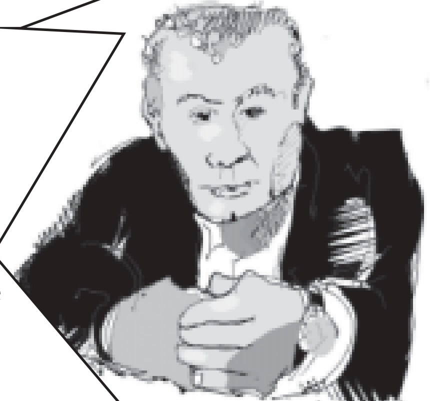
CHAPTER 3:
PRIORITIZING PROPOSED BILLS

Every day, you hear demands for new laws. Government never seems to have enough resources for drafting, enacting and implementing them all. To avoid wasting time and money on relatively unimportant bills, **you as law-makers, the executive and the legislature, working together** must determine the order in which to draft, debate and enact transformatory legislation – that is, you must ***prioritize*** them..



MISUSE OF CAPACTY

MISUSE OF CAPACITY

A recent workshop in a developing country illustrated many law-makers' difficulties in deciding which bills to draft first. Most of the country's inhabitants confront a grossly inequitable distribution of land; widespread unemployment; obscene gaps between rich and poor that reflect long-standing ethnic cleavages; and grossly inadequate schooling, health facilities and housing. The new populist government had won elections by promising a dramatically improved quality of life.

The workshop organizers had requested the participants from government ministries to bring with them their ministries' priority drafting projects. Senior officials from the Ministry of Trade and Industry — presumably responsible for planning transformation — brought three projects: to license highway tow trucks; to permit corporations to buy in their own shares; and to repeal the usury law (which prohibited charging interest of more than 29% per year). Surely no one could claim these as central social problems!

This chapter looks at:

A. How prioritization works in most countries, and your role as a legislator in the process;

B. General criteria as guides to prioritization of alternative legislative proposals; and

C. Prioritizing proposed laws likely to affect the people's job opportunities and quality of life.

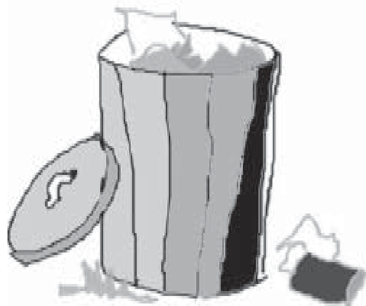
A. HAPHAZARD PRIORITIZATION

Developing and transitional countries' processes for deciding priorities of proposed legislation often seem haphazard. In reality, too often, those processes permit the beneficiaries of the *status quo* to press for unimportant, incremental measures that leave intact the institutional causes of a growing 'have-have not' gap. That seems to reflect the skewed nature of the the prioritizing institutions.

1. The institutions for prioritizing drafting: An overview

In most countries, most bills originate in the executive branch, mainly in the ministries, as government bills. While implementing existing laws, ministry officials frequently identify new problems that call for new legislation. Occasionally, parliamentary committees or staff members or a legislator prepare a bill's initial draft.

Ministries usually submit their proposed legislative projects to some body that prioritizes all the country's drafting proposals. In some countries, ministries submit their projects to a Cabinet Committee on Legislation, composed of senior ministers, which determines priorities. In others, ministries simply forward them to the central drafting office, which allocates its scarce resources to bills its staff considers important. In effect, then, the office determines the bill's priority.



Whatever the institutional structure, in practice prioritizing frequently seems completely haphazard. (In the United States, a leading article on prioritizing practice bore the title, *A Garbage Can Model of Organizational Choice*.[2]) Taking advantage of the unsystematic prioritizing process, political leaders not infrequently press hardest for bills supported by powerful interest groups. Those with the best channels to decision-makers **– almost everywhere, those with power and privilege** – usually win priority for bills that advance their interests.

How to improve the prioritizing institutions? Law-makers must answer that question in light of their country's special circumstances. By setting the law-making agenda, prioritization decisions ***shape the direction of government's exercise of state power***. As an important task, make sure your country's prioritization institutions give you and your colleagues an opportunity to assess and approve the government's legislative program. Here, we suggest a few factors that you might consider.

Prioritization requires *comparing* the claims of the many bills that clamor for legislative attention. The principal legislative opportunity to do that occurs where government presents its annual legislative program to the legislature for approval. (Not all governments do that, but they should.) In most (if not all) Commonwealth countries, for example, the Head of State reads out the annual legislative program at the opening of the first session of Parliament for the year.

