

Fulbright School of Public Policy and Management
2017-2019 Master of Public Policy
Fall Semester, 2017

Syllabus
Law and Public Policy
(4 credits)

Teaching Team

Instructor: Phạm Duy Nghĩa nghia.pham@fuv.edu.vn
Teaching Assistant: Nguyễn Thị Hồng Nhung hnhungnt@ueh.edu.vn

Class Meetings: Tuesday 8.30 – 10.00
Thursday 8.30 – 10.00

Office Hours:

	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>
Phạm Duy Nghĩa			14.00-16.00		14.00-16.00
Nguyễn Thị Hồng Nhung	14.00-15.30		14.00-15.30		

Course Learning Outcomes

“Our goal: Educate students who are Confident, Competent, Connected, Committed, and Competitive, in aid of improving public policy and decision-making in Vietnam as the country transforms to an advanced, globally-integrated economy.”

Upon completion of this course, students are expected to be able:

- To understand the importance and implications of laws to public policy
- To participate in and contribute to the public policy process from legal perspectives
- To analyze, synthesize, think critically about public policy problems from legal perspectives.
- To articulate and apply legal principles to analyzing public policy issues from public service perspective.
- To communicate and interact productively with policy stakeholders.
- To participate in public discourse and policy discussion on public service reform from legal perspectives.

Overview

“Scarcely any political question arises that is not, sooner or later, transformed into a legal question.” Alexis de Tocqueville, *Democracy in America (1838)*

Working as civil servants, officials, employees in the public sector or those in the social organizations, the press, faculties, or as researchers, you all share a common interest: you learn how to analyze, evaluate, and choose policies in a professional manner, making your locality and country more developed, more equitable, and more humane.

As quoted by de Tocqueville, all policies, sooner or later, are transformed into legal issues. Any choice of policy by the elites, which would be compulsory for the whole of society, must be transformed into a form of law, known as announcements, rules, decisions, or resolutions at the local level (local regulations) or legal documents at the national level (decisions, circulars, decrees, resolutions, ordinances, laws). The process is generally referred to as legal normative documents, or legislative processes at the local or national levels.

In addition to selecting and promulgating policies, organizing, implementing, evaluating, adjusting, changing or terminating policies, sometimes correcting ineffective policies, also require legal tools. Thus, legislation and law enforcement agencies have a strong impact on the selection and implementation of policies; laws and public policies are like different perspectives of the same process that helps the state intervene and regulate society for the purposes pursued by the elites.

This course is designed to complement the knowledge of law (legislative, executive, judicial) and the skills required by policy analysts (data collection, analysis, negotiation), to help them confidently apply the knowledge of policy analysis in the context of the current legal regime of Vietnam, with the vision and aspiration toward more democratic societies, for being human and the rule of law (visions and aspirations are global, but behaviors must be local).

The course lasted 16 weeks, with 2 sessions per week, 90 minutes per session, for a total of 30 sessions, of which 04 sessions were simulated hearings on the evaluation of a draft resolution at the Economic-Budget Department to submit to the HCMC People's Council (on 01/02/2018). By referring to many teaching methods of advanced public policy schools around the world, we chose the teaching style based on simulation by David C King (Harvard Kennedy School). This learning method forces participants not only to read, investigate, and identify on their own, but also to play the roles, self-arrange, and self-experience emotions when negotiating with peers, thereby promoting the formation of public policies. After all, a good learner should be learning of the knowledge, skills, and emotions required for policy analysts.

Course Objective and Learning Outcomes

This course contributes to the standardization of the FSPPM's Program of Master in Public Policy. At the end of the course, participants will be equipped with the following knowledge, skills and attitudes:

- As for knowledge, participants shall be able to assess the legal aspects of a policy option (who is responsible for policy making, what are the procedures for policy discussion and debates, what are the forms of legal documents to express the policies, how the law should be designed to avoid ineffective policy options, how does the law contribute to implementation, adjustment, stopping, termination or replacement of policies?).
- In terms of skills, participants are trained to self-research on laws, seek out policy/law issues, write short policy discussions, negotiate, discuss and make presentation to convince the public about their choice of policy plan.
- In terms of attitude, participants are trained for tolerance, actively working under high pressure and frequency, cooperation and sharing information with colleagues, considering the various interests, caution, and fairness in public policy choices.

