Bhutan workshop on legislative and regulatory drafting (23 August - 3 September, 1999)

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Boston University
Workshop “Legislative and Regulatory Drafting”,
Hotel Jumolhari, 23 August – 3 September 1999

Programme for Day 1

9:00  Registration
9:30  Arrival of Chief Guests
9:35  Inaugural Ceremony
   Welcoming remarks, Sangay Khandu, National Project Director
   Statement – Shun-ichi Murata, UNDP, Resident Representative
   Statement – Lyonpo Sonam Tobgye, Chief Justice
9:55  Tea break
10:15 Introduction
10:30 Purpose and Structure of the workshop (Prof. Robert Seidman)
   Objectives
   Teaching method
11:00 Small group discussions
   Why do you think the Act is necessary? (What social problem does it
   address, and why does it need a law?)
   Is it important to work on the law in this workshop? (Do we have
   enough information? Is it urgent?)
11:20 Report back – five minutes each
12:00 The role of the drafter in the legislative process (Prof. Robert
   Martineau)
13:00 Lunch
14:00 Law and development: Some basic issues (Prof. Robert Seidman)
   Institutions and behaviour
   Government, law and institutional change
   Social problems – problematic institutions
   The legal order as a tool for change
   The role of drafters
15:15 Tea break
15:30 How law affects behaviours (Prof. Robert Seidman)
   Recapitulation
   Plenary discussion
   Why do people behave as they do in the face of law?
5:00 Closure of session
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THE RESEARCH REPORT: INTRODUCTION AND THE DIFFICULTY (SEE CHAPTER FOUR)

9:00 Recapitulation of Monday’s session

9:15 Purpose and structure of the research report
The problem-solving methodology
Uses of comparative law and experience, and of history

9:55 Tea break

10:15 The introduction to the report
Functions
Outline

10:45 Small groups: Outline the main points in your introduction
1. What general programme does the line ministry have for the sector concerned?
2. How does your social problem fit into that programme?
3. Why is your bill a priority in terms of:
   ➢ the human right to development
   ➢ sustainable human development
   ➢ effective governance and controlling arbitrary decision making

11:45 Presentation of outlines to plenary for comments and suggestions – 10 minutes each

1:00 Lunch

2:00 Describing the difficulty

2:30 Small groups: What are the main points for the section on the difficulty
➢ The nature and scope of the problem.
➢ What behaviour, and whose behaviour, constitutes the problem?
➢ What social groups are affected by the problem, and how?
➢ Do you need a section on the history of the problem and/or comparative law and experience?

3:15 Tea

3:30 Small groups prepare summary for presentation

3:45 Presentation of outlines to plenary for comments and suggestions – 7 minutes each

4:45 Summary, closure of session, and evaluation in small groups

5:00 Steering committee meets
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THE RESEARCH REPORT: EXPLANATIONS (SEE CHAPTER FOUR)

9:00 Summary of Tuesday’s session
9:15 Legislative theory's research agenda for explaining the behaviour of role occupants
   The ROCCIPI research agenda (see Manual, Ch. 4, pp. 12-20)
9:55 Tea
10:15 Plenary discussion on ROCCIPI
10:30 Small group exercise
   Use the ROCCIPI agenda to outline explanations for the behaviour of one primary role
11:30 Reports from small groups to plenary – 5 minutes each
   Discussion of difficulties encountered in using ROCCIPI
1:00 Lunch
2:00 Reports from groups – continued (5 minutes each)
2:30 Explaining implementation behaviour
   Model of decision-making
3:15 Tea
3:30 Small group exercise (without report back to plenary)
   1. Individually, group members note the evidence according to ROCCIPI categories for causes of problematic behaviour by implementing agencies
   2. As a group, review each explanation for the behaviour of implementing agencies, revise and strengthen them, and note where need more facts.
   3. Assess the evidence for the explanations.
   4. What questions would you ask about foreign law and experience to find further possible causes of problematic implementation behaviours?
4:30 Summary, closure of session and evaluation in small groups
5:00 Steering committee meets
THE RESEARCH REPORT: SOLUTIONS (SEE CHAPTERS FOUR AND FIVE)