Whatever committee controls the legislature's agenda should require a bill's proponents to provide sufficient information to enable the appropriate legislative committee wisely to determine its relative priority. That could take the form of a memorandum that describes the social problem the bill will address, a timetable for the drafting, and a guesstimate of the order of magnitude of resources required to formulate and implement its provisions. That memorandum should also specify the criteria, facts and logic that the proponents believe justify granting their bill priority status; and suggest the composition of the drafting committee, and the form for consulting stakeholders.

In ranking proposed bills, the prioritization body performs a planning function. Like all plans, its initial prioritization decisions should remain flexible. If, in the course of a year, a new social problem emerges that seems to require new legislation, the law-makers may decide – in light of the available facts and reasons, and clearly pre-defined, well-publicized criteria – **to alter the priority list.**

EXERCISE: PRIORITIZATION

Describe the steps by which, in your country, the relevant authorities decide how to prioritize legislative proposals for drafting.

B. CRITERIA FOR PRIORITIZATION

For prioritizing proposed legislation in a given country at a specific time, no one can provide a blue print. In 1994, as its first task immediately after its first democratic elections, South Africa's new government appropriately abolished state-enforced apartheid. In many countries, land reform held first place. In Afghanistan after the Taliban's ouster, laws to establish the new government, to ensure security and protect women's rights, demanded immediate attention. No one size fits all.

Reason and experience, however, do suggest guidelines for questions you should ask ministers as to which bills to rank for legislative action first; that is, what criteria to use in assigning legislative priority. In prioritizing as in all law-making processes, the discourse of power inevitably also presses for your attention. As throughout this manual we here focus only on considerations of *the public interest* as determined by *logic and facts*.

GETTING INFORMATION FOR PRIORITIZING LEGISLATION

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To prioritize proposed legislation, you need to ask:

Will a proposed bill:

1. Improve the quality of governance? How?
2. Increase employment opporutnities?
3. Increase the production of goods and services to meet the basic needs of the majority of the population?
4. Increase equity? How? In the short-, medium-, or long-term, who will win, who lose?

You should also ask:

5. Do the bill's detailed provisions seem do-able? At what cost? With what possible unintended social consequences?
6. What constitute the bill's likely social costs and benefits?
7. In light of available drafting resources, how difficult and how long a drafting task does the bill seem likely to present?
8. What other proposed legislation competes for priority?

As Chapter 1 emphasized, development comprises an on-going *process* of institutional change to ensure the use of national resources to improve our people's quality of life. That process resembles a chain. How law-makers act to change one link inevitably will affect the others. In prioritizing needed legislation, you must decide which institutions require change NOW.

The third world's post-colonial experience holds valuable lessons. Immediately after independence, in many countries, populist law-makers voted to expand social services, especially education and health facilities. Within a few years, their countries' competitive expansion of crude exports to earn the revenues needed to finance these services led to falling world prices — and many fell deeply into debt. Currency devaluations, sky-rocketing inflation, and externally imposed financial constraints forced them to curb social service expenditures. Growing numbers **– as much as 20 to 40 percent of the labor force** – found themselves without paying jobs. Deepening poverty engulfed of their populations. Economic inequality and destabilization, rampant corruption, mounting ethnic conflicts, and military coups fostered growing global demands for democratic social change and good governance. As the new millenium opens, in what order of priority should you, as law-makers, enact laws to achieve sustainable, peaceful development?

At the prioritizing stage, you likely have relatively little information. Working with whatever information you have, give high rank to those proposals with the greatest potential net economic ***and social*** benefits (see Ch. 5). Even at an early stage, ask for and weigh the facts as to a law's probable socio-economic *costs and benefits*.

In weighing those facts, remember: existing national and global institutions, perpetuating dependence on crude and labor-intensive manufactured exports, have tended to aggravate unemployment and deepening poverty. The rest of this chapter focuses on the questions you should ask to decide the relative priority of legislation designed to restructure those institutions.

EXERCISE: CRITERIA FOR PRIORITIZING

List the criteria which, in your country, seem appropriate for prioritizing the drafting of legislative proposals.

