Bhutan workshop on legislative and regulatory drafting (23 August - 3 September, 1999)

Seidman, Robert B.
### Number who filled out evaluation form, by group

<table>
<thead>
<tr>
<th>town &amp; country</th>
<th>juvenile delinquency</th>
<th>co-operatives</th>
<th>urban land</th>
<th>legislative drafting</th>
<th>income tax</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td>group</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>5</td>
<td>2</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>aspect</th>
<th>very poor</th>
<th>poor</th>
<th>mediocre</th>
<th>good</th>
<th>excellent</th>
<th>average</th>
</tr>
</thead>
</table>
b. explanations of causes of problematic behaviours         | 0         | 0    | 1        | 15   | 5         | 4.2    |
a. identification of difficulty bill addressed              | 0         | 0    | 1        | 15   | 4         | 4.2    |
c. formulation and assessment of bill's detailed measures    | 0         | 0    | 0        | 20   | 1         | 4.0    |
f. use of definitions                                        | 0         | 0    | 4        | 13   | 3         | 4.0    |
d. structuring bill (grouping and order)                    | 0         | 0    | 5        | 13   | 2         | 3.9    |
g. interpretation of bills                                  | 0         | 0    | 5        | 13   | 2         | 3.9    |
e. analysis of bill's sentences as to who does what         | 0         | 1    | 4        | 15   | 1         | 3.8    |

**Totals**                                                  | 0         | 1    | 20       | 104  | 18        | 4.0    |

<table>
<thead>
<tr>
<th>aspect</th>
<th>useless</th>
<th>somewhat useful</th>
<th>very useful</th>
<th>average</th>
</tr>
</thead>
</table>
v. Daily schedule of events                                | 0       | 5               | 15         | 2.8    |
vii. Writing the research reports                           | 0       | 5               | 14         | 2.7    |
iii. The manual as an instruction aid                       | 1       | 4               | 15         | 2.7    |
iv. The syllabus                                            | 1       | 4               | 14         | 2.7    |
l. The group exercises                                      | 0       | 7               | 13         | 2.7    |
ii. Group reports back to plenary                           | 0       | 7               | 13         | 2.7    |
vi. Meeting room arrangements                               | 0       | 9               | 11         | 2.6    |
x. Setting up drafting teams for each bill                  | 1       | 9               | 10         | 2.5    |
viii. Steering committee                                    | 0       | 14              | 6          | 2.3    |

**Total**                                                  | 3       | 50              | 105        | 2.6    |
List the three most important things you learned, in order of importance:

<table>
<thead>
<tr>
<th>Item</th>
<th>Number</th>
<th>Average Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>mischief rule of interpretation</td>
<td>1</td>
<td>3.0</td>
</tr>
<tr>
<td>drafting theory and methodology</td>
<td>1</td>
<td>2.0</td>
</tr>
<tr>
<td>ROCCIPI</td>
<td>1</td>
<td>2.0</td>
</tr>
<tr>
<td>structuring</td>
<td>1</td>
<td>2.0</td>
</tr>
<tr>
<td>participation, accountability, transparency</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>relevance to our context</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>assessing the difficulty</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>implementing and monitoring</td>
<td>2</td>
<td>3.0</td>
</tr>
<tr>
<td>SAPP</td>
<td>2</td>
<td>3.0</td>
</tr>
<tr>
<td>addressing the needs of role occupants</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>structuring/analysis of bills</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>problem analysis and solution methodology</td>
<td>5</td>
<td>1.8</td>
</tr>
<tr>
<td>research</td>
<td>5</td>
<td>1.2</td>
</tr>
<tr>
<td>clear and concise language</td>
<td>8</td>
<td>2.5</td>
</tr>
<tr>
<td>research report</td>
<td>9</td>
<td>1.1</td>
</tr>
</tbody>
</table>
a. Discuss your ideas as to whether and why (or why not) drafters should write a research report to justify important draft bills.

- A research report is always needed to know the real problems.
- Research report will enable the legislators to comprehend the bill better.
- Needs to be approved by authority to draft a bill.
- To ensure that the problems are clearly understand and that the solutions present true measures.
- To put their thoughts in order.
- Research report is the basis to structure.
- Because without basis, it is difficult to address the problem.
- Research report helps one to identify difficulty the bill should address.
- Opportunity address mistakes.
- Makes the easy approach to draft bill.

a. Did using the problem-solving methodology to outline the research report help your drafting team to determine how to design the draft bill?

11 "yes," 1 "most definitely"

b. Did preparing the research report help your team identify additional facts necessary to support the arguments for including specific measures in your team's bill?

Same.

5. What suggestions can you make for improving the teaching of legislative techniques for drafting more effective bills?

- A sample of bill if distributed to the participants could help drafting ideas more clearly.
- Involve participants in more practical exercise that is actually getting the participants to draft bills from the beginning.
- The course can be less intensive – spread out over perhaps a month period. The reading materials could be always in order (chapter wise) as it is very difficult to locate the chapter.
- Avoid long lectures.
- Perhaps more duration. 2 weeks quite short.
- You are perfect.

