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STRENGTHENING THE ACCOUNTABILITY AND TRANSPARENCY OF THE LEGISLATIVE PROCESS IN THE WEST BANK AND GAZA PROJECT (BAYAN)

**THE ROLES OF PALESTINIAN CIVIL SOCIETY ORGANIZATIONS IN THE
LEGISLATIVE PROCESS**

LEGISLATIVE POLICY DEVELOPEMNT AND DRAFTING TRAINING

Phase 1: June 25-28, 2007

This document was produced for review by the United States Agency for International Development
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Executive Summary

The BAYAN project is designed to strengthen the accountability and transparency of the legislative process in the West Bank and Gaza. To fulfill this mandate BAYAN provided training on Legislative Drafting for 6 representatives from the Institute of Law at Birzeit University, and one member of the Birzeit Faculty of Law from June 25-28, 2007 in Ramallah. This training was the first phase of Legislative Drafting training, and was designed to provide participants with an introduction into how the Institutional Legislative Theory and Problem Solving Methodology can serve as a guide to developing effectively implementable legislation that meaningfully addresses Palestinian social problems.

Phase I of the course was designed on the basis of a series of conversations between the trainer, BAYAN program staff members, and IOL members; a review of documents from prior trainings; and a review of the table of contents from legislative drafting manuals in current use in Palestine. These conversations and document reviews indicated that Palestinian drafters had access to some excellent technical drafting manuals and were receiving trainings from the BAYAN project in the areas of Regulatory Impacts Assessment and Civil Society Advocacy techniques, but none of the prior trainings or drafting guidelines covered the question of why people do what they do in the face of the law, and there were no apparent tools in the drafting guidelines to systematically help a drafter devise provisions enhancing the likelihood that a legislative subject could and would do what he/she is required to do. This training aimed to bridge the existing deficit, by providing participants with a set of tools for enhancing the participants' capacity to design effectively implemented laws and regulations that will address pressing social problems. In these training, participants:

- used the legislative problem-solving methodology as a guide to assessing the probable ability of both participant-generated, and externally-generated policies to transform the legal, social, and economic causes of problematic behaviours;
- discussed strategies for assessing a bill to ensure its provisions address the legal and non-legal causes of the problematic behaviours;
- employed skills imparted through the RIA training to analyze the socio-economic costs and benefits of both proposed law, and leading alternative solutions;
- discussed the role of cost-benefit analysis in prioritizing an issue for legislative action, choosing between potentially effective solutions, and identifying a proposal's potential adverse impacts (so the drafter can include legislative provisions to mitigate those impacts or reduce the likelihood of their occurrence);
- articulated that the difference between RIA and the legislative problem-solving methodology is that the latter provides a system for identifying, and addressing, the underlying causes of problematic behaviours (the presenter articulated that the RIA closely mirrors problem-solving's solutions step – which requires assessment of the probable effectiveness, and impacts, of the leading alternative solutions;
- applied legislative drafting rules to improve the precision and completeness of a legislative proposal.

Upon the conclusion of the workshop, participants indicated that they would use the skills and information acquired in teaching legislative drafting as an academic course and in drafting legislation.

Among skills gained:

- increased capacity in logically and methodically analyzing legislative policies;
- ability to use the ROCCIPI agenda to identify the legal and non-legal causes of role occupants problematic behaviours; and
- strategies for assessing the probable impact of a bill's language on its implementation.

The participants liked the workshop's content, and indicated that they would use the lessons learned in the future. Their only criticism of the workshop was that they thought the workshop's length should be expanded so participants would have more time to engage in exercises and participate in interactive discussions of the problem-solving methodology. The participants also indicated interest in participating in a version of this course that enabled them to use the problem-solving methodology as a guide for reviewing legislative impacts. Recommendations for next steps are provided at the end of this report.

Introduction

This report provides an account of Phase 1 of the BAYAN project's Legislative Policy and Drafting training. The purpose of the training in Legislative Policy and Drafting is to increase Palestinian capacity to design precise, targeted laws that address the causes of social problems and have a high probability of being effectively implemented. Phase I of the Legislative Policy and Drafting training was designed to introduce the Institutional Theory and Problem Solving Methodology in order to provide participants with a tool for identifying the nature and causes of social problems, explaining why people do what they do in the face of their legal and non-legal resources and constraints, and developing a legislative solution logically suited for overcoming the causes of the problematic behaviors. Recommendations for next steps are found in Annex I.

