

# CONSTRUCTING THE GLOBAL AGENDA: THE RULE OF LAW AS A DRIVER OF CHANGE

A conference organized by the International Development Law Organization (IDLO)  
with the support of the Government of the Kingdom of the Netherlands and the City of The Hague

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The rule of law is emerging as one of the most pressing issues of this century. It is a cornerstone of peace, security, justice and development. But as countries fall prey to conflict, as citizens demand greater equality and accountability, as institutions struggle to gain public confidence, making the rule of law work for people is challenging. It is clear we need more innovative thinking and multi-disciplinary approaches to overcome the obstacles and exploit new opportunities.

The International Development Law Organization, the only intergovernmental organization exclusively devoted to advancing the rule of law, is organizing a one-day conference, with the support of the Government of the Netherlands and the Mayor of the City of The Hague, to mark the opening of its office in the Netherlands.

The conference will bring together policy makers, thinkers and practitioners to debate how best to overcome the deficit in global justice. The conference will seek to highlight the lessons learnt from recent operations, analyze current trends, opportunities and challenges and discuss how we can best address the rule of law in the context of conflict prevention and peace-building; human rights and access to justice; and economy, trade and investment. The insights and conclusions of the conference will be fed into the international discussions to design a new post-2015 agenda for sustainable development. It is hoped it will broaden the constituency of support for the rule of law, and set the stage for new partnerships with IDLO.

The conference will start with a keynote speech by José Ramos-Horta, UN Special Representative and Head of the UN Integrated Peacebuilding Office in Guinea-Bissau, also a Nobel Peace Prize Laureate and former President of Timor-Leste. Participants will then address key issues of the intersection of the rule of law and development in four panels – descriptions below.

## **PANEL 1: PEACE, SECURITY AND JUSTICE: A TALL ORDER?**

Decades of international experience have shown that the rule of law is indispensable to international peace and security. Arriving at peace or political accords in crisis or post-conflict situations is only an initial step in the process of bringing about stability; after the accords, comes the difficult task of building people's trust and confidence in institutions to ensure successful peacebuilding. In countries recovering from conflict, recurring violence, weak political consensus, the lack of political legitimacy, inadequate resources and capacity make it particularly difficult for institutional and legal reform to take root. Justice sector reform is overshadowed by the security sector issues. "Embedding" rule of law reforms requires local ownership but in societies torn apart by conflict the legitimacy of local stakeholders is itself questioned – there may be no democratic government or genuinely representative local authorities. Accountability for past human rights crimes are caught on the horns of the dilemma between pursuing peace or ensuring justice: transitional justice is either ignored or left to fall by the way side, leaving grievance unaddressed and creating room for new ones.

- Where and how have rule of law initiatives contributed successfully to peace and security? What are the “do”s and “don’t”s?
- What are the challenges and opportunities for rule of law in peace-building?
- Is there undue donor influence on rule of law assistance? Is the international community investing in the “right” things and in the “right” way?
- What’s the key to successful local ownership?
- Can peace and justice be reconciled, and at what cost?

## **PANEL 2: GENDERING JUSTICE: WOMEN AND THE LAW**

Women face violence, economic and political marginalization and the denial of human rights in a multitude of settings across the world. Despite progress in the education of girls, the employment and political participation of women, gender inequality persists and women are denied equal protection of the law. Women continue to face legal as well as social discrimination, and in some countries the courts themselves are complicit in women’s oppression. Even in countries where the law provides for equality, they may not be properly implemented or courts may not be responsive to women’s needs. Legal barriers that women face are often generated, and compounded, by custom, culture, religious practices, social prejudice and patriarchal attitudes, and practical impediments, such as lack of safe transportation or childcare. Women in developing countries often turn, by choice or necessity, to traditional justice systems to resolve their grievances, but in so doing, find themselves confronting ingrained prejudice, severe discrimination and serious human rights violations. Women’s access to justice requires much more than good laws and reform of the courts. It is one of the biggest challenges of our times.

- Are the interests of women being given adequate consideration in rule of law interventions by governments, donors and justice sector actors?
- Why is rule of law assistance failing women? How can international assistance be better targeted to benefit women?
- What are the challenges and opportunities of engaging with informal justice systems for women?
- Do women in the justice sector need to do more to champion women’s rights?
- Would greater numbers of women in the justice sector improve the quality of justice for women? Or would it isolate and marginalize women’s issues?

## **PANEL 3: INDEPENDENCE AND INTEGRITY: MAKING COURTS WORK FOR PEOPLE**

A legitimate, effective, efficient and responsive judicial system is recognized as key to breaking the cycle of violence and instability and laying the foundations for economic recovery and social development. An independent judiciary and an effective legal system provide the means to address grievances in a fair and structured way, bringing stability and strengthening social cohesion. Indeed, state legitimacy is often measured by the judiciary’s ability, or perception of its ability, to provide independent, equitable and competent rulings. A number of countries have embarked on constitutional, judicial and legal reform as part of their process of democratization. But there are many challenges, including tensions between the executive, legislature and the judiciary, political interference, lack of resources, inadequate capacity,

inefficient or outdated processes, corruption and mismanagement. Often the courts are too expensive, remote and removed from the concerns of ordinary people who turn to customary and informal systems of justice to resolve their disputes. Improving the quality of justice from the perspective of those whom the laws and institutions are meant to serve remains a challenge.

- What are the key barriers to judicial independence and integrity? What lessons can we learn from recent experiences of reform?
- Are courts meeting the needs of the people? How can people's access to justice be improved?
- How can courts best fight corruption – within the judiciary and in other institutions?
- How do we measure the quality of justice dispensed by courts?
- How effective and appropriate is the international investment in judicial reform?
- Do informal justice systems deserve more international attention?

#### **PANEL 4:      LOOKING BEYOND 2015: EQUALITY, OPPORTUNITY, SUSTAINABILITY AND THE RULE OF LAW**

The rule of law is relevant to all three dimensions of development: economic, social and environmental. By providing predictability and certainty through a stable, transparent legal regime, it creates an environment conducive to investment and enterprise. By strengthening the legal framework to protect the environment, it advances the sustainable dimension of development. By ensuring equal opportunity and equitable access to basic services, it promotes social development and inclusive societies. Poverty and inequality thrive when the state fails to protect people's lives or property; when discrimination is rampant; when private interests override public good; when the law is selectively enforced in favor of the rich and powerful. With inequality growing across the world, issues of rights and justice are as relevant in the developed world as they are in developing countries. Yet, there is no international consensus on the role of the rule of law in advancing development, nor agreement on whether the rule of law constitutes human rights. The Millennium Development Goals (MDGs) make no reference to the rule of law. As the international community debates the priorities for a post-2015 Development Agenda, the rule of law is emerging as a contentious and controversial issue.

- What are the lessons on inequality and injustice that developed and developing countries share? Of what relevance are they to the rule of law?
- Is the absence of the rule of law a barrier to achieving the Millennium Development Goals?
- Why is the rule of law a controversial topic for development? Why are some governments reluctant to include the rule of law in the post-2015 Development Agenda?
- Should aid be conditional on human rights and the rule of law?
- How can we create the space for constructive dialogue and consensus on the rule of law and sustainable development?

*The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.*