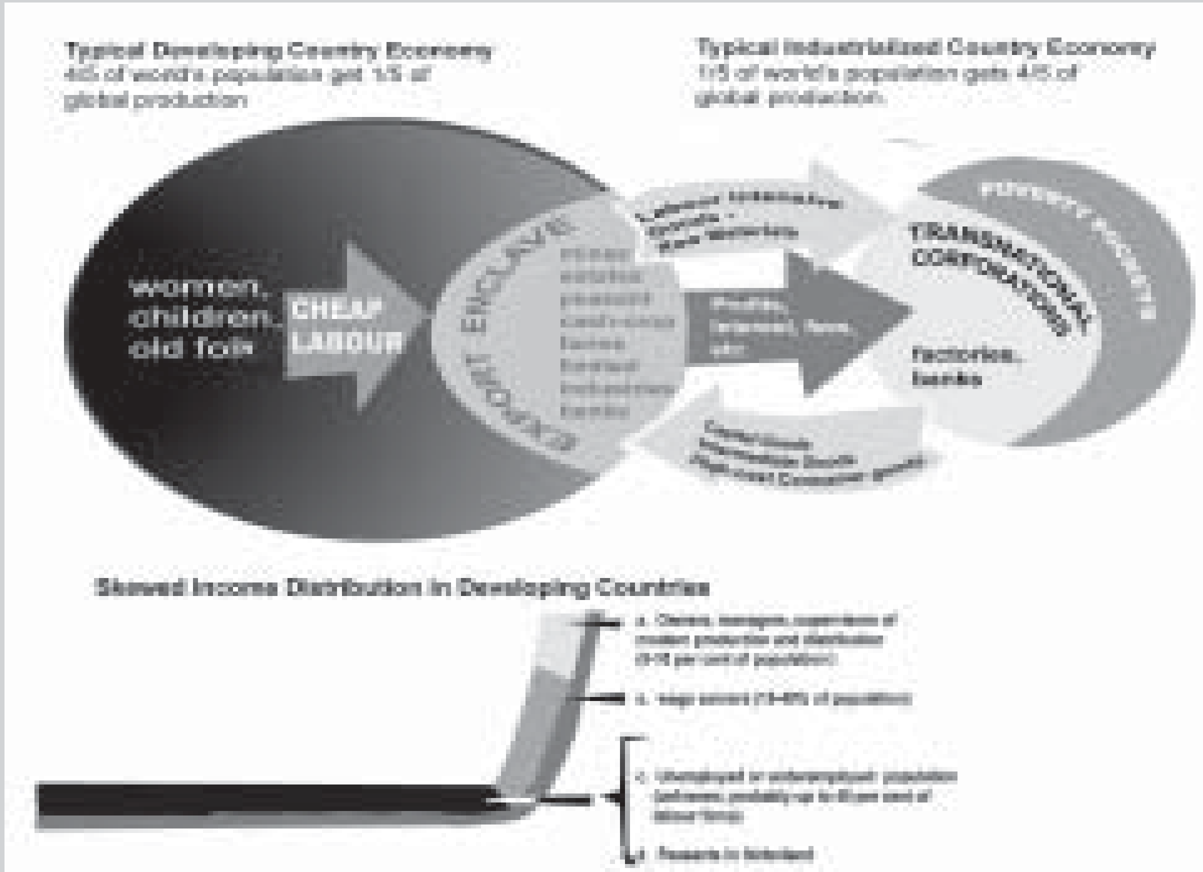
C. PRIORITIZING LEGISLATION FOR ECONOMIC DEVELOPMENT

Development does not concern 'merely' economic growth; social welfare and good governance, too, must remain high on the agenda. Without an adequate economic foundation, however, government cannot finance projects likely to enhance social welfare. Laws looking to strengthen the economy too often fail to win priority. To help you understand the obstacles to developing and transitional countries' economic development in today's globalization era, this section presents, first, a model of the institutions that define the relationship between the industrialized and the other countries; second, the economists' debates over development strategy as they bear on prioritization choices; and, finally, more detailed criteria for assessing the priority of legislation relating to agriculture, industry (including the informal sector), trade, finance and foreign investment.

1. Institutions and poverty in developing countries

To improve the quality of life of a country's population requires both ***increasing the total national pie*** – the sum total of available goods and services (what economists call 'the Gross National Product' or 'National Income') – ***and distributing it more equitably.***

THE CHARACTERISTICS OF POVERTY IN DEVELOPING COUNTRIES: A MODEL



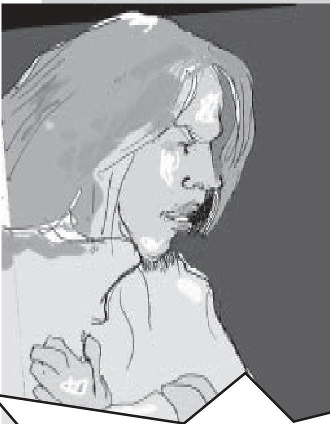
Between nations, enormous disparities of wealth persist. The United Nations Development Programme (UNDP) estimated in 1998 that

> ***"a fifth of the world's population, living in industrialized nations, consumes more than four fifths of the world's resources. That means that four our of five of the world's peoples, mainly in the third world and transitional nations, must struggle to survive on a bare fifth of the world's goods and services."***

Within most developing countries, narrow 'modern' enclaves have emerged, dominated by local elites who, closely associated with transnational corporate enterprise, reap half to three fourths of the national income. Foreign- and domestically-owned enterprises employ low-cost labor – frequently, migrants seeking to escape from neglected rural hinterlands – to produce and export the countries' rich mineral and agricultural materials, mainly in crude form at low prices, to first world markets. In the new millennium, a few factories employ unskilled workers (at wages a fourth or less than those of first world factory workers). Mainly, they assemble and process imported parts and materials to make cheap consumer goods – shoes, TV sets, even computer parts – for sale in first world markets.