Participants

Advocates for civil society organizations, elected representatives, governmental officials and university faculty members can all benefit from training in legislative policy and drafting. In fact, it is frequently beneficial to have people representing different skill sets and interests work together in a joint training, because through interaction the members of the different stakeholder groups come to a better understanding of the different functions that each group plays in developing socially transformative laws in the public interest. Due to the political and security concerns that existed at the time of the workshop, the Legislative Policy and Development training was offered exclusively to members of the Birzeit University Institute of Law and Faculty of Law. I hope this training can be offered to a wider cross-section of Palestine's law-making community at a future date. The participant list is found in Annex II.

Course Structure/Timetable

The week-long Legislative Drafting course was designed to provide participants with opportunities to learn by doing. The instructor sought to maximize the interactive and participatory nature of the sessions by creating a number of hands-on exercises and providing new material in a mixed lecture-discussion format. Since the course objective was to offer the participants a set of tools that they could use when designing and assessing legislation in the future, it was imperative to provide participants with ample opportunities to apply the techniques introduced during the workshop so they could receive feedback on their work, and so the presenter could gauge the depth of the participants' understanding of the material introduced and could readjust the trainings accordingly. The full course timetable and session objectives are found in annex III.

Course Delivery

Due to the participants' highly interactive learning style and analytical rigour, the presenter added some check-back sessions so the participants could receive more feedback on their work, and could have more time to discuss the concepts presented. This necessitated a corresponding reduction in time available for the group to work on some other planned exercises. The participants may still benefit going through the abridged exercises on their own, or in a future training.

General Comments on Course Delivery

Session One – Using Law to Resolve Social Problems

After introducing herself and presenting the workshop objectives, the presenter provided a brief overview of the Institutional Theory and Legislative Problem Solving Methodology. In a nutshell, Institutional Theory states that law can only operate by addressing repetitive patterns of problematic behavior, and that an effective law must be grounded in an understanding of who is doing what that is problematic. Turning to the question of why Palestinians fail to purchase products made in Palestine, the group discussed how legal and non-legal factors are influencing Palestinian consumers' product choices, and used the ROCCIPI agenda to identify legislative provisions that were logically suited for altering consumer choice.

The participants actively discussed the case study, and were able to apply the Problem-Solving Methodology surprisingly well for people who had no familiarity with the method going into the workshop.

Session Two – Identifying the Problematic Behaviors Law Must Transform

The presenter described the importance of the social problem section of the research report in helping the legislator or civil society representative to understand and assess a bill. The presenter then discussed the section's foundational role, and introduced the idea of generating a research outline likely to generate a deep understanding of the behaviors that constitute the social problem. I had planned to lead a role-playing exercise to help participants understand the types of questions they would need to ask in order to construct a detailed description of the behaviors that constitute a social problem, but the participants were very engaged in discussing the concepts presented, and we decided to skip the role playing activity so we could discuss the issues presented in greater depth.

Session Three – The Social Problem, and Where and How it Fits into the Larger Context (Working Groups)

The participants divided into two groups. One group decided to explore the behaviors leading to lawlessness, while the other group decided to work on addressing the harms resulting from the conflict between registered marriages, common law marriages, and Sharia. Working in groups, the participants described the larger context of the problem, and identified whose and what behaviors the bills would need to address.

Session Four – Explaining Why People Do What They Do In The Face Of The Law

We began the session with a brief check-back, so the participants could receive feedback on their social problem statements. The presenter then introduced the ROCCIPI agenda in greater detail, and the participants brainstormed about possible interacting causes of the role occupants' problematic behaviors. The participants were highly engaged throughout this session, and had excellent insights into the nature and causes of their social problems.

Session Five – Explaining Behaviors, Cont’d (Working Groups)

During this session, the participants applied the ROCCUPI agenda to describe why their role occupants do what they do in the face of existing law. Throughout the session, the presenter circulated between the groups, to assess their progress and provide guidance.

Session Six – How to Devise a Legislative Solution Targeting the Causes of Problematic Behaviors

The problem-solving methodology requires designing a bill’s detailed provisions so that, logically, they seem likely to alter or eliminate the causes for each set of role occupants’ problematic behaviors. During this session, the presenter demonstrated how to move from an explanation of the causes of a social problem to a couple of solutions that will logically overcome the causes of the primary role occupants’ problematic behaviors. The presenter then introduced the ideas of “Reverse ROCCUPI” and a cost-benefit analysis, to help the participants identify a solution that had a high likelihood of being effectively implemented, and to stress the importance of selecting a cost-effective solution.

