

Summer 2006 Intern Program

Directors: Lorna Seitz (lseitz@iclad-law.org) & Laura Lucas (lucas@iclad-law.org)

Intern List

Sara LoPresti, BUSL
Annelies Lottman, U Texas, Austin
Shakti, Northeastern
Kevin Saunders, BUSL
Kenneth Kehoe, Case Western, OH
Jason Chang, Brandeis
Michelle Jackson, Suffolk
Emily Hemphill, NESL

General Expectations and Duties

Learning Journal

We expect each intern to sit down for 5-30 minutes at the end of each day, to reflect about what she has learned, how she thinks the program can be improved, and whether or not she is progressing towards her own educational objectives. Keeping a learning journal helps an intern get the most out of the summer experience. An intern is encouraged to approach one of the intern program directors whenever she has a suggestion for how the program can be improved, or when she identifies a new task that she would like to pursue.

Annotated Reading Log (may be checked weekly)

We ask that you keep a binder of copies of excellent articles, so we can read them later, and/or include them in future course materials. Annotations are requested so we can direct collaborators to excellent articles and books, summarize others, etc.

Attendance of at least one external lecture/week

This is for your own professional development, but we will ask you to provide feedback on the quality and content of lectures attended. Topics may include: international development, trade, environmental sustainability, or any other related topic. One intern will be asked to maintain an up-to-date list of Boston area lectures of interest, and will circulate this list to all interns.

Methodological Projects

Each intern will compile materials on one methodological issue.

Basic project components:

- literature review;
- application to your project/ how you have seen this issue reveal itself/ how you have dealt with it;
- comparative law and experience on how others have legislatively addressed this methodological problem;
- presentation; and
- development of a syllabus and course materials to teach others about the topic.

On the assigned topic, the intern will:

- present the topic to the group;
- write up a 5-15 page overview of topic (possibly summarizing comparative models of processes used in different countries: comparing the idealized process with the real one; and evaluating how these models work in the intern's substantive circumstances);
- submit an annotated bibliography on topic, including copies of particularly interesting theoretical papers and case studies;
- write a syllabus for teaching drafters about the issue, common problems that arise, strategies for addressing these problems, and when the different strategies are useful;
- create learning-by-doing exercises, check lists, an independently-generated/condensed case study... and other materials for use in a future course (if time permits); and
- abstract general "best practices", or to create a checklist of common concerns, issues that frequently need to be addressed before any given solution will work in the country-specific circumstances (if time permits).

One week before the scheduled presentation, they will submit their draft materials and recommended readings to the Intern Director for input. After the presentation, the full group will discuss strategies for devising a learning-by-doing process to teach the topic to others. The presenters will work together to design additional materials, as appropriate.

Publication Permissions

ICLAD's Co-Founders, Country Contacts, and other affiliates have written hundreds of articles and books about how law can be used to promote democratic social change. This summer, we will ask each of you to spend a few hours/week securing permission to publish out-of-print books, and to distribute articles, through our website.

Random Assignments

Interns may be assigned to carry out a few tasks this summer to support the development of the organization, and the intern program itself. Some tasks include:

- Creating a calendar of relevant Boston-area lectures, for circulation to all members of the internship program.
- Updating the country-contact database
- Identifying other organizations and individuals with similar research interests and/or organizational structures, to be used for networking purposes.
- Identifying international development programs and organizations in New England, for networking, so we can circulate a regional lecture listing, invite relevant people to attend, and present at, our symposia, etc.
- Help organize the “donor conference.”
- Help identify large donors, and create donor-marketing materials.
- Write grants (if interested and skilled).
- Identify options for developing the website into an interactive research/discussion forum.
- Write articles on ICLAD for publication (for PR purposes).
- Editing Distance Course submissions to provide the drafter with feedback and to create annotated examples for use in future ICLAD-trainings.

Substantive Projects

Each intern will write one in-depth research report, and at least the outline of an accompanying bill, this summer. This year's projects focus on the WTO (from the perspective of using the problem-solving theory and methodology to influence rule-making at the international level) and Pakistan (to support the work of our in-country consultants and to help ICLAD develop materials pertinent to common environmental law problems).

