

TRAINING REPORT

Training on Law Making Process in Bangladesh

30 January 2014

*An Initiative of Promoting Access to Justice and Human Rights in Bangladesh
(A2J) Project, UNDP*



Venue: Surma Hall, Pan Pacific, Hotel Sonargaon, Dhaka

Bangladesh

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Executive Summary

Introduction

To reform and develop any law in Bangladesh, the sponsoring ministries have an important role to initiate the process. In order to enhance the capacity of the respective officials of different ministries, Promoting Access to Justice and Human Rights in Bangladesh (A2J) Project organized a training course on Law Making Process. The training was held on 30 January 2014 at Pan Pacific Hotel, Sonargoan, Dhaka

A number of 18 Ministries of the Government of the People's Republic of Bangladesh has sent two officials to attend the training. Finally, 36 from 18 ministries and 9 from LPAD participated in the training.

Objectives

At the end of the training course, participants from 18 ministries will be able to;

- understand the process of law making in Bangladesh;
- know the specific roles and responsibilities of the sponsoring ministries in making/reforming laws;
- understand and explain the role of other institutions in law making process;

Inaugural Session

Mr. Anisul Huq, MP, the Hon'ble Minister of the Ministry of Law, Justice and Parliamentary Affairs was present as the Chief Guest to inaugurate the training while the Hon'ble Secretary, LPAD, MoLJPA & NPD, A2J project will chair the inaugural session.

The key Findings of the Training Evaluation

At the end of the training, each participating officials was given a form to be filled-up to focus their learning from this course and expectations in future. Findings and recommendation of the evaluation is summarized below:

- Out of 34 participants, 24 has mentioned EXCELLENT. That means more than 90% participants reported that this training highly appropriates in respect their job responsibilities.
- In regard to the training methodologies, 21 participants reported VERY GOOD and 6 participants reported good.
- In regard to use the effectiveness of training materials, 14 participants report very good, 11 reported excellent and 5 reported good and 4 reported moderate.

- **At the end of the training participants learned the following issues relating to law making:**

- *Basic steps of law making process and law reform.*
- *How to present economic bill*
- *Importance of definition*
- *Role of sponsoring ministries*
- *Differences between rules and law*
- *How to identify related clause and sub-clause*
- *Maintain sequence of a bill*
- *Importance of consultation with others during law making*
- *Maintain alphabetical sequence during presenting delimitation*

- **To make the training more useful, participants suggested to include/give more time to the following topics:**

- *How to involve people in law making process*
- *Constitution of Bangladesh*
- *Law making process in India and Britain*
- *Contents of a standard bill*
- *Rules and treaty preparation techniques*
- *Rules of business*
- *How to prepare regulation mala with practical exercise*

- **Participants suggested the following to make the course more effective.**

- *90% participants reported that duration of such training should be two days. Even, one day is fine to cover 2/3 issues preferably Saturday.*
- *Handbook on various issues can be developed as reading materials for participants.*
- *30% participants reported to engage more resource persons to facilitate such training*
- *50% Participants reported that practical exercise on law making for the participants would be more effective.*
- *60% participants suggested to use power point presentation, group work, case study and allow more time for the participants to ask questions.*

- **Participants expressed their training/capacity building needs in future. The most important issues/areas are summarized below:**

- *Practical training on law making process (from drafting bill to finalization)*
- *Rules and treaty development methods*
- *SRO/Regulation formation method*
- *Training on Rules of Business and Rules of Procedure*

Training on Law Making Process in Bangladesh

30 January 2014

Training Information

Background

With an aim to provide a comprehensive idea about the law making process of Bangladesh, Promoting Access to Justice and Human Rights in Bangladesh (A2J) Project, Legislative and Parliamentary Affairs Division (LPAD) of Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) organized a training program on Law Making Process in Bangladesh. The training course was held on 30th January, 2014 at Hotel Pan Pacific Sonargaon, Dhaka.

A2J has taken initiative to organize this training program as strengthening institutional capacity to undertake prioritized, inclusive and higher quality legislative reform is one of the important outputs of A2J Project.

According to the present process and practice, each Ministry initiates to make new laws/reform any existing laws and also prepare the initial draft for vetting. That means, the sponsoring ministry has an important role in law making process. Therefore, it has become a pertinent need to enhance capacity of those officials on law making process who are responsible to initiate the primary draft.

A number of 18 Ministries of the Government of the People's Republic of Bangladesh has sent two officials to attend the training. Finally, 36 from 18 ministries and 9 from LPAD participated in the training.

Objectives

At the end of the training course, participants from 18 ministries will be able to;

- understand the process of law making in Bangladesh;
- know the specific roles and responsibilities of the sponsoring ministries in making/reforming laws;
- understand and explain the role of other institutions in law making process;

Training Methodologies

In order to achieve the training objectives, the resource persons/facilitators used a set of participatory training methodologies. Participants attended in the training from 18 ministries designated from Additional Secretary to Sr. Assistant Secretary Levels.

Therefore, the resource person followed interactive approach to explore participant's needs and created an enabling environment for learning from each other. However, the following methods were used to conduct the training sessions:

- Lecture Discussion
- Presentation and Discussion
- Question & Answer
- Experience sharing
- Plenary Discussion

Participants

Total number of participants will be 52 which include the 36 trainees (2 from each participating ministries), 09 officials from LPAD, 06 project personnel, and 2 UNDP representatives. In addition to this, 20 from both electronic and print media and 30 guests will attend the training programme.

