



**USAID**  
FROM THE AMERICAN PEOPLE

# RULE OF LAW POLICY

A RENEWED COMMITMENT TO JUSTICE, RIGHTS, AND SECURITY FOR ALL



**April 2023**

This is a publication of the United States Agency for International Development's Center for Democracy, Human Rights and Governance and provides guidance for USAID staff working on rule of law issues and security sector reform programs or activities.





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USAID supports justice actors like the Georgian Young Lawyers Association to strengthen the rule of law as a safeguard for democratic and accountable governance. **Photo Courtesy of:** USAID/Georgia

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# EXECUTIVE SUMMARY

The rule of law is fundamental to USAID’s development mission. Not only is the rule of law a core American value, but it serves as a foundation of democracy and as a guardrail of good governance and inclusive economic growth. The rule of law counters corruption, punishes and deters crime, and makes human rights actionable, enforceable, and realizable for all members of society. Indeed, it is inextricably linked to all aspects of development. Yet the rule of law remains hard to define and a challenge to promote and sustain. Worse, the rule of law is declining and under direct assault in far too many countries.

Building on a clear-eyed review of USAID’s decades-long effort to promote the rule of law and ensure justice, rights, and security for all, this Policy re-elevates the rule of law within USAID’s development mission and equips and empowers staff to better promote it.

This Policy promulgates a definition of the rule of law—which USAID has not previously done—by adopting the now-standard United Nations definition.<sup>1</sup> A definition is essential because we can only measure what we can define, and we will only achieve what we can measure. Yet the definition is only a starting point. Laws reflect the values of the society that creates them and, as such, the rule of law will always be an unfinishable effort. Societies change; the law catches up. The interaction between them provides space for the cycles of innovation and reform that power a core dynamic of democracy: how it delivers services its citizens need and value.



USAID builds capacity throughout justice systems and civil society, like in Guatemala, to provide justice for all, not only justice for the few. **Photo Courtesy of:** USAID/Guatemala

<sup>1</sup> The United Nations defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General* (United Nations, 2004).



With this Policy, USAID sets forth a new paradigm for its programming to advance the rule of law in partner countries: people-centered justice. This is an explicit change in how we think and how we work, shifting our perspective from the institutional to the individual. People-centered justice places the person affected—regardless of whether the issue is civil, criminal, or administrative—by the law at the core of the policies, processes, and practices that constitute justice systems and services.

Too often, previous programming has tinkered with institutional form or high-level processes, such as adding a code of judicial ethics. USAID rule of law programs will explicitly consider how to improve the problem-solving capability of justice providers, the outcome orientation of justice institutions, the safety and security of individuals, the respect for fundamental rights and freedoms, and the effectiveness of checks and balances. USAID and its country partners will go beyond complex system-level reforms, such as introducing software that tracks cases to some courthouses.

Using people-centered approaches, we will support our partners to transform how justice processes address prevalent legal problems and how individuals with legal problems experience the administration of justice. These efforts will involve explicitly engaging local actors to identify priority individual justice needs and contribute to creating new solutions and/or reforming existing remedies.

This Policy also prioritizes the development and use of knowledge and evidence. User-friendly and problem-solving justice, rights, and security interventions are driven by data—about users, societies, needs, problems, processes, experiences, and outcomes. In promoting the rule of law, as in other development assistance efforts, lack of data and other forms of evidence invites failure. With this Policy, USAID requires diligent attention to what we know, what we want to learn, and how we share and act on both.

USAID is well-suited to promote the rule of law abroad. Our strength is in our people. Our subject matter expertise is bolstered by experts on contracting, finance, measurement, and managing a comprehensive administrative system. Our Missions engage with their counterparts on the varied challenges facing modernizing societies while recognizing the intricate linkages among them. And our locally led development experience demonstrates that there is always a local system.<sup>2</sup>

Through USAID rule of law programming, we assist our partners in their efforts to develop and improve their own rule of law systems, not replicate the American system or any other. In doing so, we endeavor to ensure these systems accord with international and regional norms and standards while also reflecting their own traditions.



USAID empowers people around the world, including in Poland, to demand the rule of law and protect constitutional guarantees of judicial independence. **Photo Courtesy of:** USAID/DRG

<sup>2</sup> USAID's [Local Systems: A Framework for Supporting Sustainable Development](#) sets forth ten principles for engaging locally, including Principle No. 1: "Recognize there is always a system." In the past, some USAID programming did not effectively engage the system aspects of the administration of justice. For example, past USAID programming aimed at improving efficiency (such as court administration software) failed to take into account poorly designed human capital systems that rotated judges every two years, creating training costs.

# BACKGROUND

## PERSISTENT THREATS TO THE RULE OF LAW

Threats to the rule of law—corruption, authoritarianism, and malignant nationalism, among others—have always existed.<sup>3</sup> Accordingly, USAID has long championed the rule of law as integral to democracy, human rights, and economic growth, but also as a constituent aspect of the good governance every person deserves. And yet, promoting the rule of law is challenging; it can be difficult to recognize and pursue. Presently, the rule of law is in decline worldwide, with deleterious effects on development.

USAID’s rule of law promotion efforts have thus never been more urgent. Illiberal threats to the systems of democratic society—compliance with the law, representative government, protections for minority rights and racial equity—abound. Democracy depends on consent, which is ephemeral, and participation, which is difficult to sustain. Technology, especially social media platforms, has underlined this instability as our more networked world has divided nations, creating alternate “trust realities.”<sup>4</sup>



In Honduras and in many countries, USAID rule of law activities strengthen courts, prosecutors, and commissions as well as civil society to combat corruption and strengthen public integrity. **Photo Courtesy of:** USAID/Honduras and Consejo Nacional Anticorrupción (CNA)

<sup>3</sup> *The Global Satisfaction with Democracy Report 2020* (Centre for the Future of Democracy, 2020); *Anti-Corruption Policy* (USAID, 2022).

<sup>4</sup> *20 Years of Trust* (Edelman.com, 2020).





USAID empowers local actors and civil society organizations to defend human rights and the rule of law in Uganda and in many other countries. **Photo Courtesy of:** USAID/Uganda and Freedom House

Rule of law, trust between individuals and governments, and the legitimacy of those with power are bound together. Decades of USAID democracy, rights, and governance programming confirm this reality: collective commitments that knit free societies together and strengthen social contracts, including respect for the rule of law, are unraveling.

Even as the rule of law is under direct assault by authoritarians, longstanding development obstacles remain and new ones emerge. As inexorable as it is predictable, climate change continues to impede economic development, disrupt livelihoods, and create a litany of inequalities and inequities. Discrimination and exclusion continue, especially for women in all their diversity. In addition, according to the World Bank, nearly half the world's poor are affected by fragility, conflict, and violence.<sup>5</sup> Moreover, the world's population remains at risk of new outbreaks of disease as well as the long-term health, economic, and social ramifications of the COVID-19 pandemic. These phenomena can exacerbate unmet grievances and societal fault lines, increasing the challenge to development and the rule of law. But they also underscore the benefits provided by functional justice systems and services that support democratic and accountable governance.

