Laos Legislative Drafting Programme

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Boston University
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Mr. Jan Mattsson  
Director  
UNDP-Lao PDR  
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Dear Jan:

We have just said goodbye to the Minister of Justice and Dr. Houy. We hope they found their stay here useful; they said they did. We set up four seminars with BU professors for them, on administrative law, drafting regulations, commerical law and arbitration (plus a seminar at the the Boston branch of the American Arbitration Association). In addition, we all met for lunch with Dean David Smith of the Harvard Law School. We also had some discussions with the Minister and Dr. Houy about the legislative drafting component of the National Legal Framework Project.

The Minister emphasized developing a legislative drafting program that involved the Lao people in identifying the social problems law should address; engaging Lao drafters in drafting bills and research reports, drawing on the facts of the Lao circumstances; educating and involving the Lao people in implementing the laws; and engaging them in the process of monitoring and evaluating the laws' social consequences. We discussed with them how the Project might contribute to those objectives, and the importance of institutionalizing both an on-going legislative drafting learning process staffed by well-trained Lao personnel; and, through appropriate regulations, ensuring systematic procedures for producing the high-quality laws and regulations required for the New Economic Mechanism.

The Minister identified four area of legislation that the Project should help to complete: (1) commerce and finance, including an assessment of existing commercial laws with a view to identifying gaps and revising them to facilitate domestic, international, and cross-border trade; (2) urban planning and transport, including preparation of bills and research reports relating to urban planning and development of adequate transport networks; (3) administrative law, beginning with two relating local administration and special economic zones; and (4) improved resource use, including, in addition to the forestry and water laws to be enacted in September, bills on electricity distribution and mineral resources.
In order to undertake this task, the Minister thinks it important that four officials attend the fall BU Legislative Drafting Program. We understand that this time the Government will ensure the individuals are bonded to remain in their posts for a specified period of time, and to provide the leadership in the drafting process for which their studies will equip them.

We very strongly endorse this proposal for several reasons:

(1) The work done by the four who came last year, we think, demonstrates the value of participating in the BU program: Their leadership for the March workshop and their preparation of further courses for training ministerial personnel in drafting, and MPs in assessing and, when necessary, initiating legislation seemed to us positive evidence of the utility of their training here. We understand, too, that Thanou Varavong has already introduced courses related to legislative drafting in the law school. In addition, the draft handbook in the Lao language which they prepared should provide a useful tool for improving the Lao legislative drafting process.

(2) Unfortunately, as you know, two of the four have left for further training abroad, and will only return in two years or so. Dr. Houy explained that the Ministry anticipates they will be able to do an even better job on their return. Meanwhile, however, their absence leaves a gap which should be filled as quickly as possible.

(3) As we understand it, one of those whom the Ministry plans to send is Ketsanah. We believe that, as a result of participating, he will be able to provide even more effective overall leadership for the Project’s tasks of strengthening Lao legislative procedures, improving Lao drafting capacity, and producing quality legislation. Alone, however, obviously he cannot really do the job required in all the four priority areas the Minister identified.

(4) The Law School’s drafting program that Thanou Varavong is developing should in time produce graduates competent to draft the extensive legislation Lao PDR requires. That comprises an essential ingredient in Lao PDR’s long term legislative drafting capacity-building process. It will be very difficult for him to run that program alone. To enable law school students to draft quality bills and reports for local and provincial governments, as the program aims to do, requires a good deal of one-on-one supervision. An additional faculty member should receive the training required to help develop this program.

(5) An immediate need also exists to equip carefully-selected senior personnel in key ministries with the necessary capacity to train other ministry personnel to draft urgently-needed bills and research reports to enable their ministries to produce additional regulations for adequate implementation,
and to structure on-going monitoring and evaluation processes in order to ensure timely revision of relevant laws and regulations in light of their social impact.

For all these reasons, we strongly support the Minister’s request that funding be approved for four Lao officials to take part in the BU program this fall.

Given the Minister’s justified emphasis on evaluation, which requires implementation research, is there any possibility that the World Bank might fund some of these four officials? Before drafting a new bill, drafters must undertake research on the existing law’s impact. By the same token, implementation research becomes pretty meaningless unless structured in a way that guides drafters to solving the difficulties in the existing laws. So much do they overlap that the training for drafting and for implementation research seem all but identical. The BU course seeks to train all participants to give special attention to formulating on-going monitoring and evaluation programs.

We very much enjoyed having the Minister, his wife, and Dr. Houy here for a few days. We do hope that the discussions and seminars proved useful. Incidentally, as a leader of Lao women, Ms. Boupha -- who participated in all the discussions -- will, we hope, contribute to ensuring that Lao PDR’s future legislative procedures ensure particular attention to the special problems of women and children. We were delighted to have had an opportunity to make her acquaintance.

We hope all goes well with you all. Our best to your family, and all our friends at UNDP.

With warmest regards,

Ann and Bob Seidman

cc: Dr. Houy
TO:  
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FROM:  
Ann & Bob Seidman

DOCUMENT SENT:  
copy of letter sent to Mr. Mattson.

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ADDITIONAL COMMENTS:  
Dear Dr. Houy: we hope your return journey was Ok. We really enjoyed having you all visit with us. Here's a copy of the FAX we sent to Mr. Mattson. We hope it meets their need. Please give the minister, his wife, and all our friends in Mo to our warmest regards. Ann & Bob

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