

# HOW CAN SCHOOLS PROMOTE RULE OF LAW NORMS IN TRANSITIONING SOCIETIES?

LESSONS FROM POST-COMMUNIST EUROPE

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## EXECUTIVE SUMMARY

The rule of law as an institutional achievement in post-authoritarian societies will remain vulnerable and incomplete unless the public comes to understand and to embrace rule of law norms.<sup>1</sup> In other words, a cultural transformation is needed to fulfill the institutional transformation. UNESCO observed that societies must “create the cultural and social conditions in which the rule of law is respected and promulgated.”<sup>2</sup> The recent backsliding of Poland and Hungary show that even seemingly successful cases of post-authoritarian transition had not fully consolidated public support for democracy and the rule of law. Successful transitions may require forty years or more, and schools are the most promising vehicle for promoting such change.

Research has focused on institutional change, while the cultural practices and norms that support the rule of law in everyday life have not been clearly identified. How schools can advance these practices and norms is even less clear. Because schools often function as community hubs that reach adults and students across society, they are uniquely positioned to advance rule of law norms in society. With JUSTRAC support, this study gathered the perspectives and insights of local experts in civic education and the rule of law in post-communist countries across the Baltic states of Latvia, Lithuania and Estonia during May-July, 2018, in order to shed light on the ongoing challenges of overcoming authoritarian legacies and cultivating rule of law norms. The study was extended to include Romania in September. It asked the following questions:

1. How does authoritarian rule influence culture, and how does its legacy persist in transitioning societies?
2. How can schools help society to develop a robust rule of law culture?
3. How can individual, cultural and institutional transformations be achieved?

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This study revealed a process of cultural change under authoritarian rule. When confronted with authoritarian rule, people are forced to make adaptations to power in order to survive. Over time, these adaptations turn into habits. When new generations grow up amidst these new habits, and are socialized into them—rather than choosing them consciously—the adaptations become cemented into cultural practice. Once established as a normal part of social interaction and cultural practice, they often persist even when authoritarian rule disappears. While often necessary under authoritarian rule, these practices can be counterproductive for building the rule of law and democratic governance. Identifying the kinds of distortions produced by authoritarian rule can allow cultural insiders to distinguish between valued cultural traditions and adjustments to power that no longer benefit society. Key findings include:

- A. Isolation, not ideology, was the most enduring legacy of authoritarian rule;
- B. Rebuilding habits of communication and cooperation is essential, and building relationships enables them to flourish;
- C. Purging ideological materials and reconstructing civic education was generally successful, but not sufficient to replace the forms of learning (or political socialization) that youth and citizens experience in the daily life of a free society;
- D. Rules and the law are often seen as tools of state oppression, but experience with consent-based rule-making often changed attitudes of teachers and students, sometimes their parents, and even children as young as kindergarten; and
- E. The most promising avenues for advancing rule of law norms come not from additional reform to traditional instruction, i.e., civic education courses, but from direct experiences of civic participation, including within the classroom and school.

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Foreign partners may offer support to local efforts to effect cultural change. Such a transformation requires a range of smaller changes, from individual mindsets to the practices of small institutions like schools. Programs can help to support such changes, and improve communication and cooperation, by incorporating collaborative problem-solving, considering multiple perspectives, providing a set of choices to be considered by participants from the local context, grappling directly with the problematic legacies of the past, and exploring local understandings and meanings of key terms and concepts. Specific program recommendations that emerge from this study's findings include:

1. Help teachers to develop classroom management skills that exemplify rule of law norms;
2. Help school directors develop approaches to school management that manifest rule of law norms and democratic processes;
3. Design foreign-supported programs to cultivate new relationships, teams, and networks within which constructive communication and collaboration can flourish;
4. Strongly support substitutes to compensate for the absence of experience-based civic learning or political socialization during post-authoritarian transitions;
5. Assess the impact of civic skills and approaches on school climate and teacher retention; and
6. In partnership with teacher-training institutions, create model schools that can be professional development hubs for student teaching experiences and leadership practicums, thereby seeding other schools.

These approaches, when combined with existing guidance from earlier studies and lessons learned for the reform of formal civic education coursework, will help to advance a more pervasive and sustainable commitment to rule of law norms in transitional societies.

## INTRODUCTION

The rule of law is as much a cultural as an institutional achievement. After the collapse of the Soviet bloc, governments across Central and Eastern Europe moved quickly to adopt or restore democratic constitutions and institutional structures that were consistent with the rule of law. But the rule of law and democracy will lack legitimacy and remain vulnerable unless citizens come to see these systems as both effective and morally correct. Consolidating institutional change may require decades, if not generations, because building broad public support for and understanding of the rule of law is at its heart a process of cultural transformation. We need to understand how rule of law norms function throughout society in everyday life.

How do societies build public support for the rule of law? In the early 1990s, the international community's answer was civic education. Civic education courses were the obvious means for advancing knowledge and understanding of government and the principles of a democratic society under the rule of law, not least because civics had consisted of the "red subjects" in the Soviet era: the dialectical materialism of Marxism/Leninism. Western governments, non-governmental organizations (NGOs), and multilateral organizations invested years and millions of dollars into civic education reform across the region after the fall of the Berlin Wall. In retrospect, it is clear that these efforts, while mostly positive and successful, were too narrowly conceived. The reforms were generally successful in rooting out communist propaganda and introducing more interactive teaching methods. But the backsliding in ostensible successful transition countries like Poland and Hungary shows that more was needed to foster a sustainable rule of law culture.

In long-standing democracies, the political socialization experiences of everyday life play a central role in fostering support for the rule of law. These experiences are reinforced by traditional

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civic education coursework in schools. Societies transitioning out of authoritarian rule, however, cannot provide these kinds of socialization experiences. The citizens in post-authoritarian contexts who do get the opportunity to be immersed in another culture, to work for an extended period in a professional capacity abroad, often learn these lessons quite powerfully and become agents of change at home. Their experiences provide us with critical insights into what elements of culture most need to change in order to advance the rule of law, and how we might best support them.

This study explores how schools can promote cultural norms and practices to advance the rule of law in post-authoritarian contexts. With support from JUSTRAC, the researcher traveled to the Baltic states of Estonia, Latvia, and Lithuania to interview civic education specialists, textbook authors, curriculum specialists, the staff of NGOs, professors of education and law, and teachers. In preparation, the researcher conducted a desk review of literature about civic education reform and the rule of law. The researcher built on the insights from the Baltic states with additional interviews in Romania. Estonia was the focal point because the author had knowledge of the cultural context and the language, but also because Estonia ranks among the world's leading countries with respect to the rule of law and general educational performance.<sup>3</sup> This paper is not a foreign critique of post-communist countries' deficiencies, but an effort to understand the challenges posed by the legacies of authoritarian rule; the processes of transformation that unfold at the individual, institutional, and cultural levels. Estonia, for example, has managed its achievements despite the challenges it experienced and continues to face.

The paper finds that while post-authoritarian school systems must immediately reform civic education courses, they must also promptly undertake longer-term reforms that address society as a whole. Schooling can play a crucial role in advancing broad public support for the rule of law in

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transitioning societies, especially if those societies develop civic learning opportunities for all age groups. Reform efforts should focus particularly on the civic learning of teachers, classroom management, and how schools are run. Other key issues include reforming civic education, promoting professional exchanges internationally, supporting collaborative rule development for behavior management and school discipline, engaging parents and communities in the functioning of the school, and embracing three powerful approaches to learning: competencies, transversal skills, and cross-curricular integration for younger children.