<sup>5</sup> *Strategy for Fragility, Conflict, and Violence 2020–2025* (World Bank, 2020).

# USAID'S FIRST RULE OF LAW POLICY

USAID issues this Policy to reaffirm rule of law promotion as an enduring priority of our development efforts. We renew our Agency-wide commitment to stand for advancing justice, rights, and security for all. This Policy also exemplifies USAID commitment and leadership, as part of the United States government and in coordination with our interagency partners and the international community, to promote the rule of law on a global scale. We will also continue to design and implement flexible, evidence-based, and data-driven rule of law programming that helps our partner countries to safeguard democracy, improve justice and security outcomes for their people, strengthen public trust and renew social contracts, and achieve sustainable development goals.

On the strength of decades of experience and learning, USAID expands its rule of law paradigm to focus on the needs and wants of people and their communities. Our previous approach centered on the capabilities of the institutions first and foremost. Going forward, our analysis, designs, and data collection will include and focus on people's justice needs and how justice systems and services can better meet those needs. Importantly, we will collaborate and partner with local actors and communities for their input on reform to build trust between justice institutions and societies.

With this Policy, we expand the tools available to USAID and our partners and capitalize on learning and pilot efforts to improve the promise of the rule of law to individuals, communities, and countries worldwide.

## WHAT IS THE RULE OF LAW?

[T]he rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

– *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General* (United Nations, 2004)



## THE CASE FOR RULE OF LAW PROMOTION, RESTATED

Rule of law promotion is integral to USAID's overall mission of driving locally led, sustainable development results around the world and to our values as an international development agency. It is also an important development outcome itself, inextricably linked to promoting more peaceful, just, and inclusive societies as set forth in United Nations Sustainable Development Goal (SDG) 16 and other SDGs.<sup>6</sup> Development results are more durable to the extent they occur within a democratic, inclusive framework that facilitates participatory governance and fulfills fundamental rights and freedoms protected by the rule of law.



USAID works with law schools to improve legal education and professional skills to address complex justice challenges and ensure the rule of law. **Photo Courtesy of:** USAID

The longstanding case and value proposition for USAID investments in the rule of law endures. Key pillars of a democratic society, such as independent media, civilian control of military and police forces, free expression and association, fair political competition, and nondiscrimination are respected and protected by the rule of law.

<sup>6</sup> See *Transforming Our World: The 2030 Agenda for Sustainable Development* (United Nations, 2015) (SDGs 1, 4, 5, 8, 10, 11, and 13).

## DISPELLING MYTHS ABOUT RULE OF LAW ASSISTANCE

### MYTH: “RULE OF LAW IS FOR LAWYERS.”

**REALITY:** For USAID Rule of Law assistance to be effective, program design and implementation must be interdisciplinary. Effective people-centered justice systems rely on expertise in sociology, public and mental health, economics, political science, communications, and many disciplines in addition to law.

### MYTH: “RULE OF LAW ASSISTANCE SUPPORTS FORMAL JUSTICE INSTITUTIONS.”

**REALITY:** USAID Rule of Law assistance can and should reach far beyond engaging ministries of justice, judicial self-governance bodies, courts, prosecutors, the legal profession and other formal justice institutions. It encompasses support for non-state justice systems and actors, including community justice advocates, and customary justice mechanisms.

### MYTH: “OTHER AGENCIES ALWAYS LEAD ON CRIMINAL JUSTICE ACTIVITIES AND WORKING WITH POLICE.”

**REALITY:** For decades, USAID Rule of Law assistance has strengthened criminal justice systems and democratic and community-oriented policing in coordination with the Departments of State and Justice as well as independently. With the necessary and appropriate legal authorities, USAID works to ensure policing and law enforcement is a public service that is transparent, accountable to civilian authority, and responsive to the needs of the public.

### MYTH: “RULE OF LAW ASSISTANCE IS STRICTLY FOR DEMOCRACY, RIGHTS, AND GOVERNANCE PORTFOLIOS.”

**REALITY:** USAID Rule of Law assistance is **everyone’s** job because it provides tools for the success of **all** USAID assistance. Every sector in which USAID works, such as health, education, economic growth, and the environment, has rule of law as a core, necessary assumption that is crucial to success.

### MYTH: “RULE OF LAW ASSISTANCE IS TOO REGIMENTED AND PRONE TO LEGAL TRANSPLANTATION.”

**REALITY:** USAID Rule of Law assistance eschews “one size fits all” models. Instead, USAID employs politically smart and adaptive approaches that first seek to understand local realities and then tailor rule of law assistance accordingly. Activities are rooted in experimentation, iteration, and adaptation, using mechanisms appropriate to our partner countries, their legal traditions and culture, and the needs of local justice system users.

How people experience the law and its institutions, formal or informal, is vital. The rule of law is a society’s “operating system.” It provides the means to counter corruption and ensure the rules of society apply to everyone, including affluent or connected elites. It is how a society orders and protects itself: by codifying standards, defending norms, and mandating accountability and transparency as necessary and independent checks on authority. The rule of law also substantiates individual rights and protects the role of advocacy and the process of societal change. It is only under the rule of law that power is tempered, abuses are investigated, and misdeeds are deterred. Indeed, perceptions or feelings of injustice, exclusion, and insecurity that weaken the rule of law can be core drivers of instability and violent extremism.<sup>7</sup>

Moreover, trade and investment enhance livelihoods, but their benefits are rarely equitable without the rule of law. Inclusive economic growth requires a level playing field defined by enforceable, consistent, and predictable rules. Coupled with policies and practices to advance equity, rule of law promotion also increases access to, prevents abuse of, and promotes inclusivity in the distribution and accessibility of public goods and services in areas such as health care, education, and the environment.

<sup>7</sup> *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (United Nations and World Bank, 2018).



As societies grow and develop, the systems and institutions that uphold these values must self-examine and self-improve. Unfortunately, justice systems and related services have not kept pace with expanding societal complexity because institutions designed to serve individuals are no longer fit for purpose. The machinery of justice—originally designed by well-intentioned but privileged 19th-century leaders—remains largely intact and unchanged, even as the world has grown and, with it, the sheer number of people suffering a more diverse range of legal problems.

Justice institutions—ministries of justice, judiciaries, police and prosecutorial services, legal aid commissions and public defender offices, and bar associations, to name only a few—have too often failed to effectively address the needs and experience of justice seekers and communities as well as uphold the rule of law in an impartial and effective manner. As such, the number of people around the world living outside the protection of the law, and experiencing the resulting injustice and insecurity, has increased instead of declined. Public trust in the possibility of justice and confidence in justice institutions and the rule of law have likewise declined.

For too many, the law and justice institutions are too distant, exclusionary, costly, inefficient, and complex.<sup>8</sup> For others, insecurity and injustice are an ever-present reality, and even their identity and ability to be recognized by the state is in question. The measure of these unsolved legal problems and unsatisfied justice needs is the global justice gap.<sup>9</sup>

Closing the justice gap is vital to USAID’s mission because law and justice are necessary to all aspects of human development. Being outside the protection of the law exacerbates existing inequality and estranges individuals and groups from government and the positive role it should play in their lives and communities. The rule of law is the means by which people peacefully shape their futures. The real-life impact of the rule of law is why promoting it remains nothing short of an imperative for USAID and our partners around the world.