Typically, the value of most developing countries' exports exceeds the cost of imports which are mostly machinery and parts for enclave firms, and luxuries for those few who can afford them. Nevertheless, most of these countries pay out, in the form of profits, interest, and dividends to global investors and financial institutions, more than they earn. Those payments and the flight of capital to 'safer' foreign havens leave precious little internally-generated savings for investment to spur domestic production and job creation.

The institutional basis. No nation's raw materials produce and sell themselves to foreign countries. Historically-shaped institutions – repetitive patterns of behaviors – perpetuate these externally-dependent development patterns. Often rooted in the colonial era, inherited institutions still channel local labor to work on the plantations, the mines, and, increasingly, factories to produce crude materials and cheap consumer goods for export. Big wholesale trading firms purchase small farmers' crops at low prices. Large industrial corporations employ unskilled workers for long hours at minimal wages to manufacture cheap consumer exports. Property and contract laws make it possible for transnational corporations and wealthy nationals to reap the profits of third world production and marketing facilities.



Economists agree about precious little.

2. The economists' debates

Many economists teach that the quality of life of the population of a developing or transitional country depends on its productivity, the distribution of the fruits of its labor, and its ability to earn foreign exchange in order to purchase what the country cannot produce itself. The model above demonstrates that, too often instead, inherited institutions siphon out funds, thwarting the inhabitants' efforts to accumulate and invest capital to enjoy the good lives those economists promise.

Nevertheless, now-a-days most economists agree that to increase a nation's productivity requires government legislative action to:

(1) **provide social and economic infrastructure** to enable inhabitants to obtain jobs and earn higher incomes in the context of more balanced integrated national specialization and trade;

(2) systematically spur introduction of **appropriate new technologies** to increase productive employment and productivity; and

(3) **create institutional frameworks** that empower the nation's citizens to work together increasingly effectively to increase their output and incomes as the essential foundation for improving their quality of life.

Debates about the kinds of laws likely to help attain these goals tend to degenerate into statements of dichotomies: Big bang ***or*** incremental change; Market ***or*** Plan; export-led ***or*** internal demand-led development; private ***or*** state ownership. For a while, in the 1990s, many economists seemed bemused by the 'Washington consensus,' a form of neo-liberalism that seemed to assume freeing 'the market's invisible hand' would, over time, ensure increased production benefits would trickle down to those in need.

Those debates often generate disagreements as to whether, on the one hand, to enact legislation to encourage investment and support business, or, on the other, laws to meet people's socio-economic needs. Too often, proponents on both sides seem to ignore the facts of country-specific characteristics which logically should undergird a government's development strategy.

Hawking shoes, Johannesburg, South Africa, 2002; the benefits of the market may take some time to trickle down to all participants.

Market vs. Plan Debates: Some basic issues

a. Plan or Market? You cannot afford to think about state planning and markets as an either/or dichotomy. Today, every country's economy exhibits some planning. Even in an archetypical free market state like the United States, considerable planning takes place. How else could firms – public or private – run an electrical supply system, a telephone system, or any other 'natural monopoly'? On the other hand, given scarcities of funds and of skilled personnel, market-driven solutions sometimes trump plan solutions. In your own country's unique circumstances, you must study the facts to determine the mix of plan and market each sector of the economy demands. Especially in small countries, where one or two large firms often dominate entire sectors – like railroads, an iron and steel industry, chemicals and oil production, or finance – you should study the merits of alternative regulatory regimes for each sector. Whether a particular sector lends itself better to planning or market solutions depends on the facts, not abstract theory. For markets, as for every other aspect of life, no particular legal framework proves universally applicable.

b. Shaping a market's legal framework. Most economists agree that, to function well, a market must operate within an appropriate legal framework;[3] laws to improve that framework deserve a high priority. To determine what constitutes an appropriate legal framework in your country's historically-shaped conditions, you may wish to ask two further sets of questions:

(1) Ought business laws invariably to receive priority?

