

# Workshop on institutional changes for the NAFTA era: Belize, January 23 - 27 1995

---

<https://hdl.handle.net/2144/20056>

*Downloaded from DSpace Repository, DSpace Institution's institutional repository*

Boston University

School of Law  
765 Commonwealth Avenue  
Boston, Massachusetts 02215

Faculty Services  
Tel: 617/353-3110  
Fax: 617/353-3077



## FACSIMILE COVER SHEET

DATE Feb. 21, 1995

TO: Mr. Raymond Witz

FAX PHONE: 011-501-8-20071

FROM: Ann & Bob Seidman

DOCUMENT SENT: Report on workshop on institutional change

NUMBER OF PAGES: COVER PAGE PLUS 17 pages

ADDITIONAL COMMENTS: We mailed the original about Feb 7 - sorry you didn't get it! We look forward to hearing your plans - and Bert's, too. (We have the PhD programme that he wants all set to go)  
Ann & Bob

PLEASE CALL (617) 353-3110 IF TRANSMISSION IS NOT RECEIVED TO SPECIFICATIONS.

**NOT A TREASURE CHEST, BUT A TOOL BOX:  
A report of a workshop on Institutional Change for  
the NAFTA Era**

Belmopan, Belize  
January 23-27, 1995  
by Ann and Robert B. Seidman

**The Mission:**

The Belize Government realizes that, to survive the intensified global and regional competition imposed by the creation of NAFTA, the Belizean people must learn to use their own human and natural resources increasingly efficiently. Government understood that the core of the problem lies in restructuring Belize's institutions so they can better respond to the challenges of the NAFTA era. As part of its efforts to initiate the processes of institutional change, the Prime Minister's Office organized a one week workshop of high level government officials and private sector representatives, and obtained UNDP funding for us to come as consultants. The Prime Minister opened the workshop, urging that, to deal with the exigencies of the NAFTA era, the workshop participants should focus on strengthening the capacity of Belizeans at every level -- public and private -- to acquire and utilize Information, Initiative, and Innovativeness.

From the beginning, we explained that we had no treasure chest of answers to the urgent questions posed by NAFTA. At most, we could offer a set of analytical tools which we had developed over the last three decades of work in other third world countries. The workshop participants would have to test the utility of those tools, perhaps even redesign them, to overcome the difficulties Belize faced in the new NAFTA era.

**relevant social actors.** We pointed out that law, broadly conceived,<sup>1</sup> constitutes the primary tool of any society to change institutions. Colonial laws had played a major role in shaping not only the governmental, but also the economic institutions that today maintain the distorted pattern of resource allocation which leaves Belize underdeveloped and externally dependent. To change those inherited institutions, the people and Government of Belize now need to formulate and effectively implement new laws.

Drawing on experiences elsewhere, we proposed a set of analytical tools for guiding the research required to lay a sound foundation for achieving task. Those tools comprise: a) a problem-solving methodology, grounded in the use of reason informed by experience, and b) specific explanatory categories that focus on the possibilities and limits of using laws to change the social behaviours that comprise institutions.

The problem-solving methodology guides researchers in analysing country-specific circumstances to explain the causes of social, political and economic problems as the basis for discovering solutions. That requires both reason and empirical investigation. To test the logic of their analysis rigorously, it requires researchers to gather facts at each of four essential steps: 1) To describe in detail the nature and scope of the difficulties; 2) to test the formulation of explanatory hypotheses

---

<sup>1</sup> We define 'law' to include, not only formally enacted legislation, but also the regulations and other state-implemented rules that purport to govern the social behaviours of a society's many social actors.