Inaugural Session

Mr. Anisul Huq, MP, the Hon'ble Minister of the Ministry of Law, Justice and Parliamentary Affairs was present as the Chief Guest while the Hon'ble Secretary, LPAD, MoLJPA & NPD, A2J project will chair the inaugural session. The Hon'ble Minister delivered his speech and inaugurated this training course.

The Hon'able Minister thanked UNDP for supporting Bangladesh Government for implementing A2J project. He also highlighted that Government is committed to create new laws and undertake reform of other laws to protect human rights specially for the women and vulnerable groups of the country.

The Hon'able Chief Guest mentioned that other stakeholders and institutions has important role in making new laws and ensuring proper application of those laws. Consultation at different levels is essential to make people aware about laws, he said. Therefore, training is a proven means through which we can increase our institutional capacity to serve the country effectively and efficiently. With this few words the Chief Guest inaugurated this training course.



Figure 1 Mr. Anisul Hqu, MP, the Hon'ble Minister of the Ministry of Law, Justice and Parliamentary Affairs was present as the Chief Guest

Figure 2: Anisul Huq, Honorable Minister, Ministry of Law, Justice and Parliamentary Affairs delivering his speech as the Chief Guest

Speech of the Guest of Honor-

Mr. Christian Eldon, Chief Technical Advisor, A2J Project delivered his speech with thanks to the Chief Guest for his kind presence. Mr. Christian highlighted the ongoing activities of A2J Project and described the importance of capacity building.

Mr. Christian concluded his speech with thanks to all for their presence and expected active participation in discussion.



Figure 4: Christian Eldon, Chief Technical Advisor, A2J Project delivering his speech

Speech from the Chair- Mr. Mohammad Shahidul Haque, Secretary, Legislative and Parliamentary Affairs Division and NPD, A2J Project delivered his concluding remarks with vote of thanks. Hon'able Secretary and chair of the inaugural session thanked UNDP to support LPAD for this capacity building initiatives and express his gratitude to the Honorable Chief Guest for his kind presence.

Training is one of the means of capacity building and continues process to make humans resource more productive. With this few words, the chair of this inaugural

session expressed that this training will be evaluated later and we are planning to organize more need based training courses for government officials in future.



Figure 5: Mohammad Shahidul Haque, Secretary, Legislative and Parliamentary Affairs Division and NPD, A2J Project delivered his concluding remarks with vote of thanks.

Session-1: What is Law and Legislative Authority?

After the inaugural session, the resource person/facilitator asked participants to share their experience and knowledge on law. Taking a few points from the participant's opinion, the session facilitator discussed and clarified on the topic of this session through lecture discussion.

What Is Law?

☞ *Any Act, ordinance, order, rule, regulation, by-law, notification or other legal instrument, and any custom or usage, having the force of law (Article 152 of the Constitution).*

☞ *Now we will see in the present discussion how these are processed and made-*

Session-2: Law Making Process

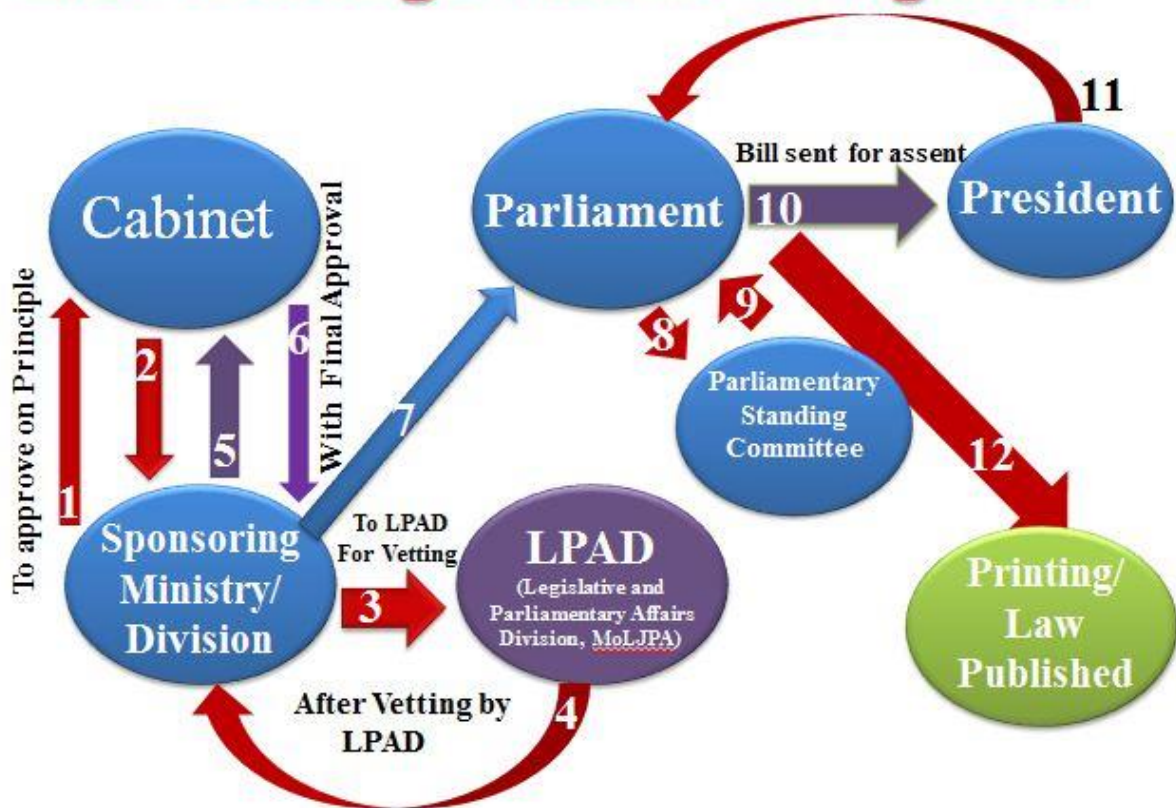
After the inaugural session, the resource person/facilitator asked participants to share their experience and knowledge on law. Taking a few points from the participant's opinion, the session facilitator discussed on "Law Making Process" using Law Making Flow Chart" through multi-media.