The participants demonstrated a solid understanding of the cost-benefit analysis techniques imparted through the RIA training. We discussed the role of Regulatory Impact Assessments within the Legislative Problem-Solving Methodology at some length, so the participants would see how the two tools work together. The participants concluded that the ROCCUPI agenda will help them identify solutions with a high probability of being effectively implemented.

Session Seven – Selecting an Implementing Agency (Lecture and Group Exercise)

Implementing agency officials’ problematic behaviors often constitute the central reason why existing laws remain unimplemented. The presenter introduced considerations to take into account when selecting an implementing agency, and the group discussed the pros and cons of using different implementing agencies to address different social problems. From the discussion, it was clear that non-governmental actors and state corporations were rarely used as implementing agencies in Palestine. The participants seemed particularly interested in legislative strategies for educating non-governmental actors about social needs and encouraging them to implement needed programs.

Session Eight – Transforming a Policy into a Well-Organized Bill (Lecture, Exercise and Working Groups)

To begin the process of translating proposed solutions into a bill’s detailed provisions, drafters should first **list** the specific measures that logically seem likely to contribute to the desired changes in primary role occupants’ and implementing agencies’ behaviors. Then the drafters should **group** those provisions logically into the bill’s Parts and Chapters, and, within each Part and Chapter, **order** them logically. It is important to organize a bill in terms of its **usability** for those likely to use it. The bill must prove easily understandable and accessible for each of the eight sets of actors whose actions, together, comprise the **system** that the bill proposes to resolve the social problem addressed.

During this session, participants listed the provisions they deemed logically suited for helping to change the relevant role occupants' and implementing agency officials' problematic behaviors. The participants then analyzed whether, in the case of their bills, the default outline does, or does not, seem appropriate for grouping them into their bills' chapters and parts. The presenter circulated to provide feedback during the working group portion of the session.

Session Nine – Finalizing the Research Reports and Bills for the Editing Sessions (Working Groups)

The small groups critically reviewed the outlines of proposed bills in light of comments received, and redrafted their outlines as necessary to ensure easy usability by the actors whose behaviors the bill aims to change, and to include provisions addressing all eight categories of role occupants. Group members also worked together to complete draft research reports and bills for xeroxing and presentation during the Editing Sessions.

Session Ten – How to Assess & Edit a Research Report and Bill (Independent Work)

Editing Sessions aim to give each groups' participants an opportunity to edit; that is, to make useful suggestions for improving other groups' bills and reports. By editing others' bills, and listening to others' suggestions for improving their own bills, every Editing Session participant gains many valuable new insights about how to use legislative theory, methodology and techniques to draft effective bills and research reports that use facts and logic to justify their detailed provisions.

At the beginning of the session, the presenter overviewed how the editing sessions work, distributed the draft research reports and bills, and explained the editing assignments. The participants and presenter then spent the remainder of the session reading the drafts, and writing up their comments.

Session Eleven - Editing Sessions (Collaborative Working Group)

Participants provided comments on the other group's report and bill. These sessions provided an excellent basis for assessing what the participants had learned during the workshop. Participants provided one another with valuable advice, and demonstrated significant proficiency using the Legislative Problem-Solving Methodology as a legislative assessment tool.

Session Twelve – Drafting for Clarity and Precision (Exercises)

During this session, participants gained experience applying legislative drafting rules to problematic legislative provisions to improve the clarity and precision of those provisions. The group enjoyed the pedagogical structure of the technical drafting training and found the drafting rules useful.

General Comments: importance of pre-course preparation

Consultations with BAYAN project staff enabled the presenter to develop a project that responded to participant needs and prevented the presenter from spending a lot of time going over concepts that were already familiar to the participants. During the workshop, the participants repeatedly commented that the training offered something that was really new, and that they needed.

General Comments: course delivery management

At the end of each day, the course participants were given a questionnaire on the day's training. The trainer went over the questionnaires with the translators and BAYAN staff to identify the types of changes that might enhance the participants' learning experience and most efficiently deepen their understanding of the material presented.

The presenter's primary concern going into the workshop was whether or not the participants would be able to keep up with the workshop's ambitious agenda. The questionnaires revealed that the pace was indeed a bit fast on the first day, but that the participants...while challenged...were keeping up. The presenter altered the training speed and allocation of time in response to participant feedback. However, the original training design contained a fair amount of flexibility, so the changes remained within the originally proposed workshop framework.

General comments: importance of qualified and competent translator

The translators were outstanding. We did not lose any training time due to translation.

