UNIVERSITY OF SOUTH CAROLINA

RULE OF LAW COLLABORATIVE

in collaboration with

U.S. Department of State (INL)

JUSTRAC INTERAGENCY JUSTICE SECTOR TRAINING PROGRAM

December 11-12, 2014

Washington, DC

Course Objectives

The goals of this training program are to: (1) improve the skills and knowledge of individuals funding, designing, managing and/or implementing justice sector programs in post-conflict and transitional states; (2) increase opportunities for coordination and collaboration among USG donors, implementers, nongovernmental organizations, academic institutions, international organizations, foreign governments and multilateral institutions; (3) strengthen justice sector programing so as to have real impacts on host countries' ability to reform their legal systems; and (4) provide a multitude of stakeholders the opportunity to share their experiences and lessons regarding justice sector programming.

Location

National Association of Home Builders Bldg.
1201 15th St NW
Washington, DC 20005
Enter on 1ˢᵗ floor, registration table in the atrium

Arrival & Attire

Nearest Metro: Farragut North or McPherson Sq./ ID Required / Casual Civilian Dress

Contact Information

Course Coordinator:	Dr. Gordon B. Smith
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Agenda

Day 1: Thursday, December 11, 2014

8:30am-9:00am   **Registration**

9:00am-9:15am   **Welcome Remarks**

9:15am-9:30am   **OVERVIEW OF JUSTRAC AND THE TRAINING PROGRAM**

                                   Jenny Willier Murphy, Senior Justice Advisor, INL

                                   Professor Joel Samuels, Director, Rule of Law Collaborative, University of South Carolina

9:30am-10:45am   **SESSION 1: KEY JUSTICE SECTOR REFORM PRINCIPLES AND COMPETING DEFINITIONS OF THE RULE OF LAW**

                                   Dr. Gordon B. Smith, University of South Carolina

                                   Jenny Willier Murphy, INL

                                   Professor Joel Samuels, University of South Carolina

A discussion of why justice reform matters and the need for multiple approaches to achieving positive outcomes. We will explore competing definitions of rule of law and how these principles are operationalized in programs.

[*] **Suggested reading/references** (available on ROLC/JusTRAC websites):

- *Rule of Law Handbook*, The JAG Legal Center & School, U.S. Army, 2014, pp. 1-10. http://www.loc.gov/rr/frd/Military_Law/pdf/rule-of-law_2011.pdf
- Rachel Kleinfeld Belton, "Competing Definitions of the Rule of Law: Implications for Practitioners", Carnegie Endowment, 2005. http://carnegieendowment.org/files/CP55.Belton.FINAL.pdf
- Brian Tamanaha, On the Rule of Law (Cambridge, 2004).

10:45am-11:00am   **Break**

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[*] Additional recommended reading and reference materials are optional.

11:00am-12:00 noon **SESSION 2: MAIN USG, OTHER ACTORS AND HOST COUNTRY INSTITUTIONS: THEIR MANDATES, CAPACITIES AND APPROACHES**

Dr. Gordon Smith, *University of South Carolina*

What USG agencies are the key players in justice sector/rule of law programming? What are their respective bureaucratic cultures, staffing, funding, and other resources? What are the counterpart host country justice sectors institutions with whom we normally work?

Suggested reading/references:

- INL Guide to Justice Sector Assistance, Department of State, 2013. http://www.state.gov/documents/organization/222048.pdf
- User's Guide to Democracy, Human Rights and Governance Programming, USAID, 2014. http://www.usaid.gov/sites/default/files/documents/1866/DRGUsersGuide_Aug 2014.pdfShawna Wilson, "U.S. rule of Law Assistance: A Guide for Judges, Federal Judicial Center, 2011 http://www.fjc.gov/public/pdf.nsf/lookup/RulLaw11.pdf/$file/RulLaw11.pdf
- Interagency Security Sector Assessment Framework Guidance for the U.S. Government, USAID, 2010. http://pdf.usaid.gov/pdf_docs/PA00HWJX.pdf
- USAID Strategy on Democracy, Human Rights and Governance, 2013. http://pdf.usaid.gov/pdf_docs/PDACX557.pdf
- Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework, USAID, 2010. http://pdf.usaid.gov/pdf_docs/PNADT593.pdf
- *Guide to Interagency Rule of Law Training and Field Funding*, University of South Carolina, 2014.