Deliberation and question-answer during presentation made this session more interactive and participatory.



Figure 6: Participants of the Training on Law making Process

Law Making Process: at a glance



Step 1: Preparation of a draft by the sponsoring Ministry or Division and sending the Bill to Cabinet for Approval on Principle

Step 2: If the Bill is approved on Principle by the Cabinet, it is to be sent to the sponsoring Ministry/Division

Step 3: The Bill sent to LPAD for Examination/ Scrutiny/ Vetting

Step 4: After examination/ scrutiny/ vetting of the Bill by LPAD, it is to be sent back to the sponsoring Ministry/ Division

Step 5: Sending the Bill to the Cabinet for Final Approval

Step 6: After Approval of the cabinet, the Bill is to be sent back to the Sponsoring Ministry/Division.

Step 7: The sponsoring Ministry/ Division will send the Bill to The Parliament

Step 8: The Parliament will send the Bill to concerned Parliamentary Standing Committee for Scrutiny

Step 9: After scrutiny of the Bill, the Parliamentary Standing Committee will submit a report to the Session (Parliament).

Step 10: After passing the Bill by the Parliament, the Bill is to be sent to the President for Assent.

Step 11: After Assent, the Bill is to be sent to the Parliament.

Step 12: Printing of the Bill

Question-Answer Session

After the presentation on Law Making Process, the facilitator invited all to raise questions on the discussed issues/topics if any. The following questions and issues were discussed in the question answer session: Questions regarding the challenges they face in day to day legislative drafting.

1. Uniformity in long title and preamble.
2. Crosschecking with the intension/purpose of other Acts.
3. Reference to other laws should be simplified and transparent. It should be as precise as possible. Internal inconsistency should be avoided.
4. Whether the bill should be scrutinized before approval of Cabinet
5. Whether the policies should be scrutinized?
6. Definition of law in constitution
7. Penal Code Section 21
8. Work done in good faith
9. Authority
10. Laws for establishment of Institute / University.
11. Standard Guideline on Contract
12. Rules and regulation> Schedule,
13. The drafter should have a thorough understanding of the proposal. Spend sufficient time. Make one familiar with all the other laws that may have effect on the law. The relevant laws should be studied. (Example: Scale of Punishment/ cognizable and non bail able/ jurisdiction should be crossed checked) International conventions may need to be studied. Finally it should be analyzed to examine whether it is conceptually sound.
14. Amendment of American Constitution.
15. Technology and it prose and cones. (Copy paste)
16. Notwithstanding anything contained in any other law (rider clause should be used when necessary)

17. Converting ordinance into Act. (Reservation is required or not is still debatable) (According to general clauses Act reservation is not required) Article 93 of constitution says it is a valid source of law. It is temporary law.
18. Ordinance / Act of Parliament (under the General Clauses Act).



Figure 7: National Project Director and Chief Technical Advisor facilitating the participatory discussion (left) and the participants engaged in active discussion (right)

Learning Materials (handouts) Distributed among the participants

Law Making Process of Bangladesh

Background of Today's Training

- ☞ This training offers a comprehensive guide on how laws are made in the People's Republic of Bangladesh, together with discussion and assessment of the nature and functions of the institutions those are involved in law-making process.
- ☞ This Training on Legislative Process in Bangladesh is designed to serve as a reliable and useful resource for those already involved in the law-making process. The steps in making laws are numerous and at times complex, largely because of their highly developed evolution within the long tradition of parliamentary democracy. A result of this evolution is that the various distinct stages of the legislative process- such as developing policy, drafting Bills for legislation, and presenting proposed laws for parliamentary debate and final approval- necessarily engage the professional skills and services of many government and civil service officials.
- ☞ To this end, the legislative process in Bangladesh describes the formal functions and practical duties of those involved in law making, as well as the particular steps to be followed in order to produce legislation that both meets the government's legislative program and respects the principles and policies that underlie Bangladesh's development under a democratic system.
- ☞ Today's presentation will reflect the current principles and practices

Focuses of Today's Training

- ☞ What is law?
- ☞ Various steps of law making process
- ☞ Legislative authority
- ☞ Guiding Laws
- ☞ Question & Answer

LEGISLATIVE AUTHORITY

Principal Legislation:

(I) The Parliament:

The Parliament has inherent power to make laws as per Article 65(1) of the Constitution of Bangladesh.

(II) The President:

The Constitution has given ample power to the President of the Republic to make laws as per Article 55(6), 93, 115, and Article 133 of the Constitution of Bangladesh. The Ordinances and Rules made by the President have status and force of Principal Legislation.

LEGISLATIVE AUTHORITY

2. Subordinate Legislation/Delegated legislation:

The proviso of Article 65(1) of the Constitution empowers the Parliament to delegate to any person or Authority, by Act of Parliament, power to make orders, rules, regulations, bye laws or other instruments having legislative force

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There are three main types of subordinate legislation in Bangladesh: rules, regulations and other legal instruments having the force of law-

- ☞ Subordinate legislation made by the government is referred to as rules.
- ☞ Subordinate legislation made by statutory authorities established by law is called regulations.
- ☞ Other legal instruments would include, for example, notifications drafted by administrative bodies and by-laws, which are generally made by a created authority such as a local government. But regulations with a capital R-for example, the Chittagong Hill Tracts Regulations--- are similar to Acts of Parliament. They can only be amended by Parliament.
- ☞ Enabling Provisions of any legislation may have a marginal note “Rule making power”, or language similar to this. This provision allows a relevant authority, charged with the responsibility of administering an Act, to frame rules and regulations not inconsistent with the provisions of the Act for the purposes of carrying out the objects of the Act.