Particularly, the course will contribute to the following student's learning outcomes:

- Prepare professional written documents—policy briefs, decision memos, executive summaries, policy analysis reports, legislation, regulations, and press releases.
- Give professional oral public policy presentations—meetings, media events, hearings, citizen forums and conferences.
- Understand the role of law and legislative process in formulating policy.

Requirements for participants

Participants must attend class meetings from October 17, 2017 to February 1, 2018. After the final lesson on February 1, 2018, they will be given 01 month (before and after Lunar New Year) to complete the essay, which must be submitted by March 1, 2018.

Participants should read this Syllabus and readings prior to class meetings, and actively take part in class discussions. Participants should bring their own name plates and put them on the table in front of their seats. Those who have not read the lecture notes before the class meetings should voluntarily put the table name down. Note: Since 2017, FSPPM has implemented a policy of reading electronically, not printing and distributing hard copies of materials to participants. Each participant has to actively take part in one of the 06 research groups to complete the case of simulation. Depending on work practices, their interests and future career plans, participants shall choose their positions in the following three areas: (i) executive (the peoples' committees or the government), (ii) elected bodies (the people's council and the National Assembly), (iii)

political organizations, associations representing enterprises, the civil sector, the press and the media.

During class meetings, recording or cameras are not allowed; your mobile phones should be turned off or in silent mode. Participants are encouraged to take different seats, avoiding sitting in a position for the duration of the course.

Evaluation

Evaluation of participants consists of five parts as follows:

1. 03 abstracts of readings and policy memos, each 5% of total score: 15%
2. A short test (10/50 of the concepts in the course vocabulary): 05%
3. Attendance, participation in discussion, playing roles in simulation: 25%
4. Mid-term exam (60', 01 question required for all and 01 optional): 25%
5. Final essay (there is no final exam): 30%

1) Abstracts of readings and policy memos: 15 % of total score

Participants will be required to submit a summary of a reading or policy memo, each with 500 words ($\pm 10\%$) on topics covered in required readings. Discussion papers are submitted in hard copies (to the mailbox in the computer room) and electronic copies before 8.20am every Thursday. There are 03 abstracts or memos, each accounting for 05% of the total course score.

2) A short test (test 10 out of 50 vocabulary concepts): 05% of total score

The faculty will prepare a set of vocabulary with about 50 basic concepts related to the legislative process and law enforcement. Participants will be tested on 10 of the 50 concepts.

3) Attendance, participation in discussion, playing roles in simulation: 25 % of total score

Attendance includes participation in class meetings, discussions, and making comments. Comments/statements are an indicator, but more importantly, the contents must be linked to the readings and the discussion contents, and referenced/interacted with others' opinions in the class. This section is rated as 5%.

Simulation: In a blink, you may have chosen and become: (i) a civil servant in the HCMC Government (the People's Committee, a department such as the Finance or Transportation Department), or (ii) a member of the People's Council, or (iii) a representative of the HCMC Business Association, a social organization, an academic institute, the press, or the media. The city where you live is facing great development challenges and social problems, while lack of development resources and infrastructure. A comprehensive overview of HCMC's economy will be provided, thereby you will find the challenges facing HCMC. Under these pressures, many policy options are available for HCMC, such as land conversion for works, implementation of BOT projects to build traffic belts, increases in revenue from pilot property tax and municipal revenue bonds.

06 groups: Based on the above structure, participants will choose to take part in one of 06 groups: 02 groups of the People's Committee representatives, 02 groups of elected representatives, and 02 groups of social organizations/academics/the media.

What to do in 16 weeks? You are faced with a number of policy options, and you must seek to promote those policies in a form of local law, such as a Resolution of the People's Council. You have 16 weeks to do research, discovery, advocacy, drafting, debate, and reflection to promote or draw back or revise policies that you are interested in. You may be working and studying the Vietnam's legal framework, and understanding international theoretical framework and vision.

