



JUSTRAC

JUSTICE SECTOR TRAINING, RESEARCH  
& COORDINATION PROGRAM

**Rule of Law Collaborative**  
U.S. DEPARTMENT OF STATE (INL)  
JUSTRAC Interagency Civil Law Training Program

**NOTE: Program is subject to change**

**Course Objectives**

This course will explore the unique features of the most widespread legal system in the world – the Civil Law system (sometimes also referred to as the inquisitorial system). On the first day, the course will introduce participants to the underpinnings and structure of the civil law system – its history, sources of law, codification process, legal education system, court structure, and actors. Next, it will explore how the system has been implemented in countries from different regions around the world. On Day 2, the course will use examples from specific program experiences to explore the role of different actors – the U.S. Government, multilateral organizations, foreign donors, and NGOs – in justice sector and rule of law programming in countries with civil law traditions. The second day of the course will include a specific session devoted to the transition from the inquisitorial to the adversarial model of litigation that has been undertaken in many countries in recent years to understand the lessons from efforts to assist in that transition. Finally, the course will conclude by looking to other trends in civil law systems in transition. All of the sessions in Day 2 will focus on practical applications and will discuss specific programs from Africa, Asia, Eastern Europe and post-Soviet states, Latin America, and the Middle East.

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 states with civil law systems; (2) introduce participants to the underlying principles, mechanisms, and actors of the civil law system; (3) provide practical lessons of the civil law system in action; (4) increase opportunities for coordination and collaboration among USG donors, implementers, nongovernmental organizations, academic institutions, international organizations, foreign governments and multilateral institutions; (5) strengthen justice sector programming so as to have real impacts on host countries' ability to reform their legal systems; and (6) provide stakeholders the opportunity to share their experiences and lessons regarding justice sector programming in countries with civil law systems through in-class exchanges and exercises.

## Day 1: Tuesday, January 23, 2018

**8:30AM-9:00AM**      **Registration and Light Refreshments**

**9:00AM-9:30AM**      **Welcoming Remarks, Overview of JUSTRAC and the Training Program**

An overview of the JUSTRAC Program, as well as of the Rule of Law Collaborative. Discussion of takeaways from the course. Participants introduce themselves and share their past experiences and challenges working within civil law systems. Practitioners explain how the modules of the course connect to their field experiences.

**9:30AM-10:45AM**      **SESSION 1: UNDERSTANDING THE FOUNDATIONS OF THE CIVIL LAW SYSTEM**

This opening session will introduce participants to the underpinnings of the civil law system, including the historical and philosophical bases for the system. It will examine the historical foundations of the oldest legal system in the world by emphasizing the genesis of this system from the Justinian Code to its contemporary variations, including the Napoleonic Code and its Germanic influences. This session will provide the background necessary to understand different aspects of the system itself including a basis for comparison to the common law system. The session will conclude with group whiteboard exercises.

**\*Suggested reading/references (click to access):**

- Dr. Vivienne O'Connor, "Practitioner's Guide: Common Law and Civil Law Traditions," USIP/INPROL, 2012, sections I-III
- John Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition*, 3rd ed. (Stanford University Press, 2007), chap. I-III

**10:45AM-11:00AM**      **Break**

**11:00AM-12:15PM**

**SESSION 2: SOURCES OF LAW AND MAKING THE LAW**

This session will explore the sources of law in the civil law system. One of the fundamental features of the civil law system is its codification process. Therefore, this session also will explore both the sources of law themselves and how the law is made in civil law countries, exploring the process of creating and using a code of laws and the role of case law. This session will explore these questions by looking at the civil law system on its own and by comparing it to the common law system.

**\*Suggested reading/references:**

- Dr. Vivienne O'Connor, "Practitioner's Guide: Common Law and Civil Law Traditions," USIP/INPROL, 2012, section IV
- John Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition*, 3rd ed. (Stanford University Press, 2007), chap. IV

**12:15PM-1:15PM**

**LUNCH BREAK AND NETWORKING**

**1:15PM-2:15PM**

**SESSION 3: LEGAL EDUCATION AND THE STRUCTURE OF THE COURTS**

This session will explore two important structural pieces that undergird the civil law system. First, participants will be introduced to the legal education system of civil law countries. Understanding how lawyers and judges are educated sheds important light on the actors who run the system itself. At the same time, this session will provide an overview of the structure of the courts in civil law systems in order to appreciate the structural overlay of the legal system itself and to understand the purpose and operation of specialized tribunals, such as constitutional and commercial courts. The session will conclude with group whiteboard exercises.

**\*Suggested reading/references:**

- Dr. Vivienne O'Connor, "Practitioner's Guide: Common Law and Civil Law Traditions," USIP/INPROL, 2012, section V, VII

**2:30PM-3:30PM**

**SESSION 4: ACTORS IN THE CIVIL LAW SYSTEM**

This session will explore the role of police, lawyers, prosecutors, notaries, and judges (including investigating judges, sitting judges and magistrates) in the civil law system both in direct terms and by reference to the roles of their counterparts in the common law system.

