figure 1 Targeted Policy Formulation Process at State Level

In majority of the cases at the state level, the new party in power ensures a minimum of 50 percent of their promises made in the manifesto are introduced partially/fully into their first year of annual budget. They seriously consider this as a winning stroke and the political party also announces that it has already achieved 60 percent of the promises made in the manifesto. This is true with all political parties, as the authors of this paper reviewed the manifestos and annual budgets of the first year (of the new government formation), in case of Karnataka (for the last 20 years), Tamil Nadu (last 10 years), Maharashtra (10 years), Andhra Pradesh (new state, one year old by June 2015) and Telangana (new state, one year old by June 2015).

4.1.3 Step 3

Once the announcements are formally introduced as part of the annual budget speech, the Chief Minister and on the other hand, the party president and its executive committee would like to ensure that their ministers who head the line department (e.g., agriculture, horticulture, industry, education, women and children, social welfare) implement them with full spirit. This will happen through:

(1) The line department develops a full-fledged draft policy/scheme with all the intended beneficiaries' details with geographical spread and the coverage month-wise.

(2) Also, the line department under the leadership of the concerned minister develops guidelines to help the administrative staff both at the state and district levels.

(3) In the whole process, the government departments ensure that they follow the rules framework and get through the empowered committee of the department and then approval of the cabinet and if required, also approval of the state assembly (both lower house and upper house). If the upper house rejects owing to weakness in the proposed Bill or Scheme or due to lack of majority of the state, the ruling party issues this through an ordinance with the approval from the state governor. Later, in the next six months, the ruling party ensures its approval in the upper house.

4.1.4 Step 4

Once the policy/scheme gets operationalized, the ministry and the line department need to ensure that there is a monthly review of financial expenditure and meet the physical targets both at the state level and at the district/region level. Since this is part of the ruling framework, it becomes part of the regular process of the government bureaucracy to monitor on a monthly basis and to review its constraints, if any, and list out the inadequacies. The state-level head of the department conducts a reviews with all directors, commissioners, secretaries and principal secretaries to list out the inadequacies in the design of the policy/program and to identify the constraints in operationalizing it. In which case, the concerned departments will clarify and provide the course correction options.

4.2 SWOT Analysis

Overall, these steps of the process have their own advantages and also inadequacies. The SWOT analysis (see Figure 2) of this process indicates both internal and external factors influence this process. On one hand, good policy making process and its effective functional design and execution needs a stable government for fixed term (e.g., Gujarat, Chhattisgarh, Madhya Pradesh). On the other hand, in spite of good policies and good intentions, owing to poor execution, the intentions may remain only on the paper (e.g., Uttar Pradesh, West Bengal).

In the end, any ruling party in power always keeps the next elections in foresight. It continues (particularly in the last one or two years of its term) to focus on what kind of new policies and programmes may bring them back to power and garner more voter attention. It is here that high level of subsidies, e.g., almost free electricity supply to irrigation pump sets, low priced food grains (rice and wheat), higher level of old-age pensions, farm loan waiver or defer payments are introduced with revised or new set of policies.

4.3 Policy Environment

What ought to be a particular policy and what finally emerge as a policy are not necessarily the same. Apart from the ideology of the party and the ideas of the bureaucracy, the policy environment, i.e., external factors and external players, plays a significant role in influencing the policy. Interest groups or lobbies constitute an important part of the policy environment. Such groups may be private interest groups or public interest groups. The former may represent specific interests of a particular industry or business or profession and seek benefits

such as tax exemptions, concessions or subsidies. On the other hand, the latter, mainly civil society groups are expected to represent the interests of the public in general, like an environmental cause or of a community such as the tribals. The media has also emerged as a powerful force in influencing decisions of the government.