USAID facilitates multiple pathways to justice in Rwanda and in other countries by improving linkages between formal and non-state justice systems. **Photo Courtesy of:** USAID/Rwanda

<sup>8</sup> *Why People Obey the Law* (Tyler, 2006)—experience with legal institutions, process, and officials plays a substantial role in whether individuals view the law as legitimate and decide to comply with it.

<sup>9</sup> The justice gap refers to the gulf between legal needs and available resources to meet them. Key measurements include the fact that more than four billion people are excluded from the benefit of the law; 1.5 billion have a legal problem they cannot solve; 250 million live in extreme conditions of injustice. See *Measuring the Justice Gap: A People-Centered Justice Assessment of Unmet Justice Needs Around the World* (World Justice Project, 2019).



USAID partners and staff collaborate to promote effective people-centered justice approaches to rule of law promotion around the world. **Photo Courtesy of:** Pathfinders for Peaceful, Just, and Inclusive Societies

The rule of law, however, is neither inevitable nor inherently durable; it is forever a work in progress requiring sustained attention. Rule of law and justice institutions don't work until they do, and then only until they don't. Successful rule of law promotion programming will always require time, commitment, adaptability, and patience. In some cases, particularly in conflict-affected, post-conflict, and stabilization contexts, effective justice and security reforms can take 15-30 years to raise institutional performance. Yet hard-won rule of law gains are too easily eroded, degraded, or rolled back. Moreover, in far too many countries, the rule of law is under direct assault.

Significant donor and intergovernmental resources have rightly supported the values underpinning and the selfless advocates pushing for justice, rights, and security. The approach that USAID and others have emphasized for roughly two decades—reproducing specific institutional forms, practices, and powers as well as revising constitutional and legal frameworks—has achieved concrete but not comprehensive results. Considering contemporary challenges, the justice gap, and evidence on the connections between service delivery and legitimacy, our approach must evolve. As many countries recognize, the priority for rule of law promotion and related justice and security reforms needs to be people and their problems.<sup>10</sup>

Through this Policy, USAID rule of law programs will emphasize a focus on understanding and engaging local problems and local voices. It focuses on justice as a service and justice seekers as those entitled to these services. In order to develop more accessible and effective justice providers, one must understand what services need to be provided and to whom. To do so, we will gather data and use it to identify legal problems at a local (regional, city, or municipal) level and bring local actors into processes to co-produce justice solutions. With this Policy, USAID affirms the value of these efforts and the investment of time, resources, and partnership they require.

<sup>10</sup> *Pathfinders Task Force on Justice, Justice for All – Final Report* (Center on International Cooperation, 2019); *Equal Access to Justice for Inclusive Growth: Putting People at the Centre* (OECD, 2019).



# POLICY GOALS

## ESTABLISH A COMMON UNDERSTANDING OF THE RULE OF LAW

Years of reform efforts notwithstanding, the rule of law continues to be poorly understood by, and elusive in the daily lives of, too many. Some suffer under authoritarian governments that claim to act under the law but in practice corrupt the rule of law into rule by law. Powerful elites too often weaponize the law and justice systems. Both practices are anathema to the building of peaceful, just, and inclusive societies that enjoy democratic and accountable governance under the rule of law. To safeguard against these and other aspects of democratic backsliding, close the expanding justice gap, empower people and communities and provide them with safety and security, counter crime and corruption, and build trust in public institutions, we must begin by articulating a common understanding of the rule of law.

A related challenge of rule of law promotion is that this lack of understanding means it is too often avoided through creative distancing, such as “it’s too complicated,” “results take too long,” or “other agencies or donors will do this.” The myths and rationales differ, but the problem remains. So, too, do the negative impacts of the lack of rule of law on all aspects of development. Societies are more likely to achieve development gains if they are governed by responsive, predictable, and open systems of justice in which rights are protected, crime and corruption are investigated and prosecuted, and power is checked. This Policy, therefore, marks an evolution and a renewal of USAID’s efforts to advance the rule of law by elaborating what the rule of law is and what it is for.



USAID activities in many countries, including the Philippines, work with civil society and media to raise public awareness about attacks on journalists and the role of the justice system in bringing perpetrators to account.

**Photo Courtesy of:** USAID/Philippines and Internews

First, USAID recognizes and incorporates the definition of the rule of law promulgated by the United Nations in 2004, which is widely used and endorsed among the international rule of law community of practice. In addition, this Policy reaffirms the intrinsic value and utility of the five essential elements of the rule of law identified and articulated by USAID in its 2010 *Rule of Law Strategic Framework*: 1) Order and Security, 2) Legitimacy, 3) Checks and Balances, 4) Fairness, and 5) Effective Application of the Law.<sup>11</sup> Outlining these elements helped to operationalize a definition, provide necessary clarity and useful guidance, and build a foundation on which we can examine and improve the rigor of our own rule of law promotion efforts and those of others.

Since then, however, USAID has determined that reform efforts within these initial parameters too readily viewed the rule of law as an end state to be reached by strengthening certain institutions and actors. While institution capacity building is and will remain fundamental, this previous approach insufficiently addressed the role and importance of systems, services, and society in effective rule of law promotion and addressing the priorities of justice seekers. For decades, our perspective heavily focused on the parochial needs of institutions and did not focus enough on the individuals bearing the burden of unresolved legal problems. Moreover, while legal organizations or rules may be similar across borders, the rule of law should reflect the values of local social mores and practices as well as regional and international standards. Rule of law programming aims to reinforce these values, not transplant institutional reforms across different contexts.



USAID improves the quality and reach of justice services in many partner countries, including through clinical legal education in Somalia. **Photo Courtesy of:** USAID/Somalia and PACT

<sup>11</sup> *Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework* (USAID, 2010).



Accordingly, USAID expands the rule of law promotion paradigm and how we view and work with the core institutions therein. This Policy pivots USAID toward the *transformation of the institutions*, formal and informal, to ensure justice, rights, and security for all. This will require the introduction of new models for service delivery, data collection and use, and financing by partner-country justice systems. We affirmatively do not abandon approaches of prior programming that emphasized institution strengthening; rather, we are widening our aperture to see the whole of the picture: the systems that support and manage, the services that define, and the society that engages, demands, and benefits from the rule of law.

*The future of USAID rule of law promotion is people-centered.* For USAID, as it should be for our partners, the rule of law is for and about people: to support individuals, communities, and organizations to promote and protect their rights, resolve their legal problems, satisfy their justice needs, safeguard their security, and otherwise empower them in their daily lives and in holding authority to account. The legitimacy of justice institutions is grounded in how people are treated when subject to government action or coercion. Their value to society lies in part in the ability to solve individual problems before they devolve into collective challenges.



In Serbia and other countries, USAID connects courts to the communities they are mandated to serve through open justice activities that improve trust. **Photo Courtesy of:** USAID/Serbia

## PURSUE JUSTICE, RIGHTS, AND SECURITY

As a global leader in rule of law reform, USAID has and will continue to work with its partners to promote justice, protect rights, and provide security.