The rule of law rests upon a set of values that can be found throughout society. The World Justice Project's (WJP) definition of "rule of law" identifies a set of underlying norms like fairness, transparency, responsibility, democracy, and accountability: "A system of self-government in which all persons, including the government, are accountable under the law; a system based on fair, publicized, broadly understood and stable laws; a fair, robust, and accessible legal process in which rights and responsibilities based in law are evenly enforced; and diverse, competent, and independent lawyers and judges."<sup>4</sup> Several cultural characteristics of the rule of law are important to this paper's analysis:<sup>5</sup>

- Broad public understanding of and support for the rule of law;<sup>6</sup>
- A rule of law culture applies to society as a whole;<sup>7</sup>
- A sense of interconnectedness and mutual responsibility; and<sup>8</sup>
- Dialogue, transparency, building relationships, and understanding others' perspectives.<sup>9</sup>

Because these values and practices are significantly impeded by authoritarian rule, we must ask what a rule of law culture looks like to experts and educators in transitioning societies. The

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participants in this study emphasized stronger habits of communication and cooperation, and the empowering possibilities of rules and rulemaking. When people work together to solve issues of shared concern by developing and agreeing to rules and procedures, their view of the law can be transformed. The law is no longer perceived as an instrument of government oppression; it is a tool that people can deploy together for the common good. Legitimacy is earned through the process (participation) and its outcomes (effectiveness). Mindsets change and are manifested in new patterns of behavior: in this way, the rule of law comes to exist, as Thomas Carothers put it, as “a normative system that resides in the minds of the citizens of society.”<sup>10</sup>

### **SCHOOLS AND CULTURAL CHANGE FOR RULE OF LAW NORMS**

Rule of law norms can be cultivated in schools. While civic education courses were the obvious place to promote the knowledge, skills, and attitudes necessary for citizenship, such courses are just one piece of the puzzle, and as a USAID study revealed, “civic education programs appear to have little effect on changing democratic values.”<sup>11</sup> A transitional society must also pursue broader civic learning—beyond childhood and beyond the classroom—to reinforce values, attitudes, and habits across social contexts and across time. UNESCO proposed a deeper conception of the relationship between education and the rule of law, suggesting that schools can encourage “learners to value and apply the principles of the rule of law in their daily lives, allowing them to make decisions that are ethically responsible” and equip “learners with the appropriate knowledge, values, attitudes, and behaviors they need to contribute to the continued improvement and regeneration of the rule of law in society more broadly.”<sup>12</sup>

This paper therefore distinguishes between “civic education”—explicit instruction in school courses—and “civic learning”—all processes by which citizens learn to embrace and function in

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societies that operate according to the rule of law. Civic learning includes not just formal coursework, but other aspects of accumulated learning in and out of school. Scholars have different terminology for these kinds of learning. At a basic level, “informal learning experiences are unconscious,” forms of tacit learning that “we know but we cannot tell.”<sup>13</sup> Blair describes the importance of these experiences: “In the industrialized democracies, people absorb these virtues over a lifetime, beginning in their formative years as they participate in neighborhood life, join local organizations like scouts and churches, move through the educational system, and utilize the media. Citizens, in short, become socialized in the mores of a democratic culture as part of growing up.”<sup>14</sup> Informal learning experiences, guided effectively, are impactful forms of experiential learning, “in which knowledge and abstract concepts are developed through overlapping processes of observing, reflecting, and experimenting. Learners apprehend the subject through direct experience.”<sup>15</sup>

Only when the classroom lessons resonate with students’ accumulated experiences of daily life do we approach the kind of encompassing civic learning that is characteristic of a rule of law culture. Such civic learning is lifelong learning, spanning ages from early childhood programs through adult education, and informal as well as formal learning.

Surprisingly, when educators and civic education specialists across the Baltic States reflected on the most promising opportunities to build deeper public support for the rule of law, they did not name civic education. Their views reflect the research consensus, however: “as a whole, civic education failed to show a consistent positive effect on the democratic values of program participants.”<sup>16</sup> What could? They consistently emphasized the importance of lived experience—not classroom practice—as the greatest need for their societies to build a rule of law culture. The organization of life in schools may be more impactful than the content transmitted there: “schools

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that cultivate environments in which students have opportunities to actively participate in organizations, clubs, and groups tend to produce more civically knowledgeable and engaged students.”<sup>17</sup> They wanted cultural change. What kinds of civic learning were needed to promote cultural change? Paradoxically, they highlighted not individual learning outcomes, but interpersonal dynamics and skills like cooperation.

An Estonian explained that he wrote a civic education textbook in order to cultivate “the habits of cooperation” but found that “if you want to change attitudes, you have to be in the surroundings where the counterproductive aspects of interpersonal relations hit you literally every day.” The key civic concerns, he felt, were to be found in the patterns of ordinary life. The behaviors that concerned him had developed in response to Soviet domination, but persisted post-transition. They had become habituated and endured even once independence was regained. A Latvian expert similarly argued that the key was to develop students’ “sense of community and understanding that they had to collaborate in a constructive way, starting with their peers or classmates or school, and to build these deeper understandings that people can improve things—how they work together—only through collaboration.” A Lithuanian specialist was precise that daily life in schools had to be transformed: “The content of civic education is changing all the time, but the biggest problem is democracy in schools, to have real democracy in schools. Functioning democracy.”<sup>18</sup> A Romanian teacher felt strongly that the approach to governing the classroom that he had learned as an exchange teacher in the United States was a model for all of Romania: “this [approach] should be made on a big scale for the nation!” The principles operating in good schools could transform the broader society.

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Advocates for democracy and the rule of law want to see their societies develop the habits of communication and cooperation that band people together to promote change. They want citizens to see rules and the law not as the tools of oppression but as a positive resource that can help them work together collaboratively to address issues of common concern. Schools are well positioned to promote these qualities among students, and not just through traditional coursework. By being attentive to the larger political socialization of students in schools—and through collaborative approaches to classroom and school management—schools may cultivate rule of law norms, adhere to rule of law principles at an institutional level, and influence parents and communities more broadly.

The idea of change moving from lower levels to higher is not altogether fanciful, and it aligns with the shift from a narrow institutional focus towards concern with everyday culture. The demise of authoritarian, centralized power created new spaces for individuals to shape their own lives and communities. Burawoy and Verdery argued that changes in everyday practices at the micro level can “produce autonomous effects that may have unexpected influence over the structures that have been emerging...the disintegration of the system world has given freer rein for the lifeworld [the processes of daily life] to stamp themselves on the emerging economic and political order.”<sup>19</sup> It is critical to be attentive to “the sudden importance of the micro processes lodged in moments of transformation.” While foreign interventions often look to top-down change, this observation validates the importance of enabling bottom-up changes by working systemically through communities across a country, and the school is a hub for doing so. Bottom-up change not only complements centralized efforts, but can produce constructive tensions if and when the government itself functions as an obstacle to change, rather than a facilitator of it. The dilemma for foreign

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partners about whether to work with government and/or civil society involves the trade-off between the prospects of reaching all students systematically or achieving often haphazard coverage. Due to the risks of relying on one strategy, a hybrid approach often provides the greatest likelihood of impact. Bottom-up changes that have prospects for lateral influence are more promising still.