What role do you play? For the government groups, be the leader, the person in charge of the People's Committee, Department of Finance, Department of Transportation, or any department that you are interested in. Make policy choices and try to convince the whole class about that policy. Prepare a Statement of the People's Council Resolution that includes the policy choices you want to adopt, including those you see necessary for the submission. For the people's council groups, play the role of elected representatives in corresponding committees (eg, Economic-Budget Committee, Culture-Society Committee). Prepare Assessment Reports and questions at the hearings. For the association and civil society groups, prepare counterarguments, policy analyses, advocacy of or opposition to government policy proposals. Learn how to lobby, persuade the Government and the People's Council. *Make a choice:* As in practice, there is so much to do, the greatest difficulty for policy analysts is to define policy priorities. In about 16 weeks of study, just as the limited capacity of the Government and the People's Council, the class can only discuss in depth about the two policy options preferred by participants. In the first weeks, participants and the teaching team will discuss and select two policy priorities to assign to groups for material preparation and discussion. 03 groups will discuss Policy 1 in the morning and the other three groups will discuss Policy 2 in the afternoon of 01/02/2018; obviously, departments, elected representatives and the press must have comments on both policies.

Evaluation of simulation: All simulation activities will be evaluated at about 20% of the total score. The evaluation includes: work progress, quality of work, creativity, negotiation skills, cautiousness and patience in persuasion, quality of reports, criticism or advocacy, articles, advocacy writing, and communication and interaction skills.

4) Mid-term exam: 20 % of total score

There is a 60-minute mid-term exam in the form of writing essay; materials are not allowed. The exam consists of 02 questions: question 1 is required for the whole class without prior notice and question 2 is one of the three questions that have been

announced by the teaching team at the first week of the course for participants' preparation.

5) Final essay: 30 % of total score

Based on the readings, lecture notes, classroom discussions, and perception of the simulation, each participant shall choose a policy/law problem to write a final essay on her/his own; writing in groups is not allowed. Each participant chooses and recommends a topic to be approved by the teaching team.

Depending on the simulation, there may be many interesting topics, while the following topics are suggested (for local public finance):

- Reviewing legal policies for BOT transport projects, explaining why these projects often cause multi-dimensional debates and social oppositions;
- Evaluating policies of land conversion for infrastructure;
- Evaluating legal policies related to public debt management of the local and central governments;
- Evaluating solutions to create stable local revenue and control over local budgetary discipline;
- Evaluate the legal policies related to land use, the relationship between enterprises and households, accumulation of land, compensation for ground clearance;
- Assessment of local budget processes, discipline of local budget;

The essay is about 10 pages (3000 words \pm 10%) and complies with the FSPPM standards of a policy analysis. Essays are submitted in forms similar to the abstracts of readings or memos. Deadline for submission: March 1, 2018. The teaching team will provide detailed instructions on how to register the topic, set up an outline, and complete the essay as required.

Finally, note that the learning environment at FSPPM is friendly and cooperative, but also very strict and competitive. Do not think of plagiarism. Learn how to extract and refer to literature. Make a competitive effort. According to FSPPM, the spectrum of a class performance is usually as follows: A (5-10%), A- (10-25%), B + (30-40%), B (20-25%), B- or C (5-10%).

A Plan for 30 lectures of Law & Public Policy, MPP2019:

