

Public consultation in the rule-making process in Lebanon¹

Introduction

This paper discusses public consultation in the rule-making process in Lebanon. It presents options for engaging stakeholders and improving the consultation process based on the major challenges faced in Lebanon. The argument is that if properly managed and created under conditions which motivate actors, public consultation in the rule-making process can promote confidence in government and increase the legal security for businesses and citizens.

Why consult the public in the rule-making process?

Regulation is a key lever of state power and critical in shaping economic and social welfare by promoting economic growth, social welfare and contributing to a business-enabling environment that furthers investment and job creation. However, laws have no intrinsic value: They are tools to achieve socio-economic objectives of a country. Having the right commercial laws may not be sufficient if the business climate is poor or policy-making weak. To put it differently, it is a reckless undertaking to rely on the tools without having a policy process that includes a social discourse between the public and the government. The crux lies in “developing regulations that makes sense, and will meet a high degree of compliance with minimal coercive enforcement” (OECD 2010: 31). The issue is thus not the law per se but the legal reform process itself if it does not include a systematic participation of stakeholders in the rule-making process.

Public consultation in rule-making ensures that regulations are in the public interest. It is a defining element for a sound regulatory policy that strengthens the rule of law by establishing accountable, transparent governments. At the technical level, the use of consultation – and the introduction of the Regulatory Impact Analysis in particular – is pivotal for collecting empirical information, measuring expectations, assessing costs and benefits and identifying alternative policy options. At the policy level, stakeholder involvement enables a transparent policy-making process and increases the level of social acceptance of decisions and, therefore, compliance (OECD 2011: 10, see box 1 for key benefits).

Public consultation adheres to the principles of the right of people to know. It opens up new means for public scrutiny on the basis of access to information and therefore keeps a check

¹ The paper draws on the work conducted within the MENA-OECD Governance Programme (<http://www.oecd.org/mena/governance>) and in particular on the Practitioners’ Guide for Engaging Stakeholders in Democratic Deliberation (OECD 2011). The author would like to thank Karine Badr and Atallah Al-Salim for their insightful comments and stimulating criticism.

on incompetence and corruption. Certainly, public consultation cannot and should not replace governments. A voice does not make a decision, which is the purview of elected governments nor should public consultation be seen as a referendum on the respective issue. It is a way to promote debate, collect information and improve evidence-based policy making.

Box 1: Key benefits expected from consultation in the rule-making process

- ✦ **Transparency and access to information:** Public consultation can increase the transparency of the rule-making process because stakeholders have access to the process itself, as well as to timely and relevant information about the proposed legislation. Consultation therefore contributes to equal access to information.
- ✦ **Added value:** The public is a rich source of instant and updated information. It is the driver of innovation, and public consultation enables policy makers to make use of the public's precious experience and knowledge.
- ✦ **Alienation and connectivity:** Public engagement in rule making can raise support for regulations, as citizens feel connected to the policy-making process. Disenchantment with politics bears the risk of declining support for reform, and for undermining public confidence and trust in national political institutions.
- ✦ **Increased compliance:** Engaging the public and striving for consensus can help to increase the social acceptance of regulations. It can contribute to greater compliance and, therefore, reduce enforcement costs.
- ✦ **Regulatory literacy:** Stakeholders will learn about the complexities of setting regulations, finding compromises and trade-offs. Open government illustrates to the public the constraints and limitations faced by authorities. Public consultation therefore promotes public education on rule making, and provides stakeholders with a chance to increase their regulatory literacy.
- ✦ **Anticipating the impact:** Public consultation is necessary to anticipate the likely impact of the regulation on stakeholders, contemplate unintended consequences and consider alternatives to the proposed regulatory option.
- ✦ **Managing conflict:** Public consultation provides a mechanism to manage conflicts at an early stage. Engaging the public in rule making is one tool for mediating among various interests in society and increasing awareness of compromises.
- ✦ **Pursued public interest:** Quality regulations are based on public interest. Yet, public interest is not static – but a dynamic concept that needs to be continuously defined. Naturally, the definition and pursuit of public interest can only take place through a dialogue with the public.
- ✦ **Legitimacy:** Public consultation is essential for comprehensive and responsive policy making that meets the needs of citizens. Greater public engagement has the potential to create a source of legitimacy and proof of successful governance.
- ✦ **Credibility:** Public consultation can help to re-establish public trust and government credibility by means of creating new and better ways to communicate with citizens.
- ✦ **Confidence:** Involving the public in rule making requires *per se* an accessible legal system. Public consultation can promote public confidence in the legal security of a

country because it opens avenues for stakeholders to obtain information and express their concerns.

- ⚡ **Social cohesion:** Public consultation provides a platform to bring diverse people together and bind them for review and debate on core issues of community life. It can therefore contribute to greater social cohesion.

Source: OECD (2011).