In addition to bottom-up cultural change, we need to consider change from the inside out. Individual mindsets and behaviors change first, and then, through interactions and relationships with others, those individuals may begin to shift the direction of institutions and cultures. But the changes they seek cannot be measured through our typical approaches; we normally evaluate students as individuals, only at the cognitive level, and with a focus on simple information recall with questions that have clear right and wrong answers. Teaching students how to engage in discussions cooperatively, even across multiple and diverse points of view, requires a different approach. While it is not difficult to transmit knowledge, influencing people's attitudes, dispositions, and behaviors is more easily accomplished through experience than through traditional instruction. As Romania's ambassador to the United Nations, Simona Miculescu, expressed the challenge,

“You can create laws, you can change laws. But changing the mindsets of a nation that was brainwashed for decades? That's the toughest job, the slowest process, and also the most important objective when trying to build a democracy.”<sup>20</sup>

Schooling can play a role in developing culture. Experts have identified the creation of norms as the fundamental connection between rule of law and culture.<sup>21</sup> Norm reconstruction may be more apt than norm creation, though at times, it is necessary to introduce new norms.<sup>22</sup> More frequently, it requires explicit discussion of implicit values—learning to bring implicit beliefs and values to the surface in order to deliberate on their meaning and clarify understandings. This process

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can help members of a transitioning society to decide for themselves what values and cultural patterns were shaped, subtly or profoundly, by authoritarian rule.

### **IDENTIFYING AND CHANGING AUTHORITARIAN LEGACIES**

How did authoritarian rule impact culture? This section presents the perspectives of educators and experts from the Baltic States and Romania on what they believe needs to change to overcome the Soviet legacy, and how. Most of these individuals had extensive experience in countries beyond the Soviet bloc, which provided them with insights into the dynamics of life and civil society in long-free societies. Their critiques of the legacy of Soviet power and ideology on individuals, institutions, and culture itself provide important insights for promoting public support for rule of law norms. Ideology and power, however, put their stamp on culture in different ways.

These cases, though all within the former Soviet bloc, have clear implications for the transitions of other post-authoritarian states. Although some elements are particular to the Baltic and Romanian contexts—Marxist/Leninist or communist ideology, for example, and the dramatic population loss that occurred through economic integration with the European Union—authoritarian rule has many common features. Purging old ideological materials was a driving force for program implementers and donors involved in the early stages of transition, but this study finds that the most damaging legacy of Soviet rule was the social isolation produced by this system. The oppression and isolation inhibited communication and cooperation, and produced a constricted understanding of the law and the individual's relation to it.

#### **Educators and the Legacy of Soviet Ideology**

As the Soviet collapse approached, public support for Marxism/Leninism was not high. Explicit doctrines were largely displaced and ideology's influence was felt more indirectly, embedded

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in the material and cultural life experiences of people. Most adults had more difficulty adapting to new systems and overcoming feelings of disillusionment, cynicism, and powerlessness. During the researcher's study of Estonian civic education reform between 2001-2004, only one civic education teacher acknowledged that she had believed Soviet ideology. Accepting that her beliefs had been fabrications was a slow and painful process.<sup>23</sup> By 2018, adults nearing retirement felt more comfortable acknowledging that they embraced Soviet doctrine when they were young and idealistic, but they all experienced deep disillusionment at some point, particularly upon the suppression of the Prague Spring in 1968 and the invasion of Afghanistan in 1979.

Once the Soviet period ended, textbooks and other remnants of Soviet ideology were simply discarded or sold to tourists. Soviet ideology was displaced rather than deconstructed, the result more taboo than autopsy. Still, criticism of the Soviet Union, and particularly its material and cultural aspects, could be taken personally. When teachers responded negatively to a passage in his civic education textbook that critiqued the Soviet Union, the author observed, "it is quite understandable that many civics teachers feel criticized when you criticize the Soviet system." His wife, when "visiting her completely non-communist cousin here in the 1970s...offered some criticism of Soviet films, and the cousin took it personally, 'ok, so you don't like our films.'" Though the films were both Soviet and in Russian—foreign ethnically and politically from an Estonian perspective—they were fundamental aspects of their cultural and life experiences.<sup>24</sup> Cultural change can never be a wholesale rejection of what came before, however problematic; blanket condemnations are often counterproductive, and people need opportunities to grapple with such complexities.

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The Soviet ideological legacy lingered at a more subconscious level in people's wariness of exploitation or concern about unequal outcomes in the new economy, which violated notions of economic fairness advanced in the Soviet era. This ideological residue was embedded, as Stuart Hall put it, in common sense, which reflects "the traces of previous systems of thought that have sedimented into everyday reasoning."<sup>25</sup> Kharkhordin dates this process, where "official terminology took root in people's cognition of life," to the period 1960-1980, a period of normalization, according to Yurchak, when people were becoming accustomed to the system.<sup>26</sup> The meanings of words shifted, and with them, ways of seeing the world.

The infusion of ideological thinking into everyday language shapes the nuances and associations of common words in problematic ways. One professor of law indicated that his teachers and administrators had come to understand the term "responsibility" as nothing more than a list of tasks. Rights and responsibilities are core concepts in the rule of law.<sup>27</sup> For them, it meant not a broad civic principle of mutual responsibility, but a to-do list. This impoverished understanding of responsibility, itself produced by authoritarian rule, demonstrated that even among native speakers of the same language, common words can fail to convey meaning effectively. Training programs cannot transmit information or ideas if even correct translations do not transmit the intended meanings. Partnerships need to incorporate methods that bring underlying values to the surface, that make the implicit explicit, and that allow subtle meanings to emerge. When educators and specialists identify cultural practices that need to change in order to advance rule of law norms, those behaviors reflect underlying patterns of thought, thoughts that are constituted by these meanings.

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## **From Adaptations to Habits: The Legacy of Soviet Power**

How can societies identify the long-term impact of authoritarian rule, decide what needs to change, and pursue such change? There is no question that authoritarian rule influences people's behavior. Over time, people develop habits to adapt to living under authoritarian power. Once such adaptations become habits, they may seamlessly blend into the patterns of everyday life as cultural norms rather than habituated responses to oppression. If they come to be perceived or accepted as intrinsic aspects of traditional culture, they may become assimilated into conceptions of national identity, which is dutifully defended, rather than as responses to power that people are eager to change.<sup>28</sup>

Given the potentially high sanctions for deviating from the Soviet line, the safest course of action was often self-suppression—silence and inaction—or reluctant acquiescence, paying lip-service to the prescribed views (what scholars call “preference falsification”<sup>29</sup>), behaviors that often carried with them a troubling double-consciousness. The inhibited patterns of communication and cooperation that developed in response to authoritarian rule may persist because the removal of the instigating cause is often not sufficient to produce a return to earlier patterns. More conscious and deliberate approaches are needed to address the habituated responses to authoritarian rule.

Conduct that was necessary under authoritarian rule is often counterproductive in a free society. The same behavior often has profoundly different meanings in different political circumstances. Romanians, for example, often were compelled to siphon off resources from the government when they could, to participate in the black market and to cheat generally under Ceaușescu, Romania's long-time dictator, but these practices—even if they were normal and necessary in that context—now indicate criminality and corruption, undercutting the efficiency and

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effectiveness of institutions.<sup>30</sup> Civil society staff members who necessarily operated within long-established circles of trust were now guilty of nepotism and undermining meritocracy.

This phenomenon could undermine the promotion of rule of law norms in civic education courses. In Soviet times, teachers often adopted an aloof and distant posture when presenting the mandatory “red subjects” in order to undercut the propaganda. This style of teaching, unengaging and ineffective, was ill suited to a dynamic post-authoritarian civic education. School students who assisted each other on tests and assignments as a form of mutual caring, solidarity and resistance to a system that lacked legitimacy in their eyes were now cheaters. University students who displayed deference, respect and allegiance by dutifully submitting assignments that were copied directly from approved communist authorities—because the only safe thing to say was something that had been said safely already—had developed the habit of plagiarism. Political changes require people to cast aside forms of behavior that provided safety and security under oppressive regimes; these habits are no longer a refuge for navigating periods of profound uncertainty, but a threat to those changes.