Course Outcomes

The course met its training objectives, and the feedback throughout the week was positive. After the course concluded, Faye Bikerat emailed BAYAN on behalf of the IOL participants to express appreciation for both the RIA and Legislative Drafting courses. Faye wrote, “Actually, these courses were too useful to our unit, and we learned more and more intensive information concerning the legislative issues. “We hope to deliver our appreciations to the professional trainers. Faisal & Lorna. In spite of many courses we attended before, it is not easy to find trainers like them.” Faye continued, “You know that we in the institute are working to establish a new diploma program teaching the legislative drafting skills for lawyers, so we are looking for concreting our academic relations with you through getting a new training courses dialing training of trainers, and keep in touch with the practical issues for what we learned in the courses I mentioned above.” These comments, along with the interest participants voiced in receiving follow up trainings in the areas of Legislative Assessment, Advanced Drafting for Implementation, and Technical Drafting, clearly reveal that the workshop participants view the workshop as a valuable component of their on-going capacity building efforts.

Annex I: Training Needs Assessment for Legislative Policy and Drafting Training

Participation in the Phase 1 training was limited to members of Birzeit University's Institute of Law and Faculty of Law. Optimally, training opportunities in legislative assessment and drafting will also be provided to members of CSOs, grass roots organizations, the Palestinian Authority, and the ministries. The Institutional Theory and Legislative Problem Solving Methodology's focus on developing legislation that is aimed towards effectively addressing social problems, rather than towards accomplishing a pre-specified political mandate, is uniquely well suited for bringing polarized parties together and helping them engage in constructive dialogue. Providing people representing a wide spectrum of political beliefs and interests with training in legislative policy development, assessment and drafting can prove a valuable step in facilitating a dialogue between ideologically disparate groups. In the Palestinian context, the Legislative Problem-Solving approach could also provide a framework for addressing cross-jurisdictional, Palestinian-Israeli, problems on the basis of facts and logic.

The ultimate goals of the Legislative Policy and Drafting training program are:

- (1) to prepare participants to independently use the problem-solving methodology as a guide for resolving increasingly complex social problems; and
- (2) to provide the faculty of the Institute of Law with a framework for teaching future drafters and, potentially, members of CSOs and governmental officials, strategies for using facts, logically organized, for breaking through ideologically-based solutions and for re-directing state action towards developing effectively implementable proposals addressing pressing needs.

The Birzeit Institute of Law is preparing to institute an on-going, Palestinian-run, legislative training program as soon as possible. In order to obtain this objective, the IOL members would benefit from additional training opportunities in the following areas:

- Legislative Assessment
- Conducting Research into Problematic Behaviors
- Drafting for Implementation
- Technical Drafting

In addition, the IOL members will need to develop new course materials that adopt a methodological framework which can guide legislative policy makers and drafters through the drafting process, incorporate country-specific case studies, and provide students with opportunities to learn from international experience.

Conducting Focused, Detailed Research into Problematic Behaviors

While the workshop participants seemed to come out of Phase 1 with a strong grasp of the basics of the Institutional Theory and Legislative Problem-Solving Methodology, they were struggling to describe implementing officials' behaviors in the detail needed to effectively transform those behaviors. Thus, the participants would also benefit from engaging in hands-on exercises in identifying which behaviors require elaboration and explanation (in order to streamline their research efforts), and conducting detailed research into the behaviors ministry officials engage in behind closed doors.

Drafting for Effective Implementation & Technical Drafting

If approved, Phase II of the Legislative Drafting training will focus on strategies establishing adequate, on-going administrative oversight mechanisms that will increase the likelihood that a law is effectively implemented in the public interest, and will trigger a review process if legislative objectives are not obtained. Phase I participants would also benefit from advanced training in technical drafting. The legislative assessment exercises will focus the participants' attention on the impact technical drafting has on a law's eventual implementation, and will give the participants practice identifying legislative provisions that require elaboration, clarification and substantive re-working in order to constitute a comprehensive, workable legislative system.

Of course, understanding how to spot the problems with a law is only the first step...a drafter must be able to effectively cure drafting defects likely to adversely affect implementation. Thus, the second phase of the training should provide participants with a series of easily applicable rules that can help them systematically revise problematic legislative language; and should provide guided practice using these rules as a tool for legislative revision. In a drafting training, it is important to provide drafters with comprehensive feedback on their responses to drafting exercises. Optimally, the trainer will understand the policy implications of drafting choices, jurisdictional drafting conventions, and Arabic grammatical forms. Thus, I recommend including both an Arabic-language drafter who is also a specialist in the correlation between drafting policy implementation (or who is accompanied by such a specialist) in the Phase II training.

