



JUSTRAC

JUSTICE SECTOR TRAINING, RESEARCH
& COORDINATION PROGRAM

JUSTRAC Interagency Civil Law Training Program

March 18-19, 2019

Convened by the Rule of Law Collaborative at the University of South Carolina

United States Institute of Peace
2301 Constitution Avenue, N.W.
Washington, D.C.





JUSTRAC
JUSTICE SECTOR TRAINING, RESEARCH
& COORDINATION PROGRAM

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

Course Objectives

This course will explore the unique features of the most widespread legal system in the world – the Civil Law 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, including the U.S. Government, multilateral organizations, and international NGOs, in justice sector and rule of law programming in countries with Civil Law systems. The second day of the course will also include a session exploring the transition underway in many countries from the inquisitorial to the adversarial model of litigation, drawing out lessons learned from these efforts. 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 countries 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 officials from U.S. Government agencies; (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: Monday, March 18, 2019

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

9:00AM-9:45AM **Welcoming Remarks, Overview of JUSTRAC and the Training Program**

Philippe Leroux-Martin, *Director, Governance, Justice & Security, USIP*

Joel H. Samuels, *Professor of Law, Director, Rule of Law Collaborative, Univ. of South Carolina*

Andrew Solomon, *Senior Rule of Law Advisor, Center of Excellence on Democracy, Rights, and Governance, USAID*

Shawna Wilson, *Senior Rule of Law Advisor, Bureau of Counterterrorism and Countering Violent Extremism, Dept. of State*

This opening session will provide an overview of the JUSTRAC Program, as well as of the Rule of Law Collaborative, while presenting attendees with expected takeaways from the course. Panelists will explain how the modules of the course connect to their field experiences and the considerations that program officers should incorporate during programmatic development.

9:45AM-10:45AM

SESSION 1: UNDERSTANDING THE FOUNDATIONS OF THE CIVIL LAW SYSTEM

Mathias Reimann, *Hessel E. Yntema Professor of Law, Univ. of Michigan*

Joel H. Samuels, *Rule of Law Collaborative, Univ. of South Carolina*

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 include a small group exercise designed to encourage interactive learning, networking, and interagency communication.

Suggested reading/references:

- [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](#)
 - NOTE: [Chap. I-III are available via Google Books.](#)

10:45AM-11:00AM

Break



11:00AM-12:15PM

SESSION 2: SOURCES OF LAW AND MAKING THE LAW

Mathias Reimann, *Univ. of Michigan Law School*

Dr. Martín Böhmer, *National Director, Academic Community and Civil Society Relations, Ministry of Justice and Human Rights of Argentina*

Joel H. Samuels, *Rule of Law Collaborative, Univ. of South Carolina*

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 will address 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. The presenters will consider these questions by looking at the Civil Law system on its own and by comparing it to the common law system. This session will include a small group exercise designed to encourage interactive learning, networking, and interagency communication.

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-2:30PM

SESSION 3: LEGAL EDUCATION AND LEGAL ACTORS IN CIVIL LAW SYSTEMS

Dr. Martín Böhmer, *Ministry of Justice and Human Rights of Argentina*

Mathias Reimann, *Univ. of Michigan Law School*

Joel H. Samuels, *Rule of Law Collaborative, Univ. of South Carolina*

This session will explore two important structural and foundational pieces of the Civil Law system. First, participants will be introduced to the common elements of legal education in Civil Law countries. Understanding how lawyers and judges are educated sheds important light on the actors who run the system itself. Second, this session will introduce 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. The session will include a small group exercise designed to encourage interactive learning, networking, and interagency communication.

