Legislative drafting for democratic social change in South Africa

Seidman, Robert

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Boston University
Dr. Sandy Leibenberg  
Community Law Centre  
University of the Western Cpe  
Private Bag X17  
7535 Belleville  
Western Cape  
SOUTH AFRICA  

FAX: 27-21-959-2411

Dear Sandy:

As you may remember, we met last year at the INTWORLSA workshop.

Since then, we have been giving a lot of thought to possible ways of assisting South and Southern African institutions to strengthen legislative drafters’ and legislators’ capacities to draft and assess legislation in the context of drafting and enacting the kinds of transformatory laws that South Africa -- like many third world countries -- requires to facilitate development. We enclose the brochure we have prepared for the Boston University Program for Legislative Drafting for Democratic Social Change.

We understand that funding agencies, like Ford and USAID, might well respond to a request for assistance in financing such a program, especially if it involved institutions from more than one Southern African Country. Do you think your Community Law Centre would be sufficiently interested in participating in such a program to join in a request for funding from both Ford and USAID, perhaps together with the law faculties of South Africa’s University of the North, UNISA, and Namibia’s and Zimbabwe’s universities’ law schools as well as that of Mozambique’s Eduardo Mondelane University?

Essentially, the proposed Program would involve:

(1) An introductory two to four week workshop for staff and advanced students of each participating law school, perhaps on a regional basis;

(2) a brief (one or two day) workshop in each participating country for senior law professors and senior law administrators and, if possible, provincial and local government leaders (senior civil servants and drafters from the Ministry of Justice, and other leading civil servants and Ministers);
(3) sending two members of each of the participating law schools' teaching staffs to the University of Boston's School of Law's four month Program for Drafting for Democratic Social Change (this might be expanded to four to include drafters and lecturers in local Schools of Administration\(^1\)); and

(4) institutionalizing an on-going legislative drafting program in the participating law schools in cooperation with and to meet the needs of ministries and law-makers.

If you think the Community Law Centre would be interested, we will mail to you the draft proposal that the other institutions are considering. Once revised in light of their comments, those who agree to participate could then forward the proposal to the Southern African regional offices of Ford and USAID, and any other funding agency that they deem worthwhile.

We very much hope you will support and help to implement a proposal along these lines. We look forward to hearing from you.

Very sincerely,

[Signature]

Ann Seidman and Robert B. Seidman,
Co-Directors, Program for Legislative Drafting for Democratic Social Change

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\(^1\) See footnote XX above.
October 4, 1996

Dean Walter Kamba
Law School
University of Namibia
Pvt Bag 133
340 Mandume Ndemusayo Avenue
Pioneerspar, Windhoek
Namibia

FAX: 264-61-242-644
Phone: 264-61-242-421

Dear Walter:

Rumor reports that you are now the Dean of the Namibia Law School. We hope this letter finds you well and enjoying that new challenge.

As for ourselves, we have been working here at BU to develop a Program for Legislative Drafting for Democratic Social Change. That Program got started when we served as Chief Technical Advisors to a five year UNDP Project to strengthen China’s drafting capacity while producing 22 priority laws listed in China’s 1989 National Plan to implement its Reforms and Open Policy. We conducted workshops in China for 250 members of drafting teams dealing with the specific laws, and then some 50 trainers came to BU to study legislative theory and methodology, as well as foreign law and experience relating to specific bills. They returned home to help the drafting teams complete the bills, and also to institutionalize an on-going learning process to equip other ministerial drafters to draft bills accompanied by research reports that ensure those bills fit China’s unique circumstances.

More recently, we have been developing similar projects for drafters and law school personnel in Laos and Mozambique. We have also been discussing the possibilities of obtaining Ford or USAID funds to extend that kind of project to other Southern African institutions. A number of people have indicated an interest, including the Secretary of the Namibian Law Reform and Development Commission.

Do you think the Law School might be sufficiently interested in participating in such a program to join in a request for funding from both Ford and USAID, together with the law faculties of South Africa’s University of the North, NIPAM (the National Institute of Public Administration Management in UNISA), and Mozambique’s Eduardo Mondelane University?