(2) Do those kinds of laws exhaust the category of the laws that markets require?

As to the first question, citing Max Weber, some theorists claim that in **every** market economy, to ensure the predictability for investments that capitalists seek, law-makers should prioritize business laws, which an earlier generation called 'private law.'[44] These theorists call for legislation to privatize state-owned property; property laws generally; and contract and corporation laws in all their elaborate variations – principally enforced by private litigation in law courts.

Each country's transition to a market economy does tend to resemble that transition in other, relatively similar countries. (That explains why one country's law-makers can learn something about that transition from other countries' experiences.) Significant differences also inevitably exist. To make a mature judgment as to whether a particular country should

adopt a check law or a titling law before enacting other kinds of laws requires an empirical study of that country's specific circumstances.

As to the second question, some authorities insist that business laws exhaust the list of priority legislation a market economy requires. An alternative view holds that markets work not merely because of business laws, but also because of the existence of an appropriate legal and institutional (as well as physical) infrastructure. That includes laws to regulate the money supply and credit; to ensure government's fiscal responsibility for budget formation and budget discipline; to shape the educational system to provide an educated work force; to provide publicly-financed old age and disability pensions; to foster a mobile work force and social stability; to establish an agricultural extension service to stimulate a progressive agricultural sector; to establish effective environmental protection agencies to protect the environment against the ravages of private greed – a long list.

This view suggests that, to prioritize laws in developing and transitional polities, you should weigh the claims not only for business laws, but also for the full range of legislation required to bolster the market's institutional infrastructure.

Notwithstanding neo-liberal economists' advice, you should never blindly copy laws in a rush to privatize state-owned facilities. Typically, taxpayer funds originally financed those assets. To sell them to the wealthy few who happen to have capital, or to foreign investors, does not ensure their future development in the public interest. To maximize short term profits (and executive salaries), the buyers often lay off workers and strip production to the most profitable lines, aggravating unemployment and leaving unfilled essential economic functions, like building roads to remote rural areas; giving the poor access to water, housing, electricity and public transport; and establishing industrial plants to produce parts, equipment and materials to facilitate growth of small scale enterprises.

In short, nobody has a silver bullet that in one shot can vanquish the devils that plague the world's disinherited: poverty, vulnerability, poor governance. No easy short-cuts exist. You must assess your own country's realities to determine which laws require early drafting and enactment, and which to defer.

In every case, you need to consider whether a proposed law seems likely to help shape the markets' essential institutional infrastructure, and facilitate production of the goods needed to improve productive employment and *all* people's quality of life.

3. Prioritizing legislation for economic transformation

Legislative theory argues that an appropriate legal framework can lead to significantly increased productivity, providing the basis for meeting the entire population's basic needs. This requires transforming legislation in each of the major areas of economic activity: agriculture; industry; wholesale trade; finance; and foreign private investment.

This section asks what information you need to decide what legislation will likely help to strengthen the 'key links' to foster development in each economic sector.

AGRICULTURE

1. Agriculture. Over the past century, many countries in the developing world have seen a shift from subsistance and small scale agriculture to cash crop production. Often this involves the formation of large-scale agri-industry. Large mechanized farms — whether owned by foreign firms, wealthy private farmers, state farms or cooperatives — use large areas, often the best land, and employ more capital equipment and machinery than small farms. As they invest in more advanced efficient technologies, they employ less labor per unit of output. At the same time, they often push off the land small farmers who cannot compete, forcing them to take low-paid jobs as hired farm labor or migrate to the cities.

Given access to appropriate technologies, small farmers, typically families with limited capital, can significantly improve on-farm productivity. To enable them to acquire new skills, inputs, credit, and markets, laws may establish agricultural extension programs, and facilitate their efforts to work together through cooperatives.

Legislation has played a key role in structuring agricultural transformation - both in creating large agri-industrial enterprises, and empowering small-scale farmers to better utilise land and labour under changing conditions. Most agricultural experts agree that, to increase agricultural productivity, legislation should facilitate farmers' efforts to gain access to six essentials:

(1) Sufficient arable and well-watered land;

(2) farm inputs (fertilizers, appropriate machinery, seeds, water supplies, etc);

(3) credit to purchase those inputs;

(4) adequate technology;

(5) the necessary skills to maximize their use of these inputs; and

(6) markets, including the transport, storage, and marketing facilities they need to sell their increased outputs.

pic: farm workers in Tzaneen, South Africa, 2002

Law and the legal order can and do change inherited institutions to give farmers access to these essentials. That may produce mixed results. The devil lies in the laws' details. They determine which of which particular group of people may be affected, and how they will behave in the face of the new legislation.