However, public consultation is not a quick-fix solution but a demanding process that “requires a change in both the organisational structure and culture towards a participatory governance system. It requires political will and needs additional human and financial resources over time” (OECD 2011: 11). **Public consultation in the rule-making process in Lebanon is a recent concept with some ad-hoc initiatives.** In general, public consultation faces hesitation among Lebanese policy and decision makers about the cost and usefulness of public consultation, which can be observed worldwide. For example public officials may fear an over-complication of an already sophisticated law-drafting process. Common arguments are also related to the questions of stakeholder capacities to engage in the consultation process because the issue at stake may simply be too complex or too time consuming. In addition, vested interest may hijack the dialogue and only the most vocal or best resourced stakeholder may be in a position to express their views effectively. On the other side, the public may also be reluctant towards the use of public consultation. For example, citizens and businesses might mistrust public officials’ sincerity in engaging the public. Widespread quotes include: “We cannot influence the decision anyway”. “The decision is already taken and they invite us only to legitimise their action (‘tick-box consultations’) (OECD 2011: 11)”.

Critics therefore say that public consultation in rule-making causes a great deal of pain with little gain. Undeniably, every consultation requires resources. However, the paper argues that stakeholder involvement is a corollary of the increasing complexity of public policy, and the costs of consultation should be seen as an investment in better policies for better lives.

How relevant is public consultation in times of political crisis and transition periods?

Civil participation in the policy-making process is even more important in countries where democracy is still in a state of flux or in the context of (post-)crisis. As Diamond states:

Emerging democracies must demonstrate that they can solve their governance problems and meet their citizens' expectations for freedom, justice, a better life, and a fairer society [...] for democratic structures to endure -- and to be worthy of endurance -- they must listen to their citizens' voices, engage their participation, tolerate their protests, protect their freedoms, and respond to their needs (Diamond 2008).

Public participation in politics is thus part of democratic citizenship that supports nation-building efforts (Dahl 1998, Verba et al. 1995). Given that it provides a platform to bring

diverse people together and bind them for critical review on core issues of community life, public consultation has the potential to reduce the negative influences posed by confessionalism in Lebanon. Public consultation may increase government legitimacy by exploiting public ideas around common challenges. In periods of exceptional policy-making, for example during crisis as in Lebanon or in the absence of a legislature as in transition countries, or when elections are contested between corrupt parties, public consultation can be a means to **fill the democratic deficit**. In the Palestinian Authority, for example, public consultation in the law-drafting process has contributed to fill the vacuum created by the absence of the Palestinian Legislative Council. In Tunisia and Egypt, two countries that have embarked on democratic transition, the elections are prepared by a Higher Authority that gains its legitimacy through consensus-building and including a broad range of civil society representatives in the decision-making process. In this regard, consultation processes can constitute an important step in reconciling competing interests and parties and a way of sustaining the legitimacy of government actions post crisis, when trust in government has been badly shaken. In Lebanon, it can increasingly serve as a means to reduce the negative consequences of confessionalism.

The structure of this paper is first to discuss the current situation in Lebanon in terms of consultation mechanisms in the law-drafting process (1). The paper then develops options for addressing the most pressing questions of how to design a consultation plan (2), who to consult (3), how to consult (4), and when to consult (5) before concluding with a summary of the recommendations.

1. Public consultation in the rule-making process in Lebanon

Public consultation in the rule-making process in Lebanon is a recent concept with some ad-hoc initiatives. Within the administrative arrangements for law drafting, there is no formal provision for systematic consultation outside government on proposed legislation. In fact, policy deliberation is mainly limited to consultation within and among public agencies. Consultation is not mandatory and there is no process for consultation based on official rules. The draft law, prepared by the respective ministry is sent – after internal consultation with ministries that may be affected by the proposed legislation – to the Parliamentary Committee of Administration and Justice (لجنة الإدارة والعدل البرلمانية). This Committee is in charge of reviewing the draft law and policy paper on its objectives. The parliamentary committee can ask for amendments if the proposed legislation does not meet the quality criteria. The committee may also call the public for submitting comments to the draft law. Consultation with stakeholders outside the government takes place through public hearings, as was the case for the consultation on the draft electoral law. For the large scale project on consultation for the new electoral law for the 2009 elections, the committee announced several consultation rounds and requested input from all political parties and NGOs (Chidiac 2008).²

² The presentation of Rita Chidiac is based on an OECD survey on tools to initiate Regulatory Impact Analysis in Lebanon: http://www.oecd.org/document/43/0,3746,en_34645207_34744818_40492843_1_1_1_1,00.html.