### Promote Justice

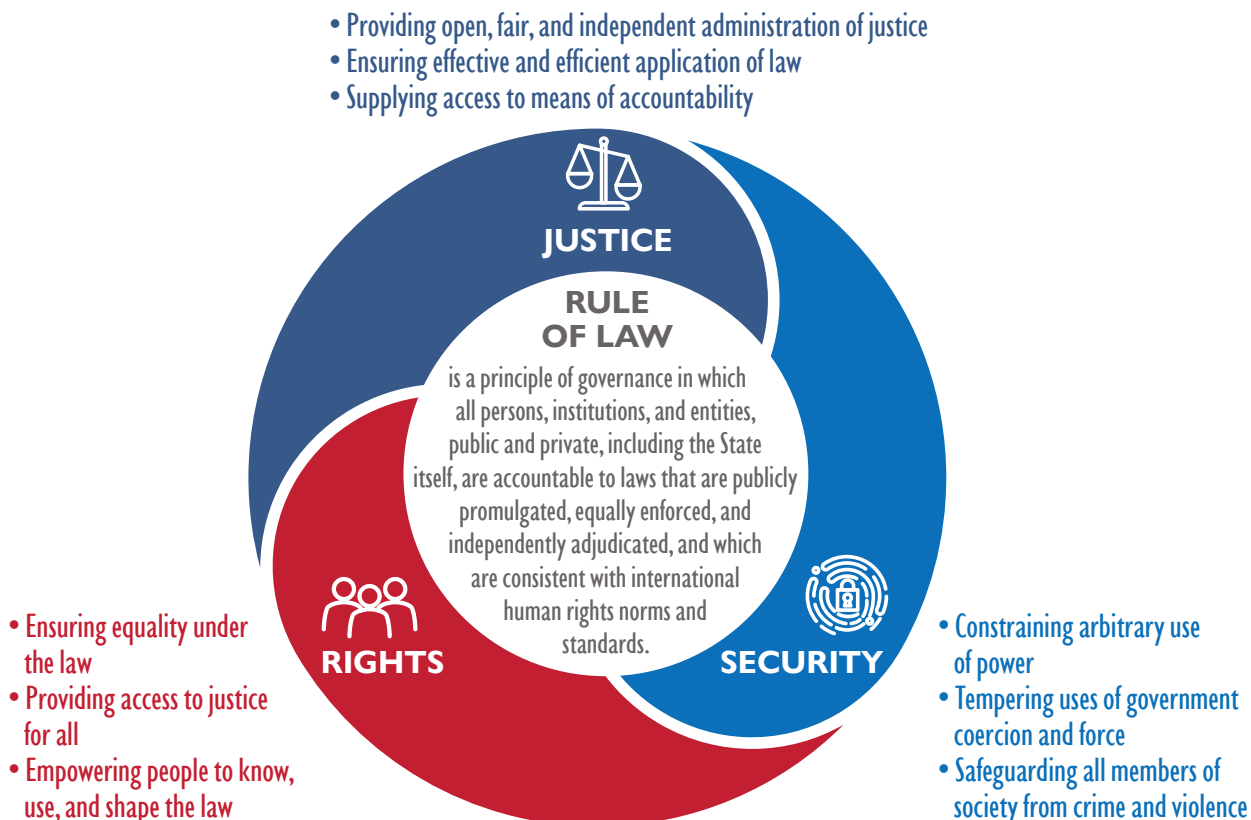
Justice institutions and actors are necessary to strengthen checks and balances and the separation of powers; ensure the independent, open, accessible, and efficient administration of justice; guarantee the impartial and effective application of the law; improve justice-seeker experiences and outcomes; and deter crime, corruption, and abuse of fundamental rights.

USAID rule of law programs will support the transformation of the institutions, actors, and processes that often may serve only a powerful few into systems that provide equal and equitable justice for all, inclusive of the poor, underserved, disadvantaged, and marginalized as well as women and girls. Laws, policies, and practices that distance or exclude people from the ability to address their justice needs, solve their legal problems, and protect their fundamental freedoms expand the justice gap. This estrangement creates fear of the law as well as an overall lack of trust and confidence among justice seekers, such that they are unable or unwilling to participate meaningfully in pursuing and producing equitable justice outcomes or, in the worst-case scenario, resort to violence to channel grievances against the state and other members of society.

### Protect Rights

USAID rule of law programming will aid justice institutions and local organizations to give effect to the core promises of the rule of law as well as fundamental rights and freedoms; empower people to know, use, and shape the law in their daily lives; guarantee the space for civil society and the media to monitor and report on crime, corruption, and rights abuse, including gross violations atrocities; facilitate the work of national human rights institutions and community justice advocates, and protect human rights defenders. Strengthening the rule of law also entails strengthening the right to a fair trial and due process based on international and regional standards.

### Exhibit 1: Rule of Law: Justice, Rights, and Security





## Provide Security

Public safety is a complex and challenging goal but also a collective endeavor that begins with the community as a stakeholder in, and often the architect of, its own security and that of its members. Safety is also more than protection from crime and violence; it is the freedom to enjoy the rights of the individual protected by law. Unaddressed violence—whether perpetrated by the state, criminal organizations, or non-state actors—undermines community and public trust in government and justice systems.<sup>12</sup> USAID rule of law programs bolster the important work of justice and security actors and oversight mechanisms to constrain the arbitrary and/or corrupt exercise of power; temper the use of force; foster professionalism and accountability of police and other security actors; improve security sector governance; and protect members of society from crime and violence, including sexual, gender-based, and conflict-related violence, so they may realize their full potential.



USAID rule of law activities work with police in Jamaica and other countries to improve community safety and to prevent crime and violence. **Photo Courtesy of:** USAID/Jamaica

The stronger the relationship between communities and their law enforcement the more resilient local actors are to insecurity. USAID will work with partners, including communities, to improve their capacity to prevent, de-escalate, and recover from crime and violence—no matter the cause or perpetrator. Improving policing, investigation, prosecution, defense services, adjudication of cases, and corrections systems can be collaborative, outcome-focused efforts. Our rule of law programs will also engage local actors to co-create solutions that provide effective alternatives to gang or extremist group membership, support survivors of crime and violence, and address systematic rights violations and atrocity crimes through specialized (such as health and psychosocial) services.

<sup>12</sup> *Crime and Violence Prevention Field Guide* (USAID, 2021)

## EXPAND THE RULE OF LAW PARADIGM TO INCLUDE PEOPLE-CENTERED JUSTICE

USAID supports the capacities of partner countries to strengthen the rule of law so that it will be accepted as legitimate by the people it is intended to benefit. While this Policy recognizes that there is no single or perfect approach to promoting justice, protecting rights, and providing security, the existing United Nations definition provides a good start to a common understanding. From there, USAID believes reform must engage those whom the law and its institutions are mandated to serve: communities and the people they comprise.