### **Rebuilding Civic Habits of Mind and Cooperation**

The Estonian civic education textbook author illustrated the kinds of cultural changes he felt were necessary to build rule of law norms with examples of the counterproductive behaviors he felt were characteristic of the Soviet authoritarian legacy in Estonia. Oppression spurs people to only look after themselves, inhibits communication and cooperation, and impedes a sense of mutual responsibility. Recalling an experience in which he and a colleague struggled to load 15 large boxes of books into a truck as the driver stood idly by, he observed that: “A free person, where he sees that someone could need help and he has nothing else to do, he steps in and helps precisely because he is not obliged to do it. He shows his free will and his initiative.” The habit of keeping to oneself

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was common, not exceptional: on the return trip, his colleague soon expressed a similar sentiment when he proposed to drop off four of the boxes to another department: “No, this is not our task.” He replied, ‘Yes, it is not our task. But think what a hassle it would be for them to get the truck, or carry them with several people a long distance, well, it’s nothing for us.’ [That is] civic thinking.” Keeping to oneself is accompanied by deterring others from making requests of you. When a long-awaited international call arrived for this professor, a colleague picked up the phone and, without consulting him, said, “No, he’s not here...No, he’s here, but he’s busy.’ ...His Soviet reaction was instinctively that if you can block communication, do so. Knee-jerk reaction, just in case, block it.” Impeded communication and a narrowed sense of responsibility inhibit initiative, communication, and civic action. They appear to be common in post-authoritarian settings.

Under authoritarian rule, people lack the freedom and opportunity to verify most official claims. Unable to check, people have little recourse but to live with their suspicions. Pervasive distrust and suspicion abounded, and suspicion, rather than verification, becomes a habit of mind. With no factual anchor or reference point, people have faith only in their distrust of authority and their sense that they can decipher the realities behind such claims. An Estonian lawyer shared an anecdote during a Street Law seminar in rural Estonia that illustrates the mindset that must be engaged to advance rule of law norms. The apocryphal tale, told just months after the September 11<sup>th</sup>, 2001 attacks, concerned an office full of recent Russian immigrants who worked on the 100<sup>th</sup> floor of the World Trade Center. When a voice on the intercom assured them that everything was fine and they should stay where they were, they said, “we have to get the hell out of here!” and escaped with their lives. Distrust of and disobedience to authority—positive virtues in this view—saved them: people should not trust the government.<sup>31</sup> Suspicion and distrust, combined with

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confidence that one can discern the underlying realities without reference to evidence, can produce a high susceptibility to conspiracy thinking.<sup>32</sup>

Although scholars place an almost automatic emphasis on the concept of trust, the example of Estonia suggests that distrust, properly channeled, can be a powerful and constructive force in building the rule of law. Distrust, some Estonians argued, provided the foundation for constructing a highly transparent government, less susceptible to corruption. Estonia's high rankings in WJP's Rule of Law index stem precisely from its high levels of distrust. It may be more apt to distinguish between productive distrust of the Reagan/Gorbachev variety ("trust but verify"), and dysfunctional distrust. The difference between constructive and destructive distrust, between positive skepticism and nihilistic suspicion or cynicism, may be precisely access to evidence and multiple perspectives and the habit of consulting them. At its root, the questions, 'how do we know?' and 'how can we find out?' can shift this mindset. If so, it has profound implications for education reform, could diminish problematic rates of Holocaust denial and obfuscation, and make people less susceptible to conspiracy theories.

### **Law and Rules in Schools and Society**

Just as basic concepts like responsibility may have fundamentally different meanings even within a shared language and culture, implicit understandings of the law can vary considerably under the surface, complicating the work of international donors and program implementers. A Latvian civic education specialist identified conceptions of the law that were promoted by foreign partners:

“American model Civics programs favor more individual liberty and responsibility, while European programs emphasize the social network and sense of belonging to various social groups, from family to neighborhood, and from native town to

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country and nation.... In the American Civics model, the focus [is] Law and Constitution, or more precisely, Fundamental principles of constitutionalism, as a base of democratic politics.... The society here is basically the playground of the responsible individual.... European curriculums endorse lawfulness but in a different way.... [Laws] are products of Parliament and tools of government, which are constantly changing. They represent the changing tasks of new policies implemented by changing governments, according the popular vote. In a way, the perception of Laws in the concept of democracy in European Civics is more diverse and complex... flexible and subject to short term social agreements through political processes, rather than surfaces of underlying Constitutional concepts or fundamental principles as in U.S.”<sup>33</sup>

While rule of law norms can be manifested in diverse forms, these philosophies stand in stark contrast to the conceptions of law in post-authoritarian societies. In this study, post-authoritarian societies displayed four primary implicit perceptions of the law: first, authorities creating the laws are often perceived as distant and unresponsive; second, law is experienced as an unaccountable product and expression of power, if not a tool of state oppression; third, laws are believed to unduly limit individuals’ autonomy and freedom to say and to do what they want; and fourth, laws may be perceived as a foreign imposition rather than as a domestic or local creation.

In general, law was seen as a form of social control by the state, and citizens need protection from the state. Laws inhibit rather than enable freedom, and the government is the threat. As a Romanian teacher explained, many Romanians, including students, feel that: “‘We don’t accept rules, we don’t want rules,’ they say, ‘We want to be free.’” One of the first Estonian civic education

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textbooks expressed the idea outright. An Estonian legal expert pointed out a passage that defines the rule of law to mean “the right to have different opinions and to just advocate them freely.... In that first period after the Soviet era they were focused on the government as the threat to freedom. The rule of law is just protection of citizens from state issues.” While ordinary people may experience laws primarily as tools of social control, they may find remaining laws to be legitimate but, because they are means to prevent and punish criminality, mostly irrelevant to them. Law is equated with punishment.

The perception of law in the Baltic States as a foreign imposition certainly developed during its long subjugation, but was exacerbated by its accession to the European Union. For the half-century of Soviet hegemony, the law was clearly imposed by a foreign power. The small Russian minority quadrupled in size and gained a privileged place during the Soviet era, while the population of Latvia was almost evenly split (Lithuania’s Russian minority was much smaller). The invasions, population transfers, deportations, and Soviet Russification policies were seen as attempts to wipe out the local languages and cultures; the national populations felt an existential threat. The law was thus not only foreign, but specifically Russian, and not just oppressive, but for some, associated with a perceived Soviet genocide. While foreigners were largely dismissive of such feelings, they remain widely held. Seeking security from Russia after independence through NATO and EU membership, the Baltic states were required to adopt fully-established laws and procedures, including the 80,000 pages of the *acquis communautaire*, the “the accumulated body of European Union (EU) law and obligations from 1958 to the present day.”<sup>34</sup> Brussels was likened to Moscow and many perceived a sacrifice of autonomy and self-determination. The law was once again imposed and foreign.

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## SCHOOLS CULTIVATING A RULE OF LAW CULTURE

The school is a crucial vehicle for long-term and bottom-up processes of change in society. The influence on children unfolds over the long term, because it takes decades for a generation of schoolchildren to gain a critical mass in positions of power and influence across the economy and in government. Children spend roughly a decade learning in schools, and most of the next decade in the lower rungs of society and the economy. They begin to exercise their right to vote and take employment, functioning within the existing institutions and systems they encounter. Three decades is too long a period to rely on education reform to support such significant changes in society, but young people can have a greater impact if they are supporting and sustaining existing practices rather than “swimming upstream” against powerful forces. In this sense, schools are better equipped for reproducing the power relations in society than for promoting cultural change, which would require the trickle of new students entering society at the bottom levels to shift its direction.