Essentially, the proposed Program would involve:
(1) An introductory two to four week workshop for staff and advanced students of each participating law school, perhaps on a regional basis;

(2) a brief (one or two day) workshop in in each participating country for senior law professors and senior law administrators and, if possible, provincial and local government leaders (senior civil servants and drafters from the Ministry of Justice, and other leading civil servants and Ministers);

(3) sending two members of each of the participating SADC-member state law schools’ teaching staffs to the University of Boston’s School of Law’s four month Program for Drafting for Democratic Social Change (this might be expanded to four to include drafters and lecturers in local Schools of Administration²); and

(4) institutionalizing an on-going legislative drafting program in the participating SADC-member countries’ law schools in cooperation with and to meet the needs of ministries and law-makers.

If you are interested, we will send along the same draft proposal that the other institutions are considering. Once revised in light of the comments coming from those who agree to participate, that proposal could then be forwarded to the Southern African regional offices of Ford and USAID, and any other funding agency that the participants might deem worthwhile.

Meanwhile, under separate cover, we are mailing you an article on the China project, which explains something of the legislative theory and learning process used in that case. The theory and methodology rest on foundations similar to those that underpinned the SADCC legislative drafting project we conducted when we were at the University of Zimbabwe back in the ’80s. However, the Chinese project introduced a lot of useful new ideas. These became further elaborated as a result of the Laotian and Mozambican experiences.

We very much hope you will support and help to implement a proposal along these lines. In any case, we do look forward to hearing from you.

With warmest regards,

Ann and Bob Seidman

¹ See footnote XX above.
October 4, 1996

Prof. David J. McQuoid-Mason
University of Natal
Private Bag X10
Dalbridge
Durban 4014
South Africa
FAX: 011-31-260-2559

Dear David:

As you may remember, we met last year at the INTWORLSA workshop.

Since then, we have been giving a lot of thought to possible ways of assisting South and Southern African institutions to strengthen legislative drafters' and legislators' capacities to draft and assess legislation in the context of drafting and enacting the kinds of transformatory laws that South Africa -- like many third world countries -- requires to facilitate development. We enclose the brochure we have prepared for the Boston University Program for Legislative Drafting for Democratic Social Change.

We understand that funding agencies, like Ford and USAID, might well respond to a request for assistance in financing such a program, especially if it involved institutions from more than one Southern African Country. Do you think either your Law School or the Street Law Project would be sufficiently interested in participating in such a program to join in a request for funding from both Ford and USAID, perhaps together with the law faculties of South Africa's University of the North, UNISA, and Namibia's and Zimbabwe's universities' law schools as well as that of Mozambique's Eduardo Mondelane University?

Essentially, the proposed Program would involve:

(1) An introductory two to four week workshop for staff and advanced students of each participating law school, perhaps on a regional basis;

(2) a brief (one or two day) workshop in each participating country for senior law professors and senior law administrators and, if possible, provincial and local government leaders (senior civil servants and drafters from the Ministry of Justice, and other leading civil servants and Ministers);
(3) sending two members of each of the participating law schools’ teaching staffs to the University of Boston’s School of Law’s four month Program for Drafting for Democratic Social Change (this might be expanded to four to include drafters and lecturers in local Schools of Administration1); and

(4) institutionalizing an on-going legislative drafting program in the participating law schools in cooperation with and to meet the needs of ministries and law-makers.

If you think either your Law School or your Street Law Project would be interested, we will mail to you the draft proposal that the other institutions are considering. Once revised in light of their comments, those who agree to participate could then forward the proposal to the Southern African regional offices of Ford and USAID, and any other funding agency that they deem worthwhile.

We very much hope you will support and help to implement a proposal along these lines. We look forward to hearing from you.