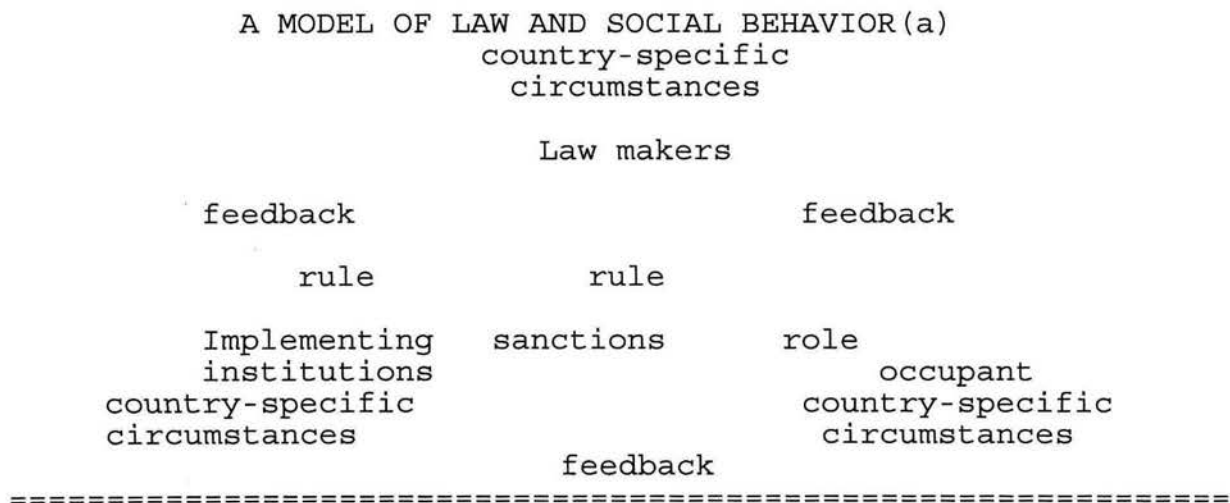
as to the causes of those difficulties; 3) to assess the the social costs and benefits of alternative possible solutions addressed directly at the causes; and 4) to conduct an on-going process of evaluating the social consequences of the solutions implemented.

Law can only address social, political and economic problems by addressing the repetitive behaviors that create or contribute to those problems -- that is, by changing the institutions that lie at their core. To successfully employ the institutionalist tools we proposed requires researchers to specify problems addressed in terms of whose and what behaviours comprise them. Having done that, the problem-solving methodology provides the first step on the path towards a legislative solution.

Since law can only change institutions by changing the behaviours that comprise them, researchers seeking legislative solutions need two additional sets of analytical tools. First, they need a model of how law affects behaviour (See Figure 1).

=====

FIGURE 1



People -- the model's 'role occupants'<sup>2</sup> -- behave as they do in the face of a rule of law by choosing within the constraints and resources of their environments: the rule itself; the expected actions of the implementing agency in imposing conformity-inducing measures; and all the non-legal constraints and resources of their country-specific circumstances. To design a law that will in fact induce conforming behaviour, drafters must take into account the expected behaviour of the implementing agency; in other words, they must take into consideration their proposed rules' implementation. (The popular lament, that 'We have good laws, but they remain badly implemented' constitutes a contradiction in terms.)

Second, to facilitate research as to the causes of the role occupants' problematic behaviours requires breaking down the country-specific constraints and resources into categories that encompass all the likely causal factors. The ROCCIPI agenda provides tools for that purpose.<sup>3</sup> To utilize this set of tools,

---

<sup>2</sup>. The model uses the term 'role occupant' to denote the class of persons who, as addressees of a state-made rule, perform a social role. A law's addressees, or role occupants, may therefore consist of every member of society ("Thou shalt not commit murder"), a defined class of non-officials ("No director of a corporation may use insider knowledge for private benefit"), or an official ("The Public Utilities Commission shall prescribe fair and reasonable rules for the generation and distribution of electricity"). In the case of Belize, the role occupants of concern comprise those whose behaviours contribute to the misallocation of resources.

<sup>3</sup>. These categories include existing relevant Rules; the relevant role occupants' Opportunity to obey; their Capacity; whether the authorities have Communicated the rules to them; their Interest in obeying; the Process by which they decide whether to obey; and their values and attitudes, their Ideology as it affects their behaviour. The acronym, ROCCIPI,

researchers must, at the first step in problem-solving, examine available facts to identify the relevant role occupants -- and, as we have suggested, specify their behaviours which comprise the social difficulty. Then, at the second step, reviewing the ROCCIPI agenda of possible relevant explanatory factors, they must formulate hypotheses -- 'educated guesses' -- as to the causes of those role occupants' problematic behaviours. These hypotheses provide a map as to the facts the researchers must gather to test their guesses validity. Once they have warranted their hypotheses -- or revised them to ensure consistency with the available facts -- logically they can generate solutions in the form of new laws that specifically alter or eliminate the factors that caused the social problem.

**Testing the tools:**

The workshop discussed the importance of preparing a research report to accompany draft bills. Nobody can assess the worth of a draft bill on any matter more complex than spitting on the sidewalk without understanding the area of choice -- the country-specific circumstances -- of the relevant role occupants. The requirement that drafter accompany their bills with an adequate research report ensures: 1) that the drafters must undertake the appropriate research concerning all the factors --including effective implementation -- likely to determine whether their bills will likely contribute to changing the problematic behaviours that comprise the problems addressed; and 2) that the legislators who must decide whether enact the law can assess the proposed laws'

social consequences. The problem-solving methodology and ROCCIPI research agenda should, therefore, provide the basis outline of that research report.