Schools can expand their influence, however, by broadening their engagement with parents and communities. Schools are able to involve a wide array of adults in meaningful experiences of participation and governance, from teachers to parents and community members. By thinking more expansively about the ways that schools can engage a broad swath of societies’ adults, we find promising opportunities to expand public support for the rule of law. This more comprehensive conception of the role of schools in a free society enlarges our focus across subject matter, age groups, and educational functions.

Together, these shifts in focus involve changes in fundamental cultural characteristics, including how people communicate, cooperate, and relate to rules and rule-making. These aspects of

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everyday life are deeply impacted by long-running authoritarian rule, but can change to cultivate positive norms, including public support for the rule of law.

The learning that specialists advocate occurs not through direct instruction alone—the transmission of knowledge—but through developing skills and changing attitudes, outcomes that are often achieved through guided experience. Traditional lecture-style teaching is focused on transmitting knowledge and maintains unequal power relations: one person is authoritative and authoritarian, the source of truth, and judges a student’s adherence to it. But as a Latvian official insisted: “A knowledge-based curriculum fits perfectly well if you want to create an authoritarian society. That’s tested and proved.” The International Association for the Evaluation of Educational Achievement (IEA) civic education study affirmed that “postcommunist countries...performed relatively well on the knowledge aspects ...but poorly on the skills-based elements.”<sup>35</sup> It was also consistent with the pedagogy practiced behind the Iron Curtain. This specialist advocated a shift from knowledge to competencies and transversal skills, from what information students retain to what they are able to do. This change requires embracing forms of education that shift the focus from traditional pedagogy to critical civic skills. What are the civic competencies?

“These transversal skills as we call them—which [consist of] collaboration, participation also critical thinking, discussion, culture and skills—are critically important... but they never had been successfully integrated in a curriculum level and syllabus level and textbook level so they will really become practice, not just words.”<sup>36</sup>

The emphasis on transversal skills or competencies marks an important movement in education reform and addresses key issues in a rule of law culture. While knowledge is often

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domain-specific, transversal skills are defined as those that can be used in a wide variety of domains.<sup>37</sup> Critical thinking, discussion, and cooperation can be incorporated into most subject areas (cross-curricular integration). Because civic education courses face a bottleneck problem—much content in a short time, with little room to add or change anything—cross-curricular integration is a powerful strategy for advancing transversal skills that advance rule of law norms.

Programs that are built around competencies rather than domain-specific knowledge are highly adaptable to other contexts, as one particular success story from civic education partnerships revealed. One American program that flourished in Lithuania and Latvia, Project: Citizen, engages students in a collaborative problem-solving process that can be applied anywhere and is based on students seeking out the local civic knowledge they need to address issues. With this approach, knowledge is not a set of predetermined facts to be absorbed, but a tool the students need to achieve their goals. Although this program, like Street Law programs, was implemented primarily as an extra-curricular activity and was not incorporated into a national curriculum in a way that had deeper systemic impact, its adaptability to local contexts and development of transversal skills of communication, cooperation and critical thinking provide a model for other programs to emulate. This transition from knowledge retention to competencies also sets the stage for shifting attitudes about rules.

### **Changing Students' Attitudes towards Rules**

The common but problematic post-authoritarian perceptions of laws—that they are created by distant, unresponsive authorities and function to limit freedoms as tools of state oppression—continue to influence youth and are reflected in students' attitudes towards the rules and procedures in their schools and classrooms. Teachers from post-authoritarian societies who have the

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opportunity to work in other countries frequently report that the experience was transformative. For this study, the researcher reanalyzed a database of interviews with Romanian teachers who worked on temporary exchange visas in American schools before returning to work in their home countries, and then returned to Romania to conduct follow-up interviews specifically focused on how schools can develop rule of law norms.

The nature of the transformation stems from the patterns of cooperation and communication that they experience in schools, and particularly in the newly learned approaches to “discipline.” What they termed discipline actually constituted a collaborative, open-ended approach to building and upholding rules and procedures with students in the classroom; these approaches followed rule of law norms, increased order, and improved academic performance. The efficacy of this approach gives it legitimacy among educators who are seeking or are under pressure to achieve better academic results. The fact that these powerful approaches to building rule of law norms function as a means to higher student achievement make them attractive to policy-makers and educational leaders who might otherwise be indifferent to programs that offer rule of law norms as their primary outcome.

Teachers from Romania who worked in American schools describe their methods with plain language that evokes rule of law principles: transparency, publicly known laws and procedures, equality before the law, consistency and fairness of application, the opportunity to participate in the shaping of laws, open communication, and justification/explanation of the purpose and intent of rules. A Romanian teacher learned a new approach to rules and rule-making in the United States and found it had a transformative effect not only on his Romanian students, but even on their parents. To learn this process, he was introduced to the approach during an orientation, was immersed into

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an institution that practiced it, and had sufficient experience to develop mastery. Extended immersion in the new context was essential. He was encouraged not just to take a certain approach to rules, but to observe and emulate what others in the school did:

“They told us in the workshops you should establish not too many rules, no more than five, and that’s very good. Some simpler rules, but to create a good atmosphere for study. And you should think what rules are, your rules are, and go and see the colleagues, the American colleagues what they have in their rooms, and we visit in the rooms, we fill the rules....”

The notion that rules exist to create a good atmosphere is a stark contrast to common perception that laws and rules are tools of state oppression. His experience validated the idea that rules are a means of achieving positive goals, a fundamentally different orientation to rules:

“I have changed my style of working with the students when I came back, I also made an agreement with my students, rules, and procedures for the good climate of math courses—I made some rules, some consequences, they accepted, they also had their propositions to make and change it.”

Many core principles of the rule of law are present here: the rules were not issued by decree, although he had the authority to do that; instead, the rules were established by agreement and achieved through negotiation. Further, the rules were explained and justified. An American civic education specialist who had worked all over the world similarly found that when he was confronted by expectations for bribes or other practices that violated the rules or ethics under which he operated, the most successful approach was to explain directly the reasons he was not following the local practice: justification, explanation, transparency and consistent adherence to rules proved quite

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powerful. He distilled key principles of the rule of law, though he was not directly familiar with the term:

“I hear this from almost all of the [returned] teachers I’ve talked to, that in America they learned the rules help people, they help everybody, you need to understand them, they need to be clear, they need to have consequences, they have to be followed consistently, and that makes things better for everybody.”

Transparency, consistency, fairness, and effectiveness work for the common good. The rules apply to everyone, they need to understand the rules, which must be clear, with predictable consequences and a series of escalating consequences for repeat violations.

### **Socializing Young Children into a Culture of Rules**

While rule of law norms can be discussed at a relatively sophisticated level with older children, it makes a difference if the concepts introduced are at odds with their experiences or consistent with them. They have more credibility in the latter case. Then discussions reinforce their intuitive sense of how things should work and how they can work well.

This study identified cases in which rule of law norms were advanced or promoted with young children. Their socialization experiences into rule of law norms prepare them well to have an intuitive understanding of the explicit principles of the rule of law that will be introduced later in their school years. Children can be socialized into rule of law norms not just in pre-schools and kindergartens, but even, with conducive parenting, at younger ages.