EXAMPLE

Women subsistence farmers who wish to engage in cash crop production rarely have access to credit, to enable them to buy necessary fertiliser or seed; financial institutions' regulations often require a (male) head of household to provide surety for credit. UN assessments of agricultural assistance programs in Africa point out that although women comprise 80 per cent of the targeted farmers, three quarters of the credit provided goes to men. That makes it far less likely that women farmers can adjust to new economic conditions.

Over time, increased agricultural productivity tends to reduce the demand for agricultural labor per unit of crops produced. As a legislator, you should ask for facts concerning each law's likely impact, not only on productivity, but also on agricultural employment and equity.

INDUSTRY

2. Industry. Most economists perceive industry as a mighty engine of development. By creating new jobs and manufacturing an expanding array of low-cost goods, it holds the potential for improving the material conditions of life throughout the population, as well as expanding exports.

Widespread experience in many different developing countries suggests, however, that industrial growth may have a counterproductive social impact. Wealthy private (foreign or domestic) investors usually prefer to invest in the least risky, most profitable sectors. Typically, they shun investments in basic industries which might serve as poles of growth, and in small-scale enterprise that may provide job opportunities and produce low-cost tools and consumer goods to meet basic needs.

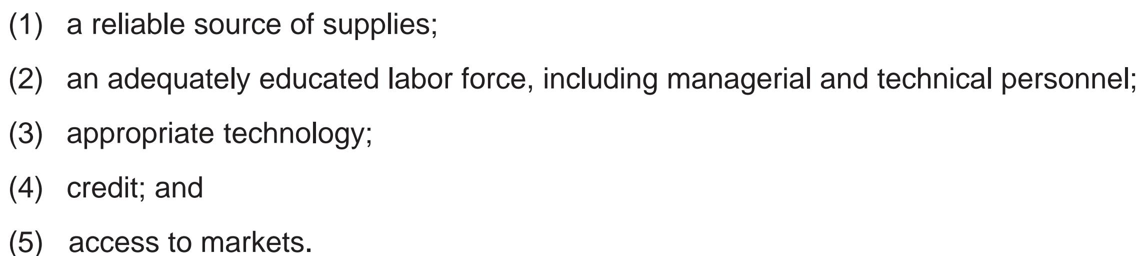
In recent years, transnational corporations together with locally-based affiliates have begun to invest in last-stage assembly and processing of imported parts and materials for export from developing countries. While seeming to increase industrial production, this may aggravate, not only dependence on imported parts and materials, but also a growing foreign debt to import machines, parts and materials. Typically, those industries maximize profits by hiring low-cost national labor – often women, and even children – for long hours at very low wages. Their managers seldom transfer to national entrepreneurs basic technologies and skills.

Unable to obtain wage employment, many working people struggle to earn whatever they can in the growing so-called ‘informal’ sector — micro-enterprises that operate on a catch-as-catch basis outside of the formal legislated framework. With little or no access to capital, credit, technology, and markets, informal sector entrepreneurs use low-cost, locally-available technologies — often only hand tools — to produce consumer goods for the nation’s poor majority. Although they pay employees very little, they do provide jobs for the otherwise unemployed.

An alternative strategy might foster investment in more advanced industrial technologies to reduce the cost and increase the supply of nationally-manufactured machinery, equipment and consumer goods to raise national living standards. In countries as different as Japan, South Africa, South Korea, the former so-called socialist countries and Brazil, law-makers have enacted laws to give government a direct role in building basic industries, like iron and steel, petrochemicals, electricity. telecommunications and transportation.

Appropriately drafted laws can strengthen your country's nationally (or regionally) oriented industrial growth, creating more productive rural and urban employment opportunities, more equitable income distribution, and expanding internal markets. To assess a particular law's impact on industrial development, you should ask two sets of questions:

First, how will it contribute to the provision of five factors essential for sustainable industrial growth:



(1) a reliable source of supplies;