Intern Training Schedule

- **Please read pages 86-99 of the Drafter's Manual prior to the first session.**

Week 1: 22-26 May (Lorna)

Monday: General Orientation to Intern Program

9:30 – 11 General overview of summer: General Assignments and Expectations

PM - General role of law in society

- Brief overview of the problem-solving methodology,
- Function of research report,
- Conducting research to test hypotheses;

- Statement of the Social Problem: What information it should include, and why this information is needed.

- Independent research to gain familiarity with the general nature and scope of your social problem

- Read Chapters 1 & 2 of the Drafter's Manual (Legislative Process, etc.)

Tuesday: am - conduct research identifying the problematic behaviors that constitute your social problem, and write a statement of the social problem;

noon – group check back: present your draft social problem to the group orally, and provide Lorna with a written rendition of the social problem. Group will discuss the different social problems, and will formulate hypotheses. Introduction to the research outline.

- The General Social Problem: fried egg model, and discussion of how this might be revised to reflect the new economy;

- Who is doing What: the legislative process, pluralist bargaining, international “best practices,” drafting to give voice to domain assumptions;

- Effectiveness of copied & bargained laws;

- Explanations for why copied & bargained laws rarely work:

- Triangular model
- Examples: Black laws, Nigerian street hawkers, CAFÉ standards

- Explanations for why bills are typically drafted pursuant to bargaining & copying:

- rule: law-on-laws issues;
- process: whose interests are heard, when?
- interest: the fatal race;
- capacity: lack of information, time, training, alternatives;
- ideology: conceptions of the roles of the legislators and drafters;
- (communication: clarity in drafting is necessary to ensure implementation);

pm – work on research outlines

- Read pages 86-99 of the Manual, if not read previously (Basic intro to mtd.)

- H. O. -- Presentation notes for chapters 1 & 2; Outline on Intro and SP

Wednesday: am - Check back re: research outlines

Group: Introduce the Problem-Solving methodology's "explanations" step, and work through an example as a class. What types of evidence are needed?

Independent: Update research outlines & write explanations sections of research reports.

- Read pages 125-140 of the Drafters' Manual (Implementing Agencies)
- H.O. a good example of a social problem

Thursday: Catch Up

Friday: Check back re: Explanations. Discuss implementing agencies. Discuss the implementing agencies' problematic behaviors, and the need to explain them. Present the input-conversion-feedback process model.

PM- Update your social problem to include implementing agencies, and outline the explanations section on implementing agencies.

- Read pages 115-123 (Outline for a Research Report)

Week 2: 29 May – 2 June

Monday: Day off for Memorial Day

Tuesday: Am: Discuss the relationship of the solution to the statement of the social problem and the explanations sections of the research report. Outline primary elements of solutions. Brainstorm possible sources of detailed solutions. Discuss how to select an implementing agency.

PM – Read first Distance Course research report, and edit assigned section.

- Read pages. 99-115 of the Drafters' Manual (Solutions)
- Read pages 141-166 (Choice of Implementing Agency)
- **H.O. a draft research report from the distance course, and editor's checklist.**

Wednesday: am – Edit first Distance Course research report

PM – Re-draft social problems to identify role occupant's behavior in as much detail as possible. Develop and revise hypotheses explaining who the role occupant(s) do what they do that causes the harm.

Thursday: am – Conduct research testing your explanatory hypotheses. Fill in and revise your statement of the social problem to take the new information into account.

PM – Propose a basic solution to overcome the causes of the role occupant's problematic behaviors. Identify possible implementing agencies.

Friday: 10-12 am – Library orientation

PM – Brief evaluation of comparative solution options

[Outline some of the different solutions that have been tried or proposed, keep an annotated bibliography of relevant articles, and write up case studies attempting to explain why a solution worked/didn't work in it's country-specific context. These menus of potential solutions, explained in terms of necessary pre-conditions for

effectiveness, will prove useful for future drafters addressing your general social problem.]

Interns will email their complete, draft research reports to Lorna by the end of the day.