6. Describe and give your reasons why

a. At least one feature of the last two weeks of the workshop seems likely to be especially helpful in your future work as a drafter.
group exercise
importance of a research report
the overall concept structuring the research report and identification of problem, causes and solution gives us an idea of how to go about drafting a bill. of the course, the actual experience will only come with practice and experience.
preparing research report and its importance for drafting.
use of problem-solving methodology for a research report.
the language used shall not be legalise, that the solution proposed should be relevant to our context.
that British system of bill making is really bad.
being placed at the policy level, the attendance for last two weeks will definitely enhance the analytical skills while commenting on different progress proposals.
the need and use of research report will be that useful.
way of doing research.

b. at least one feature of the last two weeks of the workshop seemed like a waste of time.

summary not provided.
7. What suggestions would you make to improve
a. the workshop?
extend the period
make longer, well paid and out of Thimpu to lessen family distracting
take a bill and critique it
needs a better conference hall (it was crowded)
don’t continue after lunch
b. the presentations on the theory and methodology?
detail elaboration
reinforce by the model draft on different subjects
taking the help of illustrations
make it lively to invite attention (people sleeping”)
more practice combined with little theory.
depends who are in group.
c. the work of the small groups?
d. the system of writing up notes as a basis for the research report?
Comments on draft report on income tax act

1. Given the time constraints, the report gives an excellent first draft. Still, parts are quite hard to follow. The group should edit the report for structure, especially putting in signposts and more rigorously defining what belongs in each section.

2. **Introduction:** The history section is interesting, but stops rather early. When did Bhutan start collecting income tax? How has revenue increased?

3. **Difficulty:** The difficulty section still contains chunks of explanatory (causal) material, particularly to explain discretion by tax collectors. For instance, 2.3.3 to 2.3.7 all explain problematic behaviour – they go far beyond simply defining it. As a result, they tend to foreshadow excessively the section on explanations, which confuses the reader.

   Rather than the detail on causes of the problem, it would seem worthwhile to include figures on the trend in tax collection and local revenue as percentage of total government revenue and in relationship to growth in GDP; the relative importance of different types of tax; the number of finalised cases each year; and the number of cases that go to court, if any, and how many the government has lost.

   On winners and losers, it seems worth noting that tax collectors may also win under the current situation, both by having greater power and by possible additional income. The courts also win because they do not have to deal with tax disputes.

4. **Explanation:** As noted, this section should incorporate the explanatory material included now under difficulty.

   Is the appeals process, as described, appropriate?

5. **Solutions:** It seems the Act will:

   5.1. authorise the collection of taxes in terms of the regulations, with more or less broad rules, for defined categories of tax payer, on

   ➢ tax rates
   ➢ penalties
   ➢ incentives to taxpayers
   ➢ information that taxpayers must provide
   ➢ routes of appeal internally and to the courts

   5.2. Require the tax authorities to communicate the rules to taxpayers and collectors, possibly in a particular form (for instance: by annually publishing a booklet giving information in key areas)
5.3. Establish a research unit and strengthen the audit unit, presumably setting out key performance areas and possibly key indicators for each – for instance: how often an audit must be performed

5.4. Establish an advisory committee

5.5. Give authorisation and set up procedures for regulations in each of these areas. Procedures for enacting regulations should define who must be consulted (how should the draft be circulated inside and outside of government); who approves them – Cabinet? Parliament? – and how they should be published.

6. It remains unclear what information the Bill will require businesses to provide, and how it might differ by size. It doesn't make much sense to keep the current system, which requires small businesses to keep detailed information that, given illiteracy, they cannot provide. It would also make sense to think more creatively of incentives for keeping books – for instance, if the tax people issue a certificate of good bookkeeping for smaller businesses, could that be used to facilitate access to other benefits, such as tenders for government requirements or credit?

7. Much of the detailed information and requirements would presumably take the form of subsidiary regulations, which would:

7.1. where collectors must take decisions, define the acceptable inputs, criteria and procedures – this seems to apply especially to

(a) estimating income for businesses that do not keep books
(b) critiquing books kept by businesses
(c) deciding on penalties.

7.2. specific requirements for audits

7.3. the size and capacity of the research unit

7.4. minimum training and retraining for tax collectors.

8. In defining the need for regulations, it seems important to consider:

(a) how much time will the Department need? To compel action, it seems reasonable to put a sunset clause on the current rules (that is, the Act could say the existing policies may function as regulations for at most, say, six months; any extension to be approved by Cabinet)

(b) how will the Department identify key areas of discretion for tax collectors – it might make sense to workshop this with the regional offices

(c) should tax rates be legislated – in many countries, this occurs when the budget is passed, rather than as part of the tax act itself – or included in regulations for the sake of greater flexibility?