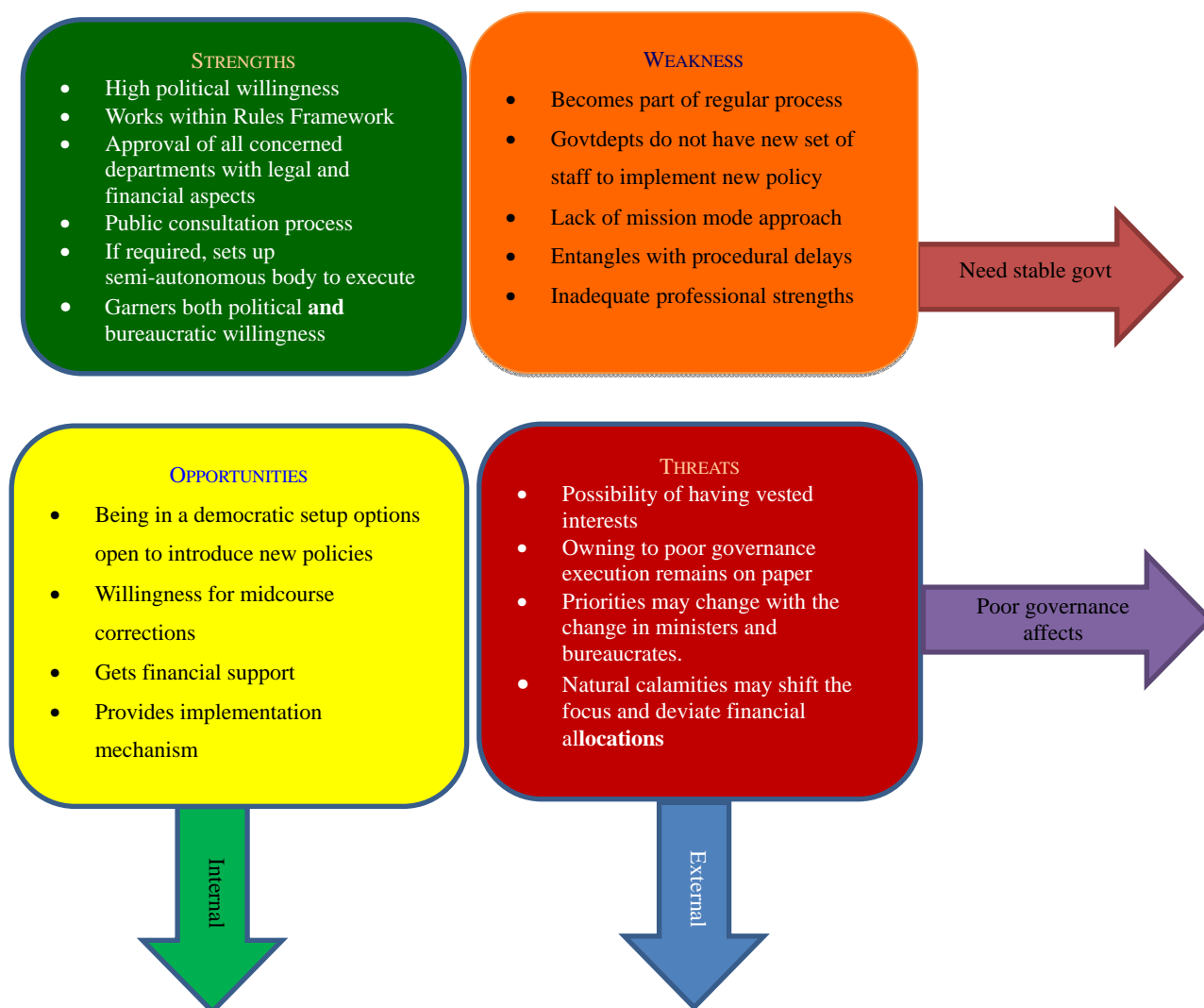


Figure 2 SWOT Analysis of Policy Formulation Process at A State Level

In the educational domain, for instance, in determining the policy for technical education, the policy ought to aim at creating an environment that promotes excellence and at the same time provide opportunities for students from different strata of society to acquire technical qualifications, reconciling quality and equity. There has always been a tussle between the state governments and the private professional colleges in determining the number of seats and the fee structure, including the capitation fee, by whatever name it is called. In Karnataka, the first state where engineering and medical colleges were established in the private sector, the state government brought a law to regulate their functioning, viz, the Karnataka Professional Institutions (Regulations of Admissions & Determination of Fee) Act, 2006. However, the government has been unable to implement the law on account of pressures from various quarters. Another key player in this field is the apex regulatory authority, the All India Council of Technical Education (AICTE) in case of engineering colleges and the Medical Council of India(MCI)