Guiding Laws

- ☞ **Constitutional provisions:** Article 80 of the Constitution provided that Every proposal in Parliament for making a law shall be made in the form of a Bill, except the constitution amendment bills which are to be made as per Article 142.
- ☞ **The Secretariat Instructions:** Another important instrument is the Secretariat Instructions, 2008. Instructions Nos. 225-238 deal with the law making process of the executive level. Its primary purpose is to ensure uniformity and efficiency in the observance of Secretariat practices and

procedures. All business of government is to be conducted in accordance with both the Rules of Business and the Secretariat Instructions.

- ☞ **Rules of Business:** Rule 14(A) of Rules of Business, 1996 provides for consultation on legislative matters with the Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs.
- ☞ **The Rules of Procedure of Parliament:** The other important instrument is the Rules of Procedure of Parliament. Its Chapter XIII consisting of 5 Parts deal with the law making process of Parliament. More specifically rules 72-98 provide the detail procedure starting from the introduction of a Bill to the Parliament and an assent of the President on it for final publication as an Act of Parliament.

Other issues to discuss

- ☞ Law Making process: Role of Executives and the Parliament.
- ☞ Procedural distinction between amendment of general laws and amendment of the constitution.
- ☞ Interpretation of Law: Role of High Court
- ☞ Interpretation of Law: Role of General Clauses Act

Course Evaluation

The training course was evaluated by using a comprehensive questioner by the participants. The main purpose of this evaluation was to make such type of training course more useful in future and monitor the expected outcomes.

At the end of the training, each participating officials was given a form to be filled-up to focus their learning from this course and expectations in future. Findings and recommendation of the evaluation is summarized below:

- Out of 34 participants, 24 has mentioned EXCELLENT. That means more than 90% participants reported that this training highly appropriates in respect their job responsibilities.
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- *Contents of a standard bill*
- *Contract preparation*
- *Rules and treaty preparation techniques*
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- *How to prepare regulation mala with practical exercise*
- *Porivasa of Law*

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- *Training Rules of Business and Rules of Procedure*
- *How to make inter-ministerial meeting more effective*

ANNEX-1

TRAINING EVALUATION

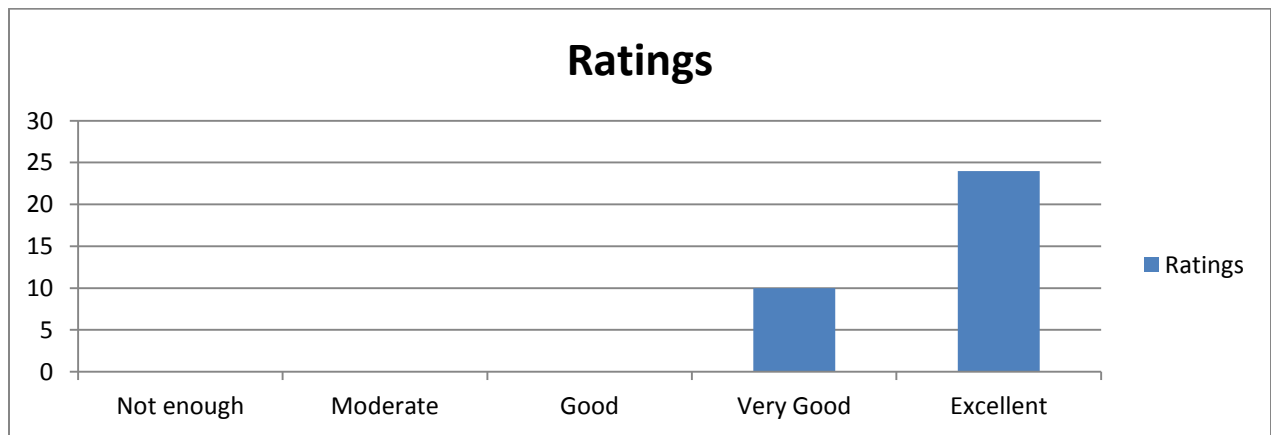
Title of the Training: Training on Law Making Process in Bangladesh

30 January 2014

Venue: Pac Pacific, Hotel Sonargoan, Dhaka

1. How far this training was appropriate considering your job responsibilities? Put tick in the right box below. (Score 1-5, while 1 is very low and 5 is highest)

| Not enough | Moderate | Good | Very Good | Excellent |
|------------|----------|------|-----------|-----------|
| | | | 10 | 24 |