Box 2: The Civil Campaign for Electoral Reform

During the consultation on the parliamentary elections law 2008/25, the Civil Campaign for Electoral Reform (CCER) played an important role in advocating a large number of reforms within the draft law. The CCER includes 88 civil society associations from Lebanon. The CCER actively participated in the sessions of the Parliamentary Committee of Administration and Justice and even had an office for consultation inside the Interior Ministry for the 2009 parliamentary elections. The parliamentary election law 2008/05 introduced several changes concerning the distribution of electoral districts and management of the elections, as for example issues of campaign financing and media regulation. However, as the CCER and other civil society groups pointed out, problems of implementation still exist and as the National Democratic Institute concludes: “Weak enforcement of campaign finance and media regulations failed to curb the outsized role of money in this election” (National Democratic Institute 2009: 2).

The Ministry of Justice includes a department for legislation and consultation (Chidiac 2008). Some ministries also directly consult civil society and the private sector, however, this takes rather the form of discretionary and unstandardised contacts between regulators and interest groups. The consultation can range from phone calls to letters to informal meetings, and occurs at all stages of the regulatory process. Certainly, informal consultation can be less cumbersome and more flexible than formal consultation. The disadvantage of informal procedures is their limited transparency and accountability because the access by interest groups to informal consultations is entirely at the regulator’s discretion (cf OECD 2002). Informal consultation resembles “lobbying”. Certainly, the risk of regulatory capture by powerful interest groups is high in informal approaches to consultation.

In a survey on regulatory policy conducted by the OECD in Lebanon in 2008, respondents pointed to the lack of capacities to consult as major obstacles in implementing comprehensive public consultation procedures (Chidiac 2008). Survey answers demonstrate that when public officials are exposed to consultation, they miss clear guidance and training on why, how, when, and who to consult in the law drafting process. Respondents underline the need for targeted training activities especially for the heads of legal bureaus in the administration, the legal department at the prime minister’s office and MPs who are in the parliamentary committee for reviewing and approving law proposals (Chidiac 2008).³ In particular, it was stressed that public consultation should not be detached from other cost-benefit analysis but integrated into a comprehensive regulatory impact assessment (RIA).

Consultation processes should be comprehensible, and the scope and influence of stakeholder involvement should be clear. However, in the cases where the public was consulted in Lebanon, consultation documents are not formally publicised and there is no formal mechanism to establish how consultation has influenced the final outcome. There is also no clear timetable for minimum and maximum duration of consultation and feedback to

³ According to the respondents, the National School of Public Administration (ENA) could act as a possible institution to carry out training programmes on regulatory consultation (Chidiac 2008).

the comments received is not mandatory (interview with the Lebanese Transparency Association). Certainly, as pointed out in the survey, stakeholders may use the media to make their comments public but there is no built-in system to ensure the responsiveness to the consultation exercise on behalf of the public administration.

Consultation depends on effective communication with the public and raising awareness about the issues at stake. In Lebanon, laws are published in the official Gazette once they are enacted. However, relying on the Gazette as the sole means to communicate with the public is not enough. Draft regulations are usually not made available to the public nor is there a government website where all ongoing consultations can be found (Interview with the Lebanese Transparency Association).

The survey findings points to the critical fact of having a consistent approach towards public consultation and initiating wide-ranging education programmes to build capacities in stakeholders. If regulatory consultation is to become an effective and integral part in the policy-making process in Lebanon, it needs a framework - a consultation plan - that can be applied across departments and agencies. The next section will discuss the plan, purpose and scope of consultation.

2. Consultation Plan

<p>A consistent approach permits the co-ordination of consultation initiatives across departments and policy areas. It supports quality control with checks-and-balances to prevent specific interests from capturing a ministry. The co-ordination and quality of consultation in Lebanon could be improved by having a framework – a consultation plan – that can be applied across departments and agencies.</p>

Managing consultations requires a high level of political commitment and a framework for promoting the process. If regulatory consultation across departments is to enhance consistency and maintain high standards, it must be given a degree of authority (OECD 2011). A way of achieving this is to make a formal cabinet decision that regulatory consultation should be followed in drafting legislation, as suggested by public officials in Lebanon (Chidiac 2008).

A consistent approach which is used across government departments helps to develop a common language and a process that is widely understood. A cabinet decision should therefore be supported by a consultation plan against which the quality of the consultation process can be verified. Consultation plans include a mechanism of checks-and-balances into the process which make it difficult for vested interests to capture the dialogue.

Box 3: Key elements of a consultation plan

The consultation plan lays out the “rules of engagement” in order to ensure that all participating parties are aware of their role in the consultation process. They need to be informed at the outset about the process and scope of involvement. Poorly designed consultation processes can do significant harm, as they jeopardise future attempts to engage stakeholders in policy deliberation. A consultation plan should therefore describe:

- who gets involved (scale of engagement);
- the methods of consultation and required resources;
- the timeframe, different stages and proceedings of the consultation process;
- who takes what decisions in the rule-making and consultation process;
- what will happen to the comments made by affected parties, and;
- how much influence the consulted parties have on the result.

Source: OECD (2011).