Week 3: 5-9 June Individualized check-ins, drafting basics, comparative law and experience information

Monday: AM – Lorna will explain what a “reverse ROCCIPI” is, and the group will try to conduct one “reverse ROCCIPI” as a group (using the Distance Course paper).

pm - Conduct a reverse ROCCIPI on your implementing agency, to determine whether or not the solution is feasible. (Note: At this point you will probably not have all of the information needed to conduct a true reverse ROCCIPI on the implementing agency. If you are lacking information, that is fine. Simply state your hypothesis about whether or not you think the implementing agency will, in the face of the various ROCCIPI factors, effectively implement the solution, and lay out the information that you would need in order to test your hypotheses.)

- Read 205-229 of the Drafters’ Manual (Architecture of a Bill)

Tuesday: AM - Lorna will introduce basics of structuring a bill. (Note: The group divided into three groups, and each group worked on writing down the types of information needed to support the development of a legislative scheme to overcome the behaviors leading to a different social problem inherent in the distance course paper under review. We were able to work through the most simple legislative scheme, but the other two issues really wound up as preliminary research outlines for the drafter.)

PM—Outline bills (include headings for, or general descriptions of, all of the sections and sub-sections, if possible). Email your outline to Lorna.

Wednesday: AM – Editing pairs review/edit draft research reports.

PM – Independent research.

Thursday: AM – Independent check-ins (9:30am TRIPS; 11am Pakistan) & research.

Hopefully, each intern will be able to clearly articulate the nature and scope of the social problem, discuss the costs and benefits of the current system, explain who the role occupants are, and why they are engaging in the problematic behaviors, and outline her bill for elaboration and development into a comprehensive research outline.

Friday: 11 AM – Ann will describe the Pakistani law-making process. Come with questions.

PM – Distribute second paper for critique

- Read pages 187-201 (Form of a Research Report)

Week 4: 12-16 June

This week, interns will begin to survey comparative law and experience on topic to see what detailed programs exist in other jurisdictions, or have been proposed by social scientists and/or lawyers. Interns will start keeping annotated bibliographies of relevant articles, and writing case studies which attempt to explain why a solution worked/didn't work in its country-specific context. Comparative law and experience information should not only be used to identify, and assess the applicability of, alternative possible solutions; but also to generate hypotheses about what might be going on in your jurisdiction, and about potential causes of your implementing agencies' problematic behaviors. By Friday, we will expect to see descriptions of how at least two other jurisdictions addressed a similar social problem. These descriptions should:

- specify who does what,
- identify the solution's implementation challenges,
- identify who wins and loses, and
- explain why some of the problems with the solution are occurring and/or explain how this solution might work in Pakistan.

Essentially, we are looking for comparative law and experience information organized according to the problem-solving methodology, and applied to Pakistani circumstances (if possible).

Please schedule a check in for either Tuesday or Wednesday to go over your research outline, and to discuss the project generally.

Monday: AM- Critique second research report. We will discuss the draft bill in very general terms this morning. Please think about whether the bill alters all of the causes of the role occupants' problematic behaviors that were identified in the research report and consider whether the bill's outline covers all of the necessary categories, is logically organized and is easy to use.

PM – Drafting Session #1 (Dog, B1, B3)

We will go over some basic drafting rules, then you will try to apply these rules to the second draft bill.

Start working on briefs on Pakistan (random/new topics) – Due Tuesday evening

- H.O. abstracted list of drafting rules
- Read 231-254 of the Drafters' Manual (Drafting for the Who & the What)

Tuesday: AM – Collect comparative law and experience information on your substantive topic and write a brief that Lorna can use to prepare for Pakistan.

PM – Locate a local expert on your topic and call to set up an appointment to speak with him/her. Also survey the field to see which countries have the most interesting comparative law and experience, and identify local experts on that experience to speak with. (Prior to these meetings, please go over your research outline to identify the questions you hope they might help you answer either through personal knowledge or by referring you to on-point information.)

By the end of this day, we hope the introduction and social problem sections of your research report will be reasonably complete. Focus on explaining problematic behaviors and researching possible solutions.

Laura and Lorna will be available for individual check-ins.

- Read: Review the readings on selecting an implementing agency.
- Read pages 255-277 of the Drafters' Manual (Ensuring Clarity and Avoiding Ambiguity)

Wednesday: AM –Rules for drafting for clarity and avoiding ambiguity and hands-on drafting exercises.