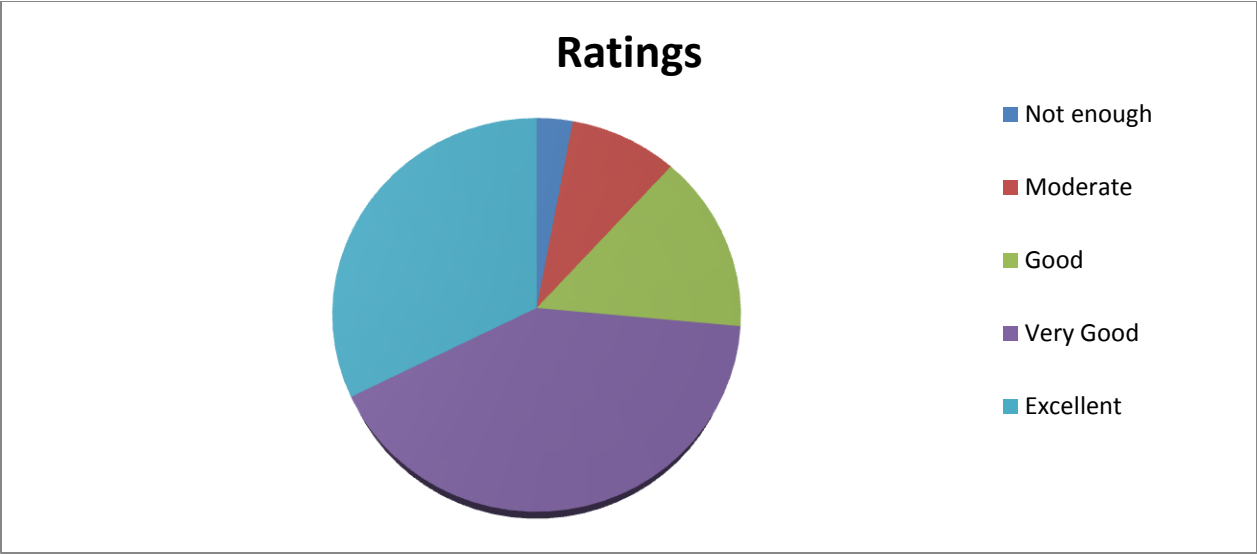
2. How would you evaluate the methodologies have been used in conducting this training?

| Not enough | Moderate | Good | Very Good | Excellent |
|------------|----------|------|-----------|-----------|
| | 01 | 05 | 21 | 07 |



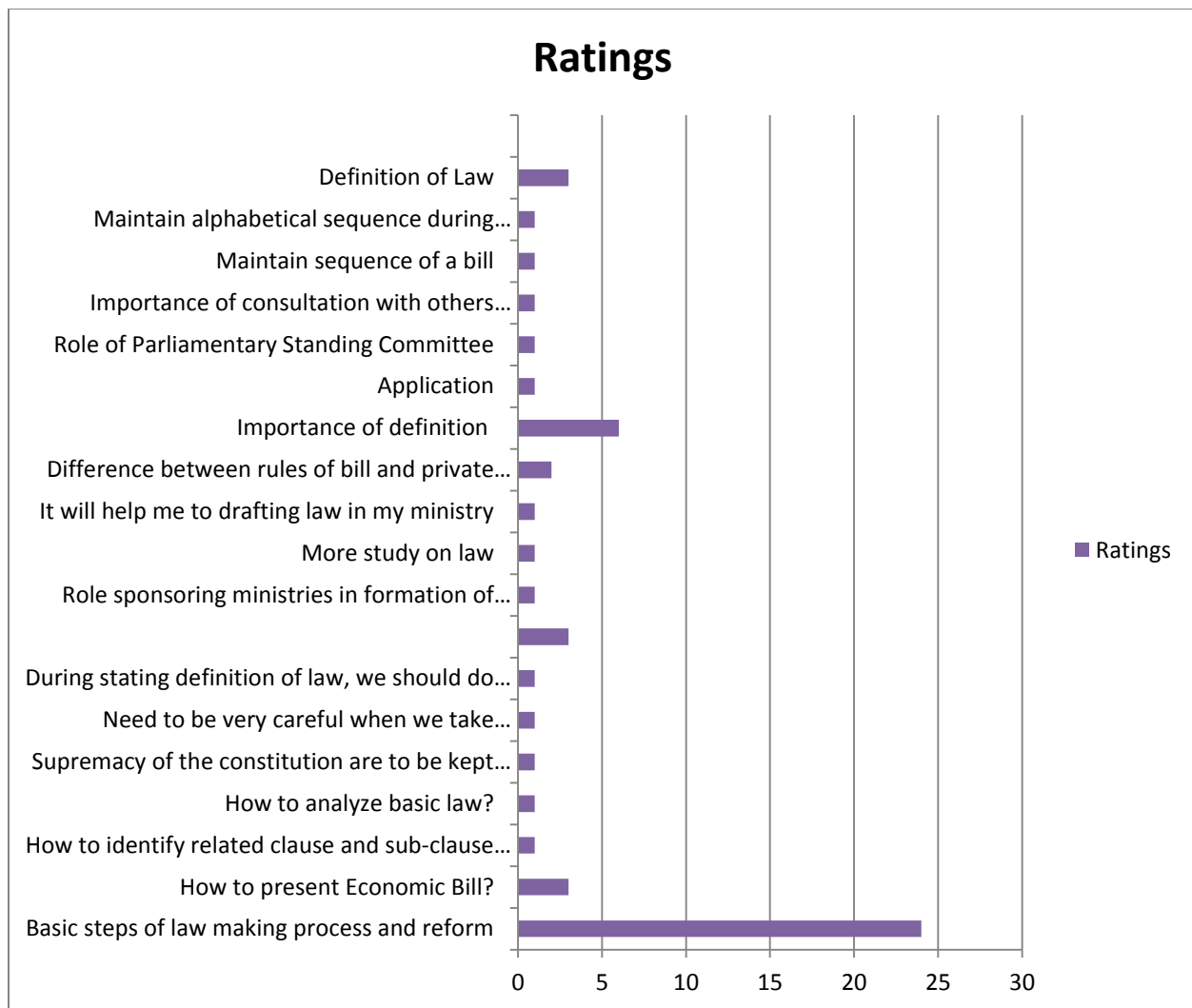
3. How would you evaluate the effectiveness of the materials have been used in this training?

