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# Sri Lanka Legislative Drafting Workshops

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*Boston University*

EVALUATION OF LEGISLATIVE DRAFTING WORKSHOP  
Sri Lanka, July 15-31, 1998

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**Introduction:**

This three week legislative drafting programme comprised the first step in a proposed programme that aims to 'solve' the problem of the existing gap between those who formulate policies and those who actually draft bills purporting to translate those policies into effectively implementable law. The problem-solving methodology's fourth step requires monitoring and evaluating the implementation of the proposed solution. That underscores the need for a mechanism for evaluating the workshop.

Many possible forms exist for evaluating a solution, that is, for obtaining feedback as to a solution's social impact. At the workshop, perhaps each group's presentation of a bill and an accompanying research report for all the participants' critique constitutes the workshop's most important instrument for 'evaluating' the participants' performance. In the longer run, whether those bills, as re-drafted and substantiated by further evidence in the research reports, become enacted, and actually produce the desired results, will comprise another important test of their work. In addition, whether the participants, on returning to their departments, use the tools they have acquired effectively to prepare new bills and research reports to resolve social problems will comprise another test; indeed, the ultimate proof of the workshop's contribution will be the extent to which its participants play an effective role in institutionalizing the theory and methodology in Sri Lanka's on-going law-making processes. Obtaining the results from these 'tests', however, will take a long time. Meanwhile, to determine how to improve the next steps in the present project, other forms of evaluation seem necessary.

As a more immediate form of assessing the workshop's learning process, after almost every day's formal session, each drafting group sent a 'representative' to a brief evaluation meeting. Those representatives supposedly provided a two-way communication channel between the group members and the workshop facilitators for a critique of the workshop sessions and providing suggestions for improvement. As result of a suggestion made at these meetings, for example, the workshop facilitators began to use slides on the overhead projector, and produced copies for all the participants' use. In reviewing those evaluation meetings, however, it seems that the group representatives primarily tended to emphasize what they (and presumably the group members they represented) found useful in the workshop. They made few if any negative comments, but it seems unlikely that none of the participants had any complaints or objections to specific features of the learning process. Whether the representatives 'represented' every group member's opinion or concerns, or identified all the difficulties

with the workshop process, remained open to question. Furthermore, the evaluation meetings remained quite general, and offered little insight into the extent to which individual group members felt the workshop assisted them in acquiring all the understandings the workshop facilitators sought to convey concerning the use of law as a tool for democratic social change.

This questionnaire comprises yet another form of short-term evaluation. It may provide two possible advantages: (1) It aims to give every individual member an opportunity to present their critical comments and suggestions anonymously;<sup>1</sup> and (2) it aims to enable the individual participants to rethink and evaluate the extent to which the workshop might best help them (and future workshop participants) improve their understandings of the key concepts and tools required to use law as a tool for effective institutional transformation.

**Please assess this questionnaire as a mechanism for evaluating the workshop as a process for enabling the participants to learn how to use legislative drafting tools. Don't hesitate to suggest rephrasing of the questions, or additional questions which the questionnaire should include.**

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DRAFT QUESTIONNAIRE

Directions: For each question in each section listed, please check the category that best reflects your assessment. Then, in the space entitled 'comment', add any detailed criticisms or suggestions for improvement related to the section. [For each section, you may wish to write out your response to the additional points mentioned.]

Note: Key to category symbolized by each letter:

U= unsatisfactory  
S= satisfactory  
G= good  
VG =very good  
E= Excellent

[Note: 16 participants handed in the questionnaire; not all filled in all the questions, and even fewer made detailed comments,

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<sup>1</sup> While ideally everyone should feel free to criticise the workshop facilitators and the process without qualms -- after all, only by making constructive criticisms can workshop participants help to improve the learning process -- experience indicates that almost always at least some people feel reluctant to take the 'risk' of speaking frankly. If the participants fill out the questionnaire without putting their names on it, hopefully they will make more full and frank criticisms and suggestions for improvement.

paraphrased below.]

	U	S	G	VG	E	Total
<u>Training Methodology:</u>						
Small group discussions		1	2	4	2	8
System of small group representatives			4	3	4	11
Facilitators' willingness to respond to suggestions			1	4	6	11
Balance of theory and practice		2	1	5	2	10
Length of workshop			4	7		11
Length of sessions each day			4	3	1	9

1. Comment: Criticisms and suggestions for improvement:

(1) need to ensure all participants take part; (2) need at least 5 participants per group and a proper mix from departments; (3) facilitators respond well to participants' comments and requests; provoke participants to contribute; (4) reduce workshop hours by one hour; (5) useful learning experience; group discussions made daily course work study useful; (6) would help if everyone contributed to discussions; (7) gained insight into legal drafting methods; (8) excellent methodology; (9) ditto; no improvements needed.