To test the proposed methodology, the workshop participants used it to analyse, first, a shrimp-farm proposal, and then three additional problems related to human, natural and finance resource-use in Belize.

1. The shrimp-farm case study:

To illustrate the use of the proposed analytical tools, the workshop participants examined the difficulties the Ministry of Agriculture encountered in its efforts to encourage small farmers to undertake the apparently profitable scheme of small shrimp farms. Using the ROCCIPI research agenda to structure his analysis (see footnote ), a fisheries expert from the Agricultural Ministry identified the full range of the causes of the small farmers' failure to date to comply with the scheme. Logically, that suggested several kinds of legislation to overcome the causes of the difficulties they encountered.

Some workshop participants objected: Belize's problems, like those of the small farmers, they insisted, reached beyond the law-in-the-books. Belize already has many laws. Either they remain unimplemented, or they just do not overcome the difficulties. The causes of Belize's institutional problems, they argued, lay in other Belize circumstances, so the solutions lay in changing those circumstances.

As to many people, the participants apparently had in mind



particular kinds of laws that purport to change institutions. Lacking an adequate methodology or legislative theory, too often drafters merely examine a social problem, and write a law that commands the several social actors involved to act in ways that the drafters conceive will resolve the social problem. Often they copy laws from elsewhere.<sup>4</sup> Not infrequently, in an effort to ensure obedience, the drafters impose the threat of penal sanctions; but obviously, if circumstances make it impossible for the laws' addressess to obey, these will only cause additional costs to government and hardship to citizens. To the extent that people identify 'law' with rules of this sort, no wonder that they come to believe that social change lies beyond the law's grasp.

An adequate legislative theory should assist in formulating laws that directly address all the non-legal constraints that cause the problematic behaviours at issue. The ROCCIPI agenda focuses attention on those other circumstances; indeed, no laws would likely solve Belize's problems unless, as in the case of the proposed shrimp farms, they succeeded in altering those circumstances. To test that proposition, the participants met in small groups to examine all the possible means available to the private sector, NGOs, and the government, for altering the factors

---

<sup>4</sup> Several workshop participants observed that Belize law-makers had copied laws from elsewhere without adequate analysis of Belize's unique circumstances; and they had proven unimplementable. In one instance, to protect Belize new tarmacked roads, the drafters had copied a law requiring the weighing of trucks, forbidding any truck over a specified weight from driving on the roads. Since Belize had no weigh station, the law proved unenforceable.

that caused small Belize farmers' difficulties in adopting the scheme. Self-evidently, a law requiring some set of farmers to grow shrimp or face jail would produce not a single shrimp. The groups reported to the plenary workshop that, given existing economic institutions, small farmers alone cannot likely overcome the obstacles that hinder them from engaging in shrimp farming: The absence of necessary credit, inputs, transportation, processing, and markets. Nor do any of the existing private sector institutions or NGOs by themselves seem to have the resources to fill the gaps. Even government apparently does not have sufficient resources to do the job alone. Only if the government can somehow change the behaviours of all the existing institutions -- including its own ministries -- can they together create the conditions necessary to enable the farmers to engage in shrimp farming. Government can only do that by changing the rules of the game governing the relevant behaviours of those who handle credit, inputs, transportation, process and markets -- that is, by changing the relevant laws, broadly conceived. To develop a successful small-scale shrimp farming industry, government must devise laws that successfully provides the incentives and enabling conditions to stimulate the private sector and NGOs, as well as the farmers themselves, to draw on their resources to surmount the obstacles that presently make it almost impossible for small farmers to produce shrimp.

## 2. Problems of human, natural and financial resource use:

To further test the proposed tools, the participants used them

to structure their analysis of three sets of problems they identified as ones Belize must solve to meet the NAFTA era's challenges. Formed into three groups, the participants began the task of outlining the kind of investigations required to prepare a research report designed to facilitate the formulation of adequate new legislation to transform institutions in the three problem areas they selected: 1) human resource development; 2) natural resources development; and 3) finance. As the first step, each group specified the nature and scope of the difficulties characteristic of its chosen area and identified the relevant role occupants and their problematic behaviours. The extensive scope of the problem-areas they had chosen required specifying a considerable number of role occupants.