Promoting the rule of law has long meant improving the independence, accountability, transparency, and efficiency of justice institutions. We will continue this effort. However, to transform these institutions, the services they provide, and their operating systems to address contemporary challenges, adapt to the digital age, and interact with the public in a problem-solving manner, they must be more *data-driven*, *user-friendly*, *solution-focused*, and *prevention-oriented*—in other words, more people-centered.



USAID has a long history of supporting people-centered justice systems and services in Latin America and the Caribbean, including Community Justice Houses in Colombia. **Photo Courtesy of:** USAID/Colombia

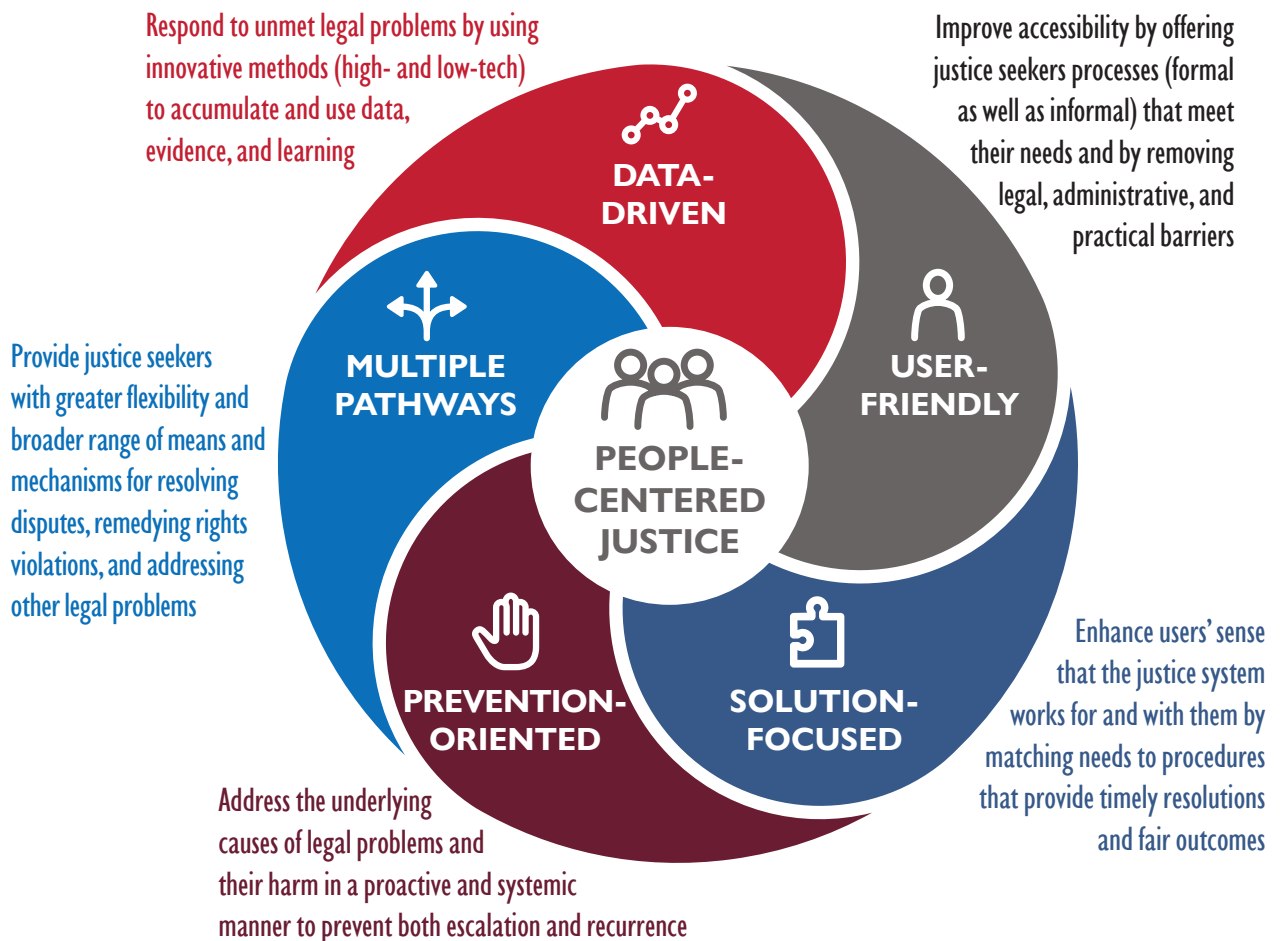


For USAID, people-centered justice is an approach to rule of law promotion that starts with identifying and understanding what people need and want when they seek justice. It seeks to remove the obstacles people face when doing so, improve their justice-seeking experience, and enhance the outcomes they might receive. Simply put, people-centered justice puts people, and their justice needs and legal problems, at the center of justice systems and services.<sup>13</sup>


A people-centered approach does not reject the importance of justice institutions. Quite the opposite: formal and informal institutions remain the primary delivery mechanisms for the promotion of justice, protection of rights, and provision of security. Justice institution processes are the means by which justice seekers obtain a resolution to their problems.

A people-centered approach also aims to prevent as well as remedy. Justice seekers and their problems are diverse; as such, a people-centered system will establish multiple pathways to justice and dispute resolution. For a people-centered justice system, a “day in court,” while important for individual voice and agency, is not necessarily the goal; solving the legal problem is, whether it is criminal, administrative, or civil in nature.

## Exhibit 2: People-Centered Justice Elements



<sup>13</sup> Hague Declaration on Equal Access to Justice for All by 2030, adopted at the Ministerial Roundtable on Access to Justice in The Hague (2019).



A people-centered approach also requires a shift in mindsets and behaviors of local reformers and rule of law actors as well as international donors alike. USAID rule of law programs will broaden their focus from the previously dominant emphasis on institutions and their needs to encompass identifying people's needs and how such needs can be met and their experiences with justice institutions improved. In doing so, we will learn to accelerate the ongoing improvements and eventual transformation of institutions and their relationships with those they serve in order to satisfy their justice needs and build trust. In this regard, a people-centered approach seeks to renew core conventional notions of the social contract, updated for the complexity of 21st-century rule of law challenges.

Emphasizing people-centered justice as an approach to rule of law promotion acts on USAID's recognition that public trust in justice institutions and other public authorities in many parts of the world has declined for years. Negative and unsatisfactory experiences with core government services, or the unavailability of justice and other services altogether, has too often led to alienation, disengagement, self-help, violence, and even extremism. People-centered justice enables human creativity to flourish by empowering people—men and women as well as marginalized populations and underserved communities—to know, use, and shape the law. By facilitating multiple pathways for accessing the formal justice system to resolve legal problems and disputes, and thereby satisfy justice needs, people-centeredness creates more inclusive and just social contracts.

In addition, institutional transformation to people-centered approaches in justice service delivery opens new and more effective means of integration and cross-sectoral cooperation and, thereby, more resilient individuals, households, communities, and countries. Closing the justice gap will help overcome complex development challenges and help to make vital societal services—such as health care, education, housing, and environmental protection—more accessible and responsive to the specific needs of underserved communities and populations at risk of social and economic disadvantage and exclusion.