TT	Date	Contents
1.	17/10/2017	Introduction: Formation of 6 groups (People's Committee, Peoples' Council, Social Organizations)
2.	19/10/2017	Law: Concepts and the Law-Public Policy Relationship
3.	24/10/2017	Decentralization between Central and Local: The Role of the Constitution
4.	26/10/2017	Setting Priorities for Local and Central Legislation: Priorities of 06 Groups
5.	31/10/2017	Advocacy and Lobbying
6.	02/11/2017	Lobbying in practice: Negotiating priorities for drafting and approving 02 draft resolutions of the People's Council on 01/02/2018
7.	07/11/2017	Local legislation: Factors and processes
8.	09/11/2017	Central legislation: Factors and processes
9.	14/11/2017	A difference: The Elites and their influence on the legislature in Vietnam
10.	16/11/2017	Criteria for evaluation of bills: ROCCPI
11.	21/11/2017	Criteria for evaluation of bills: RIA
12.	23/11/2017	Parliamentary process: What principles are the Committees of the People's Council operating on?
13.	05/12/2017	<i>Afternoon: Mid-term Exam (60')</i> : Groups select heads & set up rules
14.	07/12/2017	<i>Afternoon: Drafting of local legislation: Requirements for 06 groups</i>
15.	12/12/2017	Parliamentary process: How does the elected agencies work? <i>Expected guests: Vice Chairman of HCMC People's Council Phạm Đức Hải/Nguyễn Sĩ Dũng</i>
16.	14/12/2017	Parliamentary supervision: Supervision of law implementation
17.	19/12/2017	Law and Development: The Roads to Rule of Law in East Asia
18.	21/12/2017	Law and Development: A Suggested Theoretical Model for Transition Countries
19.	26/12/2017	Law and Development: Challenges in the development of the rule of law
20.	28/12/2017	Case Study 1: Land Law (Navitco Project)
21.	02/01/2018	Case Study 2: Competition Law (Vinapco)
22.	04/01/2018	Case Study 3: Criminal Law (The Case of Ms. Ba Suong)
23.	09/01/2018	An Approach to Justice (1): Judicial Reform in East Asia
24.	11/01/2018	An Approach to Justice (2): Judicial Reform in Vietnam
25.	16/01/2018	Policy consultation: The legislative experience of the associations <i>Expected Guests: Attorney Phan Trung Hoai / Attorney Nguyen Hung Quang</i>
26.	18/01/2018	Course summary: Overview of theories, Q&A

27.	<i>Sáng:</i>	Introduction of the Draft Resolution (1) of the People's Council
28.	01/02/2018	Debate and Vote (Approval of Resolution or not)
29.	<i>Afternoon:</i>	Introduction of the Draft Resolution (2) of the People's Council
30.	01/02/2018	Debate and Vote (Approval of Resolution or not)
	01/03/2018	Submission of Final Essay (3000 words \pm 10%)

Course Materials

Course materials can be accessed and downloaded from our OpenCourseWare at

<https://www.fsppm.fuv.edu.vn/vn/mpp2019/>

Required Readings:

1. **Nguyễn Sĩ Dũng**, 2017, *Bàn về Quốc hội và những thách thức của khái niệm*, CTCP Sách Omega và NXB Chính trị Quốc gia, (Contact: 138C Nguyễn Đình Chiểu, Q3, HCM).
2. **Pat Libby & Associates**, University of San Diego, 2012, *The Lobbying Strategy Handbook, 10 Steps to Advancing Any Cause Effectively*. (Chapters **1, 4, 5-12**).
3. **Walter J. Oleszek** (2016), *Congressional Procedures and the Policy Process*, 10th Edition, Chapters **1, 3, 5, 9**
4. **Barry R Weingast** (Stanford University) 2010, *Why Developing Countries Prove So Resistant to the Rule of Law*, in James J. Heckman, Robert L. Nelson, Lee Cabatingan, *Global Perspectives on the Rule of Law*. (New York: Routledge-Cavendish, 2010)
5. **C. Milhaupt, K. Pistor**, *Law and Capitalism*, University of Chicago, 2008, Chapter 2 (translated).
6. **Ann Seidman**, *Xem xét dự án luật: Cẩm nang cho các nhà lập pháp*, NXB CTQG, HN, 2004 (Ann Seidman and Robert Seidman, *World Bank Legal Review*, April 2003, pp. 223-256, *Assessing a Bill in terms of the public interest: the legislator's role in the law-making process*)
7. **Truong Thien Thu**, Ranjith Perera, *Intermediate levels of property rights and the emerging housing market in HCM City, Vietnam*, *Land Use Policy* 28 (2010) 124-138 – translated version
8. **Tom Ginsburg**, *Judicial Independence in East Asia: Lessons for China*, in Randall Peerenboon, *Judicial Independence in China*, Cambridge University Press 2010, pp 247-259
9. **Randall Peerenboon**, *Báo cáo nghiên cứu về quản lý tòa án ở Trung Quốc*, UNDP-Ban chỉ đạo cải cách tư pháp, 2011 (not yet published).
10. **World Bank**, *Báo cáo phát triển Việt Nam 2010: Thể chế hiện đại*, Chapter 5, pp 85-103, *World Development Report 2010*.