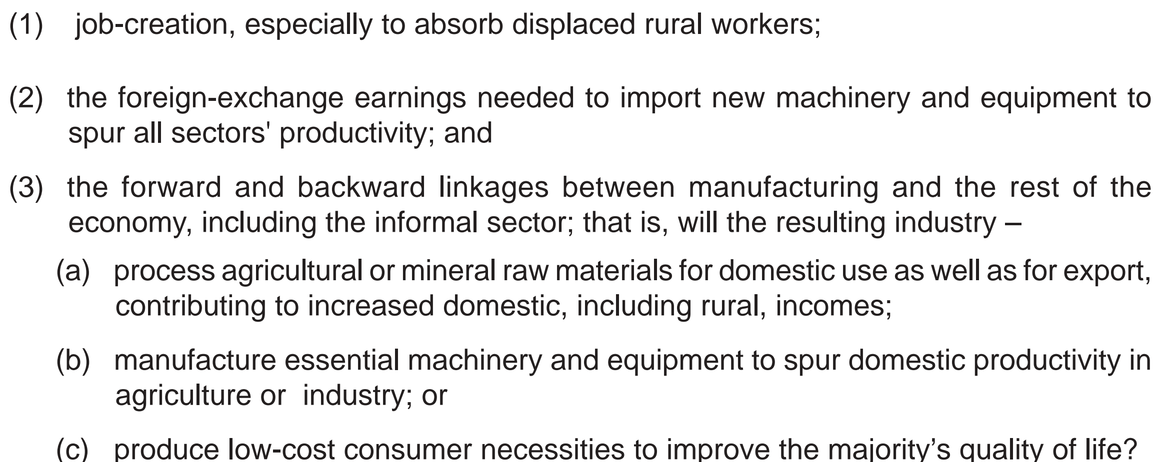
(2) an adequately educated labor force, including managerial and technical personnel;

(3) appropriate technology;

(4) credit; and

(5) access to markets.

Second, how will the resulting industry likely affect jobs and incomes in the rest of the economy, including the informal sector? For that, you should ask for evidence relating to that industry's potential contribution to:



(1) job-creation, especially to absorb displaced rural workers;

(2) the foreign-exchange earnings needed to import new machinery and equipment to spur all sectors' productivity; and

(3) the forward and backward linkages between manufacturing and the rest of the economy, including the informal sector; that is, will the resulting industry –

  (a) process agricultural or mineral raw materials for domestic use as well as for export, contributing to increased domestic, including rural, incomes;

  (b) manufacture essential machinery and equipment to spur domestic productivity in agriculture or industry; or

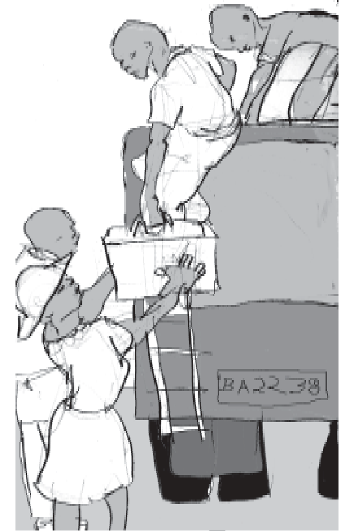
  (c) produce low-cost consumer necessities to improve the majority’s quality of life?

In short, to prioritize laws relating to industry, do not rely on abstract theoretical models. Instead ask for facts: will the proposed law foster sustainable industrial growth that contributes to increased productivity and employment in all sectors of the economy, leading to steady improvement in the majority's quality of life?

To become sustainable, increasingly integrated domestic industrial and agricultural growth requires new laws that facilitate the expansion of domestic and international trade.

TRADE

3. Trade. Developing countries have often inherited trading institutions that have perpetuated dependence on the export of crude and labor-intensive manufactured goods; import of machinery, equipment and parts for export-enclave industries, and consumer luxuries for the few who can afford them. Post-colonial experience, however, has demonstrated that overcrowded global markets cannot absorb developing countries' competitively expanding exports.



Many wholesale firms enjoy long-established links with overseas buyers and sellers with whom they share lucrative external trade profits. Investing capital to build warehouses, godowns, and transportation capacity, big wholesalers dominate internal trading channels. They charge high prices that squeeze, not only retailers, but also domestic farmers' and local industries' profit margins. These smaller enterprises must pay whatever prices the wholesalers charge for consumer goods, tools and equipment.

March to end to international patent laws covering HIV drugs, Pretoria, South Africa, 2000.

EXAMPLE

Some transnational firms manipulate global markets and prices with little regard for their impact on third world peoples. To illustrate: by the 20th Century's end, in many developing countries, HIV/AIDS had reached crisis proportions. Transnational pharmaceutical firms priced drugs that could protect against the disease at four to five times developing-country workers' average yearly income. When developing countries sought to import or manufacture generic drugs at more affordable prices, the pharmaceutical companies brought suit in those countries' domestic courts, and pressured their home governments to block those countries' most favored nation status.

Legislation to help your country's retailers and manufacturers overcome these kinds of obstacles deserves a high priority. You should ask the relevant ministries to provide the factual information you need to propose and prioritize laws likely to help restructure your country's trading institutions. These restructured institutions should foster more balanced, integrated national, and where possible, regional trade directed to boosting national productivity and incomes and fulfilling people's needs.