Options to Support the IOL's Training Initiatives

We could support the IOL members in developing an on-going legislative assessment, research and drafting training program through any of the following programs:

- (1) Distance Course participation followed by joint participant & ICLAD lead in-country workshop;
- (2) Advanced in-country workshop + editorial support for an on-going independent project + materials development assistance/pedagogical consultation services;
- (3) 1.5-2 month Summer Residence Program (June & July, 2008);
- (4) 4 month Fall Residence Program (September – December)

Distance Course

Participation in the ICLAD-Distance Course provides a structured learning environment that guides participants through the problem-solving process. The Distance Course is unique in providing intensive one-on-one feedback and editorial support to course participants as they are learning the method to deepen their understanding of the issues presented, guide them towards fruitful research avenues, and ensure that their solutions are detailed and effectively implementable. In the past, some university professors have used the Distance Course materials to teach courses at their universities, and have produced a research report and bill in conjunction with their students. This model might work well at Birzeit. However, the Distance Course is quite intensive...requiring a ten+ hour weekly time commitment for four or five consecutive months.

Advanced In-Country Workshop

As mentioned above, I recommend providing additional trainings in the areas of Drafting Techniques, Legislative Assessment, and Drafting for Accountability. This training could be provided in the form of a follow-up two-week, in-country workshop for the Birzeit IOL and FOL members who participated in the Phase I training. A follow up workshop should be sufficient to enable participants to complete complex drafting projects with a high degree of independence (although they would benefit from editorial support during their first major projects). Exposure to additional training could occur either through participation in a workshop held in Palestine, or through attendance of a similar workshop being conducted in another jurisdiction.

Jointly Run In-Country Workshop

Given modest additional training, the Birzeit IOL/FOL personnel should be able to begin teaching the Institutional Theory and Legislative Problem-Solving Methodology. During their initial training sessions, the new trainers may find that they benefit from the support of an experienced ICLAD co-trainer.

Developing a Manual Based on Palestinian Case Studies:

The Palestinian situation is quite unique, so Palestinians may find the idea of transforming institutions on the basis of facts and logic (rather than power) more compelling if they can see examples of how facts and logic can be used to meaningfully address social problems *in Palestine*. A case book highlighting how the Legislative Problem Solving Methodology can be used to address Palestinian concerns would not only serve as a valuable teaching tool, but it would also help transform the ideology that facts and logic may work in some places, but only power speaks in Palestine. ICLAD staff members could help edit case studies for Palestinian drafters, to ensure the methodology is being rigorously applied, and Boston University Law Students could provide comparative law and experience information to help place some of the Palestinian-generated solutions in context, and to elucidate the differences between the type of solution that might work in Palestine, versus somewhere else.

Summer Institute

During the Summer of 2008, the International Consortium for Law and Development will hold a two-month Summer Institute on Law and Development at the Boston University School of Law. The Summer Institute will operate as a condensed version of the four-month Residence Program, and will provide instruction in:

- Legislative Assessment
- Institutionalist Theory and Legislative Problem-Solving Methodology
- Research Methods (abridged)
- Drafting Techniques (in English only)
- Administrative Oversight Techniques/Drafting for Implementing Agency Accountability
- Curricular Development

We also anticipate holding lunch sessions to discuss law and development theory and comparative processes.

Residence Program

The full four-month Residence Program covers the same material as the Summer Institute, but also enables participants to join Boston University Law School's Law and Development Course and to audit the Legislative Clinics. Boston University currently runs three legislative clinics:

- Legislative Policy and Drafting Clinic (providing legislative drafting services for Massachusetts State Senators & Representatives);
- Legislative Internship Program (enabling law students to spend time working as Legislative Aides in the State House); and
- Legislative Lawyering Clinic (providing students with advocacy training and experience drafting amendments for incremental change).

Auditing the clinics can prove particularly interesting for law professors seeking to create similar programs in their countries. The Residence Program also differs from the Summer Institute in that its longer time frame provides more opportunities for reflection on, and engagement with, the material introduced.

Need for a Parliamentary Orientation

Conversations with the IOL staff also indicated that members of the Palestinian parliament are not receiving a parliamentary orientation to educate them about the instrumental use of law, legislative agenda setting, or methods for assessing the probable effectiveness of a proposed law. Without such an orientation, the parliamentarians, especially the newly elected members, are continuing to seek public input about concerns with the government from their constituents on an informal basis (primarily in the mosques), much as they did prior to their elections. Without instruction in how law can be used instrumentally to address Palestinian needs, a Parliamentarian lacks the skills needed to use facts, logic and the law (e.g. constructive, non-violent, means) to address their, and their constituents,' concerns.