2. Comment on the extent to which, in your own department's work, you might use the workshop's methodology to structure participatory discussions using reason informed by experience (facts and logic).

(1) could be used in any institution with good results; (2) will share new drafting methodology with other department members; (3) a useful experience, should be incorporated into SLIDA training; (4) would help to use workshop's methodology to structure discussions with ministry personnel relating to bills; (5) learned what to look for and how to analyze it; (6) gained a lot of knowledge and experience; (7) very useful; (8) appreciate facilitators' dedication; an excellent job; (9) will pass information on to other senior officials; (10) will be helpful in my department's work; (11) useful for training sessions; (12) very useful; (13) never had this kind of training before; will help us carry out our functions more effectively.

	U	S	G	VG	E	Total
<u>Arrangements:</u>						
Conference room		3	4	6	2	15
Seating arrangements		1	4	1	1	7
Detailed (draft) agenda			7	6	2	13
Workbooks			4	6	2	12
Coffee breaks and lunch			4	6	2	12

Comments and suggestions for improvement:

(1) Computer and library facilities should be available after 4:30 for residential participants; (2) good as they are; (3) arrange group system with round tables so students can see white board clearly; (4) everything good, but need better toilet facilities;

(5) should distribute detailed agenda well in advance of workshop; change seating arrangements daily.

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CONCEPTS:

To what degree do you think the workshop gave you a better understanding of the following concepts related to the use of law as a tool for social change:

	U	S	G	VG	E	Total
Government official's role in process of drafting laws to deal with problems of social change.			2	5	8	15

Comment:

(1) Doubt other participants understood this; (2) problem-solving methodology should help ensure law includes proper implementation provisions; (3) politicians communicate intentions, but drafters provide content; (4) previously understood only drafting techniques; now realize should study law's effect on behaviours; (5) learned to reach conclusions on law on any subject; (6) in terms of workshop's teaching, should completely change drafting system; (7) this is a new legal drafting practice for Sri Lanka; (8) government officials' role should include preparation of research reports;

	U	S	G	VG	E	Total
Relationship between law, institutions and development			3	9	2	10

Comment: (1) law is necessary for good governance, motivates institutions in direction of development; (2) workable implementing procedures will maintain good relationship between all three; (3) gained new insight into relations between law, institutions, and development; (4)

	U	S	G	VG	E	Total
Nature of law as a tool for facilitating the development process:			1	12	1	14

Comment: (1) can use law to solve social problems, behaviours; (2) a good law, with workable implementation procedures, facilitates development; (2) law is effective tool, but non-legal constraints and resources play a vital role in development process.

	U	S	G	VG	E	Total
Potential for using law to change Sri Lankan institutions		1	3	8	2	13

Comment: Centralized, non-devolution system fostered neglect of periphery; now potential is enormous; (2) law can change behaviours; (3) new methodology will help meet Provincial needs;

(4) implementing machinery is weak due to political influence, lack of funds, etc.; (5) lack of skills, resources, adequate communications hinder use of law for this purpose.

	U	S	G	VG	E	Total
Why copying laws from other 'developed' countries usually does not produce the results desired		2	4	7	1	14

Comment: (1) Historical background, context, culture, etc. differ; (2) status of other countries, needs of people, matter; (3) foreign laws never apply; (4) Sri Lanka has many copied laws (penal code, evidence ordinance, civil code) that fit our needs; but copying law doesn't always meet local needs; (5) We have been copying Acts passed by Parliament, but now, in workshop, have learned technical knowhow; (6) Developed country laws do not fit developing countries' requirements and social and cultural differences; (7) behaviours of persons in underdeveloped countries differ from developed ones, so can't change persons' behaviours in developing countries by copying developed countries' laws; (8) non-legal constraints and resource factors differ in other countries; must modify foreign law to meet local conditions.

	U	S	G	VG	E	total
What can be learned from foreign law and experience?		1	3	7		11

Comment: (1) It helps in drafting; (2) change behaviours through law; (3) must not blindly copy foreign law; (4) we received little knowledge about foreign law; (5) theory, examples, and experiences can be learned from foreign law; (6) workshop should focus on how foreign laws could be adapted to suit Sri Lanka's needs; (7) new techniques can be adopted from foreign law and experience; (8) This can be a model for solving similar problems; can learn ideology behind a proposed solution from foreign law.

