Laos Legislative Drafting Programme

Seidman, Robert B.

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Boston University
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Mustafa El-Lamine

Re Laws

1990 - NEM - IORD → agent/UNDP:
- To prepare legal docs. - hired Harvard Profs
- on Int'l For Sys → (T Law Sch + Harvard)
- To Draft Phase I, II

- Eval Rep - 2 Phases
  - Phase I: test legal advisors: Wellony, Dave Smith, etc.
  - Successful: Lastians = entwined, recognized need/basics: law = Contract, Property
  - Drafted by consultants
  - No Eng. + no knowledge of concepts/law
  - Sweden established; IORD chwled Lao Eng Lexicon, adopted laws, revised in passage = "catch 22": draft laws, sit on shelf, not passed: go round + round.

Phase I = 21 laws, only 3 adopted as laws; others = decrees

1. Not "in sync" w. Govt policy: inter = draft process, std line ministries, may → int'l min. cttee → revise draft, return to line min/their agenda; then goes to Council of Min's (n Cabinet) = policy mktors focus on draft [no Cabinet Cttee on leg.
But Study Cttee of Assembly] → Legal Reform Cttee = Council + reps of Assembly's Stud Cttee

Cttee goes to Council = 1st time for policy mktors; return w/ revisions accompanied by "their" version of memo (Powell involved in preping these; some laws → paused; last time goes to Council, Min of Justice Drafting Cttee)

Phase II - new adv ≠ Jerry Donovan; new Const promulgated (1991 = est. Ass, + admin)

- 1/2 m. estg, detailed "time = focus draft away
from NEM; new Resid.-legal advisor = put sect.

ory - activis/II con & fin’l & bus. laws +
reg’l/laws enacted in Phase I - rev. of
1st laws/consistency w/ Const. (had not md
laws consistent as drafted); + training
proj = gen’l w/o needs assessment =
formalized lawyers/judges, profs w/ the
concepts, no home/ bus. trans.;
sha ref model to formalize w/ concepts of laws =
7-10 models;
Bkgd: "Laos = difficult" = bad + go (era by

prof Smith/ Columbia) = under Phase II =
no laws enacted because = not in time w/ policy makers;
Focus = Const.; didn’t
look at customary laws, community
practices, other decrees they had drafted

Note/decrees: PM has auth to decree/soe + ec affairs
- his office has introd. decrees (note: IBRD)
proj = only ec & fin’s prioritization act only
Policy makers told = stay away from
stand (control min) where
finances = md - don’t
want outside interv.; decrees = exec inst.
(have hiérarchies down to notices)
& Const = PM’s power/soe, etc.

When draft law goes to Council, dev’s to Wheltin
go to NA Simly Chie is strong/may not corrupt;
some go as decrees. Final decision = made by
-party = "secretive";

Laos = land size of Eng, 4 mil, W/ by consensus
of p/ burg.; members/ethnic groups; debate
in big mtgs of party members; few insts =
barely dmv’d; away = powerful, integ’d into
daily syst. Corruption heavyed as Nat Ass.
assumes now = now powers; want priorities to yr. 2000 / Nat'ls Study Centre; in past, 
decrees = exec reg/sector arg. based on duty, 
= unfamiliar w/ concepts - "experiment" w/ decrees 
presented to NA; now NA asks for 
socio-ec pln/priority. So NA can plan 
it's work; many ARA people = party members: 
in Laos, human interaction I have aged to TO? 
for. inv law = "Ok" but "not presmy" - 
Now IBRD has unfin'd agenda. Phase II: eg: 
undrfd laws: surety guar., land law (not just 
a decree) which not adequate basis for property rs. 
caus. ambiguity in this; b/c do use land = loan basis 
arbitration, bankruptcy, ent. law = implement'n 
regs (only have req. / incap. costs; entwine 
with ventures, leasing, etc.; privatized w/ leasing = secret now); agency law; financial 
disclosure, mortgage, securities law (may be stock 
w/ privatiz'n), forestry; some transactions, 
checks, promissary notes; mining (don't know 
status; have 3 mega power proj's / 2000 yr.; 
but not listed in inv plns) — Future to 
be devised; primary reason for failure = 
red. legal advs. = int'd in pub. sector, didn't 
involve advy / weak grps / tody, etc. adv / 
govt, foreign transactions. Weak grps 
fall apart; court -> dropped. | Note: mbrs. 
but diff mins, all had travelled outside Laos, 
some law students, in USSR or Harvard; 
translators = drowned in Phase II | IBRD 
finds for. consults / primary diff w/ advs = rep / follow-up; in Phase I, res. legal adv. = facilitator; 
adv = don't agree, then went to Laos to disc.
3-4 days