## USAID'S COMPARATIVE ADVANTAGES IN PROMOTING THE RULE OF LAW

USAID works alongside its interagency partners from the Departments of State, Justice, Defense, the Treasury, Commerce, and the U.S. judiciary<sup>14</sup> along with other actors to promote the rule of law overseas in the national interest of the United States. Rule of law promotion abroad is fundamentally a development challenge, however, and USAID's strengths and capabilities position the Agency to play a leading role. Our comparative advantages include the following.

*Prioritizing Local Voices.* People-centered justice is localization in the promotion of rule of law, elevating the voices of those closest to the problem. The rule of law is not simply a system for maintaining law and order; it is a societal commitment to peaceably resolve disputes and grievances within a locally legitimate system. Such disputes may involve health or education; citizenship or taxation; discrimination or exclusion; and crime or corruption. Using data and collaborative design to surface new ideas for reform, and empowers those with legal problems to participate in building effective solutions to them.


As such, USAID's development mission and agenda widen our rule of law aperture, enabling a deep and broad understanding of the societies. This wider perspective enables USAID rule of law promotion efforts to leverage policies, frameworks, and evidence on issues ranging from gender equality and equity to the role of youth in development to the rights of indigenous peoples, persons with disabilities, LGBTQI+ persons, children in adversity, those forcibly displaced from their communities and countries, and other individuals and groups.<sup>15</sup> This enables our assistance to engage the needs and voices of the poor, underserved, disadvantaged, and marginalized contributing to the sustainable development of justice systems and services that effectively protect and empower all members of society.

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<sup>14</sup> See *Memorandum of Understanding of Mutual Cooperation Between the United States Agency of International Development and the United States Judicial Conference Committee on International Relations* (2014). USAID also collaborates with the International Judicial Relations Office of the Federal Judicial Center.

<sup>15</sup> Such individuals and groups may also include, but are certainly not limited to, older persons, non-dominant religious groups, non-dominant racial and ethnic groups, people in lower castes, and persons with unmet mental health needs. See also, USAID's *LGBT Vision for Action* (2014); *Disability Policy Paper* (1997); *Child, Early, and Forced Marriage Resource Guide* (2015); *Women, Peace, and Security Implementation Plan* (2020); *Advancing Protection and Care for Children in Adversity* (2019); *Gender Equality and Women's Empowerment Policy* (2020); *Policy for Promoting the Rights of Indigenous Peoples* (2020); and *Youth In Development Policy* (2022).





*An Emphasis on Local Systems and Solutions.* USAID’s Mission-led programming model, supported by experienced, trusted local and international implementers working alongside expert local staff, ensures that USAID rule of law programming is never “off the shelf.” USAID’s arsenal of supportive tools and frameworks elevates local voices, incorporate local contexts, and prioritize local solutions to local problems.<sup>16</sup> As noted in other USAID policies, there is always a local system, and durable results are possible only when programming occurs within it. Identifying, analyzing, understanding, and engaging this system to support local actors to advance local solutions is fundamental to our approach.<sup>17</sup> USAID recognizes that durable rule of law reform occurs only as local political and institutional equilibria shift, often a generational enterprise requiring determination and informed by a long-term view.

The USAID Applied Political Economy Analysis and similar tools consider the influence of history, conflict, culture, and competition when designing and implementing rule of law programming.<sup>18</sup> We use political economy analyses to understand the opportunities and constraints that can be politically volatile, to navigate sensitivities, and to sequence reform efforts to line up with fluid local dynamics. An emphasis on “thinking and working politically” supports our rule of law programs to identify and navigate the political dynamics, underlying power structures, and diverse interests and incentives that drive behavior in and around the justice system and how they can affect inclusive justice agendas and equitable rule of law outcomes.

## JUSTICE FOR WOMEN AND GIRLS

For the promise of the rule of law to be fully realized, to be genuinely people centered, it must fully engage women and girls in all their diversity. Progress toward gender justice, equality and equity, and empowerment continues. Yet, the rule of law and justice remain abstractions for millions of women and girls around the world who live outside the protection of the law. For instance:

- Discriminatory codes, personal status laws, and court decisions continue to deny women education, sexual and reproductive health, employment and entrepreneurship, property ownership, inheritance, and other fundamental rights and freedoms.
- Violence against women, female genital cutting, early and forced marriages, and sextortion and other forms of sexual exploitation and abuse plague the safety, well-being, and lives of millions.
- Barriers based on gender, sex, and group affiliation prevent and limit access to justice and other public goods and services, including lack of legal gender recognition for transgender and intersex individuals.
- Customary, informal, and religion-based justice and dispute resolution mechanisms fail to adequately protect women and promote gender equity and equality.
- Career pathways, representation, and decision-making and leadership roles for women in justice and security providers, including judiciaries and police departments, are woefully lacking.


USAID rule of law assistance will emphasize promoting and protecting the rights of women and girls to close the justice gap that exists for women, promote gender equality and equity, and empower women in their daily lives and professions. It will employ gender, women’s empowerment, and social inclusion analyses and other tools to integrate gender to address challenges and opportunities related to legal frameworks, justice and security institutions and legal-related professions, and access to justice.

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<sup>16</sup> These tools and frameworks encompass a variety of effective and proven techniques for encouraging reform, such as co-creation, systems analysis, social and behavior change, human-centered design, and collective action.

<sup>17</sup> *Local Capacity Strengthening Policy* (USAID, 2022) and *Local Systems: A Framework for Sustained Development* (USAID, 2014).

<sup>18</sup> *Thinking and Working Politically through Applied Political Economy Analysis* (USAID, 2018).



*A Rigorous Approach to Evidence, Learning, and Innovation.* USAID provides rule of law assistance drawing on a long-standing open culture of rigorous monitoring, evaluation, and learning that has guided our development mission and refinement of our approaches and efforts as well as the formulation and testing of policies and strategies. USAID collects data on what works and then disseminates and integrates this learning throughout the ecosystem of our efforts. Recent investments have also created a culture of innovation to recognize and accommodate trial and error and enable our rule of law programming to generate data and evidence and subsequently integrate learning throughout the implementation of our programming. By engaging and prioritizing local actors' voices in our implementation and learning, USAID programs become platforms for the shared creation, analysis, and dissemination of knowledge that deepens our partnerships and enables greater local agency in their ongoing development and our evidence base.

However, we also recognize the value and complexity of data. If the first step to solving a problem is admitting it exists, the second for a rule of law problem is agreeing on the dimensions and impact of it. We cannot share the reform without first collecting and understanding data that we can use—together—to define the goal, scope, and steps of reform. Evidence is important; however, experimentation is vital. We glean much from previous studies and impact evaluations, but we also have much to learn from people, including answers to questions such as “what other solutions are out there?” and “how has experience with this service or process worked for you?” Our data ecosystem must improve and expand; our feedback loops must become tighter as well as more inclusive.

*An Adaptive Programming Approach.*

Development assistance and rule of law promotion are grounded in complexity, as they revolve around people: their societies, their jobs, their health, and ultimately their justice, rights, and security. USAID has developed tools to reflect this complexity. Our collaborating, learning, and adapting framework, for instance, is built directly into our program cycle and systems. A range of adaptive tools empower field staff and implementing partners to engage with this learning and also adapt and surmount unexpected challenges to the rule of law.

