Gauteng workshops on legislative drafting

Seidman, Robert

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Boston University
June 23, 1997

Mr. Firoz Cachalia
Gauteng Legislature
Office of the Leader of the House
P.O. Box 2622
Johannesburg 2000
South Africa

FAX 011-27-11-498-5999

Dear Firoz:

It was good to have an opportunity to discuss the coming Gauteng workshop(s) with you last week. We are sending along this FAX to confirm our understanding. Again, however, we would like to emphasize that we are very flexible in these matters; we will make every effort to adjust the program to meet the concerns of you and your colleagues. As we mentioned, we plan to arrive July 7 and remain until August 9, so we should have plenty of time.

As we understand it, you have identified three aspects of the work to be completed. First, you propose a workshop involving people from the Legal Services Directorate plus interested ministerial drafters and policy makers to discuss legislative theory and methodology, focusing on the drafting of Cabinet memoranda and instructions for drafters in preparing bills to translate ministerial policy into legislation. Legal Services Directorate personnel will be assigned responsibility for completing these two draft bills and accompanying reports that justify them in terms of Gauteng circumstances. While we agree with your observation that these will undoubtedly provide the core of the drafting personnel, you might, in addition, wish to include members of relevant Parliamentary committees. Also, to facilitate institutionalization of an on-going training process, you might also wish to include two or three university law school lecturers willing to introduce relevant courses in their curricula.

Second, if the ministries request bills addressed to other social problems, they will be asked to assign persons knowledgeable about the particular problems who assume responsibility for drafting the final bills. We will work with these drafting teams, either in the course of the first workshop, or in subsequent smaller separate workshops, to help them structure the available evidence as the basis for appropriate, implementable legislative measures. (The advantages of doing this in the course of the larger workshop lie in giving all participants an understanding that they can use legislative theory and methodology to guide the process of drafting

CONFIRMATION REPORT

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Johannesburg 2000
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any bill, regardless of substance; and also to assess others’ draft legislation on topics with which they may not be familiar. The disadvantages, presumably, relate to the team members’ time constraints. Obviously, the final decisions here rest with you and your colleagues.) If you have some notion of the social problems some of these bills may address, please let us know before Thursday, June 26, so we can bring whatever information we find relating to other countries’ relevant law and experience.

Third, you propose a brief two or three day (?) workshop to provide Gauteng legislators (especially committee members dealing with relevant legislation) with sufficient theory and methodology to assess proposed bills and the accompanying reports that purport to justify them. This might take place at the end of July or early August. Presumably, it would focus on the bills and reports prepared at the earlier workshops, or others which the legislators might suggest. If possible, we would suggest that some of those who participated in the first workshop, whom you think might participate in institutionalizing an on-going training process, might join us in planning and running this workshop.

As we mentioned on the phone, our experience elsewhere underscores the benefits of our meeting for a few hours early on to discuss the project with top provincial leaders to ensure that they feel ‘ownership’ for it. If they proved sufficiently interested, then it might be useful to arrange a report-back session after the first workshop (and perhaps after the second set) to get their inputs into proposals for institutionalizing an on-going learning-by-doing drafting training process. We found this particularly helpful in Lao PDR where the government appointed the top leaders as an Advisory Committee for the on-going project of Building a National Legal Framework.

At present, as we noted, we plan to arrive in Joburg on July 7. We’ll be staying at the home of Zeph and Neva Makgetla, 60 Eckstein Street, Observatory; phone: 011-648-3694. We’ll call you when we get in.

We look forward to seeing you soon.

Sincerely,

Ann and Bob Seidman