LEGISLATIVE BILLS:

DESIGN CRITERIA AND ASSESSMENT

David G. Schrunk
Science of Laws Institute
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PROBLEM

POOR PERFORMANCE

OF LAWS

(CALIFORNIA)

SEARCH

CAUSE FOR

POOR PERFORMANCE

PROJECT

COMPARE ENGINEERING AND LAWMAKING DESIGN PROCESSES

INVESTIGATION

CONTENT DESIGN CRITERIA

CALIFORNIA SENATE BILLS

2015-16 LEGISLATIVE SESSION

CONCLUSION

EXISTING LEGISLATIVE DESIGN PROCESS FLAWED, INADEQUATE

RECOMMEND

ESTABLISH SCIENTIFIC BASIS FOR THE RULE OF LAW

DISCUSSION POINTS

- **SCIENCE**
- **GOVERNMENT**
- **RESEARCH PROJECT**
- **RESULTS**
- **CONCLUSION**

SCIENCE

SCIENCE
TWO BRANCHES

- INVESTIGATIVE SCIENCE

- CREATIVE SCIENCE

INVESTIGATIVE SCIENCE

Knowledge + Tools +

Scientific Method ⟹

Reliable Knowledge

CREATIVE SCIENCE

Knowledge + Tools + Method ➡ New Tools

➡ Problem Solution*

rule

PURPOSE

INVESTIGATIVE SCIENCE
Accumulate Knowledge

CRESTIVE SCIENCE
Solve Problems

ALL SCIENCE

Knowledge + Tools

+ Method ⟹

Knowledge + Tools*

ALL SCIENCE

SUCCESSFUL

- GROWING KNOWLEDGE

- PROBLEM SOLUTION*

INVESTIGATIVE SCIENCE SUCCESS:

SCIENTIFIC METHOD*

CREATIVE SCIENCE SUCCESS:

PROBLEM SOLVING METHOD (PSM)

PROBLEM SOLVING METHOD

Problem definition and analysis
Purpose statement
Solution innovation & design*
Costs, risks, boundaries

PROBLEM SOLVING METHOD

Testing and refinement
Follow up evaluation
Citation of references
Sign off by designer(s)

PROBLEM SOLVING METHOD (PSM)

Only Reliable Method for Solving Complex Problems*

GOVERNMENT

DECLARATION OF INDEPENDENCE

PURPOSE OF GOV'T:

SECURE THE RIGHTS AND LIBERTY OF THE PEOPLE

RIGHTS – LIBERTY

- ## HUMAN RIGHTS

- ## LIVING STANDARDS

- ## QUALITY OF LIFE

GOVERNMENT OBLIGATION

Solve Problems That Degrade or Threaten to Degrade Rights and Liberty

LAWS

- PROBLEM SOLVING <u>MEANS</u> OF GOV'T

- TOOLS – USEFUL

GOVERNMENT BRANCHES – LAWS

- **LEGISLATIVE – CREATE**

- **EXECUTIVE – ENFORCE**

- **JUDICIAL – APPLY**

LAWMAKING

(LEGISLATURE)

LEGISLATURE PURPOSE

SOLVE PROBLEMS

LEGISLATURE PURPOSE IDENTICAL TO CREATIVE SCIENCE:

- ## SOLVE PROBLEMS

LEGISLATURE

MEANS

CREATE LAWS*

LEGISLATURE MEANS IDENTICAL TO CREATIVE SCIENCE:

- CREATE TOOLS (RULE OF LAW)

LEGISLATURE MEANS AND ENDS

RULE OF LAW

⬇

SATISFIES PURPOSE OF GOVERNMENT

LEGISLATIVE PROCESS

Ideas + Method

⟹ **New Laws**
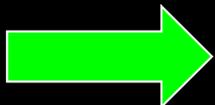
⟹ **(Solve Problems)**

LEGISLATIVE PROCESS

DESIGN METHOD

- "Mental Modelling"
- Ideation, Reasoning
- Socratic Method, Debate

LEGISLATIVE PROCESS

TWO PRINCIPAL STEPS

1) Bill Drafting*

2) Legislative Session

LEGISLATIVE PROCESS

Idea ➡ (1) **Bill Drafting**

➡ (2) **Legislative Session**

➡ New Law

RESULT

LEGISLATIVE PROCESS

<u>SUCCESS</u>

- MANY NEW LAWS

(California = 8879 Statutes; Years 2000 – 2009)

RESULT OF LEGISLATIVE PROCESS:

FAILURE

- **PROBLEMS NOT SOLVED**

FAILURE OF LAWS

- **Illiteracy, Pensions,**

- **Homelessness, Poverty*,**

- **Unemployment, Debt…**

PRESENT RULE OF LAW

-- FAILS --

PURPOSE OF GOVERNMENT

CONTRAST*

CREATIVE SCIENCE
SUCCESSFUL

LAWMAKING
NOT SUCCESSFUL

REASON FOR SUCCESS VS FAILURE OF OUTCOMES?