Opening a Dialogue Between Palestinian & Israeli Drafters to Address Mutual Concerns

Addressing many of Palestine's needs requires cross-jurisdictional cooperation between the Israelis and the Palestinians. The Legislative Problem-Solving Methodology provides a framework that focuses representatives of competing interests and ideologies on common problems and the causes of those problems, thereby de-politicizing the situation and enabling the participants to work together towards a solution based on facts and logic. There is potential to meaningfully address Palestinian problems by forging research collaborations with Israeli universities and ministries, organized according to the problem solving methodology (e.g. facts, logically organized).

Annex II: List of Trainees for Legislative Drafting

S/R	Organization	Name	Title
1.	IOL-Legislative Support Program	Fayez Bikerat	Program Head (Legal Researcher)
2.	IOL	Mahmoud Fayyad	Legal Researcher
3.		Mahmoud Musa Dodeen	Legal Researcher
4.		Mahmoud Tayseer Alawneh	Legal Researcher
5.		Haya Haj Ahmad	Research Assistant
6.		Buthina Salem	Coordinator of Continuing Education Unit
7.	FOL	Baha' AlBakri	Assistant to dean of faculty of law and public administration and a teacher at the faculty of law

Annex III: Training Course Agenda and Session Objectives

The Institutional Theory and Problem-Solving Methodology as a Guide to Legislative Policy Development and Drafting

Background

The training on Legislative Policy Development and Drafting is part of the BAYAN project: *Strengthening the Accountability and Transparency of the Legislative Process in West Bank and Gaza*. The aim of the BAYAN project is to work with Palestinian civil society organisations (CSOs) to strengthen their ability to;

- participate effectively in the legislative process; and
- monitor the performance of the legislature and government.

Purpose of Legislative Policy and Drafting Training

The purpose of this training is to enhance Palestinian capacity to design effectively implemented laws and regulations that will address pressing social problems. The training in legislative drafting will provide the faculty of the Institute of Law with a framework for teaching students to participate in the policymaking process and to hold their elected officials accountable for policy decisions.

Workshop participants will be able to:

- assess the probable effectiveness of a legislative proposal;
- assess a legislative proposal to ensure the bill's technical provisions address the legal and non-legal causes of the problematic behaviours;
- analyze the socio-economic costs and benefits of both proposed law, and leading alternative solutions; and
- apply legislative drafting rules to improve the precision and completeness of a legislative proposal.

Course Methodology

This Legislative Drafting course is designed to provide participants with opportunities to learn by doing. Educational theory suggests that we learn in four stages: (1) introduction to new material, (2) guided assessment or application of the concepts presented, (3) independent application of new concepts, and (4) teaching the new concepts to others. In this course, we will move quickly through the learning process. The instructor will introduce each new concept with a mini-lecture, interspersing theory with illustrative examples. With the instructor's guidance, course participants will use the Institutional Theory and Legislative Problem-Solving Methodology as a guide for identifying the root causes of a social problem and identifying the types of legislative provisions that are logically suited for altering the causes of the problematic behaviours. After applying the problem-solving methodology during guided exercises, the workshop participants will practice using the problem-solving methodology as a guide for independently addressing a country-specific problem. Finally participants will present their work to the group, and will provide each other with suggestions for deepening their analyses and adding detail to their legislative proposals. The ultimate goal of this workshop is to prepare participants to independently use the problem-solving methodology as a guide for resolving increasingly complex social problems.

BAYAN Project: Legislative Policy and Drafting Course
June 25th- 28th, 2007 - Training Course Agenda and Session Objectives