*An Accountable Structure and System.*

Implementation at USAID is managed for results. Approximately 600 Democracy, Rights, and Governance staff worldwide help execute multiyear Country Development Cooperation Strategies that provide overarching direction to the development of rule of law and other sub-sector strategies, results frameworks, and theories of change. The integration of rule of law experts and programming into this comprehensive effort requires USAID to consider and address how rule of law challenges fit within the wider development context of a country, encouraging programming that is both adaptable to context and accountable for results within that context. Then, USAID's competitive processes identify implementing partners and technical approaches that best address the diverse, multifaceted, and dynamic challenge that is rule of law reform.

## **USAID RULE OF LAW GUIDANCE**

[Rule of Law Practitioner's Guide](#)

[Rule of Law and Security Sector Governance Indicators Guide](#)

[Designing and Implementing Court Automation Projects Guide](#)

[Non-State Justice System Programming—A Practitioners' Guide](#)

[Crime and Violence Prevention Field Guide](#)

[Assistance to Civilian Law Enforcement in Developing Countries: A Field Guide](#)

[Integrating Rule of Law and Global Development: Food Security, Climate Change, and Global Health](#)

[Rule of Law Terrain Analysis: A Literature Review](#)

*Accessible at [www.usaid.gov](http://www.usaid.gov)*



# RULE OF LAW EVIDENCE AND LEARNING

As people’s expectations of and circumstances surrounding justice systems change, so too must relevant institutional processes and procedures. This complexity—and the shifting definitions of what the rule of law is and what it is for—has long complicated efforts to build an evidence base to improve the field of practice. For too long, donors and implementers assumed they could formulate a basic template or recipe to underpin rule of law efforts everywhere. We must avoid one-size-fits-all approaches and eschew legal transplantation. Pursuant to this Policy, USAID rule of law programming will support our proven evidence and learning approach, including a clear learning agenda built on our evidence base, establishment and maintenance of feedback loops, collection and dissemination of data, and investment in innovation.

We know that what works in one context may not work in another because of culture, politics, conflict, and other variables. Values may be common and approaches consistent. Study after study confirms that the rule of law is specific to the society in which it applies, a connection that directly influences whether individuals comply with the rules and conform their behavior to the law. Thus, understanding the views and expectations of stakeholders in partner countries—which are diverse and may be contradictory—is at the core of rule of law promotion; it is, after all, their rule of law system.



USAID works to develop effective rule of law systems, including cross border collaboration, that can effectively combat trafficking in persons, in Myanmar and worldwide. **Photo Courtesy of:** USAID/Burma and IOM

Because strengthening the rule of law takes time and patience, and there are no linear, easy pathways to rule of law and justice system reform, we need to try more and learn faster—even when it means admitting that an idea or an intervention did not work. We will not fear the failure of a specific approach, but treat it as an opportunity to improve. USAID will conduct experimentation in different contexts. We will also test multiple solutions in a given environment to learn what is the best fit. We will also emphasize and prioritize tools that facilitate learning, local collaboration, and adaptation in our rule of law programming. Moreover, while U.S. foreign and development assistance strives to be evidence-driven, the actionable connection between evidence and implementation must be discovered and understood. The evidence we have often points in multiple directions simultaneously. Finding what works will require more emphasis on iterative programs, multidisciplinary teams, and open data.



USAID supports bar associations and lawyers to protect their independence and promote their advocacy to uphold the rule of law. **Photo Courtesy of:** YASUYOSHI CHIBA/AFP

## ADVANCING RULE OF LAW EVIDENCE AND LEARNING AGENDAS

Under this Policy, USAID will pursue mutually supporting efforts in pursuit of the practical learning and evidence this important work requires and deserves.

*Know.* We will pursue a knowledge agenda, deepening our commitment to ground rule of law programs in relevant available evidence. USAID recently took a step in this direction with its first-ever Rule of Law Evidence Gap Map to inform program design and implementation decisions.<sup>19</sup> Moving forward, we will continue to invest in developing similar resources, integrating information received through improved feedback loops, disseminating knowledge widely, and delivering innovative training and professional development opportunities focused on the core competencies of rule of law programming.

<sup>19</sup> *Rule of Law and Access to Justice: an Evidence Gap Map* (International Initiative for Impact Evaluation, 2020).



*Learn.* Second, USAID will work to answer rule of law questions and knowledge gaps throughout the program cycle. We will explore existing assumptions, such as how an effective justice system supports successful health or education systems. With this Policy, USAID prioritizes the use of new tools for planning, design, and feedback, such as co-creation and a Rule of Law Innovations Lab. Rule of law knowledge is inherently local, so we must ensure our evidence base and guidance for rule of law programs benefit from the opinions and ideas of those who own, operate, and aim to improve their systems and services of justice.

*Cooperate.* Third, we recognize that rule of law reform is simply too broad for one agency or one government. USAID recognizes that many donor-funded rule of law interventions fall into three areas: building more effective and integrated systems, improving the quality and accessibility of services, and empowering and being responsive to the needs and priorities of society. Colleagues throughout the U.S. government, as well as other donors, contribute to reform efforts in these areas. USAID is, and will continue to be, an important and contributing partner to each, for we recognize we cannot succeed separately. Similarly, cooperation and partnership with the international community, including engagement with and learning from bilateral donors, multilateral platforms, and international and regional organizations, will continue to be prioritized to provide coherent international support to national rule of law strengthening efforts.



In El Salvador and elsewhere, USAID works to strengthen systems for justice, rights, and security, with an emphasis on policing and anti-discrimination. **Photo Courtesy of:** USAID/El Salvador

# PRINCIPLES FOR APPLYING THE RULE OF LAW POLICY

The following principles will guide decisions for conceptualizing, designing, and implementing USAID's rule of law programming.

## EMPLOY PEOPLE-CENTERED APPROACHES

USAID's rule of law programming will employ people-centered approaches to promote justice for all, as opposed to perpetuating justice for the few. Our efforts will prioritize people and the transformation of institutions to be more responsive to people's justice needs and legal problems, whether criminal, civil, or administrative in nature. We will help our partners make services more accessible, user-friendly, and problem-solving. We will pilot new solutions to, as well as means of preventing, legal problems and justice needs. USAID will invest in the capacity to collect, share, and analyze data to understand what people need when they seek justice, how they seek to resolve their legal problems, and the obstacles and costs they face along the way. Priority will also be given to establishing feedback loops among users, institutions, and service providers, including but not limited to justice needs and satisfaction surveys and journey mapping, to contribute to continuous learning and evidence-based decision-making that will drive justice reforms and make the law work for everyone in their daily lives.

Where appropriate, rule of law programs will also strengthen informal and customary justice systems, which USAID recognizes have an important place in many rule of law ecosystems. In addition, while recognizing that the administration of justice is a core responsibility of the state, USAID will seek to unlock monopolies on legal and related justice delivery models and services by supporting alternative service providers such as paralegals and community justice advocates, process navigators, and mediators. We will also make greater use of and improve access to online services and digital tools for legal problem-solving and dispute resolution.