For example, the group dealing with human resource development focused on the fact that about half of all Belize children leave school before completing the primary grades; as a result, they possess few of the skills required to engage in productive employment, far less to initiate a self-sustaining business capable of competing in the NAFTA era. These school leavers comprise a high proportion of the many young people who remain unemployed, a potential pool of frustrated and youth. Some have even turned to the criminal activities. Among the role occupants whose behaviours contributed to this social problem, the group indentified teachers, who could not persuade the youngsters to remain in school; the school curriculum committee which provided school programmes that may help the fortunate enter secondary school, but gave school

leavers no economically useful skills; parents -- often single mothers -- who sometimes took children out of school; and school managers who did not focus sufficient attention on finding solutions to the school leavers' problems.

The natural resources development group cast a wide net to capture the difficulties faced by all line ministries in trying to implement government policies. The finance group dealt with all the difficulties involved in trying to redirect Belize's investable surpluses to viable projects employing local resources. Both produced even more extensive lists of possible role occupants.

After reviewing their conclusions in a plenary session, the participants again broke up into their three groups. To test the utility of the proposed ROCCIPI agenda as guide to considering all the possible factors likely to have caused them in the scarce time available, they agreed to try to explain the causes of only one set of role occupants' problematic behaviours. Since the difficulty of ensuring effective implementation seemed common, they focused on an implementation agency. The human resource group, for example, centred attention on the factors likely to influence the curriculum committee's failure to design a school programme that catered not only to those staying in school, but to those who leave. Since none of the group members had actually served on the curriculum committee, they emphasized that their hypotheses as to causal factors remained nothing more than partially educated guesses. Like all hypotheses, they might serve as a guide in gathering the facts required to test their validity. Only after these empirical

economy, required a thorough overhaul to create a democratic participatory process capable of mobilizing the human, natural and financial resources of the nation.

The participants decided to constitute themselves as a Task Force, including people from government, private sector and non-government sectors, to continue the momentum for institutional change. They recommended that the Prime Minister appoint a unit to work out of his Office in close coordination with the Task Force in implementing an on-going learning process involving all government personnel to review and revise the existing rules in every ministry and agency to stimulate the initiative and creativity required to facilitate the mobilization of Belize resources in every sector.

To contribute to and facilitate the work of the Task Force and the proposed unit in the Prime Minister's Office, we suggest, in addition:

1. Ramon Witz be assigned by the Prime Minister to attend Boston University Law School from March 15 to May 15, to draft regulations governing the process of drafting and ensuring the passage of laws likely to ensure the required transformation of Belize institutions. In the process, he will also draft an adequate explanatory research report documented by facts drawn from Belize<sup>6</sup> and foreign law and experience, to show how the draft regulations will facilitate the introduction of a more open,

---

<sup>6</sup> Supplemented on their return by the information being gathered by the other workshop participants in the work with their colleagues in existing Belize public and private institutions.

accountable process of making and implementing new rules. These draft regulations will aim to contribute to, not hinder, the creative endeavours of the many different actors in Belize civil society to use their own resources -- human and physical -- to meet NAFTA era challenges.

2. In September, 1995, two to four Belizeans will attend a four month programme at Boston University Law School designed to deepen their understanding of the theory and methodology related to the use of law to facilitate the development process, and to give them the opportunity study the efforts of other countries to transform public service institutions to serve their peoples' needs. On their return to Belize, they will serve as facilitators to help may others to learn appropriate methods for making institutional changes required to meet NAFTA's challenges.

a. In Boston University, and taking advantage of the existence of resources of the nearly 40 institutions of higher learning in the Boston area, the facilitators will study the following:

(i) Law and development (including legislative theory and methodology, and the uses of comparative law in designing new rules of the game);

(ii) social science research methods for gathering data to test hypotheses as to causes of social actors' problematic behaviours;

(iii) enough legislative language and techniques to translate proposed policies into effectively implementable laws and regulations;

(iv) foreign experiences with efforts to formulate and implement laws to transform public service institutions to serve development; and

(d) participatory methods required to enhance the on-going learning process of transforming Belize institutions in the public and private sector.

c. In addition, the facilitators will draft a handbook for both public service personnel and private citizens concerning the theory and methodology of people-centred, problem-solving institutional change. On their return to Belize, the facilitators will submit their draft handbook, to a follow-up workshop in January, 1996. That workshop will provide the opportunity for people engaged in transforming Belize institutions critically to review and assess their own efforts, and to use the occasion to revise the handbook to assist them in those efforts.

d. The facilitators will also use the handbook to work with those interested to expand and institutionalize the learning/transformation-process in both the public and private sectors by:

(i) introducing a course at the university on the theory and methodology for institutional development;

(ii) introducing a course in the public administration training programme to teach future public servants the theory and methodology of legislative drafting, and initiating drafts for institutional change in specific public service institutions;

(iii) working with the other workshop participants to extend the learning process to engage personnel in government ministries and relevant private sector organizations.