12:00-1:15pm   **Lunch Break**

1:15pm-2:45pm **SESSION 3: COMPARATIVE LEGAL SYSTEMS: COMMON LAW, CIVIL LAW, RELIGIOUS LAW, CUSTOMARY LAW AND MIXED LEGAL SYSTEMS**

Panel Participants:

Professor Joel Samuels, Director of ROLC, Moderator
Hamid Khan, Senior Program Officer, Rule of Law Center, USIP
Professor Aparna Polavarapu, University of South Carolina
Michael McCullough, Director, Latin America and Caribbean, ROLI

Discussion of the five main types of legal systems we encounter in the field and the most important differences among them. What are the "blind spots" that Americans typically have when understanding legal systems in other cultures?

Suggested reading/references:

- USIP/INPROL: Common Law/Civil Law Traditions
http://www.inprol.org/publications/common-law-and-civil-law-traditions

- USIP/INROL: Islamic Law Guide http://www.inprol.org/publications/inprol-islamic-law-guide

- UN Women, UNICEF and UNDP: Informal Justice Systems, Charting a Course for Human Rights Based Engagement
http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Informal-Justice-Systems-Charting-a-Course-for-Human-Rights-Based-Engagement.pdf

2:45pm-3:00pm   **Break**

3:00pm-4:30pm   **SESSION 4: JUSTICE SECTOR/RULE OF LAW BREAKOUT SESSIONS**

Participants will select from among the following three sessions. (These same three will be repeated in Day 2, enabling participants to attend two of the three sessions during the course of the program).

1. **Combating Corruption: An Interagency Briefing and Exercise**
Professors Gordon Smith and Joel Samuels, University of South Carolina

Corruption is one of the persistent problems confronting USG personnel who work on justice sector reform and ROL development. This session explores the many forms that corruption can take and identifies strategies for combating corruption from multiple, integrated interventions.

Suggested reading/references:

- World Economic Forum G20 Working Group on Improving Transparency and Eliminating Corruption,
http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/WEF%20G20%20Improving%20Transparency%20and%20Eliminating%20Corruption_0.pdf
- "Raising the Bar: Good Anti-Corruption Practices in Defense Companies," Transparency International Report, June 2013. http://www.ti-defence.org/publications/20-category-publications/publications-dsp/67-dsp-pubs-rtb.html
- USAID: Analysis of USAID Anticorruption Programming Worldwide (2007-2013), July 23, 2014
http://www.usaid.gov/sites/default/files/documents/1866/AnalysisUSAIDAnticorruptionProgrammingWorldwideFinalReport2007-2013.pdf

2. **Mixed Legal Systems and Protecting Gender Rights: Briefing and Exercise**
   Professors Aparana Polavarapu and Payal Shah, University of South Carolina

   Customary justice systems are often especially problematic for women and children. This session explores various strategies that have been employed in African and Asian countries in order to modify customary practices or to link them to formal/national systems.

   Suggested reading/references:

   - INL Guide to Gender in the Criminal Justice System, INL/Dept. of State, 2013 http://www.state.gov/documents/organization/222034.pdf
   - Geneva Centre for the Democratic Control of Armed Forces (DCAF), Gender and Security Sector Toolkit http://www.dcaf.ch/Publications/Gender-Security-Sector-Reform-Toolkit
   - Institute for Inclusive Security and DCAF, A Women's Guide to Security Sector Reform, http://www.gssrtraining.ch/files/A_Womens_Guide_to_SSR.pdf

3. **Working within the Culture: Lessons for Practitioners**
   Dr. Sudha Ratan, Georgia Regents University

   How can a justice sector practitioner working in an unfamiliar cultural setting best come to understand and appreciate customary justice systems? Dr. Ratan draws on her extensive experience of Pashtunwali in Pakistan and Afghanistan to illustrate the importance of working within the culture.