Legal Documents :

- Constitution (HP 2013)
- Law on Organization of Local Government (TCCQĐP 2015)
- Budget Law (NS 2015)
- Law on Promulgation of Legal Documents (VBQPPL 2015)

Additional Readings:

- **Hoàng Thế Liên** (ed.) (2011), *Sổ tay soạn thảo, thẩm định, đánh giá tác động của VBQPPL*, NXB Tư pháp 2011.
- **UNDP/Ủy ban trao quyền pháp lý cho mọi người**, *Pháp luật cho mọi người*, NXB Tư pháp, HN 2011 (translated from English), Vol. I, II.
- UNDP and VN Supreme Court, (Bath and Biddulph), *Research Studies on the Organization and Function of the Justice System in Five Selected Countries*, 2010

Web sites and other online resources:

- WGI: <http://info.worldbank.org/governance/wgi/index.asp>
- <http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban>
- <http://congbao.chinhphu.vn/>
- National Assembly: Vietnam Law Database: <http://vietlaw.gov.vn/LAWNET/>
- Ministry of Justice, legal documents: <http://www.moj.gov.vn/pages/vbpq.aspx>
- Sentenced judgments: www.vibonline.com.vn
- Bills: <http://duthaonline.quochoi.vn/> ; www.vibonline.com.vn
- Journal of Legislative Studies: <http://www.nclp.org.vn/>

Detailed contents and required readings for 26 sessions

No	Contents: Weekly readings
1.	Introduction: Formation of 6 groups (People's Committee, Peoples' Council, Social Organizations)
	<ul style="list-style-type: none"> ○ Syllabus 10/2017 ○ FSPPM (9/2017), HCMC: Development Vision and Institutional Bottlenecks (pdf file) ○ Additional reading: Understanding the socio-economic challenges of the locality or industry that participants are interested.
2.	Law: Concepts and the Law-Public Policy Relationship
	<ul style="list-style-type: none"> ○ Phạm Duy Nghĩa 2011, General Law, Chapters 1-2: 9-87 ○ Libby 2012, Chapter 1, (pdf file)
3.	Decentralization between Central and Local: The Role of the Constitution
	<ul style="list-style-type: none"> ○ Nguyễn Sĩ Dũng 2017, pp. 22-123 (participants should buy it or read it in the library) ○ HP 2013, TCCQĐP 2015, NS 2015
4.	Setting Priorities for Local and Central Legislation: Priorities of 06 Groups
	<ul style="list-style-type: none"> ○ Nguyễn Sĩ Dũng 2017, pp. 194-223 ○ Hoàng Thế Liên 2011, Chapter II: pp. 66-78, (pdf file)
5.	Advocacy and Lobbying
	<ul style="list-style-type: none"> ○ Libby 2012, Chapters 5-9, (pdf file)
6.	Lobbying in practice: Negotiating priorities for drafting and approving 02 draft resolutions of the People's Council on 01/02/2018
	<ul style="list-style-type: none"> ○ Libby 2012, Chapters 10-11: Lobbying in the Cyperspace and globalization era, (pdf file)
7.	Local legislation: Factors and processes
	<ul style="list-style-type: none"> ○ Hoàng Thế Liên 2011, (pdf file) ○ Oleszek (2016), Chapter 1, (pdf file) ○ TCCQĐP 2015
8.	Central legislation: Factors and processes
	<ul style="list-style-type: none"> ○ VBQPPL 2015 ○ Oleszek (2016), Chapter 3, (pdf file)
9.	A difference: The Elites and their influence on the legislature in Vietnam
	<ul style="list-style-type: none"> ○ Quang Thiện (2005): A 10-Year Journey to a Law (a shortened version is necessary) ○ Nguyễn Xuân Thành (2014): Oligarchic Formation: The Case of Vietnam
10.	Criteria for evaluation of bills: ROCCIPI
	<ul style="list-style-type: none"> ○ Seidman 2003: Assessing a bill, pp. 223-256.