There are different forms of consultation which determine the influence of the consulted parties on the final outcome. Managing expectations is key for successful policy deliberation and requires that the scope and purpose of a consultation is clarified at the outset of the process:

Purpose and scope of regulatory consultation

The purpose for consulting the public can vary and include:

- Providing information to affected parties about a proposed regulation.
- Obtaining the views of the public on the regulation at stake.
- Identifying potential conflict lines.
- Obtaining additional information.
- Verifying consistency and acceptance of the proposed regulation.
- Engaging the public in the formulation of a regulation, its objective and policy.

Source: OECD (2011).

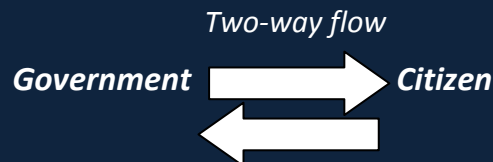
Depending on the purpose, the scope of public consultation can vary. In short, there are three types of interaction with interested members of the public:

- **Notification (“passive consultation”)** is the communication of information on regulatory decisions to the public. It is a one-way process of communication in which the public plays a passive consumer role of government information. Notification does not in itself constitute consultation, but can be a first step, as it communicates information to the public. In this view, prior notification allows stakeholders the time to prepare themselves for upcoming consultations.

One-way process

Government  **Citizen**

- **Consultation** aims at actively seeking the opinions of interested parties and affected groups. It is a two-way flow of information, which may occur at any stage of regulatory development, from problem identification to evaluation of existing regulation. It may be a one-stage process or, as is increasingly the case, a continuing dialogue.



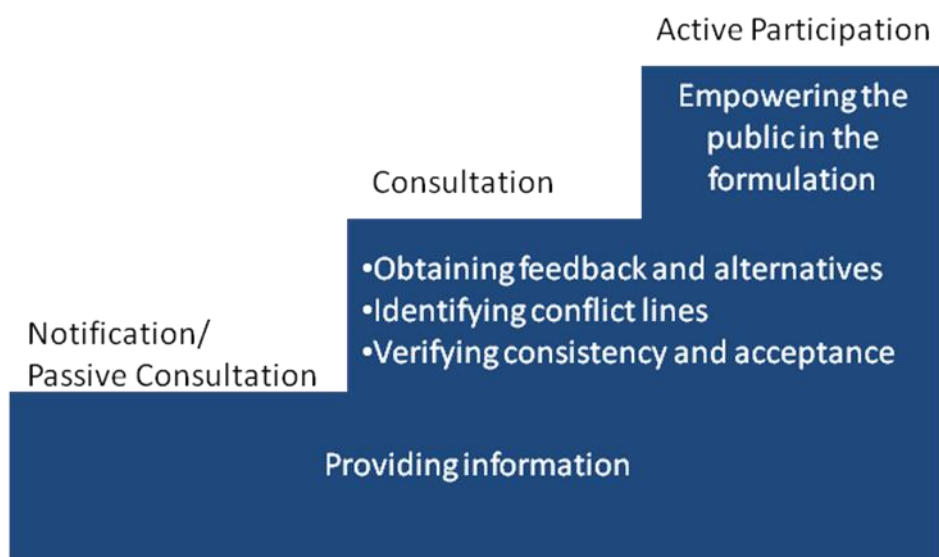
- **Active Participation** is the active involvement of the public in the formulation of regulatory objectives, policies and approaches, or in the drafting of regulatory texts. Active participation is best conceptualised as a partnership through which governments can increase the sense of “ownership” of, or commitment to, regulations beyond what is likely to be achieved via a purely consultative approach.



Source: OECD (2002).

In practice, these three forms of interaction are often mingled in public consultation plans, complementing and overlapping each other. For example, as Figure 1 shows, active participation obviously builds on elements of notification and consultation.

Figure 1 Purpose and scope of consultations



Source: OECD (2011), Graph adapted from ÖGUT (2007).

Certainly, purpose and scope define the scale of consultation. Deliberative activities can range from online consultation with several thousand responses to expert panels which involve only a dozen participants. In all forms of consultation, the question of who will be involved is central, as discussed in the following section.

3. Who to involve in public consultation?

Consultation should be open to all stakeholders. A systematic stakeholder analysis could help Lebanon to identify interested and affected parties, reach out to stakeholders that are hard-to-reach and ensure that a variety of affected parties are brought in the consultation process.

The question of who you will involve depends on the scope of the proposed regulatory changes. However, in general, ministries and agencies should consult widely in order to ensure that the consultation represents the views of the affected parties. Yet, stakeholders evidently vary in regard to their status, level of organisation, representation and capacities to participate meaningfully in the consultation process. Powerful interest groups may have the resources to hijack the dialogue. It is therefore important to bring in a variety of stakeholders, including civil society groups and NGOs, to balance the power of well-organised and specialised interest groups. For the public administration, this means that a systemic stakeholder analysis should precede the consultation process. The stakeholder analysis should include the identification of relevant stakeholders and the objectives that they pursue. Certainly, the analysis requires resources, and must be updated on a regular basis. However, a well-run database of potential stakeholders on a given subject matter increases the chance that not only the best-resourced or most vocal, but also the most affected and valuable, stakeholders participate in a consultation. In addition, the process of defining stakeholders supports a thorough reflection on the real issues at stake (OECD 2011: 31).

