Where there is no lawyer: Meeting on fair research contracting
Bellagio Centre, 23-25 October 2012

Contracting capacity of and issues faced by icddr,b’s South and Southeast Asian partners

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Introduction

- icddr,b processes 300+ research agreements per annum
- Office of General Counsel, Research Administration, Finance offices
- Increasing number of regional (Iran to the Philippines) and national collaborations
- Hardly any legal expertise within collaborating institutions
Regional Survey

- Approached 35 collaborators
- Research institutions, universities, NGOs and government departments
- Iran, Pakistan, India, Nepal, Bhutan, Bangladesh, Malaysia and the Philippines
- Received 21 responses
Regional Survey – Responses received

1. Responsibility for reviewing, drafting and/or negotiating research related agreements and contracts lies with:
   - a dedicated legal department [3/21]
   - another department (e.g. Finance, Research & Development) [3/21]
   - the respective scientist/researcher [15/21]
The staff responsible for drafting, reviewing, and/or negotiating research contracts are:

a) qualified lawyers [3/21]
   BRAC (Bangladesh), Modern Herbal Group (Bangladesh), IRRI (Philippines)

b) non-lawyers with some form of special training [0/21]

c) non-lawyers without any special training [18/21]
Regional Survey – Responses received

3. Particular legal/contractual issues that organizations have faced/that have arisen in the past when reviewing, drafting and/or negotiating research related agreements and contracts? How were they resolved?
Regional Survey – Responses received

a) Qualified lawyers involved [3/21]
Many major legal/contractual issues have arisen:
- IP, Patent and Publication Rights
- Choice of law
- Indemnification, Insurance
Resolved through:
- Negotiation
- Rejection of contracts offered
Regional Survey – Responses received

b) Non-lawyers without special training involved [18/21]
   - No particular legal/contractual issues have arisen
   - Though contractual terms and conditions were often unclear or difficult to understand
   - Contracts signed based on mutual trust and/or long-term good relations
Summary

• No specialist legal expertise within the vast majority of collaborating institutions in South and Southeast Asia
• No legal/contractual issues detected by non-lawyer reviewers
• Contractual terms and conditions often unclear or not understood
• Specialist legal expertise detects numerous issues of concern requiring additional negotiation
Thank you!