in case of medical colleges. Unfortunately, some of the actions of these authorities responsible for regulating standards in professional courses, have been suspect in terms of their integrity and they have been accused of colluding with private managements in compromising standards.

The ongoing controversy over the language policy for primary education in Karnataka is another example of how external factors influence policy making. The policy aims at making the mother tongue the medium of instruction at the primary level compulsory. The players involved are the state government, private schools (wanting to impart education in English medium), the parents and the judiciary. It is interesting to observe that the state government continues to insist on mother tongue as medium much against the norms of the schools and the wishes of the people (parents) and the verdict of the court. The interest group advocating the cause of the mother tongue, supposedly in public interest is the pro-Kannada litterateurs whom the government does not wish to alienate. Consequently, a large number of English medium schools continue to run without recognition, making a mockery of the law and the government.

Examples can be multiplied of how the government is subject to pressure or influence from a variety of sources. The agricultural sector continues to enjoy subsidies both from central and state governments as no political party wants to be branded anti-farmer. It is common knowledge that the central subsidy for fertilizers and the state subsidy for power have caused more harm to the economy than bestowing benefits to deserving farmers. The fact is that policy cannot be disassociated from politics and public policy cannot be separated from electoral politics. In normal circumstances, good economics or good governance is not necessarily good politics. Policies may change for the better under extreme economic compulsions as in 1991 or when prolonged bad governance jettisons a government out of power as during the elections of 2014 both at the centre and in some states.

4.4 Role of the Judiciary

The judiciary has been playing an important role in policy making mainly for two reasons. First, the increasing number of legislations which need to be interpreted whenever they come up before the courts and secondly, the emergence of a more assertive judiciary, at times encroaching on the territory of the executive. The courts have also tended to intervene in the actual implementation of policies and issue directions to the executive, especially whenever the state acts arbitrarily without due regard to the law and the constitution. The consequences of judicial intervention have been both positive and negative. In the case of mining in Karnataka, mining of iron ore was stopped in three mining districts of the state by the High Court of Karnataka following a writ petition in 2010 alleging illegal mining. When the matter went to the Supreme Court, the Forest Bench of the court directed the Centrally Empowered Committee (CEC) to delve into cases of illegal mining and report it. All mining activity in these districts came to a standstill creating an adverse impact on the economy and employment in the area. Such a development may be explained in two ways. Restraining illegal activity can be viewed positively; applying a brake on an important segment of economic activity with jobs of a large number of workers at stake may be seen as a negative outcome. After a period of two years, when the Supreme Court allowed partial resumption of mining, it also ordered setting up of a company to undertake environment restoration work in mine ravaged districts of the state.

Where does one draw the line when it comes to the question of powers of judicial review of executive action? This issue is not peculiar to India and is common to all democratic polities where “the courts have tended to move from the byways to the highways of policy making” (Horowitz, 1977). Does issuing fiats to the government amount to assuming executive powers of the state? The Supreme Court itself has articulated the power it enjoys as well as the limits to its own power. In the 2 G case, while cancelling 22 licenses, it observed: “Under the

Constitution, judicial review is one of its basic features and in exercise of such judicial review, the court can certainly scrutinize and even strike down policy decisions of the executive when such decisions are unconstitutional.” In another case, it noted: “Judges must know their limits and must not try to run the government....There is broad separation of powers under the Constitution and each organ of the state, i.e., the legislature, the executive and the judiciary must have respect for the others and not encroach into each other’s domain” (Supreme Court: 2007, Indian Law Journal). As matters stand, the courts themselves seem to be the arbiters of judicial policy making.