- H.O. Drafting Exercises

PM – Outline solutions, explaining how the proposed solution will overcome the causes of the role occupant's problematic behaviors (the role occupant's ROCCIPI factors), explaining your choice of an implementing agency, describing how the implementing agency is likely to act pursuant to the proposed law (via a reverse ROCCIPI), and identifying the proposed solution's probable costs and benefits.

Lorna and Laura will be available to provide direction/assistance with outlining the solution and selecting an implementing agency. (Make an appointment.)

Thursday: Independent research on new Pakistan projects (or continuing substantive projects, per Wednesday check in). Pakistan briefs due in evening – on new topics.

Friday: AM – Drafting Session #3; Check-in about projects (final decisions about which PK projects to pursue), Publication permissions.

H.O. Copies of Ann and Bob's CVs

PM – Individual meetings with issue experts. Two comparative law and experience briefs are due by the end of the day.

Week 5: 19-23 June

Compile two examples of comparative law and experience this week, focusing on ways that other jurisdictions have incorporated civil society in policy formulation, monitoring or evaluation.

Draft research reports on social problem and explanations and comparative law and experience are due on Wednesday.

Monday: AM – Bring in annotated bibliographies. Be prepared to discuss learning journals (What are your learning objectives for the summer? Are we making progress towards them? How could we improve the summer program? Are there

any elements of the problem-solving methodology that you still find problematic?
Have you identified experts to speak with?)

Introduce method projects – independent check-ins.

PM – Outline, and begin to research, methodology projects.

We will provide some readings, matrices, country and statute suggestions to get you started. We will also provide examples of the types of case studies, check lists and generalized principles that we hope you will generate.

Tuesday: Work day. Draft research reports are due tomorrow (w/o solutions).

Wednesday: AM – Civil Society Presentation

- Presentation of common mechanisms for including civil society
- Interns critique these methods
- Common critiques of these methods from the professional literature
- Invent mechanisms for discussion

Compile comparative law and experience regarding input-conversion-monitoring-feedback processes on your issue.

PM –Revise your research outline/report to elaborate on: input-conversion-feedback process issues and to focus on the monitoring and evaluation portion of your solution.

- Circulate research report (social problem, explanations and comparative law and experience sections).

Thursday: Editing pairs swap draft research reports, and critique each other's statements of the social problem, explanations, possible conclusions and comparative law and experience in light of both the editor's checklist. Editors will pay special attention to the report's inclusion of detailed descriptions of the role occupant's problematic behaviors, the use of evidence, the paper's logical flow, the comprehensiveness of the proposed solution, and the solution's cost-benefit analysis.

PM – address editor's feedback by revising your research report

Friday: AM - Civil Society presentation – interns will pitch in with examples of these challenges w/in their research areas.

PM -- Evaluate comparative law and experience regarding input-conversion-monitoring-feedback processes on your issue.

Finalize draft research report per comparative law and experience, including solutions section. Pay close attention to possibilities for increasing transparency, and for including civil society in the solution formation, monitoring,

implementation and evaluation processes in different countries and in the proposed solution. Assess the probable equity implications of the alternative solutions. The leading alternative solutions will be laid out and described in terms of their probable effectiveness and socio-economic costs and benefits.

- Circulate revised solutions research reports to Laura and Lorna.

Handout two more papers & standard editing assignments.

Week 6: 26-30 June

Monday: Read papers three and four, and write one or two pages of comments, as assigned.

Individual check-ins with Lorna and Laura focusing on proposed solutions and methodology project research outlines.

Tuesday: AM - Standard critique group on drafter #3's research report and bill. Distribute a list of questions to consider for a substantive critique of the third and fourth research reports.

PM – Independently read (and write up) substantive critiques of the third and fourth drafters' papers and bills. Continue working on methodology projects.

Wednesday: AM - Substantive critiques. (Does it contain an adequate mechanism for ensuring on-going prioritization? Does it adequately include community input in the economic development process/respond to real and changing community needs? What types of measures can be used to ensure that economic development needs are assessed, and prioritized, on an on-going basis? Group discussion will lay the foundation for an on-going project in this area, so think in terms of asking questions, being critical of the third and fourth drafters' approaches' short comings, brainstorming about the potential drawbacks of one approach vs. another.)