### **(A) Rule of Law Norms in the Kindergarten**

A critical aspect of developing a rule of law culture involves injecting thoughtfulness into the interpretation and application of rules. Laws and rules should not exist to be mindlessly heeded in their most narrow, literal sense.

One must be attentive to the spirit of the law. In that vein, to engage others in the thoughtful application of rules requires communication about their meaning and thoughtful reflection about not just what they mean for the individual, but what they mean for others, as well. A Romanian kindergarten teacher, influenced by her experience in the United States, adopted the rule that “everyone must have fun.” While the students immediately grasp the benefits of the rule for themselves, however, they come to understand that it requires restraint, observation, and sometimes positive interventions to ensure that others are also having fun. As the teacher explained,

“In the Busy Bees class, because we are the bees, everybody is having fun. And now we have to define what fun is. I can be very entertained in making fun of you, but that’s not fun for everybody, because the children that you make fun of are not very entertained. Everybody having fun means every child, but also the teacher needs to have fun. So if I have to repeat one thing 100 times that’s not fun for me anymore. So you might be breaking a rule. That covers a lot. This rule covers a lot.”

This passage illustrates a number of themes that connect to rule of law norms, with implications for children’s socialization into the law. They do not regard rules as externally imposed by an authority figure, but experience them as a shared set of norms that they all have responsibility to maintain. The idea that this rule covers a lot, that it has many meanings and applications, advances a notion that the rules are complex and nuanced, and must be applied thoughtfully to a

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range of situations. Their repeated exploration of what this rule can mean requires depth and interpretation and defies problematic habits of mind that seek to impose a single, self-evident meaning to a rule, law, or for that matter, any text.

Another example concerned the different kinds of conduct expected inside and outside. Established rules are publicized, and at the kindergarten level, such publication often consists not of text but of drawings that hang around the room—a moral landscape—and illustrate the rules and the behavioral expectations they represent:

“We try to make them use their walking feet indoors, in the classroom, so there’s a procedure for that. So when somebody tries to do something, to run over there, you just have a few girls that go, ‘look, see. What kind of feet are you supposed to use?’ And they show them the picture.”

What is remarkable in this account is that the students have developed a sense of ownership and collective responsibility for the rules so that they work cooperatively to uphold the rules. They are expressing a deeper sense of interpersonal connection and responsibility that eclipses the constrained, task-based notion of responsibility that had been produced by authoritarian rule.

### **(B) Parenting and Rule of Law Norm Development**

Not only is kindergarten an appropriate level to use these socialization processes to develop rule of law norms, but a similar approach can be used in the parenting of young children, according to an Estonian author concerned with empowering young children. This author applied his notions of civic learning to parenting and how to raise young children. In his view, parenting too often consists of “don’t do, don’t do, don’t do,” where boundaries and limits are imposed by adult authority rather than through justifications or by consent, key processes for developing legitimacy.

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The mass of rules may feel arbitrary and oppressive to young children. Surrounding them by dense networks of externally imposed limits—particularly when they do not understand the reasons for them—creates, he argues, an incentive for them to violate these restrictions when they are not actively enforced by the presence or gaze of the parent. Children are more at risk through this approach because no clear division has been established between minor risks and serious ones.

His philosophy instead encourages students to develop their own judgment about what they can and should do through supervised experience, allowing them to experiment and deal with the consequences, even if they might hurt (but not injure) themselves. This approach does not establish a test of wills between young children and adults. Trust is established between the child and guardian. The legitimacy of the rare barriers or warnings is accepted because boundaries are seldom imposed and warnings given only for serious danger, when injury could result.

### **RECOMMENDATIONS**

This study sheds light on the problematic legacies of authoritarian rule on culture and ordinary life that undermine public perceptions of the law, communication, cooperation, and rule of law norms. The paper also documents concrete mechanisms involving schools that have produced positive change in post-authoritarian contexts, from the individual to the institutional level. Two stand out as having particular promise, and they are interconnected: international immersion experiences for educators, and the collaborative approaches to rule making and enforcement in classrooms and schools that those teachers frequently adopt and advocate. The following recommendations address the problems that are identified through this study and offer suggestions for extending the successes identified on the ground, both through extending what has proven to

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work and, for resource-intensive interventions that are prohibitive to scale up, by proposing alternative means to pursue the same ends. The findings here affirm the value of recommendations made by earlier studies; illustrate why some such recommendations have particular value in post-authoritarian settings; and enable those who design, fund, and implement interventions to better prioritize among the many possible opportunities when means are limited.

The findings of this study help us understand why some of the recommendations are likely to be effective for rule of law in post-authoritarian contexts, as well as understand how to prioritize them. Recommendations to embrace participatory methods; to attend to gender issues; to integrate opportunities for participation; to ensure relevance to daily life; to train trainers; to avoid inflating expectations; and to engage parents, teachers, and administrators are all compatible with the findings of this study.<sup>38</sup> These recommendations contribute in various ways to ensuring that crucial patterns of communication, cooperation, and relationship-building take place in ways that include multiple perspectives from different sets of life experience. Street Law’s 2018 review extended these earlier recommendations to include the value of teaching controversies and current events, service learning, extracurricular activities, and simulations of democratic practices as valuable practices in civic education. Teaching controversies in post-authoritarian settings is particularly important for building up new patterns of communication that include multiple perspectives and the habits of civil discourse that make collaborative reasoning possible. This report’s attention to student participation in school governance is particularly relevant for the rule of law because it shows positive outcomes for student voice and engagement even among students not elected as officers.<sup>39</sup>

UNESCO’s 2019 guide for policymakers, “Strengthening the Rule of Law through Education,” which was published during final revisions of this paper, provides a comprehensive

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approach to promoting the rule of law through schooling. The report is rooted in the framework of Global Citizenship Education, a key focus of the new UNESCO sustainable development goals. Particularly notable are its emphasis on developing transversal skills through the curriculum<sup>40</sup>—an approach highlighted in Latvia—collaboratively developed teacher codes of conduct, cross-sector cooperation between educators and other groups (for example, the police<sup>41</sup>), modeling lawfulness and transparency in schools, and engaging the community. This report also offers a number of constructive suggestions for extending the work occurring within schools, particularly through whole-school approaches, to engage and to influence the broader community. The particular needs of post-authoritarian settings can guide the kinds of interventions selected.

The following challenges to developing rule of law norms in post-authoritarian societies are matched with proposals for advancing change in these spheres.

**Problem:** Although international immersion experiences are powerful sources for teachers' individual transformations, such exchanges are too expensive to support on a large scale.

**Recommendation:** While the full assimilation of collaborative practices and rule of law norms that comes from international immersion for professionals is ideal, it is possible to promote classroom management methods that are consistent with the rule of law without such immersion or exchange experiences. These methods should be promoted as a means to achieve ends that are valued by the teachers and schools, such as improving classroom behaviors and student achievement. They can be advanced effectively through many channels, including trainings for school directors and teachers, and workshops for teacher-preparation programs and institutions. They are also amenable to public dissemination through, for example, producing and posting short videos illustrating the approach and its implementation.

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**Problem:** We lack evidence about the impact of rule of law or classroom management interventions on locally valued outcomes like student achievement or classroom behavior.

**Recommendation:** Programs should be carefully evaluated, with particular attention to key outcomes including student academic performance, classroom and school climate measures, teacher retention and burnout rates, and job satisfaction surveys. Teachers who assimilate effective classroom management methods appear to feel empowered, have higher job satisfaction, and experience lower burnout and attrition, and their students perform better. Documenting success in the local context can spur interest and demand from other local schools and provide them with a proven and accessible resource for how to go about it.