   Suggested reading/references:

   - My Cousin's Enemy is My Friend: A Study of Pashtun "Tribes" in Afghanistan http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/My%20Cousin%27s%20Enemy%20is%20my%20Friend_0.pdf

   - "The Clash of Two Goods: State and Non-state Dispute Resolution in Afghanistan" In *Customary Justice and the Rule of Law in War-Torn Societies* http://www.usip.org/sites/default/files/file/clash_two_goods.pdf

   - Tribal Law of Pashtunwali and Women's Legislative Authority

   - http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women%27s%20Legislative%20Authority_0.pdf

   - Afghanistan Rule of Law Project, USAID http://www.usip.org/sites/default/files/file/usaid_afghanistan.pdf

4:30pm-5:00pm **Day 1 Wrap-up with look ahead to Day 2**

Professor Joel Samuels, University of South Carolina

Agenda

Day 2: Friday, December 12, 2014

9:00am-9:15am	**Overview to Day 2**
	Dr. Gordon Smith, University of South Carolina
9:15am-10:30am	**SESSION 5: JUSTICE SECTOR ASSESSMENT AND PROGRAM DESIGN**

Panel Participants:

Jose Garzon, formerly of USAID and Moderator

Shibani Malhotra, INL, Dept. of State

Julie Werbel, USAID

Amy Chang Lee, OPDAT, Dept. of Justice

MAJ Robert Sander, Dept. of Defense

Ana Patricia Graca, Rule of Law, Justice and Security Team, UNDP

Presenters will discuss how to plan, design and implement justice sector/ROL programs, citing specific examples, challenges encountered, and interagency dynamics.

Suggested reading/references:

The two primary frameworks used in interagency ROL assessments have been the INL Justice Guide and USAID's ROL Strategic Framework. UNDP and the World Bank also provide guidance on how to conduct a justice sector assessment.

- *INL Guide to Justice Sector Assistance*, INL/Dept. of State, 2013
  http://www.state.gov/documents/organization/222048.pdf
- *Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework*, USAID, 2010
  http://pdf.usaid.gov/pdf_docs/PNADT593.pdf
- *Designing a Framework for Achieving Results*, World Bank, 2012
  http://siteresources.worldbank.org/EXTEVACAPDEV/Resources/designing_results_framework.pdf
- *Developing Results Frameworks,* USAID, 2013
  http://usaidlearninglab.org/sites/default/files/resource/files/RF_Technical_Note_Final_2013_0722.pdf

10:30am-10:45am	**Break**
10:45am-12:00 noon	**SESSION 6: PANEL: RULE OF LAW PROJECT MANAGEMENT, PERFORMANCE MONITORING AND END OF PROJECT LIFE CYCLE**

Jose Garzon, Moderator

MAJ Robert Sander, Dept. of Defense

Paul Vaky, OPDAT, Dept. of Justice

Mark Giroux, INL, Dept. of State

Julie Werbel, USAID

Presenters will discuss the practical aspects of managing justice sector/ROL programs, including monitoring and evaluation techniques.

Suggested reading/references:

- INL Guide to Justice Sector Assistance http://www.state.gov/documents/organization/222048.pdf
- Gender Assessment USAID/Bangladesh USAID Performance Monitoring and Evaluation Tips http://pdf.usaid.gov/pdf_docs/pnaby215.pdf http://www.state.gov/documents/organization/222034.pdf
- INL Best Practices Project Management Quick Reference (PDF)
- INL Best Practices Performance Measurement Quick Reference (PDF)
- The United Nations Rule of Law Indicators http://www.un.org/en/peacekeeping/publications/un_rule_of_law_indicators.pdf
- "Why, What, and How to Measure? A User's Guide to Measuring Rule of Law, Justice and Security Programmes" http://www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_CPR_ROLMEGuide_August2014.pdf

12:00-1:15pm **Lunch Break**

1:15pm-2:30pm **SESSION 7: JUSTICE SECTOR RESOURCES AND TOOLKITS**

Professor Gordon Smith, University of South Carolina

An overview of resources and toolkits useful to USG and others working on justice sector and rule of law reforms.

Suggested reading/references:

- *Rule of Law Index, 2014* http://worldjusticeproject.org/rule-of-law-index

- The United Nations Rule of Law Indicators http://www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf

- "Why, What, and How to Measure? A User's Guide to Measuring Rule of Law, Justice and Security Programmes"

http://www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_CPR_ROLMEGuide_August2014.pdf

- Tom Ginsburg, "Pitfalls of Measuring the Rule of Law," Hague Journal of the Rule of Law, 2011, Vol. 3, No. 2.

2:30pm-2:45pm   **Break**

2:45pm-4:15pm   **SESSION 8: SECTOR/RULE OF LAW BREAKOUT SESSIONS**

Repeated from Day 1

4:15-5:00   **Wrap-up and Feedback**

Professor Joel Samuels, University of South Carolina