Modules (Harvard II) -> video, then translated to Lao -> disseminated to play in regions (eg. com'1 law, contract law, rent. &c. law) (but no com'1 biz law); no syst. of pub. ct. decid. / Fr. syst., but not sure how will dwell; eg see TOR Supr. Ct. Justice, no appellate cts, only customary cts.

(No ideological debate/donors as in Cambodia)

French have money, can't spend in Laos, old send Laosians to Fr., but have none w. lang., have sent 40-50 yr olds but have no more -> challenge how involve Fr. in proj.

How Proj. will work / Phase III

Phase I, II, IBRD = exec. ag., wkd w. Harvard, = gd / Phase I, not so well / II;

Fr: Donovan went into pub. prac. / Laos / TOR -> dropped the Bar Assn. +

Not sure how will wkd together / III: expected to wkd / I, II, now incl. IBRD funds in same set up = cont. w. Harvard / w/ find 2nd phase, + new act / TOR = out to bid. -> emph.

3 things: 1) recruit more & more non-anglophones; 2) begin towards not'll execution, (before = 40%); 3) impt of resid. legal admn. closer to home grow prod. may be more junior, coupled w. local lawyers / UNDP -> Mathson: new approach (people aid him haven't ch'd)

Supposed to return in Aug to reapproac TOR -> post poned now no agr. = 3rd phase = "Proj. Supr. Proj." budget tech. overall UNDP project / dwell legal frmwrk in Laos br. in other co-financiers = how bkg in Suedes (but no does on this); Norwegian envii...
(Loos say no to human rts) - re transparency & accountability - eg. Min of Fin staff member,
hand name of Min ("head"/royal fam) ko head of fam
- arid deals/forestry; passed degree/"corruption"
with another name - focused/M.O.F., this man
- had trad. dress, lost M.O.S.; P. m/mship, but
kept home, personal prop. etc, office in Min &
TOR; New approach: overall prog! UNDP

prog/legal firm wk -> it. find /pontes,;
UNDP modified RBD TORs; dropped res. legal
adv -> 100% nat'l exec.; dropped Ban Assn;
PROG, Ph I, II anchored/MIN of Fin, nat'l proj dir
= V MIN of Fin, PM ordered more proj to
MIN of Justice = more say; M.O.J had divisions;
re Ban; in M.O.J had leverage, but not
in M.O.I.; dropped Ban = only 6;
local lawyers; cyst of customary rts/eldrs,
Curricula new proj = Road Map & yrs ->
dual legal system/priority laws
preprd, reused; 2 critical legal trk
needs/5 yr yrs.; 3 legal syst which
will dual/lusts -> est'd, reest'd/sysr =
identify steps = object "at end of escal" ->
retrace hist of legal syst, progress
Ph I, II; overs direction now direct.

prog, etc. -> doc. Mission proed 3

See poss. of allocating responsibilities/unit
(Loos in Laos in Nov - Austrians come
in since then)