Day	(8:30am Registration) 9.00 –10:30 am	10:30– 11:00 am	11:00–1:00 pm	1:00–2:00 pm	2:00pm-4:00pm
Day 1 (Mon)	<p>1. Using Law to Resolve Social Problems: Introduction to the Institutional Legislative Theory and Legislative Problem-Solving Method</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power-point slides 2. Exercise: Unemployment 3. Research Report outline 	B R E A K	<p>2. Identifying the Problematic Behaviors Law Must Transform</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power point slides 2. Case Study: Draft Social Problem Statement 3. Interviewing Exercise (sample questions) 	L U N C H	<p>3. The Social Problem, and Where and how it Fits into the Larger Social Context (<i>Working Groups</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Group Work Instructions 2. Guide to Research Report’s Social Problem Section
Day 2 (Tues)	<p>4. Explaining Why People Do What They Do In The Face Of the Law</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power-point slides 		<p>5. Explaining Behaviors, Cont’d (<i>Working Groups</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Group Work Instructions 2. Guide to Research Report’s Explanations Section 		<p>6. How to Devise a Legislative Solution Targeting the Causes of Problematic Behaviors</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power-point slides 2. Guide to Research Report’s Solutions Section
Day 3 (Wed)	<p>7. Selecting an Implementing Agency (<i>Lecture & Group Exercise</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power point slides 2. Instructions for Implementing Agency Exercise 		<p>8. Transforming a Policy into a Well-Organized Bill (<i>Lecture, Exercise and Working Groups</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session Power-point slides 2. Child Labor exercise 		<p>9. Finalizing the Research Reports and Bills for the Editing Sessions (<i>Working Groups</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Group Work Instructions 2. Guide to the Research Report’s Introduction Section
Day 4 (Thur)	<p>10. How to Assess & Edit a Research Report and Bill (<i>Independent Work</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Exercise: Using Problem-Solving as a Guide to Legislative Assessment 2. Editor’s Checklist 3. Research Reports & Bills 		<p>11. Editing Sessions(<i>Collaborative Working Group</i>)</p> <p>Handouts:</p> <p>1. Participants will provide colleagues with written suggestions for improving their reports and bills.</p>		<p>12. Drafting for Clarity and Precision (<i>Exercises</i>)</p> <p>Handouts:</p> <ol style="list-style-type: none"> 1. Session power point slides.

Training Course Agenda: Phase II (4 days)

Day One – Monday 25 June 2007

1. Course Agenda, Course Expectations, Introduction to the Institutional Theory and Legislative Problem-Solving Methodology

Session Objectives:

By the end of this session, participants should be able to:

- understand the course agenda and expectations;
- understand how Legislative Problem-Solving Methodology can serve as a guide to transforming problematic institutions; and
- identify differences between the current Palestinian drafting process and the problem-solving process (comparative role of drafter, form & contents of memorandum of law, input processes).

Key Learning Points:

- The pervasiveness of institutions, and the functionalist use of law
- How the Legislative Problem-Solving Methodology can help in assessing whether or not a legislative proposal has a high likelihood of effective implementation
- The course agenda and expectations
- Introduction to the Institutional Theory and Problem Solving Methodology
- Functions of the Research Report

2. Identifying the Problematic Behaviors Law Must Transform

Session Objectives:

By the end of the session participants should be able to:

- understand the importance of focusing on a narrow topic and addressing a specific set of problematic behaviors;
- understand the importance of describing “who does what” that constitutes a social problem;
- differentiate between irrelevant facts and descriptions of problematic behaviors;
- identify sources of information about problematic behaviors; and
- interview a “role occupant” to elicit relevant information.

Key Learning Points

- Elaboration on the contents, and importance, of Problem-Solving’s “Social Problem” step
- Creating a detailed description of the Social Problem is critical to designing an effectively implemented policy or bill

3. The Social Problem Your Bill Will Address, and Where and How it Fits into the Larger Social Context (Working groups)

Session Objectives:

By the end of the session participants should be able to:

- describe the general contours of a social problem ripe for legislative resolution;

- identify a narrow piece of the larger problem, and explain the importance of addressing this narrow problem;
- describe the behaviors that constitute the narrow social problem; and
- develop topic narrowing and prioritization strategies that are rooted in facts and logic.

Key Learning Points

- Overly broad laws are ineffectual.
- Participants will gain experience using Legislative Problem-Solving's first step as a guide to legislative research.

Note: During this session, workshop participants should produce written social problem statements for presentation to the group on Tuesday morning, and for eventual editing.

Day Two – Tuesday 26 June 2007

1. Explaining Why People Do What They Do In The Face Of The Law

Session Objectives:

By the end of the session participants will be able to:

- provide colleagues with more detailed feedback into the sufficiency of a problem statement;
- understand the importance and function of Legislative Problem-Solving's Explanations step; and
- begin to use the ROCCIPI categories to develop hypotheses about the causes of the problematic behaviors and as a research guide.

Key Learning points

- The ROCCIPI categories (Rule, Opportunity, Capacity, Communication, Interest, Process and Ideology) serve as a guide for developing hypotheses about the legal and non-legal causes of the problematic behaviors.
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2. Explaining Why People Do What They Do In The Face Of The Law (Working Groups)

Session Objectives:

By the end of the session participants should be able to:

- explain the legal and non-legal causes of the behaviors that constitute a social problems; and
- identify the types of facts needed to test the validity of the postulated explanatory hypotheses.

