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Seidman Research Papers

Workshops, Notes and Papers

Where do we go from here: Draft
program for 1997: to
institutionalize legislative drafting
procedures and capacity-building
to strengthen Lao PDR's national
legal framework

<https://hdl.handle.net/2144/29864>

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WHERE DO WE GO FROM HERE:

Draft program for 1997:
 TO INSTITUTIONALIZE LEGISLATIVE DRAFTING PROCEDURES AND
 CAPACITY-BUILDING TO STRENGTHEN LAO PDR'S
 NATIONAL LEGAL FRAMEWORK

I. To complete before leaving Boston:

A. Research reports and recommended changes in four primary bills for submission to MOJ and National Advisory Committee on Building a National Legal Framework for Lao PDR:

1. Check bill - Pom
2. Electricity bill - Duang
3. Mining bill - Ket
4. Transportation bill(s?) - Lom
 - a. Registration and inspection of motor vehicles for safety
 - b. Licensing drivers of motor vehicles
 - c. developing public transport especially to meet needs of poor and rural areas
 - d. providing 'infrastructure' (gas stations, repair shops, etc.), especially in rural areas.

B. Draft outline of research reports for four secondary bills:

1. For revising existing commercial law - Pam
2. For urban planning bill - Lom
3. For special economic zones - Ket
4. For local authorities - Duang

C. Completion of revised handbook for use in teaching legislative drafting.

D. Prepare a draft outline of a research report relating to a possible bill (law, Cabinet decree, or MOJ regulation) relating to Lao's law-making process, drawing on experience of both sets of Lao colleagues who participated in BU Program, as well as the 1996 workshop held in Lao PDR.

II. Some possible suggestions for activities on return to Lao PDR:

A. Discuss revised handbook with Thanou, Boumklam and MOJ Advisory Committee for use in institutionalizing legislative drafting learning process (with understanding that in that process it will undoubtedly be further revised and improved).

B. Propose that Project arrange workshops relating to each primary bill?

1. Aim: to review and assess research reports and detailed changes suggested for bills, especially relating to implementation?

2. Who should participate?

- a. of Advisory Committee members?
- b. of relevant National Assembly committee members?
- c. others?

C. Propose that Project arrange a 10 day workshop for drafting teams to prepare four secondary bills and, in the process, learn legislative theory and methodology?

1. Work with MOJ and Ministries to select responsible members of drafting teams to work on research for research reports and bills?

a. Preliminary discussions with MOJ and responsible ministry personnel on the draft outline of the Research Report relating to the nature and scope of the problem each bill proposes to address;

b. Ensure that drafting team members -- up to 10 members -- accept responsibility for completing bills and research reports;

(1) they must have the necessary background information relating to the problem the proposed bill addresses;

(2) In workshop, drafting team will structure available relevant information in the research report as a basis for identifying and beginning to draft the bill.

c. Make plans as to time table for completion of bills and research reports?

2. Hold workshops in March (?) on four secondary bills and research reports:

a. Two aims:

(1) to help drafting teams

(a) complete research reports and begin to finalize bills?
and

(b) learn legislative theory and methodology?

(2) to enable these 4 colleagues (who will conduct the workshops) to:

(a) deepen their own understanding of legislative theory and methodology? and

(b) learn how to implement and improve the learning process?

(c) Ann and Bob to participate as advisors?

b. use (and test utility of) 10 day schedule for workshop (prepared last year, already in Lao language) along with revised handbook;

(1) is 10 day schedule OK? how might it be improved for future work with drafting teams on other bills?

(2) are handbook revisions adequate? how improve it?

c. Should Project invite consultants to discuss foreign law and experience to obtain further information for inclusion in research reports and consideration in drafting bills?

(1) Alternative possibilities:

(a) Could extend 10 day workshop for another week or two so consultants and Lao colleagues could learn from each other;

(b) Could arrange for consultants to attend additional workshops for drafters on each bill at later dates; Lao colleagues with BU background would have to ensure consultants served as resource people re foreign law and experience.

(2) In either case, if requested, Seidmans will send names of 3 potential consultants per bill so

MOJ and drafting team can select and invite the one they deem best.

D. Take further steps to develop the research report and draft a law (a Cabinet decree or MOJ regulation) to regularize the Lao law-making process?

1. Aim:

a. to ensure bills and decrees come to Cabinet accompanied by an adequately structured research report; and

b. to ensure transparency and participation characterise the drafting process.

2. Project to appoint a drafting team (including representatives from Cabinet staff, MOJ and relevant Ministries, and the Assembly's Legal Committee?) to draft regulations for the drafting process?

3. Include this as a bill for consideration at the 10 day workshop suggested in II-C above?

E. Additional next steps in teaching theory and methodology:

1. Meet with Thanou and Bounkham to discuss and evaluate their experience as basis for further institutionalization of learning process for building Law National Legal Framework:

a. discuss measures already taken to institutionalize learning process for law school students to earn legislative drafting theory and methodology:

(1) How has process worked this year for law school students?

(a) what research did they undertake? what can be learned from their experience?

(b) what rules, or regulations, if any, did they draft as part of learning process?

(c) What else can be learned from the efforts to introduce legislative drafting theory and methodology into law school curriculum?

(2) did law school students use handbook? How did it work? what do they think of revisions?

b. Would it be helpful to hold a meeting of law school staff and 4 Lao colleagues, together with Ann and Bob (if they come in March) to discuss and evaluate progress made in institutionalizing legislative drafting theory and methodology in law school curriculum?

2. What steps have been taken to institutionalize learning process for legislators to learn legislative theory and methodology in order to assess bills and evaluate implementation of laws once enacted?

a. Have any of proposed 2 day workshops been held?

(1) Did the proposed outline help to structure their analysis?

(2) Did the handbook prove helpful? Will proposed revisions likely prove useful?

b. What other measures/experience has Legal Committee of National Assembly had which may prove useful in understanding how better to institutionalize a learning process to strengthen legislators' capacity?

c. Would it be helpful to hold meeting with Bob and Ann (if they come for 10 day workshop on secondary bills) to discuss and evaluate progress made in strengthening legislators' capacity to assess bills and evaluate implementation of legislation?

III. Proposal for computerization of legislative drafting process in Lao PDR:

A. Should MOJ and Project to Build Lao PDR's National Legal Framework request UNDP to help find funds to provide the necessary equipment and training?

1. Aim: to enable key legislative drafting personnel in MOJ and other ministries to utilize personal computers to facilitate the drafting and redrafting necessary to improve research reports and bills.

2. MOJ to install a data base for easy access to Lao PDR's rapidly accumulating data relating to:

- a. existing legislation (including laws, decrees and regulations at national, provincial and local levels) and its social impact?
- b. proposed bills and research reports?
- c. court decisions relating to disputes under existing legislation?

3. Lao drafters and law-makers to gain access to internet and Lexis as a relatively inexpensive and quick way to gain information relating to foreign law and experience for proposed Lao legislation?

IV. Plan further steps that Lao PDR's MOJ and the National Advisory Committee should take in the next five years to institutionalize an increasingly effective learning process to draft legislation and, in the process, strengthen Lao drafting capacity?