| Not enough | Moderate | Good | Very Good | Excellent |
|------------|----------|------|-----------|-----------|
| 01 | 03 | 05 | 14 | 11 |



4. Three issues/topics you have learned from this training which can be used in your daily work.

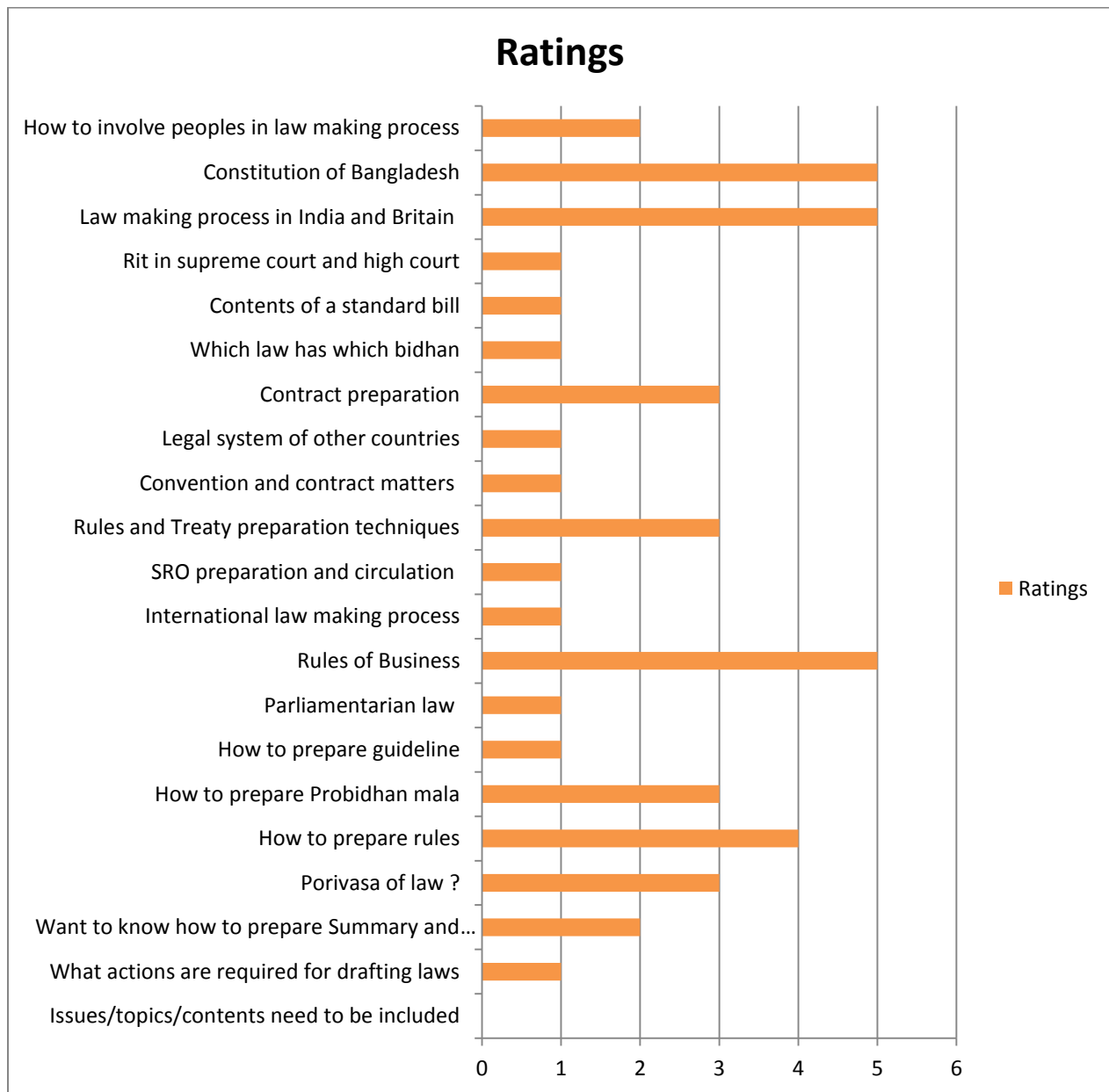
| SL No. | Learning issues/topics | How many have mentioned |
|--------|--|-------------------------|
| 01 | Basic steps of law making process and reform | 24 |
| 02 | How to present Economic Bill? | 3 |
| 03 | How to identify related clause and sub-clause for reforming law? | 1 |
| 04 | How to analyze basic law? | 1 |
| 05 | Supremacy of the constitution are to be kept in mind at the time of law making a draft law | 1 |
| 06 | Need to be very careful when we take initiative to reform any law. | 1 |
| 07 | During stating definition of law, we should do it alphabetically. | 1 |
| 08 | Differences among Law, Rules, Act, Circular, SRO | 3 |
| 09 | Role sponsoring ministries in formation of new law | 1 |
| 10 | More study on law | 1 |
| 11 | It will help me to drafting law in my ministry | 1 |
| 12 | Difference between rules of bill and private bills | 2 |
| 13 | Importance of definition | 6 |
| 14 | Application | 1 |
| 15 | Role of Parliamentary Standing Committee | 1 |
| 16 | Importance of consultation with others during law making | 1 |
| 17 | Maintain sequence of a bill | 1 |
| 18 | Maintain alphabetical sequence during presenting definition | 1 |
| 19 | Definition of Law | 3 |
| 21 | | |