4.5 Policy Reform

The economic crisis of 1991 led to the major policy reform of liberalization resulting in the dismantling of the license-permit raj. This had a significant impact on the economic growth and development of the country. However, the reforms ushered in at the national level were not followed up with the required reforms at the state level. Hence provision of basic services such as water supply, electricity, urban infrastructure and supply of land for housing continue to bristle with difficulties. The last few years have seen a policy shift from state monopoly and centralization towards involvement of the private sector in the development process and decentralization of power to local bodies.

4.6 Private Provision of Public Goods

Inefficiencies in the provision of public goods by the state have led to a debate on the desirability of privatizing or contracting out some of the public services. Public goods are those which are non-excludable and non-rivalrous, “...consumption of it by one individual does not actually or potentially reduce the amount available to be consumed by another individual” (Gravelle & Rees...). In other words, what is supplied to one person is available to all. Infrastructure services such as roads, walkways or streetlights are accessible to everyone. Maintenance of law and order and protection against crime are public services the state is bound to provide to all citizens. It can, however, be argued that some of the public goods and services can also be delivered as private goods, i.e., they can be sold to those who can afford to pay the market price. Where all consumers can afford to pay the market price, the state can ensure that the particular class of people who cannot afford to pay are provided goods at a concessional price.

Public sector organizations, as distinct from the government departments, are also engaged in delivery of public services. These organizations may be parastatal bodies like water supply boards or registered companies like electricity supply companies (ESCOMs). Although in theory they are considered autonomous, in practice state governments do exercise considerable control over them. For instance, the power to fix water tariff in metro cities vests with the metropolitan water board but the approval of state government is sought for any revision of tariff. With regard to power, the authority to determine the tariff vests with the State Electricity Commission. However, ESCOMs do consult the state government before submitting their tariff proposals. The AT&C losses in the power sector in India are estimated at 27%, a major part of which is accounted for by electricity theft and giveaways (Pratap, 2015). Financially and administratively, the autonomy of these bodies are limited by state intervention and their performance is constrained by shortage of resources and skills. As a policy response to the failure of the state in the effective delivery of public services and with a view to overcome the deficiencies in infrastructure, the concept of private sector participation is being promoted. Private sector participation can take the form of privatization of a service or public-private partnership. The central government and the international financial institutions like the World Bank and the ADB, in particular, are popularizing and even compelling the state governments to adopt such a policy.

4.7 Public-Private Partnership

“Public Private Partnerships (PPPs) refer to the provision of a public asset and service by a private partner who has been conceded the right (the “Concession”) for the purpose, for a specified period of time, on the basis of market-determined streams, that allow for commercial investment.” (Ministry of Finance, GOI...). According to the *Niti Ayog*, the overall response to PPPs as a mode of implementation of projects has been encouraging and a large number of projects have been awarded in the last decade (Niti Ayog, 2015). It also refers to 55 projects with an investment of Rs 30,917 crores awarded by state governments. These pertain mostly to road and a few other infrastructure projects. The operation of PPPs in the social sector, however, has been subject to lot of criticism. At present, services such as water, electricity, public transport and garbage collection are provided almost entirely by the state government or the local government. There has been a trend, during the last few years, to involve the private sector in the provision of such services. Solid waste management, for instance, has been contracted out at least partially in several cities but the results are not very encouraging. In fact, waste management has emerged as a serious problem in cities. A highly contested area pertains to water supply¹⁰.