4. In finance. Everywhere in the developing and transitional world people experience great difficulty in accumulating and reinvesting capital to finance production and trade geared to their needs. Existing financial institutions — banks, insurance companies, and stock exchanges — tend to finance patterns of production and trade that perpetuate externally dependent development.

Both foreign and domestically-owned banks collect and hold whatever savings the poor, as well as the wealthy few, may accumulate. These savings could become a major source to spur economic growth. For the most part, however, large financial organisations limit their loans to large-scale farmers, formal sector manufacturers, and to wholesale trading firms, primarily those engaged in foreign trade. Banks and financial institutions seldom lend money to small farmers to grow food crops. They rarely lend funds to domestic basic industries focused on increasing developing countries' national productivity and employment; even less often do they make loans to informal sector micro-enterprises and traders from the low income majority. Taking advantage of relaxed foreign currency rules, they often ship significant amounts of locally-generated surpluses for investment in more secure markets in industrialised countries.

Over the years, insurance companies and pension funds (both foreign and domestically-owned, often associated with banks), have accumulated a significant share of many developing countries' savings. Seeking protection against risks of accidents and old age, increasing numbers of individuals pay premiums that swell these institutions' funds. Insurance company managers may reinvest these in government bonds, and sometimes through the stock market, in large-scale business enterprises. Some governments permit insurance firms to ship the accumulated funds overseas for 'safe' investment in foreign industrialized economies — a further drain of national investable surpluses.

To prioritize legislation that can improve national financial institutions' stability and safety, request evidence as to the likelihood that proposed laws will facilitate the accumulation and reinvestment of national savings to:

- increase productive employment opportunities;
- contribute to a balanced, integrated domestic (and where possible regional) economy characterized by expanding production and trade; and
- improve the population's quality of life.

5. **Foreign private investment.** Some development theorists argue that foreign capital inflows should constitute the be-all and end-all of proposed legislative programs. These theorists claim that foreign private investments will lead to expanded foreign exchange, employment, appropriate technology, marketing links, and skilled manpower — all in one package. These analysts would instantly award priority to any legislation likely to attract foreign investors; and reject legislation that might "scare" them away.

If one assumes that the existing institutional structure will remain fixed, immutable, and unchanging, that advice might make some sense. In contrast, this manual holds that through the wise use of the legislative power you can change institutions. That opens up a wide range of options, of which attracting foreign capital constitutes only one possibility.

One counter approach would be to ensure that legislation specifies criteria to make it likely that foreign investments will in fact bring their heralded benefits. Legislation can make tax relief and other benefits to foreign investors dependent upon their contribution to building basic industries, and tie them to the number of jobs and the amount of foreign exchange they generate. It can condition new foreign investments upon the introduction of new technologies and training local personnel, not merely to service or assemble an imported 'black box', but to design new versions to improve national productivity.

Say 'no' to prioritization of legislation that simply conforms to theoretically-determined Market or Plan priorities. Ask for the facts you need to assess how a proposed law to stimulate foreign investment in agricultural, industrial, trade, and financial sectors will affect your country's inhabitants.

SUMMARY

1. A country's law-making institutions shape the prioritization process. You and your colleagues should critically review and, if necessary, restructure your country's law-making processes to ensure prioritization of legislation in the public interest.
2. In general, give precedence to legislation likely to strengthen the institutions required to ensure good governance, as well as the socio-economic institutions that shape the population's employment opportunities and quality of life. Be sure that the available

SUMMARY (continues)

facts demonstrate that the expected benefits of proposed institutional changes will likely outweigh their probable costs.

3. When assessing the relative priority of legislation likely to affect your country's economic institutions in the fields of agriculture, industry, the informal sector, trade and finance,

   - Base your decisions, not on abstract models or theories, but on the facts of your own country's specific circumstances; and
   - Think carefully about the questions you should ask to assess their likely social impact, not only on the growth in the 'national pie', but on the people's productive employment opportunities and quality of life.

EXERCISES

1. In practice, how does your country prioritize bills for drafting? In practice, what proposition best explains what bills get drafted first? What suggestions might you make to improve the prioritization process?

2. The text recommends prioritizing legislation that seems likely to strengthen the institutions of governance and to expand balanced, integrated domestic output to increase job opportunities and a better quality of life. What alternative criteria might a contrarian suggest? How might a contrarian justify those alternative criteria?

3. Pretend that you sit as a member of a committee of the Parliament charged with the duty to report on the government's annual plan for legislation. The Secretary to Cabinet sits before you, ready to answer questions. State at least three different categories of questions that you might ask the Secretary about how the proposed annual legislation plan relates to issues of economic development.