5. What are the contents/topics/issues you propose to add if similar kind of training is planned for future?

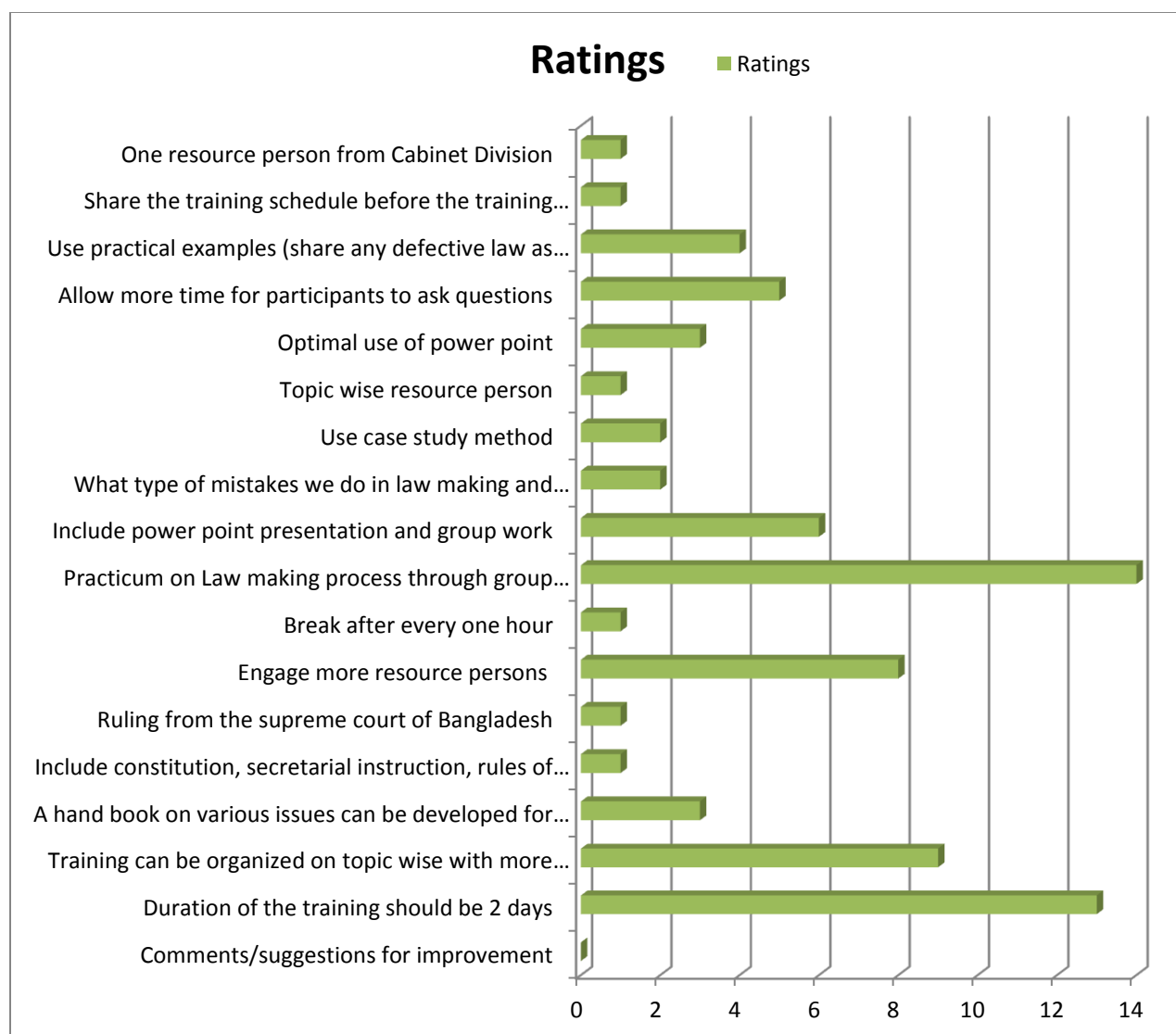
| SL No. | Issues/topics/contents need to be included | How many have mentioned |
|--------|---|-------------------------|
| 01 | What actions are required for drafting laws | 1 |
| 02 | Want to know how to prepare Summary and | 2 |
| 03 | Porivasa of law ? | 3 |
| 04 | How to prepare rules | 4 |
| 05 | How to prepare Probidhan mala | 3 |
| 06 | How to prepare guideline | 1 |
| 07 | Parliamentarian law | 1 |
| 08 | Rules of Business | 5 |
| 09 | International law making process | 1 |
| 10 | SRO preparation and circulation | 1 |

| | | |
|----|--|---|
| 11 | Rules and Treaty preparation techniques | 3 |
| 12 | Convention and contract matters | 1 |
| 13 | Legal system of other countries | 1 |
| 14 | Contract preparation | 3 |
| 15 | Which law has which bidhan | 1 |
| 16 | Contents of a standard bill | 1 |
| 17 | Rit in supreme court and high court | 1 |
| 18 | Law making process in India and Britain | 5 |
| 19 | Constitution of Bangladesh | 5 |
| 20 | How to involve peoples in law making process | 2 |