**Problem:** Effective rule of law approaches in the classroom may not be consistent with the school's approach to management and leadership.

**Recommendation:** School directors should be included as participants in programs to advance classroom management and rule of law norms. School directors are often tasked with instructional supervision, the responsibility to help teachers improve their teaching. Good classroom management is a foundation for better instruction. In addition, the rule of law principles intrinsic to good classroom management approaches can also be manifested in the leadership of the school and the way the school is run. Because the nature of school leadership also transforms in post-authoritarian societies, programs to instill rule of law principles among school directors and to introduce democratic school leadership approaches are particularly valuable. School directors' knowledge of the law and its underlying principles is often limited, and programs that pair directors with community lawyers as resources for the school may be particularly valuable.

**Problem:** While school management reforms show great promise for democratic school leadership and building rule of law norms, the scale is likely too vast for every school to provide a team consisting of a school director and several teachers from each school for specialized training.

**Recommendation:** Program providers should partner with teacher-training institutions and school leadership institutes to develop programs in model schools, as in professional development school networks. These model schools can become centers for pre-service training, e.g., student teaching, or the leadership practicum. New educators and leaders who experience these approaches can seed other schools with these approaches.

**Problem:** Cultural change is difficult to identify, harder to promote, time-consuming, and not conducive to measurement.

**Recommendation:** The model described here, in which adaptations to authoritarian rule become habituated into cultural practices, can be shared with program participants to invite reflection on the legacy of authoritarian rule and how they feel it should be changed in their societies. The longer-term processes of advancing cultural changes should be undertaken immediately, rather than postponed while other, shorter-term processes are addressed (such as purging ideological materials and producing immediate replacements).

**Problem:** Most adults in transitional contexts do not have access to civic education as adults and yet wield most of the power in the voting booth.

**Recommendation:** Adult civic education programs have shown promise in developing civic knowledge and improving voting rates. While prior adult civic education programs may not be focused upon rule of law principles and practices, this aspect of such programs could be strongly augmented for future implementation. Most adult civic education efforts have been small-scale. To

promote the rule of law broadly through adult education, a teacher from each high school should be specially trained to offer adult civic education programs, and support should be offered to them regularly. A sequence of four two-hour sessions in a month could be repeated at high schools in the fall and spring for 10-15 years after a transition is initiated. Ideally, these teachers would be paired with a lawyer in the community for training and for offering sessions (in most contexts, high schools will have a number of lawyer-parents). Each session could have a special topic and be designed to appeal to participants, e.g., “know your rights,” because parents are less likely to be attracted to a seminar on a potentially unfamiliar concept aimed at societal-level goals.

International programs to support post-authoritarian change—such as efforts to build public support for the rule of law—must work together with their participants to develop a shared understanding of what aspects of society need to change, and how. A process of collaborative problem-solving models the forms of communication that are so often undermined by authoritarian rule and enables local participants to reflect on both the changes that they see as desirable and the means needed to pursue such changes. Program participants need not just a vision of the desired endpoints (democracy, rule of law, a market economy), but some consensus about the starting point, the current state of affairs. This task requires program participants and their partners to think through carefully and collectively the problematic legacies of authoritarian rule.

In addition to the concrete programming recommendations, this study suggests a set of principles that can be infused into most professional development programs and work well to advance rule of law norms. First, finding ways to demonstrate respect for local expertise is critical. One approach consistent with this principle is to engage participants in collaborative problem solving—and particularly—collaborative problem finding (and naming). By having program

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participants articulate the challenges as they see them, program partners are positioned as potential assets in helping them address their own problems. In addition, rather than proposing a single right answer and path, providing a set of established options or a range of possibilities empowers partners as decision-makers whose local expertise is employed to critically assess the suitability of a range of possibilities for the local context.

These practices also embody the principle of including diverse and multiple perspectives, which provide new ways of looking at issues. Respect is also conveyed through inquiries into local culture and meanings. Because authoritarian rule can change the meanings of words and the use of language itself, even good translation is itself insufficient for clear communication. Program partners without local linguistic and cultural knowledge can nevertheless help the process by asking for explanations of what key terms and concepts suggest, their connotations, examples of what they represent, and so forth. Doing so often reveals diverse understandings among program participants.

Finally, acknowledging complexity is critical. Rather than simply trying to forget and turn the page on the past, it should be engaged critically. The difficulties, as well as the benefits, of change should be acknowledged. And the appeals, however problematic, of authoritarian regimes should be examined rather than bypassed. Even systems performing relatively well have warts and weaknesses; recognizing this reality can manage unrealistic expectations.

In sum, schools are well positioned to advance rule of law norms in society both through their explicit formal education programs for students like civic education, and also through their broader modeling of rule of law norms in classroom management, discipline, school governance, and community engagement. By building relationships within and through which civil discourse is possible and multiple perspectives from different life experience can be shared, new forms of

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cooperation can be developed that demonstrate greater effectiveness (in learning, in producing positive outcomes) and earn legitimacy for the rule of law both through its moral appeal and its desirable outcomes. By reconstructing patterns of communication and cooperation and transforming attitudes towards rules and the law, it helps to create a sustainable rule of law culture.

## ENDNOTES

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<sup>2</sup> UNESCO, *Strengthening the Rule of Law through Education: A Guide for Policymakers* (Paris: UNESCO, 2019), 19.

<sup>3</sup> For Estonia's performance in the rule of law, see the World Justice Project Rule of Law Index® 2017–2018. Alejandro Ponce et al., *World Justice Project Rule of Law Index: 2017-2018* (Washington, DC: World Justice Project, 2018), [https://worldjusticeproject.org/sites/default/files/documents/WJP\\_ROLI\\_2017-18\\_Online-Edition.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition.pdf). Estonia's top ranking among European countries for primary students' educational performance is discussed here: Estonian World, "PISA Study: the Estonian Basic Education is the Best in Europe." *Estonian World*, Dec. 6, 2016, <http://estonianworld.com/knowledge/occd-estonian-elementary-education-best-europe/>.

<sup>4</sup> American Bar Association, "Part I: What is the Rule of Law," *American Bar Association*, accessed April 24, 2019, <https://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part1DialogueROL.authcheckdam.pdf>.

<sup>5</sup> Leanne McKay, *Toward a Rule of Law Culture: Exploring Effective Responses to Justice and Security Challenges*, ed. Adewale Ajadi and Vivienne O'Connor (Washington, DC: United States Institute of Peace, 2015), 190, <https://www.usip.org/publications/2015/12/toward-rule-law-culture>. Also see Alejandro Ponce et al., *World Justice Project: Rule of Law Index 2014* (Washington, DC: World Justice Project, 2014), 1, <https://worldjusticeproject.org/sites/default/files/documents/RuleofLawIndex2014.pdf>.

<sup>6</sup> Leanne McKay, *supra* note 7.

<sup>7</sup> Alejandro Ponce et al., *supra* note 7.

<sup>8</sup> Leanne McKay, *supra* note 7, at 198.

<sup>9</sup> *Ibid*, at 200.



<sup>10</sup> Thomas Carothers, *Promoting the Rule of Law Abroad: the Problem of Knowledge* (Washington, DC: Carnegie Endowment for International Peace, 2003), 8, <https://carnegieendowment.org/files/wp34.pdf>.

<sup>11</sup> Sharon Morris, *Approaches to Civic Education: Lessons Learned* (Washington, DC: Office of Democracy and Governance, 2002), 1, [http://www.au.af.mil/au/awc/awcgate/usaidd/civic\\_ed\\_lessons\\_learned.pdf](http://www.au.af.mil/au/awc/awcgate/usaidd/civic_ed_lessons_learned.pdf).