PM - Conduct research to revise comments for the third drafter, work on compiling more comparative law and experience information for your research report, and/or work on your methodology project.

Thursday: Methodology project work day.

Friday: AM - Group check-in on method projects. Random project assignments (for week 7) will be distributed & explained.

PM – Individual check-ins on research reports and methods project. Please bring your annotated bibliographies.

Week 7: 3-7 July

This week, interns will complete some “random assignments” for ICLAD, will continue to work on obtaining publications permissions, and will also work to finalize their draft research reports and revise the outlines of their bills for critique groups. Interns should also continue to compile information, and write up case studies, for their methodology projects. No in-person meetings are scheduled, so you are free to work wherever you please this week. (Just get this all done, please.)

Monday: Day off for holiday weekend

Tuesday: Fourth of July Holiday

Wednesday: Please work on the following two assignments:

1. Networking assignments
(Identify organizations and individuals interested in your areas of substantive and methodological research, to be used for networking purposes.)
2. Publications permissions.

Thursday: Find an example of “international best practices” pertinent to your substantive research topic (e.g. identify the generic policy suggestions that an international donor agency, NGO, or drafter is likely to recommend that a drafter in a developing nation adopt/copy). Demonstrate how these “best practices” can really be used to help form hypotheses about the nature of the social problem in a specific jurisdiction, and to drive a research agenda. Identify the types of country-specific information that you would need to collect to test each of these hypotheses, and explain why it is necessary to gather relevant information.

H.O.- Example of what we hope your work-product will look like

Some research questions you will need to elaborate upon and lay-out are: What specific questions do you need to ask to determine if these “best practices” are relevant to a country’s specific circumstances? How can you transform proposed solutions into research hypotheses? What are the underlying questions that these recommendations should prompt drafters to ask of their country/specific circumstances? Why is this information necessary/relevant?

The purpose of this assignment is to provide ICLAD with teaching materials that will effectively illustrate how comparative law and experience can be used as a source of inspiration for formulating a research agenda. Your work product should also help illustrate why copying laws, even ones which appear generally sensible on their face, is inadvisable and generally ineffective.

Friday: Today, we are going to generate examples of the types of questions you would need to ask, and the types of issues you would need to address, to transform a basic solution into detailed legislative provisions.

Example: The FATF recommendations outline the most basic building blocks of a potential solution. Implementing the FATF recommendations would require the drafter to identify a host of additional issues, including, but not limited to, how the new agencies are convened, funded and overseen. You can work on one of two projects today:

1. continue working on the “best practices” framework that you began working on Thursday, and outline some of the detailed policy choices that the drafter would still need to make in order to draft an effectively implemented law; or
2. find a model code on your issue, look for gaps.

The purpose of this exercise is to: (1) caution future students of the method that “best practices” and “model codes” are frequently incomplete, and should not be copied for that reason; and (2) help people identify the difference between a general statement of policy, and the detailed legislative provisions (and policy decisions) needed to implement the general policy.

Electronic Distribution - #5 research report and bill (for critique on Monday)

Week 8: 10-14 July (Kevin)

This week we will review another Distance Course submission, annotate three research reports, and write up advice for how drafters might effectively cope with some re-current challenges. Annotations should include “tips” to help guide future students of the method? What problems do drafters seem to be facing? Given the research report you are annotating, what did they do really well? What choices are they making, what options should/do they consider, and what do you think of their choice (e.g. implementing agency, selection of evidence, amount of detail, use of history, use of foreign law and experience, monitoring and evaluation processes, citation/explanation of existing law – how well are relevant laws summarized and conveyed)?

- Draft research reports and methodology presentation outlines and readings are due Thursday evening.

Monday: AM – Drafter #5’s critique group.

PM - Create an annotated example of a good research report. (Each intern will annotate a different section of the same report, then the group will work collaboratively to improve the annotations.)

- Introduction
- Social Problem
- Explanations: for the primary role occupant
- Explanations: for the implementing agency
- Solution

Tuesday: AM – Annotate Drafter #4’s research report and bill

PM - work day

Wednesday: work day

Thursday: Finalize preparation for methodological presentation. Finalize research report for critique group (including gathering, and analyzing, additional comparative law and experience information). Submit research reports for critique group.