USAID improves the administration of justice at the community level to solve people's everyday legal problems in Indonesia and beyond. **Photo Courtesy of:** USAID/Indonesia



## SUPPORT OPEN JUSTICE INITIATIVES

Openness is as essential to the rule of law and people-centered justice systems and services as it is to democratic governance. USAID rule of law programming will therefore continue to support open justice initiatives that enhance transparency and accountability of justice institutions, actors, and processes. Working with a broad spectrum of stakeholders, including civil society, USAID will work to ensure justice data and information are accessible to the public; facilitate transparent decision-making, including in the selection and appointment of personnel by judicial self-governance bodies, courts, and other institutions; and improve internal and external accountability mechanisms and integrity systems.

Rule of law efforts will remove barriers between justice providers and communities and encourage direct dialogue, feedback loops, and other forms of engagement and communication. They will prioritize facilitating inclusive and equitable public participation in and oversight of justice reform and policy-making processes. We will also support wider collaboration among executive and legislative authorities, judiciaries, security providers, civil society and human rights defenders, and other stakeholders in the context of the Open Government Partnership and other initiatives for the co-creation of national action plans and justice reform strategies.



USAID supports user-friendly and open justice through free legal aid centers in Kyrgyzstan and throughout the world.

**Photo Courtesy of:** USAID/Kyrgyzstan

## ADVANCE DIVERSITY, INCLUSION, EQUALITY, EQUITY, AND ACCESSIBILITY

Though the law may appear neutral, often in practice it reinforces gender and other inequalities and can have adverse discriminatory effects. The experience of women and historically or systematically marginalized populations with justice—how they are treated by the law, courts, and police—are too often negatively influenced by their identities. Members of society who are the most vulnerable to abuses and inequalities (e.g., women and girls, LGBTQI+ individuals, persons with disabilities, Indigenous Peoples, youth, and the poor) are also more likely to be marginalized by the justice system and have the least access to justice. The justice gap burdens them most. Carefully and collaboratively developed and implemented, people-centered approaches engage and address gender and other social inequalities, needs, and barriers, including discrimination; they hold important promise not only to help close the justice gap, but also to address inequality and exclusion.

Our efforts will promote fair, equitable, and inclusive justice systems and services and also aim to end gender bias in law enforcement. They will also enhance the role and leadership of women and minorities within justice systems and services and as advocates working to reform justice and law enforcement.

## ADVANCE PEACE WITH JUSTICE

Historically, USAID has treated peacebuilding and rule of law as distinct disciplines, only linking them in some cases of crisis response. The evidence base for preventing crime, conflict, and violence shows significant overlap.<sup>20</sup> The same factors—justice, trust, accountability, and inclusion—bolster both rule of law and peace. More than half of the countries in which USAID operates suffer from armed conflict or other forms of generalized violence, often the result of fragility, serious crime, or violent extremism. While most violence does not degenerate into traditional warfare, non-combat violence is five times more likely to result in death than armed conflict.<sup>21</sup>

USAID will prioritize conflict and violence prevention by aligning rule of law programming with strategies to reduce individual and community vulnerabilities to violence and extremism, address the factors that drive conflict and violence, strengthen community cohesion, and advance positive peace.<sup>22</sup> This more holistic and people-centered framework will provide a structure for examining the links among all forms of violence, identifying the common features that motivate them, and designing deliberate, evidence-based development assistance interventions to prevent or deter them as well as address the complex needs of the individuals, populations, and communities that are affected by them.

## CATALYZE CROSS-SECTORAL INTEGRATION AND JOINT ACTION

USAID rule of law efforts will move beyond exclusive and parochial engagements with the leadership and organization of judiciaries and other rule of law institutions and actors. Rule of law issues surface in many aspects of USAID's work: health, youth, and education; economic growth, digital development, and private-sector engagement; environmental protection and climate change; and conflict and violence prevention. The law is omnipresent in every life in every society because the combination of societal rules and ordinary adversity creates legal problems.<sup>23</sup> Often, appropriate solutions do not require a court; the public can, with support, make use of help or complaint lines, paraprofessional “navigators,” or advice centers to help them navigate bureaucracy, obtain services, call out impunity, or promote change.

Where appropriate, USAID will work across sectors to understand the linkages between development and rule of law problems, develop solutions, and improve prevention mechanisms. For example, medical-legal partnerships provide legal, social, and other supportive services at a single site of care, putting the power of law in the hands of those with poor health to protect their access to legally required care. Festering problems with possible legal solutions can stress health, exacerbate financial issues, and magnify everyday challenges.

## FACILITATE INNOVATION AND DIGITAL SOLUTIONS

USAID recognizes that innovation—including automation, digitization, algorithmic systems, and predictive analysis, as well as procedural reforms and non-technological initiatives—can help rule of law institutions and justice providers achieve their goals and adapt to better serve the public. Technology can improve justice and other government service-delivery systems, save time, cut costs, and increase transparency. And yet, technology can also introduce bias and hinder equity in the pursuit of efficiency. Recognizing the difference as well as the risks requires trial and error, feedback, and engagement.

USAID rule of law programs will join with USAID's Digital Strategy and Geospatial Strategy to establish innovation and experimentation platforms, support the acceleration of locally driven innovations to improve institutional performance, solve people's legal problems, and enhance user experiences.<sup>24</sup> USAID will also work to ensure innovations and digital solutions are not designed and introduced in a manner that excludes people for reasons of disability, gender, age, language, or lack of resources.

<sup>20</sup> *Governance, Crime, and Conflict Initiative Evidence Wrap-up: Lessons from Randomized Evaluations on Managing and Preventing Crime, Violence, and Conflict* (J-Pal, 2021).

<sup>21</sup> *Global Study on Homicide* (United Nations Office on Drugs and Crime, 2019).

<sup>22</sup> *Positive Peace Report 2020* (Institute for Economics and Peace, Sydney, 2020).

<sup>23</sup> The impact can be dramatic: the direct costs of unmet legal problems along with the secondary, resulting costs these problems can impose on health, employment, and income exceed 0.5 percent of GDP in most countries and can reach up to three percent in some cases. *Building a Business Case for Access to Justice* (OECD White Paper, 2019).

<sup>24</sup> *Digital Strategy 2020-2024* (USAID, 2020); *Geospatial Strategy 2023-2028* (USAID, forthcoming).





Around the world, including in Jordan, USAID rule of law activities elevate women judges and create career pathways for women legal professionals. **Photo Courtesy of:** USAID/Jordan

## CONCLUSION

With this Policy, USAID renews a longstanding commitment to promote the rule of law and, with it, justice, rights, and security for all. This renewal entails conscious action to elevate rule of law promotion within USAID's mission, vision, and values by demonstrating leadership, devoting resources, developing tools, and designing and implementing more effective programming that addresses contemporary rule of law challenges and needs around the world in a more evidence-based, locally driven, and people-centered manner. And it reflects USAID's long-term commitment to this course, recognizing that promoting the rule of law takes time and perseverance. This Rule of Law Policy provides a basis and guidance to undertake the commitment and implement it successfully.



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