A rigorous approach to identifying stakeholders will help you:

- Consider the policy and regulation from all angles.
- Prioritise who you need to meet during your consultation.
- Identify whose views you need to research.
- Suggest members for a possible focus group and expert panel (see page 13).
- Identify potential risks to compliance with and enforcement of the regulation.

Interested and affected parties include:

- Potential critics of the regulation.
- Intended beneficiaries of the regulation, for example service users and consumers.
- Academic experts on the subject.
- Potential allies who want to see change.

- Intermediaries, such as consumer and citizen representatives, trade associations, professional organisations.
- Organisations outside the public sector, for example, contractors, NGOs, businesses.

Source: OECD (2011).

When involving stakeholders in the rule-making process two major challenges may arise: how to involve

- those who are willing but unable to participate because they face problems such as cultural or language barriers, low capacity to get engaged, geographical distance, disability or socio-economic problems and

- those who are unwilling but able to participate because of low interest in politics, time constraints, and mistrust of government and political institutions to make good use of their input (cf OECD 2009).

Related to these challenges is the important question: **how can stakeholders' capacities be built?**

As discussed above, building capacity to engage meaningfully in consultation should focus on training activities for public officials. The trained deliberative techniques should be based on principles of engagement best described in a consultation plan.

However, building capacity in external stakeholders is equally important. Low participation rates in public consultation correlate with low capacities to get involved. For example, citizens may feel that they do not have the required knowledge, skills or confidence to contribute effectively to the consultation.

In Lebanon many stakeholders might be discouraged to take part in consultation because they perceive the process as too political and dominated by confessionalism, with little chances to make a real difference to policy outcomes. Initiatives to strengthen the dialogue at the local community level on issues of common concerns might be a first step in reconciling interests. These may include programmes to help citizens gain skills and knowledge required for active civil engagement, or programmes that target specific hard-to-reach citizen groups. Given that local communities are "closer to the citizens" they naturally play an important role in taking up measures to empower stakeholders. It is not a coincidence that some of the most promising consultation projects are initiated at the local community level. For example, as a preparatory step to target legal reform in the urban code, the Lebanese Transparency Association (LTA) and MAJAL put forward a project on public consultation in urban planning (LTA 2010).

Creating legal awareness and technical expertise are also part of capacity building for stakeholders. In Lebanon, draft laws are generally not made available to the public, and

enacted laws are solely published in the official Gazette. However, more efforts need to be undertaken to reach out to and create legal awareness among stakeholders. Publishing laws to a broader audience, making use of the media, and creating education programmes for both external and internal stakeholders to raise legal awareness are all examples of potential measures to further empower stakeholders.

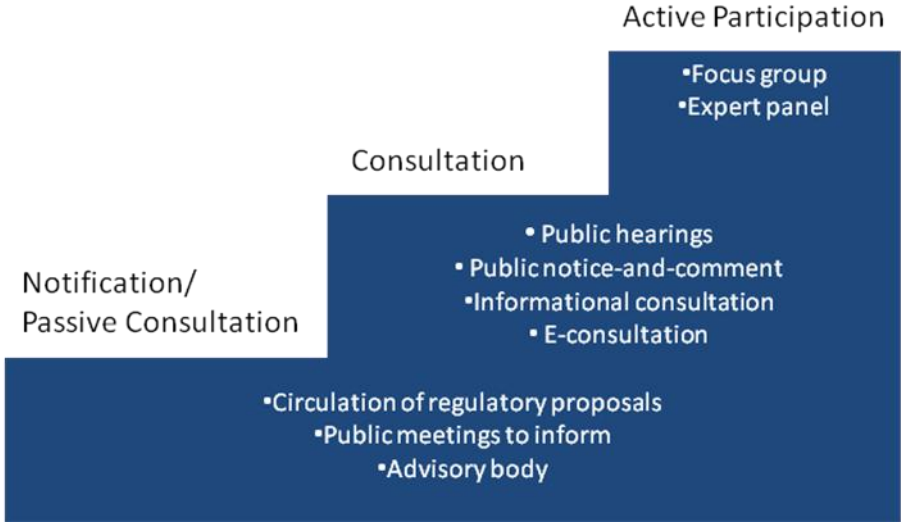
The following section will discuss different methods of conducting consultation that are fit for the purpose and appropriate to reach out to the identified stakeholders.