Friday: Check-ins; read & edit first research reports for intern critique group.

Week 9: 17-21 July

Monday: critique groups/ read & edit second set of research reports for critique

Tuesday: critique groups / finalize preparation for methodological presentation

Wednesday: methodology presentations / finalize preparations or edit RR per comments

Thursday: methodology presentations / write up thoughts for program evaluation

H.O. Program Evaluations

Friday: group evaluation / individualized meetings/ pm – BBQ

Week 10: 24-28 July

Monday: Finalize case studies, abstractions of general principles, check-lists, research reports and teaching materials in light of suggestions. Work more on obtaining publications permissions, and tie up other loose ends. Compile work for submission.

Tuesday: “

Wednesday: “

Thursday: “

Friday: Electronic Pakistan update (TBA). Submit final program materials electronically and by leaving a hard copy of everything in room 1244.

Week 11: 31 July – 4 August

Interns with eleven weeks of funding, requiring an eleven week internship program, or with additional loose ends to tie up should feel free to continue working on their projects (generating more comparative law and experience and case studies, and improving your lit review) this week.

Thursday & Friday:

Work with Laura to generate “tips” for how future students of the problem-solving methodology can address common challenges, including:

- Sufficiency of the evidence
 - How to make sure you have sufficient evidence & identifying extraneous evidence.
 - Recording an insufficiency of evidence and establishing a process for someone to address the problem in the future (e.g. tasking a research division).
- Comparative law and experience
 - How to use comparative law and experience to generate hypotheses regarding the role occupants problematic behaviors.
 - How to use, and assess the relevance of, comparative law and experience.

- Draft a study guide to accompany Lucian's paper.
 - What are its main strengths? Why should we read it?
 - What issues are raised?
 - What comparative experience have we found regarding some of the issues raised, such as convening a stakeholder input process and ensuring on-going prioritization?
- **Pass out readings on domain assumptions.** Ask group to write a study guide for the article.
 - Summarize the main points, and
 - Explain how the problem-solving method helps us overcome these assumptions (and demonstrate with an example).

Thursday - AM – Identify common challenges. Discuss basic strategies for dealing with these problems.

PM – Work independently to write “tips” on assigned topics

Friday - AM – Critique “tips” generated, as a group

PM – Revise/finalize tips.

Methodology Projects

Primary Questions to Ask

- Mechanisms/Institutions/Different Models
 - Critiques of those mechanisms from professional literature
 - Case studies
1. Shakti - Market Liberalization
 2. Sara - Comparative Legislative Processes
 3. Annelies – Including Civil Society in the Monitoring and Evaluation Process
 4. Kenneth - Conducting research as part of the drafting process/preliminary to drafting
 5. Michelle - Devolution of power (including the sources of impetus to devolve power and information about comparative experience)
 6. Emily – How are governments, universities and civil society groups setting up on-going programs to institutionalize use of the problem-solving methodology? What materials do they cover in these trainings? Who receives trainings? How well are the various training systems working? When would you suggest opting for one institutionalization strategy, versus another one?

Texts

1. Seidman, Seidman and Abeysekere, Legislative Drafting for Democratic Social Change: A Manual for Drafters, Kluwer Law International, London 2000.
2. Bonventure Santos De Sousa (Ed.), Law and Globalization from Below, Cambridge University Press (?)
3. Seidman and Seidman, Assessing Legislation
4. Pakistan – dam report (web link)

<http://www.iisd.org/publications/>

<http://www.worldwatercouncil.org>

<http://www.irn.org/basics/alternatives>

<http://www.idsnet.org/Resources/Dams/Development/DinD.html>

Possibly some information on sub-altern policy influence: <http://www.iucn.org/>

5. WTO – <http://www.tradeobservatory.org/library.cfm?refid=87286>

WTO website has an on-line course to familiarize visitors with the WTO.

http://www.wto.org/English/res_e/d_learn_e/d_learn_e.htm#sps

http://www.maketradeair.com/en/index.php?file=issues_dumping.htm&cat=2&subcat=2&select=1

<http://www.tradeknowledgenetwork.net/>

<http://www.iisd.org/publications/pub.aspx?pno=751>