11.	Criteria for evaluation of bills: RIA
	<ul style="list-style-type: none"> ○ Hoàng Thế Liên 2011, Part IV: pp. 251-338, (pdf file)
12.	Parliamentary process: What principles are the Committees of the People's Council operating on?
	<ul style="list-style-type: none"> ○ Oleszek (2016), Chapter 3, Chapter, (pdf file)
13.	<i>Afternoon: Mid-term Exam (60'):</i> Groups select heads & set up rules
14.	<i>Afternoon: Drafting of local legislation: Requirements for 06 groups</i>
15.	Parliamentary process: How does the elected agencies work? <i>Expected guests: Vice Chairman of HCMC People's Council Phạm Đức Hải/Nguyễn Sĩ Dũng</i>
16.	Parliamentary supervision: How to supervise the law implementation?
	<ul style="list-style-type: none"> ○ Libby 2012, Chapter 12, (pdf file) ○ Oleszek (2016), Chapter 9, (pdf file)
17.	Law and Development: The Roads to Rule of Law in East Asia
	<ul style="list-style-type: none"> ○ Pistor, Law & Capitalism, 2008, Chương 2 (đã dịch, có pdf file) ○ Pistor and Wellons, The role of law and legal institutions in Asian economic development 1960-1995, Oxford University Press 1999, (pdf file)
18.	Law and Development: A Suggested Theoretical Model for Transition Countries
	<ul style="list-style-type: none"> ○ World Development Report 2017 Chapter 3 pp. 84-98, (pdf file)
19.	Law and Development: Challenges in the development of the rule of law
	<ul style="list-style-type: none"> ○ Weingast 2010 (translated, pdf file)
20.	Case Study 1: Land Law (Navitco Project)
	<ul style="list-style-type: none"> ○ Trương Thiên Thu (2010) (translated, pdf file) ○ A minicase, 29 Nguyễn Đình Chiểu, Đa Kao, Q1 HCM ○ Additional Reading: UNDP, Legal empowerment, Volume I (pdf file)
21.	Case Study 2: Competition Law (Vinapco)
	<ul style="list-style-type: none"> ○ Hồ sơ Sửa đổi bổ sung Luật Cạnh tranh 2004 (Tài liệu do VBQH cung cấp) ○ The Case of Vinapco: pdf file, shortened version.
22.	Case Study 3: Criminal Law (The Case of Ms. Ba Suong)
	<ul style="list-style-type: none"> ○ Additional Reading: Phan Trung Hoài, Justice's door and Lawyer's log (many episodes) ○ The Case of Ms. Ba Suong (pdf file, shortened version)
23.	An Approach to Justice (1): Judicial Reform in East Asia
	<ul style="list-style-type: none"> ○ Peerenboon 2011 (translated, pdf file)
24.	An Approach to Justice (2): Judicial Reform in Vietnam
	<ul style="list-style-type: none"> ○ Tom Ginsburg 2010 (translated, pdf file)
25.	Policy consultation: The legislative experience of the associations <i>Expected Guests: Attorney Phan Trung Hoai / Attorney Nguyen Hung Quang</i>
26.	Course summary: Overview of theories, Q&A

Course Syllabus References

- **David C. King**, Harvard Kennedy School, Spring 2017, Course Syllabus: *The U.S. Congress and Law Making*, <https://sites.hks.harvard.edu/syllabus/DPI-120.pdf>
- **Valenta Kabo**, University of Michigan, Fall 2014, Course Syllabus: *Comparative Law and Public Policy*, <http://fordschool.umich.edu/courses/winter/2017/pubpol-475-1>
- **Mark Leinung**, Albany University, Fall 2016, Course Syllabus: *Law & Public Policy*, <http://www.albany.edu/rockefeller/syllabi/FA2016/pad/RPAD%20Grad%20Syllabi/RPAD-RPOS%20529%20Leinung%20Fall%202016%20Syllabus.pdf>
- **Stanford Law School**, Law and Public Policy, *Law and Policy Lab*, https://law.stanford.edu/areas_of_interest/law-public-policy/#slnav-law-and-policy-lab
- **Miranda Yaver**, Columbia Law School, Summer 2014, *Law and Public Policy in the US*
https://www.google.com.vn/search?dcr=0&source=hp&q=220+%284%29+Law+and+Public+Policy%2C+Sean+Farhang&oq=220+%284%29+Law+and+Public+Policy%2C+Sean+Farhang&gs_l=psy-ab.12..33i160k1l2.1007.1007.0.2968.2.1.0.0.0.134.134.0j1.1.0...0...1.1.64.psy-ab..1.1.134.0...0.FqWYXn0wVsM