4. How to consult? – Tools and Methods

Consultation methods should be selected according to the purpose and scope of consulting the public. Communication and reaching out to stakeholders could be improved in Lebanon but using a flexible and multi-channel approach that combines a range of consultation tools. Building monitoring into the consultation process supports quality control and leads to improvements for future attempts to engage stakeholders in rule making.

A wide range of evolving consultative tools and methods give voice to the public will and the choice depends on who is to be consulted, how formal the process is, the communication means used, and the scope of the consultation. For example, in open consultation where any member of the public can choose to participate, the use of focus groups or expert panels might be inappropriate or need to be complemented with other consultation tools such as public hearings or e-consultation. Certainly, the instruments are often mingled in public consultation plans, complementing and overlapping each other. For example, advisory bodies are often used for both notification (“passive consultation”) and consultation (see Figure 2). In fact, to reach out to stakeholders, a flexible approach that combines a range of consultation tools is most effective.

Figure 2: Scope and tools of public consultation



Source: OECD (2011) . Graph adapted from ÖGUT (2007).

Box 4: Tools of public consultation

- 1. *Circulation of regulatory proposals for public comment*** is a relatively inexpensive way to solicit views from the public. This procedure differs from informal consultation in that the circulation process is generally more systematic, structured, and routine – and may have some basis in law or instructions. Responses are usually in written form, but regulators may also accept oral statements, and may supplement those by inviting interested groups to hearings. The negative side of this procedure is the discretion of the regulator in deciding who will be included in the consultation. Important groups will not usually be neglected, as this is likely to create difficulties for the regulatory proposal when it reaches the cabinet or parliament.
- 2. *Public notice-and-comment*** is more open and inclusive than the circulation-for-comment process, and it is usually more structured and formal. The public notice element means that all interested parties have the opportunity to become aware of the regulatory proposal and are thus able to comment. There is usually a standard set of background information including: a draft of the regulatory proposal; discussion of policy objectives and the problem being addressed, and; often an impact assessment of the proposal and, perhaps, of alternative solutions. Public notice-and-comment is used both for primary and secondary laws. In many countries, it is regarded as particularly important in respect to secondary laws because it provides some scrutiny to regulatory processes inside ministries, which are not subject to the open law-making processes applying to legislation debated in parliaments.
- 3. *Public hearings*** are public meetings on particular regulatory proposals at which interested parties and groups can comment in person. Regulatory policy makers may also ask interest groups to submit written information and data at these meetings. A hearing is seldom an independent procedure; rather, it usually supplements other consultation procedures. Hearings are usually discretionary and *ad hoc* unless connected to other consultation processes (for example, notice-and-comment). They should be open to the general public, but effective access depends on how widely invitations are circulated, the location and timing of the hearing, and the size of the room. A key disadvantage is that they are likely to be a one-time event and thus require more co-ordination and planning to ensure sufficient access.
- 4. *Advisory bodies*** are involved at all stages of the regulatory process, but are most commonly used quite early in the process in order to assist in defining positions and options. Depending on their status, authority, and position in the decision process, they can give participating parties great influence on final decisions, or they can be one of many information sources. Regulatory development – drafting and reviewing proposals, or evaluating existing regulations – is rarely the only, or even the primary, task of advisory bodies. Some permanent bodies, for example, may have broad mandates related to policy planning in areas such as social welfare or health care. There are many different types of advisory bodies under many titles – councils, committees, commissions, and working parties. Their common features are: a defined mandate or task within the regulatory process (either providing expertise or

seeking consensus), and members from outside the government administration. Advisory bodies are particularly valuable if technical advice or help on complex and controversial policy issues is needed. Problems may arise when selecting membership, handling internal dynamics, and ensuring resource commitments.

5. **Focus groups.** A focus group is a collection of people selected because of their relevance to the regulation. They are engaged by a facilitator in a series of discussions allowing them to give insights, share ideas and make observations on a topic of concern in the regulation. Focus groups have gained importance in recent years for collecting qualitative information and providing feedback. The disadvantages of focus groups are that the selected members and number of participants may not be large enough to be a representative sample of the affected parties, and that the facilitator of the discussion may influence the respondents' answers.
6. **Expert panels.** There is no formal definition of an expert panel. The aim of a panel is to provide advice and comments at various stages to evaluate the effectiveness of the regulation. An expert panel is most useful where the examination needs to consider the views of many different types of stakeholders. It may also be used to obtain detailed specialist knowledge or professional advice on complex regulations (such as those addressing health issues) where required. One of the major risks is that the panel may be biased in its opinion, with individuals bringing their own agendas. Also, a lack of agreement among panel members could present problems; finally, it is essential that all members of the panel buy into the process.
7. **E-Consultation** provides an opportunity to reach out to a broader audience. If properly applied, e-consultation and the use of ICT can reduce the burdens of consultation and encourage further participation. Thanks to web 2.0 technologies, more and more users can make their voices heard through applications such as Wikipedia, YouTube, Flickr, Twitter and Facebook. The new, user-friendly online tools allow users to readily create, edit, link and share web-based content. Easy access to consultation through the Internet can also mean large-scale consultation that brings thousands of comments that have to be reviewed.⁴ While ICT tools can increase the efficiency of consultation, technology is an enabler – not the solution – and the quantity of online tools and information does not equal quality. It should also be noted that the effectiveness of online consultation depends on the Internet user rate. A digital divide in the population is certainly preventing citizens from fully exploiting all possibilities offered by ICT.

