

What is the rule of law?

The 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, as well, measures to ensure adherence to the principles of supremacy of 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.”¹

Displacement challenges linked to the rule of law

Displaced persons face many challenges linked to rule of law issues:

- Physical and legal obstacles to accessing lawyers, courts and other justice service providers due to isolation in refugee camps or remote places; fees, or strict eligibility criteria (nationality, residence etc.) for legal aid and other legal services;
- Dysfunctional or inadequate laws, procedures and institutions, which result for example in difficulties obtaining refugee and asylum status, documents or permission to circulate outside designated areas;
- Inability to legally register births or marriages, or obtain other decisions relative to civil status such as adoption or divorce;
- Inadequate legal protection and enforcement of a full range of human rights, including employment, access to health, property, education and cultural rights, etc.;
- Lack of attention to the specific risks faced by displaced populations can increase vulnerability to serious crimes, such as human and other trafficking, torture, sexual and financial exploitation, with an effect on displaced populations and on the wider community.

The Rule of Law Thematic Group

The Group members seek to help draw together the different strands of response to displacement, and to empower displaced and host communities and local authorities at all phases of response and in the search for solutions.

In particular, Rule of Law actors need to consider how to develop programmes that can adapt to emergencies while remaining consistent with longer-term priorities; can ensure the inclusion of displaced populations despite potential administrative hurdles associated with nationality, loss of documentation, compatibility of systems, information management structures and jurisdiction, and can seek structural responses to root causes and conflict triggers through long-term planning from the earliest part of every response.

Objectives

The Group aims to:

- Improve the level of coordination among rule of law actors in displacement solutions operations;
- Provide a platform for rule of law actors to address issues arising out of specific displacement solutions strategies and situations at a global level;
- Develop a common understanding of the minimum standards for displacement solutions targets in rule of law areas;
- Share or produce quality rule of law operational guidance on different aspects of rule of law programming adapted to the specific needs of displacement solutions;
- Initiate and maintain a dialogue with affected states on rule of law issues and programming that relate specifically to displacement solutions or that might require adjustment to address the specific needs of displaced populations; and
- Contribute to consistent messaging on and representation of rule of law issues relating to solutions for displacement in both development and humanitarian fora.



Projects

The Solutions Alliance Thematic Group is currently developing its mandate and approach relative to the rule of law. **A scoping Study and a Secretary-General's Guidance Note are being produced in 2016, which will examine the contribution of rule of law interventions to solutions, addressing the four essential dimensions: legal, social and cultural, civil and political and economic.**

- The Thematic Group will analyse areas of rule of law policy and programming that organisations can focus on to advance their work in the search for solutions, based on international standards, and provide practical working tools and resources.
- The Study and Guidance Note will also address the specific issues faced by increased-risk groups within displaced communities, such as women, children and youth, and members of minorities within those communities.
- The Solutions Alliance also exists as an active resource to organisations in their efforts to respond to the needs of displaced persons through rule of law interventions.

Space for contributions from members

Group members can therefore:

- Provide technical support, including deployment;
- Provide policy and strategy advice and guidance, including help with harmonising different approaches and policies across organisations, and with the private sector;
- Provide support from UN Headquarters (UNCHR, UNDP, etc.) for adaptations to normal programming or policy (including of donors), where this is necessary to accommodate displaced communities, new situations, etc.;
- Provide advice on assessing displacement situations, and guidance on potential interventions and approaches;
- Identify needs and constraints of displaced persons that could be addressed through such interventions;
- Help identify and contact potential partners and key stakeholders;
- Help with fundraising for rule of law aspects of comprehensive strategies; and
- Provide relevant tools and other resources to help with programming and implementation.

Members

- Asylum Access
- Danish Refugee Council
- Executive Office of the Secretary-General of the United Nations, Rule of Law Unit
- Internal Displacement Monitoring Centre
- International Federation of the Red Cross and Red Crescent Societies
- International Organization on Migration
- International Rescue Committee
- Norwegian Refugee Council
- Office for the Coordination of Humanitarian Affairs
- United Nations Department of Peacekeeping Operations
- United Nations Development Programme
- United Nations High Commissioner for Refugees

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References:

1. Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies (S/2004/616)*, 23 August 2004. Indicates New Citizens in transition to full local integration.