Critics however point out that the industry is complaining about high tariffs and about one-third of the residents living in unapproved areas of the city are marginalized in accessing water (A. Dutta, 2008). The PPP project of Delhi Jal Board is a strange case where huge amounts were invested but had to be abandoned after it ran into serious controversy and was subject to intense public scrutiny. An interesting initiative pertains to what is called “24/7 water supply” where the ownership vests with the urban local body but the operation and maintenance function is entrusted to a private agency. Cities like Hubli-Dharwad in Karnataka and Nagpur in Maharashtra have experimented with this policy which are claimed to be successful; there are of course, dissenting voices particularly about rise in tariff. The 24/7 project is being extended to several other cities.

Electricity distribution, however, continues to be the monopoly of state owned electricity companies (ESCOs) in most states, except in some cities like Delhi, Mumbai and Kolkata, more for historical reasons. Although the electricity sector is notorious for its inefficiencies, state governments have been reluctant to resort to privatization. The accumulated losses of the State Electricity Boards (SEBs) has been estimated to be of the order of Rs 3 lakh crores (Union Power Minister in Rajya Sabha, 2016). The reasons are not far to seek. States will lose control over an important sector, particularly involving the vote bank of farmers to whom power is supplied virtually free.

The levy of user charges/fees has become a contentious issue in all states. It is also a very important issue which has a significant bearing on the sustainable and effective provision of public services in the future. Most of the public organizations responsible for delivery of water, electricity and public transport are unable to meet even their O&M costs because of low tariffs. The policy of low tariffs is justified on the ground of affordability on the part of poor households. The problem is not so much about willingness to pay on the part of consumers but unwillingness to charge for political reasons. If this trend continues, it is bound to have a very adverse impact on the financial health of the service providers and consequently their performance. In other words, the quality of infrastructure and services which ought to be the prime concern will continue to suffer. In a shocking recent

¹⁰ The Tirupur water supply project in Tamil Nadu, considered the first Public-Private-Partnership (PPP) project in the water sector in India has been hailed as a model. The New Tirupur Area Development Corporation was promoted by Tamil Nadu government to address the needs of the textile industry of Tirupur. It executed the water supply project on Build-Own-Operate-Transfer (BOOT) basis and completed it in 2005, providing assured water supply to meet the needs of the industry and domestic consumers. The project was the recipient of Global Water Award, 2006 and was hailed as a successful example of a large water project financed by local private investors and as a “a breakthrough for water services in India”.

incident, some people forcefully prevented levy of toll on a road Flyway in Maharashtra and attempts were made to dismantle toll booths. Strangely, the Maharashtra government decided to scrap tolling on some roads. This has raised concerns over the future of projects under the PPP mode and triggered fears that other states may follow such a populist stance (K. V. Pratap, 2015).

4.8 Decentralization

Realizing that centralized planning was not the answer to the socio-economic problems in a large country like India, Parliament passed the 73rd and 74th amendments to the constitution enabling decentralization of authority to the rural and urban local bodies. This essentially implied that functions which can be performed at the local level must be devolved to the local bodies along with the requisite administrative and financial powers. The implementation of the constitutional provisions was, however, left to the state legislatures. While the states have passed enabling legislations, the degree of empowerment of local bodies varies from state to state.

5. Conclusion

Issues of public policy encompass more than one domain and involve a multiplicity of actors and considerations. Resolution of conflicts and interdepartmental coordination are important in arriving at major policy decisions. In this process, the role of the Chief Secretary at the bureaucratic level and the Chief Minister at the political level becomes crucial. Ideal policy making is rare in democratic politics. Ideas and interests compete and compromises are inevitable. As Woodrow Wilson (2006) observed: “Do we not in all dealings in public life adjust views, compound differences and placate antagonisms?”

In recent decades, it has become increasingly clear that the states are equipped to deliver. There is a need to strengthen the policy making at the state level and make states to compete for business and reforms, as the era of centre-driven reforms is rapidly coming to a close. Increasingly, in tune with the 14th Finance Commission’s recommendations, states will have flexibility to use central funds where they think it is important. To a large extent, the states need to implement crucial development and welfare policies and programs. Whether it is food security, or land legislation, a manufacturing revival or even toilets for girls in schools, the states can make or mar programmes.

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