Norwegians: environment - (call all! - IBRD
incl. environment & court law?); thought
= 'green' = protective, integ'd environmental
syst...
Will need to go thru 2x to work out
resps.— so far have no docs. from
other units. Think—
Bob: hardest part is to ensure Laotians
participate in doc.
Expect will take more mtgs. — will incl. minis
from parts. — see entire of Ph II— incl.
people's = 1st time to see larger group.
There is a law school = undergrad, 3 "schls":
ec law, admin law, civil law's teachers =
former std. recent grads of that sch I can't
find anyone to teach econ. law: I crit of
legal reg adv = why sp? So much w/o
like, claims, Sweden looking at this;
Legal Reform Centre = est'd in July, 1994
Natalie: Produce Document draft w. exps ->
Lewis or chs; i.e. report set out
+ elicitation reasons for proposals
Bob: Area 1. Montre leg
2. How consr ins'ts
Mustafa: Began 1st this year — haven't done
job yet; annex shows that
Natalie: Ph II, I reflected with prioritiz
must = Ph I, not II; more think act This,
didn't demand who -> exp/what?
Nat: Maison de Co.; Fr. send lectures there —
Re evaluation report: Smith

1. Proposal adopting whole legal syst (com law or civil law) = unrealistic # 87

2. Howard LS stud review drafts - doesn't suggest need to involve local defenders, but negative report on why did what did - = missv. point

   - calls for memos to drafters (p.22)
   - but doesn't discuss structure of rep

4. Agree shr't disc'd drafts/law sch.
   - also people "who give legal advice" (p.23)
   - lean as in #7 memos = disqualified

5. Agree re Donovan's conflict cont (p.25)
   - w'se laters!

6. Complete
   - Lexicon = useful, need loose leaf binder of laws (computerized?)

7. Agree w/ #63: law goes't stand office & expire - attached to council of prayer as now. Ass. 1 = done in July. (accord)
   - Disregard -> reps for prioritizn of laws + apply diff. efficacy?

8. Agree w/ #69 - conf of int.
(1) Who is keetsama phammachanh (ventiane)? would he be a good person to argue mths w. directors + relevant officials re draft? should we meet him?

(2) What is UNDF's position re Smith's proposal (#97) re Asian Law Development Centre?

(3) given courses in law school... what we meet w. Director (Souko Chommanichanh) re est leg drifty course/seminars in law school?

(4) What is status qf laws enacted 1975-91 by Supreme People's Ass? (p.98) is there a contradiction between line/line from bottom & last line on p.98 re wts. of laws; passed?

(5) How monitored; consequences?

(6) Status of proposed int'l/ procedural law? (p.99)

(7) List of laws he proposes (pp.99-100) = how relevant to Lao than sit? re criteria? what research?

(8) Concept of institutions = limited? what abt all implementing instr?
Swedes + French will be there - See list/consul attaché

Jan 4th -
1) First pl of contact = UNDP Am (speaks English)
2) Min of Justice - Dr. Huey = Chief of cabinet
3) Min of Justice = actively meet w.
4) Min of Justice + Vice Min of Justice, throw me
5) Dir. of diff dept = will meet
6) Dissemination + propaganda dept
7) Meet 13am (a.e.n = suspended)
8) Meet legs dept = closest will get
9) Meet legal reform cella - ask Huey to
10) Meet them in mtg
11) Cell on legal style + drafting - which eventually
12) Reviews style = supposedly covers text = project
13) But they go on to higher w/ substance

Clarity who does what, how;
(have to think - need) doesn' t dare act (?)

(Stefan is fear of loss of status - pt. man in MoJ, until
someone applied - can't = too identified w.

Might be useful - to do workshop/Think tank
= challenge to bring in important people - 1 to 2
PM's of ice, Min of I, Dr. of Nat Ass. etc.
set it up in 2nd week - At top of list; Minst, M's, + 2 Min; 2. Kehyoun, Smirane = Natl Ass; Idr
They can select who - involved, 1) how to
release policy to law = need to get their commitment

* Hotel: Belvedere w/phone + fax; Tell Yuanno to register