Engineering vs Lawmaking

- Intellect of Designers?
- College Education?
- Design Method?

REASON FOR FAILURE OF LAWS?

COMPARE LAWMAKING METHOD WITH PROBLEM SOLVING METHOD

RESEARCH

PROJECT

RESEARCH PROJECT

EXAMINED LEGISLATIVE BILLS FOR CONTENT OF PSM DESIGN CRITERIA*

RESEARCH PROJECT

- **Bill Drafting Step (Design)**
- **California Senate**
- **2015-16 Legislative Session**
- **1480 Bills Submitted**

RESEARCH PROJECT

10% Random Sample (Every 10th Bill)

Total of 144 Bills Examined

RESEARCH PROJECT

PSM CRITERIA CONTENT IN BILLS:

- Number, Title, Sponsor
- Problem Definition
- Problem Analysis
- Purpose Statement (Intent)
- Cost Estimation (8 Separate Costs)

RESEARCH PROJECT

PSM CRITERIA CONTENT IN BILLS:

- Risk of the Law to the Public
- Sanction (Forcing Mechanism)
- References (Knowledge Base)
- Follow Up Evaluation Measures
- Name of Designer(s)

RESEARCH PROJECT

Cost Estimate Categories

C1   Research and Development (Modeling)
C2   Pro-rata Legislative Branch
C3   Promulgation
C4   Drain from Treasury
C5   Enforcement
C6   Compliance / Public
C7   Court Costs
C8   QA and QI

RESULTS

RESULTS (% of 144 Bills)

Number, Title, Sponsor	100 %
Problem Definition	50 %
Problem Analysis*	6 %
Purpose Statement	60 %
Cost Estimation	38 %

* 41% Zero; 53 % Anecdotal / Incomplete

RESULTS

Risk Analysis	**0 %**
Sanction	**100 %**
Reference Citation	**10 %**
Follow Up Measures	**1 %**
Name of Law Designer	**0 %**

RESULTS
COST ESTIMATES

C-1 Research Development   0 %
C-2 Legislative Session   0 %
C-3 Promulgation   12 %
C-4 Drain from Treasury   28 %

RESULTS
COST ESTIMATES*

C-5 Enforcement   10 %

C-6 Court System   5 %

C-7 Compliance (by Public)   3 %

C-8 QA and QI   0 %

RESULTS

One or More Essential Elements of PSM Were Absent in <u>Every</u> Bill (Knowledge Base, Cost/Risk Analyses, Follow-Up...)

RESULTS

Present State of Art Law Design:

No Problem Definition

No Purpose Statement

No Cost / Risk Analyses

No Basis in Knowledge

No Follow Up Evaluation

RESULT OF DESIGN DEFECTS AND OMISSIONS:

Law-Risk to Public:

Ineffective – Unnecessary
Cumbersome – Wasteful
Harmful Side Effects
Exacerbate Problems

RESULTS - COMPARISON

CREATIVE SCIENCE

VS

LAWMAKING

CREATIVE SCIENCE

Knowledge + Tools +

PSM ⟹ New Tools
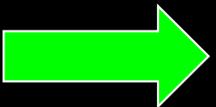
⟹ Problem Solution

LEGISLATIVE PROCESS

~~Knowledge~~ + ~~Tools~~ +

Ideas, Debate, Reasoning

➡ New Laws

(~~Outcome Evaluations~~)

LEGISLATIVE PROCESS

ENDS WITH NEW LAW

DOES NOT PROCEED

TO PROBLEM SOLUTION

"Once an act is passed, the legislature's job is done."

Davies, <u>Legislative Law and Process</u> V*

CONCLUSION

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Lawmaking is not a Problem-Solving Process*

CONCLUSION

Legislatures Attempt To Solve Problems with a Process That Does Not Have Problem Solution as Its Objective

CONCLUSION

By Its Lack of Standards, The

Present Legislative Process

Is Not Capable of Satisfying

The Purpose of Government

CONCLUSION

By Its Lack of Standards, the Legislative Process Poses a Threat to the Public from the Production of Defective Laws

RECOMMENDATION

RECOMMENDATION

Legislatures Correct the Defects and Omissions of the Legislative Process

RECOMMENDATION

Legislatures Adopt the Problem Solving Method as the Basis of Lawmaking* (Bill Drafting Step)

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PREDICTION

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PSM as Basis of Lawmaking:

Lawmaking Becomes a Problem-Solving Process

PREDICTION - PSM

Improvement of Laws:

- Effectiveness
- Cost Efficiency
- Reduce Side Effects
- User Friendly
- + Outcomes (Public Wellbeing)

PREDICTION - PSM

Evolve Scientific Basis for Laws and Lawmaking*

PREDICTION – PSM

Rule of Law Will Satisfy The Purpose of Government*

THANK YOU

FUTURE RESEARCH

This Project Involved the Analysis of One Session of One Chamber of the California Legislature. Additional Studies Are Recommended to Support The Findings of This Study.