**\*Suggested reading/references:**

- Dr. Vivienne O'Connor, "Practitioner's Guide: Common Law and Civil Law Traditions," USIP/INPROL, 2012, section VI
- John Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition*, 3rd ed. (Stanford University Press, 2007), chap. VI

**3:30PM-3:45PM**

**BREAK**

**3:45PM-5:00PM**

**SESSION 5: VARIATIONS IN THE CIVIL LAW SYSTEM**

In the developing world, legal systems do not follow a single model. The civil law system has been adopted – and adapted – across the world in a variety of different ways. This panel will offer insights into some of the geographic variations of the Civil Law system, such as in Latin America, post-communist states, post-Ottoman countries, and former French colonies. The panel will cover differences in the roles and strengths of various actors and sources of law that are seen when civil law systems are adapted in country-specific settings. This final session of Day 1 will explore four different variations from Africa, Asia, Latin America, and the Middle East.

**\*Suggested reading/references:**

- John Henry Merryman, David S. Clark, and John Owen Haley: *The Contemporary Civil Law Tradition: Europe, Latin America, and East Asia* (Carolina Academic Press, 2015), chap. 1(A)

**Day 2: Wednesday, January 24, 2018**

**8:30AM-9:00AM**

**Registration and Light Refreshments**

**9:00AM-9:05AM**

**Overview to Day 2**

**9:05AM-10:30AM**

**SESSION 6: HOW TO STRUCTURE U.S. GOVERNMENT PROGRAMS IN CIVIL LAW SYSTEMS**

Presenters from a range of U.S. Government agencies will discuss how to plan, design, and implement justice sector/rule of law programs in civil law countries. They will discuss both successes and failures from their own experiences, focusing on the particular challenges faced when working in countries with a civil law system. This session will look to programs in Eastern Europe, Latin America, and Southeast Asia.



**\*Suggested reading/references:**

- “USAID Mexico Legal Education Program Performance Evaluation: Final Report,” USAID, 2016
- “Mexico Rule of Law Program II: Final Report,” USAID/MSD, 2010
- “Colombia Administration of Justice Program: Final Report,” USAID/Checchi Consulting, 2006
- Heike Gramckow, “Can US-Type Court Management Approaches Work in Civil Law Systems? Experiences from the Balkans and Beyond,” European Journal on Criminal Policy and Research, vol. 11, 2005

**10:30AM-10:45AM**

**BREAK**

**10:45AM-12:15PM**

**SESSION 7: THE ROLE OF MULTILATERAL AGENCIES, FOREIGN DONORS, AND NGOs IN CIVIL LAW STATES**

This panel will offer case studies on the role that the World Bank, UNDP, foreign donor agencies, and international NGOs play in justice sector and rule of law programming in civil law countries. Panelists will consider successes and failures and will offer insights into the challenges of donor coordination and opportunities for increased collaboration on the ground. This session will look to programs in Africa, Asia, Latin America, and the former Soviet Union.

**\*Suggested reading/references:**

- “Criminal Justice Assessment Toolkit,” UNODC, 2017

**12:15PM-1:15PM**

**LUNCH BREAK**

**1:15PM-2:45PM**

**SESSION 8: EXPLORING THE TRANSITION FROM THE INQUISITORIAL TO THE ADVERSARIAL MODEL**

In recent years, a number of states, particularly in Latin America, have undergone (or explored) a transition from the inquisitorial to the adversarial model of litigation, both criminal and civil. Through case studies taken from Eastern Europe, Latin America, and Southeast Asia, this panel will explore these transitions and evaluate the challenges and potential benefits of such a shift while offering lessons learned.



**\*Suggested reading/references:**

- Nancy G. Cortés, Octavio Rodríguez Ferreira, and David A. Shirk, “Perspectives on Mexico’s Criminal Justice System: What Do Its Operators Think?” University of San Diego/MacArthur Foundation, 2016
- J.D. King, “The Public Defender as International Transplant,” University of Pennsylvania Journal of International Law, vol. 38, issue 3, 2017

**2:45PM-3:00PM**

**BREAK**

**3:00PM-4:30PM**

**SESSION 9: FUTURE TRENDS IN THE CIVIL LAW SYSTEMS IN TRANSITION**

This final session will build on the previous session and will focus on other reform trends in civil law states. While the previous session focused specifically on one aspect of the legal system that has been undergoing significant change in some countries, this panel will look at other areas where a transition from civil law principles is taking place or may occur in the near future. Panelists will focus on concrete examples from a range of different countries and regions. Topics of this session may include the introduction of prosecutor-led investigations and the practical implications of this (more ambiguity in their roles, for example). Another topic that may be discussed in this session expands on the discussion from the previous session and asks how the change from inquisitorial to adversarial approaches has affected the roles of justice sector actors and how traditional justice sector programs (like skills training) need to better adapt to address those role changes. This session will look to trends in Africa, Latin America, and the former Soviet Union.

**\*Suggested reading/references:**

- Dr. Vivienne O’Connor, “Practitioner’s Guide: Common Law and Civil Law Traditions,” USIP/INPROL, 2012, section VIII
- John Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition*, 3rd ed. (Stanford University Press, 2007), chap. XX

**4:30PM-5:00PM**

**Wrap-up and Feedback**