6. Your suggestion to make such training course more effective?

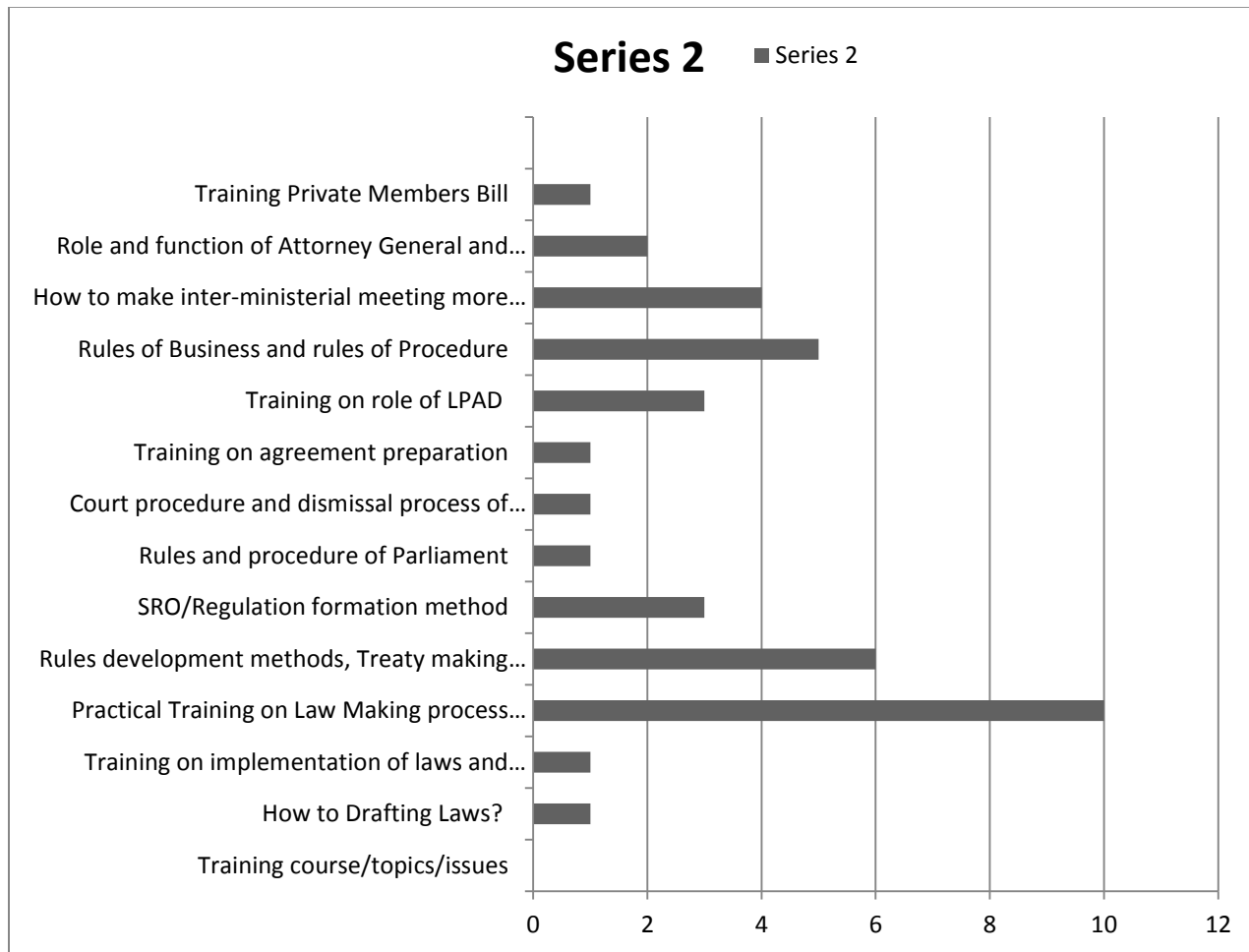
| SL No. | Comments/suggestions for improvement | How many have mentioned |
|--------|--|-------------------------|
| 01 | Duration of the training should be 2 days | 13 |
| 02 | Training can be organized on topic wise with more times, not many issues in half day (Preferably Saturday full). | 9 |
| 03 | A hand book on various issues can be developed for distribution | 3 |
| 04 | Include constitution, secretarial instruction, rules of business | 1 |
| 05 | Ruling from the supreme court of Bangladesh | 1 |
| 06 | Engage more resource persons | 8 |
| 07 | Break after every one hour | 1 |
| 08 | Practicum on Law making process through group work with example | 14 |
| 09 | Include power point presentation and group work | 6 |
| 10 | What type of mistakes we do in law making and reform and how to overcome those? | 2 |
| 11 | Use case study method | 2 |
| 12 | Topic wise resource person | 1 |
| 13 | Optimal use of power point | 3 |
| 14 | Allow more time for participants to ask questions | 5 |
| 15 | Use practical examples (share any defective law as example) | 4 |
| 16 | Share the training schedule before the training scheduled date with participants | 1 |
| 17 | One resource person from Cabinet Division | 1 |



7. Which training courses (issues/topics) you need in future considering your task and responsibilities at you work?

| SL No. | Training course/topics/issues | How many have mentioned |
|--------|---|-------------------------|
| 01 | How to Drafting Laws? | 1 |
| 02 | Training on implementation of laws and discrimination in practice. | 1 |
| 03 | Practical Training on Law Making process (from drafting bill to finalization) | 10 |
| 04 | Rules development methods, Treaty making method | 6 |
| 05 | SRO/Regulation formation method | 3 |
| 06 | Rules and procedure of Parliament | 1 |
| 07 | Court procedure and dismissal process of cases in lower and higher court | 1 |
| 08 | Training on agreement preparation | 1 |
| 09 | Training on role of LPAD | 3 |

| | | |
|-----------|---|----------|
| 10 | Rules of Business and rules of Procedure | 5 |
| 11 | How to make inter-ministerial meeting more effective? | 4 |
| 12 | Role and function of Attorney General and Solicitor office | 2 |
| 13 | Training Private Members Bill | 1 |
| 14 | | |



ANNEX-2

Training schedule

ANNEX-3

Participants List