9:00 Summary of Wednesday’s session
9:15 Developing solutions (measures for the bill)
9:35 Small group exercise: Outline the main measures for your bill
   Consider which you need:
   ➢ Direct measures
   ➢ Roundabout measures
   ➢ Educative measures
   ➢ Forms of implementing agency
   Do your measures follow logically from your analysis?
9:55 Tea
10:15 Continue with small group exercise
10:35 Report back on measures for bills and discussion – 10 minutes each
11:30 Social cost-benefit analysis
11:50 Small group exercise: Conduct a social cost-benefit analysis
   List monetary costs and benefits to stakeholders and government.
   Outline the consequences of your proposals for
   ➢ effective and sustainable development
   ➢ vulnerable groups (women, children, aged, poor, ethnic minorities)
   ➢ good governance (especially the potential for corruption)
   ➢ other values (human rights, the environment).
12:30 Devices to avoid arbitrary decision-making and corrupt behaviours
1:00 Lunch
2:00 Small group exercise: Criteria and procedures of implementing agencies
   Assess the limits in your proposal on official discretion, and provision for
   transparency and accountability
   Do your proposals ensure participation in input, feedback and conversion
   processes, especially for historically disadvantaged groups,? If not, why not?
   What can foreign law and experience teach us in this connection?
   Based on this analysis, should you modify your original proposals?
3:00 Writing the Report: Signposts
3:15 Tea
3:30 Writing the Report: Clear writing
4:45 Summary, closure of session and evaluation in small groups
5:00 Steering committee meets
MONITORING MECHANISMS (CHAPTERS FOUR AND FIVE) AND STARTING TO WRITE

9:00  Summary of Thursday’s session
9:15  Report back on group exercises from Thursday (10 minutes each)
9:55  Tea
10:15 Reports continued
10:45 Monitoring mechanisms
11:05 Group exercise: Outline the overall argument for the research report
   ➢ problem, in terms of manifestation and whose and what behaviour
   ➢ explanation, in terms of both primary role occupants and implementing agency
   ➢ solutions, with an assessment of viability
   ➢ monitoring mechanisms
11:35 Each group presents the outline of their argument (10 minutes), and a resource person responds (5 minutes)
1:00  Lunch
2:00  Group work: Elaboration of outline and allocation of tasks
   Resource people will be available for consultation
3:15  Tea
3:30  Groups present work plans (5 minutes each)
4:00  Summary
   START WRITING
5:00  Closure and steering committee meeting
   Have a productive weekend!
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Programme for Day 6

STRUCTURING
THE BILL (MANUAL, CHAPTER 8) AND WRITING THE SENTENCES (CHAPTERS 9 AND 10)

9:00    Overview of the week to come
9:15    Structuring the Bill
9:55    Tea
10:15   Group exercise: Structure the Bill
        ➢ Discuss the extent to which the default outline (see Manual, Ch. 8, pp 18-27) seems appropriate for your Bill
        ➢ Outline your Bill
11:00   Each group presents the outline of their Bill, using an overhead (5 minutes each)
12:00   Group work: Initial drafting
        Each member of the group take one part of the Bill, as specified in the outline, and
        ➢ Break the part into logically ordered sections.
        ➢ Write a rough draft of the part of the Bill.
        Groups with less people than parts of the Bill should organise their work so that they draft the key parts of the Bill first.
1:00    Lunch
2:00    Continue to work on rough drafts
3:15    Tea
3:30    Writing the sentences
4:50    Closure of session and evaluation in small groups
5:00    Steering committee meeting
STRUCTURING
THE BILL (MANUAL, CHAPTER 8) AND WRITING THE SENTENCES (CHAPTERS 9 AND 10)

9:00    Drafting the bills continued Manual Chapter 10
9:55    Tea
10:15   Drafting the bills continued Manual Chapter 11 pages 15-23

Definitions - Manual Chapter 12, Page 13 – 17
Principal of Statutory construction Manual Chapter 11, pages 15-23

1:00    Lunch
2:00
➢ Break the part into logically ordered sections.
➢ Write a rough draft of the part of the Bill.
Groups with less people than parts of the Bill should organise their work so that they draft the key parts of the Bill first.

3:15    Tea
3:30    As group members finish parts, turn them in to resource persons for suggestions for improvement
4:50    Closure of session and evaluation in small groups
5:00    Steering committee meeting
## Programme for Day 8

**STRUCTURING THE BILL (MANUAL, CHAPTER 8) AND WRITING THE SENTENCES (CHAPTERS 9 AND 10)**

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<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>9:00</td>
<td>Continued Drafting parts of bills, submit to resource persons for suggestions</td>
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<tr>
<td>9:55</td>
<td>Tea</td>
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<tr>
<td>1:00</td>
<td>Lunch</td>
</tr>
<tr>
<td>2:00</td>
<td>Continued drafting bills and submit to resource persons for suggestions</td>
</tr>
<tr>
<td>3:15</td>
<td>Tea</td>
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<tr>
<td>3:30</td>
<td>Complete final draft of bills. Turn in for Xeroxing for circulation to critique groups</td>
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<tr>
<td>4:50</td>
<td>Closure of session and evaluation in small groups</td>
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<tr>
<td>5:00</td>
<td>Steering committee meeting</td>
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