Source: OECD (2002) and (2011).

In the following section, the closing question of when to consult will be discussed.

⁴ This occurred in the UK in 2010, when Deputy Prime Minister Nick Clegg, announced the “Freedom Bill” project through Parliament, with the objective of “sweeping away meddlesome legislation and freeing up individuals and business from overbearing rules.” Three months later, more than 46 000 people left their comments on the e-consultation website for the Freedom Bill, posing strong managerial problems for the public administration.

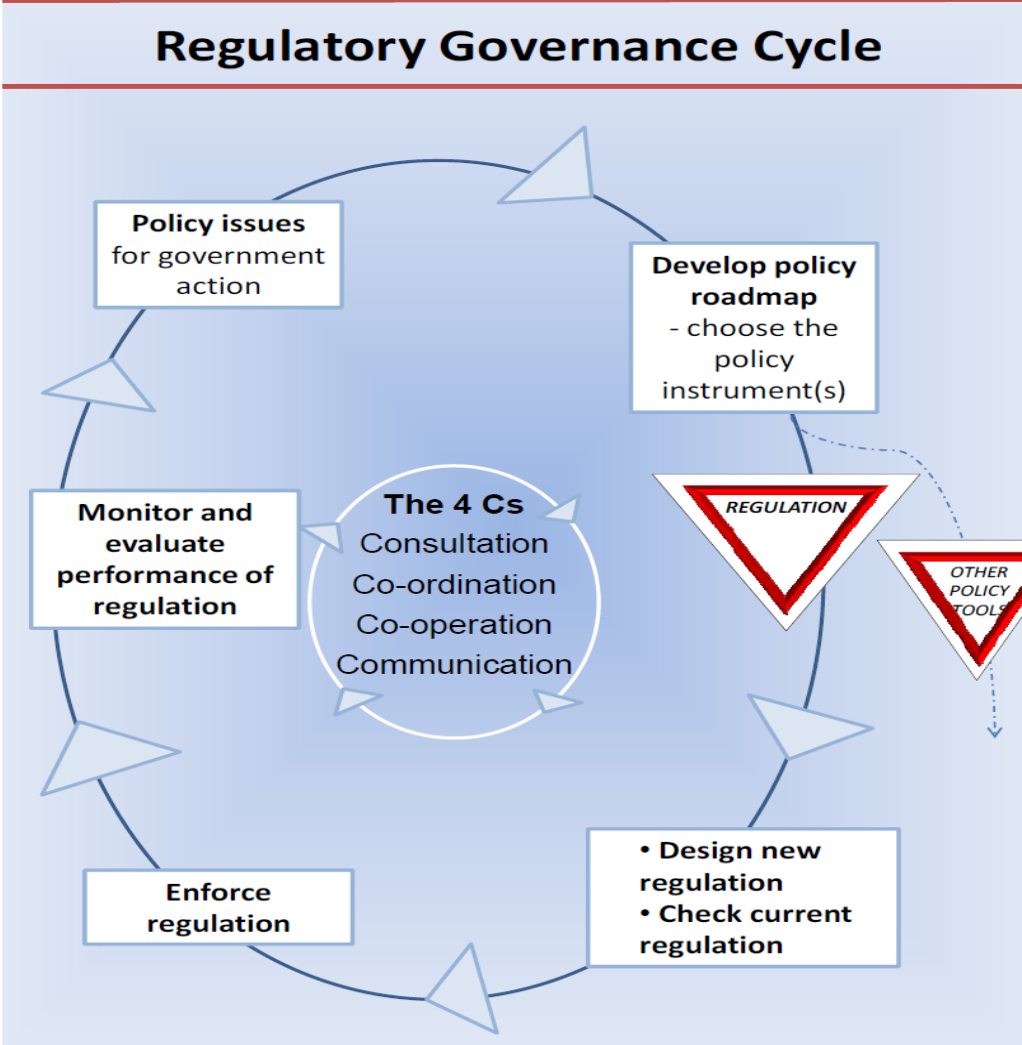
5. When to consult? – The Regulatory Governance Cycle

Public consultation should take place at stake when stakeholders can influence policy outcomes. A clear timeframe with maximum and minimum period of consultation could support meaningful stakeholder involvement in Lebanon.

