

The Thematic Rule of Law Group: Using the Rule of Law to support Solutions

What is the Solutions Alliance?

The Solutions Alliance¹ is a global initiative and multilateral partnership jointly launched in April 2014 that aims to advance a [partnership-oriented approach to resolving displacement situations and preventing new displacement situations from becoming protracted](#). The Alliance is an inclusive platform that brings together stakeholders from all sectors to promote innovative and effective responses to displacement.

The Alliance includes a [Thematic Rule of Law Group](#) comprised of a number of international actors, which includes UN agencies, non-governmental organisations, and other entities concerned with rule of law and comprehensive solutions. [Rule of law](#) is a comprehensive concept; while there is not an internationally agreed definition, Member States have identified its common elements. The UN Secretary-General has described it 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. 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*”².

The Solutions Alliance Thematic Rule of Law Group aims to:

- [Improve the level of coordination](#) among rule of law actors in seeking solutions to displacement;
- [Develop guidance](#) on aspects of rule of law that are important to achieving solutions;
- [Engage in dialogue with states](#) where the rule of law can facilitate the achievement of solutions and to support joint programming where appropriate.

Why is rule of law important for displaced persons?

Displaced communities and individuals are often not included in development strategies, planning and actions, and instead are seen as the exclusive concern of humanitarian actors. Lack of access to justice and security, exclusion from structures such as those dealing with civil registration and property, and the creation of parallel services, [reinforce the isolation](#) of displaced communities and [increase their vulnerability](#) to human rights violations. In addition, [existing rule of law interventions are not always adequately adapted](#) to address the specific challenges faced by displaced persons.

Including displaced populations in rule of law interventions from the outset can [protect and empower them and their host communities](#), and contribute to [nation-building and social cohesion](#). It also serves to reinforce [the access to justice, community security and human rights of all people](#).

¹ <http://www.endingdisplacement.org>

² [Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies](#)

How can rule of law actions contribute to comprehensive solutions for displaced persons?

Interventions that support the rule of law help pave the way towards solutions for displaced persons in [numerous direct and indirect ways](#), and uphold their essential [human rights and dignity](#). Rule of law can support, directly or indirectly, achievements in all [four key dimensions that must be incorporated in solutions approaches: the legal, the social and cultural, the civil and political, and the economic](#).

Rule of law should be considered from a human rights perspective, and [alongside other areas where inclusion is key](#), such as health and education, as an essential component of [comprehensive strategies](#) that can help develop sustainable solutions. Importantly, an essential element in ensuring the respect of human rights, and thus the effectiveness of rule of law interventions, is to ensure both the [empowerment and participation of displaced persons](#) to the extent possible, in particular relative to the internally displaced.

[Rule of law actions](#) that support the rights of displaced persons are broad-ranging – including support to legal and institutional reform, and awareness-raising and capacity-building of key actors and displaced persons themselves – and can be [integrated into projects and interventions at any stage of implementation](#), from planning through to finalisation and evaluation. While of course rule of law-specific programming inclusive of displaced and settling populations is essential, [rule of law interventions can also support inclusive programming in other sectors](#), for example in projects relating to livelihoods and economic recovery, education, health and culture, and even large infrastructure and urban initiatives; in short, wherever displaced persons may be affected – positively or negatively – as final beneficiaries.

The [specific challenges](#) experienced by displaced persons in their host communities will help indicate the legal, security and human rights support that is most likely to provide solutions. Some serious barriers may include the following:

- [Physical and legal obstacles to accessing lawyers, courts and other justice service providers](#), which would otherwise be able to provide support or recourse to displaced persons, on a full range of legal issues. Such access may be restricted for example by isolation in refugee camps or remote places; by fees, or by 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 or documents, birth certificates or permission to circulate outside designated areas](#), often pre-requisites for obtaining broader legal recourse and socio-economic support, or obtaining [redress for victims of crimes](#), and in particular women, who can be more exposed to abuses during displacement and who can be more restricted in their freedoms once settled in a displacement area;
- [Inability to legally register births or marriages](#), or obtain other decisions relative to [civil status](#) such as adoption or divorce, due to restrictive laws, or physical barriers to institutions;
- [Inadequate legal protection and enforcement](#) of a full range of human rights, including employment, access to health, property, education and cultural rights, etc.;
- State's security forces and security service providers possess [inadequate awareness](#) as to the rights of refugees and displaced persons, and lack the [capacity](#) required to adopt new or adapt existing mechanisms to respond to the demands of a new or increased population;
- Lack of information about displacement and refugee protection among officials means that refugees can be subject to [arbitrary detention](#), and may also face [refoulement](#);
- Human rights bodies may not automatically or adequately [monitor or document](#) the human rights status of displaced persons, since they fall outside pre-existing criteria;
- 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.

How can actors in the field support the rule of law and solutions for displaced persons?

Government, civil society, development, humanitarian and other actors can support the rule of law and solutions for displaced persons by identifying firstly the difficulties and obstacles experienced by displaced persons in a specific context, and secondly whether and how these could be addressed through rule of law interventions [within existing or planned projects](#). This need not entail re-thinking project objectives and activities, but rather [ensuring that rule of law responses are actively considered and integrated](#) as a means of ensuring comprehensive solutions for displaced persons.

[Examples of rule of law interventions](#) that may contribute to comprehensive solutions for displaced persons include:

- Reinforcing the [legal framework](#), ensuring international human rights norms are integrated;
- [Capacity building](#) of rule of law institutions and civil society organisations;
- Supporting [traditional and transitional justice](#) mechanisms;
- Criminal and administrative [justice reform](#);
- [Human rights training](#) for rule of law professionals;
- [Community outreach](#), and work with [local institutions](#);
- Promoting [access to justice and legal aid](#), including through support for [mobile courts](#);
- Support to the development of [alternative dispute resolution](#), and other key institutions such as [ombudsmen](#) and [human rights commissions](#);
- Renovating or even rebuilding physical [infrastructure and facilities damaged by conflict](#);
- Support to [transparency](#) and [judicial independence](#) initiatives.

How can the Solutions Alliance assist?

The Solutions Alliance is currently [developing its mandate and approach](#) relative to the rule of law. For example, 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. The Rule of Law Thematic 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.



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