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: THE STRUCTURE OF COURTS AND THE ROLE OF PROCEDURE IN CIVIL LAW SYSTEMS

Mathias Reimann, *Univ. of Michigan Law School*

Dr. Martín Böhmer, *Ministry of Justice and Human Rights of Argentina*

Joel H. Samuels, *Rule of Law Collaborative, Univ. of South Carolina*

This session will provide an overview of the structure of the courts in Civil Law systems in order to appreciate the overlay of the legal system itself and to understand the purpose and operation of specialized tribunals, such as constitutional and commercial courts. Next, this session will address the role of procedure in the Civil Law systems such as to include civil procedure, criminal procedure, and administrative procedure, contrasting directly with 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 CIVIL LAW SYSTEMS

Greg Gisvold, *Senior Fellow, Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

Suren Avanesyan, *Senior Advisor, Rule of Law, Governance and Anti-Corruption, Bureau for Europe and Eurasia, USAID*

Dr. Martín Böhmer, *Ministry of Justice and Human Rights of Argentina*

Hamid Khan, *Deputy Director, Rule of Law Collaborative, Univ. of South Carolina*

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 found in Latin America, the former Soviet Union, and the Middle East. Panelists will address specific countries, including Argentina, Georgia, Jordan, and Russia. Based on these case studies, the panel will cover differences among the Civil Law systems in these countries, touching on topics such as the roles and responsibilities of justice sector actors and sources of law.

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\(A\)](#)
 - NOTE: Chap. 1(A) is available by clicking the hyperlink above and then clicking “View a sample of this title using the ReadNow feature.”
- [Noah Feldman, *The Fall and Rise of the Islamic State* \(Princeton University Press, 2012\), pp. 61-102](#)
- [Peter H. Solomon, Jr. and Todd S. Foglesong, *Courts and Transition in Russia: The Challenge of Judicial Reform*, 1st ed. \(Westview Press, 2000\)](#)
- [Kathryn Hendley, *Everyday Law in Russia*, 1st ed. \(Cornell University Press, 2017\)](#)



Day 2: Tuesday, March 19, 2019

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

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**

Steven Austermiller, *Senior International Development Expert, Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

Milena Sanchez de Boado, *Justice Advisor, INL, Dept. of State*

Jennifer Lewis, *Senior Governance and Rule of Law Advisor, Center of Excellence on Democracy, Rights, and Governance, USAID*

Paul Vaky, *Regional Director, Central and Eastern Europe/Near East, OPDAT, Dept. of Justice*

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 Latin America, the former Soviet Union, 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 FOREIGN DONORS AND MULTILATERAL AGENCIES IN CIVIL LAW COUNTRIES

Hamid Khan, *Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

Timothy Hughes, *Senior Legal Counsel and Program Director, National Center for State Courts*

Viktor Jovev, *Judicial Affairs Officer, Justice and Corrections Service, Office of Rule of Law and Security Institutions, United Nations Department of Peace Operations*

Julia Sedyk, *Project Coordinator, Local Self-Government and the Rule of Law in Ukraine, Folke Bernadotte Academy (Swedish Government Agency)*

This panel will offer case studies on the role that international organizations and individual donor nations 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.

Suggested reading/references:

- [“Criminal Justice Assessment Toolkit,” UNODC, 2017](#)

12:15PM-1:15PM

LUNCH BREAK AND NETWORKING

1:15PM-2:45PM

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

Hamid Khan, *Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

Dr. Martín Böhmer, *Ministry of Justice and Human Rights of Argentina*

Milena Sanchez de Boado, *Justice Advisor, INL, Dept. of State*

Paul Vaky, *Regional Director, Central and Eastern Europe/Near East, OPDAT, Dept. of Justice*

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 Latin America, South Asia, and the former Soviet Union, 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 CIVIL LAW SYSTEMS IN TRANSITION

Steven Austermiller, *Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

Dr. Martín Böhmer, *Ministry of Justice and Human Rights of Argentina*

Milena Sanchez de Boado, *Justice Advisor, INL, Dept. of State*

Julia Sedyk, *Project Coordinator, Local Self-Government and the Rule of Law in Ukraine, Folke Bernadotte Academy (Swedish Government Agency)*

This final session will build on the previous session and will focus on other reform trends in Civil Law countries. While the previous session focused specifically on one aspect of the legal system 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. Another topic that may be discussed 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 Asia, Latin America, and the former Soviet Union. The session will open with a small group exercise designed to encourage interactive learning, networking, and interagency communication.

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