



# JUSTRAC+

JUSTICE SECTOR TRAINING, RESEARCH  
& COORDINATION PLUS PROGRAM

## JUSTRAC+ Interagency Civil Law Training Program

January 30-31, 2020

**Organized by:**

Rule of Law Collaborative at the  
University of South Carolina

**Location**

ABA Rule of Law Initiative Offices  
1050 Connecticut Avenue, NW, 5<sup>th</sup> Floor  
Washington, D.C. 20036

**Nearest Metro:**

Farragut North

**Additional information:**

Steven Auster Miller  
[rolc@sc.edu](mailto:rolc@sc.edu)





# JUSTRAC+

JUSTICE SECTOR TRAINING, RESEARCH  
& COORDINATION PLUS 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: Thursday, January 30, 2020**

**8:30AM-9:00AM      Registration**

**9:00AM-9:25AM      Welcoming Remarks, Overview of JUSTRAC+ and the Training Program**

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.

**9:25AM-9:45AM      Icebreaker Tabletop Exercise**

Participants will introduce themselves at their tables and discuss and report back on areas of interest and expectations for the workshop.

9:45AM-10:45AM

**SESSION 1: UNDERSTANDING THE FOUNDATIONS OF THE CIVIL LAW SYSTEM**

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

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

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 also incorporate interactive discussions.

**Learning objectives**

- Be able to contrast the underpinnings of civil law and common law systems.

**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-12:00PM**

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

Mathias Reimann, *Univ. of Michigan Law School*

Dr. Martín Böhmer, *Former National Director, Academic Community and Civil Society Relations, Ministry of Justice and Human Rights of Argentina; Law Professor, University of Buenos Aires*

Steven Austermiller, *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 conclude with a small group exercise designed to encourage interactive learning, networking, and interagency communication.

**Learning objectives**

- Understand the sources of law in the civil law system
- Understand the basics of how law is made in civil law systems

**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

**12:00PM-12:15PM**

**Session 1-2 Exercise**

Participants will break into groups and discuss pressing questions about the sources of law and the making of law that are of particular interest given the table's regional composition/background and report back to the experts for further discussion

**12:15PM-1:30PM**

**LUNCH BREAK AND NETWORKING**

**1:30PM-3:00PM**

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

Dr. Martín Böhmer, *Formerly 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.

**Learning objectives**

- Understand the common elements in the legal education systems of civil law countries.
- Be able to identify the roles of the key professional actors in civil law systems.

**Suggested reading/references:**

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

**3:00PM-3:15PM**

**BREAK**

**3:15PM-4:30PM**

**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, *Formerly Ministry of Justice and Human Rights of Argentina*

Steven Austermiller, *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.

**Learning objectives**

- Understand the role of civil law courts.
- Understand the procedural framework of civil law courts.

**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

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

**Session 3-4 Exercise**

Participants will form small groups and engage in an interactive exercise related to legal education, the structure of courts, and/or the role of procedure in civil law systems where they have worked.

## Day 2: Friday, January 31, 2020

8:30AM-9:00AM      **Registration**

9:00AM-9:05AM      **Overview to Day 2**

9:05AM-10:30AM      **SESSION 5: VARIATIONS IN CIVIL LAW SYSTEMS**

Kiel Downey, *Rule of Law Collaborative, Univ. of South Carolina (Moderator)*

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

Catherine Newcombe, *Regional Director, Eurasia, OPDAT, Dept. of Justice*

Layda Negrete, *Senior Researcher, World Justice Project*

Steven Austermiller, *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.

### **Learning objectives**

- Be able to identify some of the of the key variations in civil law systems.

### **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)



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

**BREAK**

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

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

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

Hal Dampier, *Senior Justice Sector Advisor, National Center for State Courts*

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.

**Learning objectives**

- Be able to identify the basic aspects of planning, designing and implementing rule of law programs in civil law countries.
- Understand some of the unique challenges of working in a civil law country.

**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

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

**LUNCH BREAK AND NETWORKING**

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

**SESSION 7: EXPLORING THE TRANSITION FROM THE INQUISITORIAL TO THE ADVERSARIAL MODEL**

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

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

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

Layda Negrete, *Senior Researcher, World Justice Project*

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 interactive case studies taken from Latin America, Eastern Europe and elsewhere, this panel will explore these transitions and evaluate the challenges and potential benefits of such a shift while offering lessons learned.

**Learning objectives**

- Be able to identify the main aspects of Latin America’s and other regions’ transition from an inquisitorial to adversarial model of litigation.
- Understand some of the challenges posed by this transition, as well as potential solutions.

**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 8: EXERCISE ON FUTURE TRENDS IN CIVIL LAW SYSTEMS IN TRANSITION**

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

This final session will build on the previous sessions and will focus on 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 session will look at other areas where a transition from Civil Law principles is taking place or may occur in the near future. The expert moderator will lead the group in an interactive exercise 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.

**Learning objectives**

- Be able to identify the individuals at participants' own tables, learn a few interesting things about them, and develop professional contacts.
- Understand some of the most important future trends in civil law systems in transition and the challenges posed by this transition, as well as potential solutions.

**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**

**Feedback and Course Evaluation**