Very sincerely,

Ann Seidman and Robert B. Seidman,
Co-Directors, Program for Legislative Drafting for Democratic Social Change

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1 See footnote XX above.
Dr. J.M. Hlophe  
University of Transkei  
Private Bag XI, UNITRA  
UMTATA  
Transkei  
SOUTH AFRICA  
FAX: 011-27-471-25747

October 4, 1996

Dear Dr. Hlophe:

You may not remember us; we met at the 1993 UCT Administrative Law Conference.

Since then, we have been giving a lot of thought to possible ways of assisting South and Southern African institutions to strengthen legislative drafters' and legislators' capacities to draft and assess legislation in the context of drafting and enacting the kinds of transformatory laws that South Africa -- like many third world countries -- requires to facilitate development. We enclose a brochure for the Boston University Program for Legislative Drafting for Democratic Social Change.

We understand that funding agencies, like Ford and USAID, might well respond to a request for assistance in financing such a program, especially if it involved institutions from more than one Southern African Country. Do you think your Law School would be sufficiently interested in participating in such a program to join in a request for funding from both Ford and USAID, perhaps together with the law faculties of South Africa's University of the North, UNISA, and Namibia's and Zimbabwe's universities' law schools as well as that of Mozambique's Eduardo Mondelane University?

Essentially, the proposed Program could involve:

1. An introductory two to four week workshop for staff and advanced students of each participating law school, perhaps on a regional basis;

2. A brief (one or two day) workshop in each participating country for senior law professors and senior law administrators and, if possible, provincial and local government leaders (senior civil servants and drafters from the Ministry of Justice, and other leading civil servants and Ministers);

3. Sending two members of each of the participating law
schools’ teaching staffs to the University of Boston’s School of Law’s four month Program for Drafting for Democratic Social Change (this might be expanded to four to include drafters and lecturers in local Schools of Administration1); and

(4) institutionalizing an on-going legislative drafting program in the participating law schools in cooperation with and to meet the needs of ministries and law-makers.

If you think your Law School would be interested, we will mail to you the draft proposal that the other institutions are considering. Once revised in light of their comments, those who agree to participate could then forward the proposal to the Southern African regional offices of Ford and USAID, and any other funding agency that they deem worthwhile.

We very much hope you will support and help to implement a proposal along these lines. We look forward to hearing from you.

Very sincerely,

Ann Seidman and Robert B. Seidman,
Co-Directors, Program for Legislative Drafting for Democratic Social Change

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1 See footnote XX above.
Dr. M.S. Motshekga
NIPAM
Unit 2, 50 Tonnetti Street
P.O. Box 341
Halfway House, Midrand 1685
Gauteng, SOUTH AFRICA

FAX: 27-11-805-1837

Dear Dr. Motshekga:

We apologize for not answering sooner to your FAX of 11\9\96, but we have been giving a lot of thought to possible ways of assisting South and Southern African institutions to strengthen legislative drafters' and legislators' capacities to draft and assess legislation in the context of drafting and enacting transformative laws.

We understand that funding agencies, like Ford and USAID, might well respond to a request for assistance in financing such a program, especially if it involved institutions from more than one Southern African Country. Would NIPAM be sufficiently interested in participating in such a program to join in a request for funding from both Ford and USAID, together with the law faculties of South Africa's University of the North, perhaps Namibia's and Zimbabwe's universities as well as that of Mozambique's Eduardo Mondelane University?

Essentially, the proposed Program could involve:

(1) An introductory two to four week workshop for staff and advanced students of each participating law school, perhaps on a regional basis;

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(3) sending two members of each of the participating law schools' teaching staffs to the University of Boston's School of Law's four month Program for Drafting for Democratic Social Change (this might be expanded to four to include drafters and
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(4) institutionalizing an on-going legislative drafting program in the participating law schools in cooperation with and to meet the needs of ministries and law-makers.

We will mail to you the draft proposal that the other institutions are considering. Once revised in light of their comments, those who agree to participate could then forward the proposal to the Southern African regional offices of Ford and USAID, and any other funding agency that they deem worthwhile.

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Very sincerely,

Ann Seidman and Robert B. Seidman, Co-Directors, Program for Legislative Drafting for Democratic Social Change

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¹ See footnote XX above.