<sup>12</sup> *Supra* note 2, at 10.

<sup>13</sup> Daniel Schugurensky and John P. Myers. “A Framework to Explore Lifelong Learning: The Case of the Civic Education of Civics Teachers.” *International Journal of Lifelong Education* 22, no. 4 (2003), 325-352.

<sup>14</sup> Harry Blair. “Jump-Starting Democracy: Adult Civic Education and Democratic Participation in Three Countries.” *Democratization* 10, no. 1 (2003), 53-76: 53.

<sup>15</sup> Erik Cohen, *Identity and Pedagogy: Shoah Education in Israeli State Schools* (Academic Studies Press, 2013), 121.

<sup>16</sup> Sharon Morris, *Approaches to Civic Education: Lessons Learned* (Washington, DC: Office of Democracy and Governance, 2002), 17, [http://www.au.af.mil/au/awc/awcgate/usaidd/civic\\_ed\\_lessons\\_learned.pdf](http://www.au.af.mil/au/awc/awcgate/usaidd/civic_ed_lessons_learned.pdf).

<sup>17</sup> Street Law, Inc., *Civic Education in the 21<sup>st</sup> Century: An Analytical and Methodological Global Overview* (Washington, DC: USAID, 2018), 4, [https://www.streetlaw.org/assets/site\\_18/files/articles/2018/civic%20education%20in%20the%2021st%20century%20-%20final%20pdf.pdf](https://www.streetlaw.org/assets/site_18/files/articles/2018/civic%20education%20in%20the%2021st%20century%20-%20final%20pdf.pdf).

<sup>18</sup> A USAID report prepared by Street Law, Inc., concurred that “teachers should create democratic classroom environments that allow students to practice the skills necessary for democratic participation in society.” *Ibid*.

<sup>19</sup> Michael Burawoy and Katherine Verdery, *Uncertain Transition: Ethnographies of Change in the Postsocialist World* (Lanham: Rowman & Littlefield Publishers, 2000), 2.

<sup>20</sup> As quoted in Leanne McKay, *supra* note 7, at 211.

<sup>21</sup> See, e.g., Rosa Ehrenreich Brooks, “The New Imperialism: Violence, Norms, and the Rule of Law,” *Michigan Law Review* 101, no. 7 (2003), 2275-2340. See also Thomas Carothers, *supra* note 12.

<sup>22</sup> Privacy is an example—as one Latvian civic education specialist noted, “Privacy then was a completely new concept. What is privacy? Why privacy? How to talk about it, and why and should we talk about privacy with small kids or older kids?”

<sup>23</sup> Doyle Stevick, “Civic Education Policy and Practice in Post-Soviet Estonia, from Global Influences to Classroom Practice,” *Unpublished Dissertation Indiana University* (2006).

<sup>24</sup> The author also shared an example of how these associations could be disrupted: “I remember buying my first...iron, that was 1992...or a little bit later. The sales lady, a young girl, was quite helpful, more helpful than was typical at that time. But she explained that ‘these are here and these are the Italian ones and our irons are cheaper,’ and I smiled and said ‘yes, *our* irons,’ and at this moment she realized that that was the Russian product—Estonia has been independent for a couple of years.”

<sup>25</sup> Stuart Hall, *Toad in the Gardens: Thatcherism Among Theorists* (1988), 55.

<sup>26</sup> Alexei Yurchak, *Everything Was Forever, Until It Was No More: The Last Soviet Generation* (Princeton: Princeton University Press, 2005) and Oleg Kharkhordin, *The Collective and The Individual in Russia: A Study of Practices* (Berkeley: University of California Press, 1999). As quoted in Kirsti Jõesalu and Ene Kõresaar, “Continuity or Discontinuity: On the Dynamics of Remembering ‘Mature Socialism’ in Estonian Post-Soviet Remembrance Culture,” *Journal of Baltic Studies* 44, no. 2 (June 2013), 177-203.

<sup>27</sup> The American Bar Association, for example, includes as one of the four elements of its definitions of the rule of law “fair, robust, and accessible legal process in which rights and responsibilities based in law are evenly enforced.” *Supra* note 6.

<sup>28</sup> One Estonian, for example, asserted a story that is plausible, and may be true but also reflects adapted patterns of communication: “For Estonians, online is much better, because we are still a kind of shy nation,” he said, explaining that this element of the national culture derived from low-density settlement patterns. “We would much rather send to each other e-mail, or short messages, or Facebook messages than meet each other.” Elena Lesley, “Improving Consultation and Cooperation to Create a National Strategy: Drafting Estonia 2020,” *Innovations for Successful Societies* (Princeton: Princeton University Press, 2014).

<sup>29</sup> *Ibid.*

<sup>30</sup> UNESCO helpfully acknowledges that in contexts where the rule of law is not an established principle, individuals may be obliged to participate in some lawlessness in order to survive. *Supra* note 2, at 31.

<sup>31</sup> It is also worth noting the form of the story: it is reminiscent of Soviet era jokes or anecdotes, one of the few forms in which criticism of the government could be safely disguised. “The Psychological Forces Behind A Cultural Reckoning: Understanding #MeToo,” *Hidden Brain Podcast*, Podcast audio, February 5, 2018, <https://www.npr.org/2018/02/05/582698111/the-psychological-forces-behind-a-cultural-reckoning-understanding-metoo>.” For decades, communism survived by making the populations it ruled afraid to express opposition to the principles of communism and express opposition to the dictatorships that were running the Soviet bloc countries.”

<sup>32</sup> Holocaust denial, for example, while not necessarily mainstream, had never had the opportunity to be thoroughly discredited in post-Soviet contexts as it had in the West: freedom to do research did not exist; the freedom to publish memoirs and to distribute and share them broadly did not exist; the overwhelming evidence gathered in the West was not generally accessible, while evidence

accumulated by the Soviets was inherently treated with suspicion; and the specific history of Jewish persecution did not fit the Soviet narrative, in part because the Soviets had their own camps and history of antisemitism.

<sup>33</sup> Guntars Catlaks, *European and American Approaches to Citizenship Education in the Context of European Union Enlargement* (Calabasas: Center for Civic Education, 2005).

<sup>34</sup> Vaughne Miller, “The EU’s Acquis Communautaire,” *Standard Note* SN/IA/5944 (London: House of Commons, 2011).

<sup>35</sup> *Supra* note 19.

<sup>36</sup> Affirming the same idea is the new UNESCO report. *Supra* note 2, at 40.

<sup>37</sup> *UNEVOC-UNESCO TVETipedia, s.v.* “Transversal skills,” accessed April 24, 2019, <https://unevoc.unesco.org/go.php?q=TVETipedia+Glossary+A-Z&id=577>

<sup>38</sup> *Supra* note 18, at 2-3. See also *supra* note 19, at 18. Franca Brilliant, “Civic Education Programming since 1990: A Case Study Based Analysis,” report prepared for the U.S. Agency for International Development, Contract No. AEP-I-00-96-90012-00, Task Order 10 (2000). Christopher A. Sabatini, Gwendolyn G. Bevis, and Steven E. Finkel. “The Impact of Civic Education Programs on Political Participation and Democratic Attitudes— Interim Report,” *USAID Report* (Washington, DC: Management Systems International, 1998).

<sup>39</sup> *Supra* note 19, at 6.

<sup>40</sup> *Supra* note 2, at 40.

<sup>41</sup> *Supra* note 2, at 31.