	U	S	G	VG	E	Total
Conformity-inducing measures as distinguished from sanctions as a means of implementing law.			3	9	2	14

Comment: (1) 'carrot' approach more effective than 'stick'; but reports and bills did not focus on this, did not recommend incentives as inducements; (2) this is the first time this has occurred to me; always considered 'sanctions' only solution; (3) sanctions often result in conflict; conformity-inducing measures are based on consensus and harmonization.

	U	S	G	VG	E	Total
Role of community participation in law-making and implementing processes		1	2	9	3	15

Comment: (1) In democratic systems, community participation in

these areas are inevitable, well-received; (2) community participation useful because they can better explain difficulties, causes; (3) devolution to provincial system makes greater community participation possible.

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	U	S	G	VG	E	Total
Use of law to reduce corruption		1	6	6	3	16

Comment: (1) role occupants must change problematic behaviour to realize value of honesty for law to work; (2) not clear how law can reduce corruption if individual concerned is into corruption; (3) law may put into effect more successfully; explains how to reduce corruption by changing behaviours; (4) strict laws with high penalties will reduce corruption.

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	U	S	G	VG	E	Total
How to improve law-making process as essential to good governance			4	6	3	13

Comment: (1) participation, representation, communication, transparency are essential to ensure good governance through a law-making process; (2) must ensure authority abides by law; (3) ensure self-control, self-regulatory measures in administration of institutions, ensuring communications and transparency at all levels; (4) improve law-making to ensure good governance.

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	U	S	G	VG	E	Total
Relationship of law to the emergence of a Bureaucratic Bourgeoisie		1	6	3	3	13

Comment: (1) only decentralizing decision-making will prevent emergency of bureaucratic bourgeoisie.

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	U	S	G	VG	E	Total
The possibilities for using reason informed by experience in the law-making process			4	10	1	15

Comment: (1) experience more reliable; gaining all facts needed in law-making is time consuming and costly.

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	U	S	G	VG	E	Total
The difference between an hypothesis (an educated guess) and factual statements			3	9	2	14

Comment: (1) hypotheses are subject to falsification; factual statements are more reliable.

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PROCEDURES:

Did the way the workshop procedures for learning legislative theory and methodology help you think about how to use law in your task of

translating policies into laws likely to work?

	U	S	G	VG	E	Total
Did the workshop's focus on research reports provide a useful way to structure of available evidence to justify your proposed bill?			1	7	7	15

Comment:

	U	S	G	VG	E	Total
Did the workshop help to give you an adequate understanding as to why, to draft transformatory bills, you need to identify the relevant role occupants and behaviours that comprise the difficulties your bill aims to solve?				8	6	14

Comment: (1) necessary for drafting legislation; (2) concept of role occupant clarifies why law prescribes who does what; (3) process may help us change our minds about the law-making methodology; (3) now realize logic for enacting laws; essential to identify role occupants to draw up laws to transform them; (4) to adopt problem-solving method, must identify whose and what behaviours comprise problems;

	U	S	G	VG	E	Total
Did the workshop adequately explain why problem-solving's step #2, explaining the causes of role occupant's behaviours?			1	10	3	14

Comment: (1) can't design solution without identifying causes of problematic behaviours; (2) unless law addresses causes of role occupants' behaviours, it will prove useless.

	U	S	G	VG	E	Total
Did the workshop provide you with useful ways to think about your bill as a proposed solution to the social problem it should help overcome?			1	10	3	

Comment: (1) problem-solving is the best method to use in drafting.

	U	S	G	VG	E	Total
Did the workshop help you to identify useful devices for ensuring implementation of your bill if the legislature enacts it?			2	8	4	14

Comment: (1) discussion of specific devices proved helpful; (2)



writing research report and bill; (7) not enough time to write research report and bill.

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Please list your recommendations for steps the workshop organizers and facilitators should take to make the next workshop on legislative drafting more useful?

(1) audio-visual aids; computers become accessible to participants; (2) recommend participants be compelled to stay in residence and available for small discussions after class; and facilities also should be available; (3) separate drafting of research report first from drafting of bill second; (4) identifying group members in advance and deciding bill to draft before coming to workshop; (5) need more time for each subject; (6) ensure computers and library available; (7) workshop style is good for future as well; (8) should discuss weaknesses in Sri Lankan system; (9) provide booklets before workshop to participants; (10) more time needed; (11) recommend more time.

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Note: In three months time you will have had an opportunity to work with the concepts and procedures involved in this workshop. It would be useful if you could review these questions again at that time to see if your ideas about what you learned at the workshop, and how you learned it, have changed; and what new insights that may have given you about how to improve the workshop's learning process.