Key Learning Points

- Through this hands-on exercise, participants will gain increasingly independent experience using Legislative Problem-Solving's second step as a guide to legislative research.

3. How to Devise a Legislative Solution Targeting the Causes of the Problematic Behaviors

Session Objectives:

- By the end of the session participants should be able to:
- assess the sufficiency of another group's explanations for the legal and non-legal causes of the problematic behaviors;
 - identify a range of legislative provisions that might effectively target the causes of the problematic behaviors; and
 - use cost-benefit analyses to choose between potential solutions.

Key Learning Points

- An effectively implemented law must address to the causes of the problematic behaviors
- For many social problems, there are a range of viable legislative solutions. The drafter must select the solution that will resolve the social problem in the most cost-effective manner.

Day Three – Wednesday 27 June 2007

1. Selecting an Implementing Agency and Ensuring It Can and Will Implement a Bill (Lecture & Group Exercise)

Session Objectives:

- By the end of the session participants will be able to:
- select an implementing agency for each legislative provisions bearing in mind the pros and cons associated with different forms of implementing agencies; and
 - demonstrate that the selected agency has a high likelihood of implementing the solution.

Key Learning Points

- When selecting an implementing agency, remain mindful of the weaknesses associated with that agency, and include provisions to control/mitigate foreseeable problems.
- Whether or not an implementing agency will implement a law depends on its legal and non-legal constraints and resources.
- The ROCCIPI agenda can be used to assess whether or not implementing agency personnel are likely to carry out their duties under the proposed law.

2. Transforming a Policy into a Well-Organized Bill (Lecture, Exercises and Working Groups)

Session Objectives:

- By the end of the session participants should be able to:
- list the specific measures that logically seem likely to effect the desired changes in the primary role occupants' and implementing agencies' behaviors;
 - group those provisions logically into the bill's Parts and Chapters;
 - order the provisions logically enhance the bill's usability; and
 - use the 8-point checklist to ensure the bill is complete.

Key Learning Points

- A bill's detailed provisions must be organized logically into parts and chapters.
- The bill must prove easily understandable and accessible for each of the eight sets of actors whose actions, together, comprise the system that the bill proposes to resolve the problem addressed.

3. Finalizing the Research Reports and Bills for the Editing Sessions (Working groups)

Session Objectives:

By the end of the session participants should complete a draft:

- research report, demonstrating the facts and logic upon which the bill rests; and
- outline for a legislative proposal that is logically suited for overcoming the causes of the social problem.

Key Learning Points:

- Through this hands-on exercise, participants will gain experience using Legislative Problem-Solving as a guide to devising a legislative solution targeting the causes of problematic behaviors.

Note: Each group must complete its draft research report and bill-outline during this session. The **research report's solution section** should clearly identify the behaviors the bill is intended to transform, and must explain how and why the bill's detailed provisions are likely to elicit the desired behavioral changes. The solution section should also explain the reasons behind the choice of implementing agency, and should outline the proposal's probable costs and benefits. **The draft bill** should include provisions addressing the actions of the: primary role occupant(s), implementing agency, dispute settlement agency, funding agency, rule-making agency, monitoring and evaluation agency, and agencies that keep the corpus of the law in order.

Day Four – Thursday 28 June 2007

1. How to Assess & Edit a Research Report and Bill (Mini-Lecture & Independent Work)

Session Objectives:

By the end of the session participants will be able to edit a research report and bill to ensure the legislative proposal will logically overcome the causes of the problematic behaviors.

Key Learning points

- Editing constitutes an excellent opportunity to deepen one's understanding of the institutionalist problem solving methodology.

2. Editing Sessions

Session Objectives:

- Participants will deepen their understanding of the

Institutionalist Theory and Legislative Problem-Solving Methodology by providing project guidance to others.

- Participants will provide each other with valuable guidance for how to improve their reports and bills after the workshop concludes.

3. Drafting for Clarity and Precision (Exercises)

Session Objectives: By the end of the session participants should be able to draft legislative sentences that clearly state who shall, may and may not do what.

Key Learning Points

- 90% of legislative sentences should contain commands, permissions and prohibitions.
- When drafting, use a human being, or collectivity capable of voluntarily obeying the rule, as a subject.
- Draft in terms of behaviors, not in terms of rights and duties.
- To state a command, use the word 'shall'.
- To grant discretionary power, use 'may'.
- To prohibit action, use the form, 'a person may not...'
- Be concise.
- Avoid vague and ambiguous terms.