If public consultation is to have an impact, it needs to be initiated at an early stage in the decision-making process when there is still scope to influence the outcome. However, consultation should not start too early, as concrete law proposals are required to receive quality comments. Finding the right balance requires careful planning and guidance on consultation at various stages of the rule-making process. As for the duration of the consultation exercise, stakeholders should be given enough time of notification to submit their comments and/or participate in expert panels or public hearings. The consulting agency should set a clear timeframe with realistic deadlines at the outset of the consultation process (OECD 2011).

In addition, public consultation can take place at different stages and is not limited to the preparation phase. For example, the monitoring and evaluation of the relevance of the regulation is an important element to assess whether the regulation is meeting value-for-money criteria, *i.e.* whether the regulation is effective in an economic and efficient manner. Figure 3 illustrates the policy cycle and the stages of consultation.

Figure 3 Policy Cycle and Stages of Consultation



Source: OECD (2010).

Table 1 summarises the different stages in the policy cycle, their purpose, and possible tools and methods to be used in the respective consultation stage.

Table 1: Purposes and tools of public consultation in different stages of the policy cycle

Stage in the Policy Cycle	Purpose of Consultation	Possible Tools and Methods
Formulation: Law-drafting	Obtain the views of the public, identify potential conflict lines, gather additional information, verify consistency and acceptance of the proposed regulation, provide information to the affected parties about the proposed regulation (see page 7).	Useful tools and methods include those that support communication with the public, discussion, development and expression of opinions from citizens and interest groups: public hearings, informal consultation, circulation of regulatory proposals for public comment, public notice-and-comment, Advisory Board, e-consultation, focus groups.
Implementation and delivery: Law-endorsement	Formulate guidelines and delivery plans.	Public consultation is limited at this stage, as the regulation is in its implementation phase. Focus groups and expert panels and be used to refine the regulation.
Assessment: Law-review	Review and evaluate the efficiency, effectiveness and cost-effectiveness of the regulation.	Public consultation is pivotal to verify the efficiency and effectiveness of the regulation. Tools and methods include surveys, opinion polls, e-consultation, advisory board, expert panel, focus groups.

Source: OECD (2011), Table adapted from Ministry of Public Administration, Republic of Slovenia (2008).

When determining the time span of the consultation cycle, it is important to consider how much time is needed to analyse the comments and report back to the stakeholders. Certainly, the amount of comments received depends on the scope of consultation. In large-scale deliberation, the analysis of comments received may take longer than in consultation processes that involved only a selected group of experts (OECD 2011).

CONCLUSION - RECOMMENDATIONS

Public engagement in the policy-making process gives democracy both its legitimacy and guidance. To put it bluntly, democracy becomes meaningless if the public cannot participate in policy deliberation. This presumes free election but is not limited to the mere action of casting of votes. In fact, public participation can and should be conceptualised in broader terms.

This paper has discussed public consultation in the rule-making process in Lebanon. Regulatory consultation is a powerful tool to promote debate, collect information and improve evidence-based policy making. It supports open and transparent policy-making and adheres to the right of people to know. In post-crisis, when confidence in government is badly shaken, public consultation can promote the rebuilding of trust in the legal security and in government capacities to steer the economy and society effectively. Given that it provides a platform to bring diverse people together and bind them for review and debate on core issues of community life, public consultation has the potential to reduce the negative consequences of confessionalism in Lebanon.

Some of the most promising consultation projects in Lebanon have been initiated at the **local community level**. These projects may serve as trigger and inspiration **for broader consultation processes at the national level**.

One of the major obstacles in implementing comprehensive public consultation procedures in Lebanon are related to issues of capacities. Public officials are exposed to public consultation, **but need training and guidance to effectively involve stakeholders**. Equally important is the **building of capacities in external stakeholders through programmes** and initiatives to reach out and create legal awareness.

Many challenges facing public officials in Lebanon arise from an unclear scope and purpose of the consultation at the outset of the process. The paper therefore recommends starting with a consultation plan that helps to conceptualise a consistent approach to be applied across departments and policy areas. In this regard, a **consultation plan, supported by a cabinet decision** can serve as a reference document and help to enhance confidence in the consultation process. In addition, consultation **should not be detached from other cost-benefit analysis but integrated into a comprehensive Regulatory Impact Assessment**.

Consultation should be open to all. A systemic **stakeholder analysis** can help to identify interested and affected parties, reach out to stakeholders that are hard-to-reach and ensure that a variety of views are brought in the consultation process.

Communication is key and information should be made available at an early stage. A **clear timeframe** for the different stages of consultation and use of comments are essential to increase the impact of stakeholder involvement.

Appropriate consultation tools are selected on the basis of the scope and form of consultation, and with a focus on the different stakeholders' needs. This requires a flexible **and multi-channel approach that combines a range of consultation tools.**

If conditions for a meaningful consultation process are created, public consultation can constitute an important step in reconciling interests and parties and can promote confidence in government actions in Lebanon.

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