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IPA's Security–Development Nexus Program aims to contribute to a better understanding of the linkages between the various dimensions of violent conflicts in the contemporary era and the need for multi-dimensional strategies in conflict management. Through its research projects, conferences and publications, the program seeks to make concrete recommendations to the United Nations system and the broader international community for more effective strategies, policies and programs in achieving sustainable peace and development.

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## RULE OF LAW PROGRAMS IN PEACE OPERATIONS

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The full report can be accessed online at:  
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The International Peace Academy (IPA) held a conference on 29 October 2004 on *Rule of Law Programs in Peace Operations: Toward a Conflict-Sensitive Perspective*. The international conference brought together policymakers, practitioners and academics to discuss the effectiveness and long-term sustainability of current programs, and in particular their actual impact in different phases of conflict, with a view to distilling recommendations for improved rule of law and conflict management policy and practice. This conference sought to expand on some of the issues which were presented in the 2004 UN Secretary-General's report on *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*.

Since the IPA Conference, major policy developments have taken place that are of critical import to the UN and international community. In March 2005, the UN Secretary-General, encouraged by the 2004 UN report of the High Level Panel on Threats, Challenges and Change, released *In Larger Freedom: towards development, security and human rights for all*, where important proposals were put on the table for reforming the UN system as a whole. The report included key recommendations that are particularly relevant for the rule of law, by recognizing its significance in peacebuilding and calling for the creation of a rule of law unit to be housed within the proposed Peacebuilding Commission. In anticipation of the UN Summit in September 2005, this IPA Policy Report seeks to integrate these recent developments into discussions that are currently taking place and which can play a major role in strengthening rule of law policy and practice.

## RULE OF LAW AND CONFLICT MANAGEMENT: ISSUES AND CHALLENGES

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1. Over the last fifteen years, the international community has supported the implementation of programs designed to strengthen the rule of law in countries susceptible to or recovering from violent conflict. Yet the question of how best to restore and/or implement rule of law programs in fundamentally insecure environments and to what degree the rule of law can prevent or mitigate conflict is not yet fully known.

2. The United Nations (UN) recently adopted a common definition of the rule of law for the many agencies involved in this programmatic area. While this advancement is widely welcomed, translating the all-encompassing nature of the definition into specific activities in field operations is likely to be a major challenge. The international community must give further thought to the rule of law as a guiding principle and then match it to the design of international programs. This objective may be blurred due to the sheer number of programs dedicated to disparate aspects of rule of law activities.

3. Many rule of law experts have been hesitant to admit the political nature of their programs, yet such activities are inherently political in that they aim to affect societal and governmental power structures. Thus, the rule of law should not be regarded as a subset of security objectives or as a technical component of development programs, but as an integral element of peacebuilding strategies.

4. "Local ownership" of rule of law activities is

widely supported by international actors, but the concept is not effectively understood or implemented. Where local efforts do exist, it may be argued that too much emphasis is placed by the donor community on the reform of formal and centralized institutions that do not necessarily reach out to large portions of the population.

5. The role of informal systems in the (re)-establishment of the rule of law is a key area that must be incorporated into programs and planning. There is mounting interest in the use of customary and informal legal systems in conflict-prone or post-conflict countries. One should caution, however, against unconditional endorsement of customary systems, for they may perpetuate discriminatory practices against vulnerable groups.

6. One of the main challenges for actors in this field is the absence of overarching and coherent strategic frameworks and planning related to the sequencing of rule of law programs within peacebuilding initiatives. In particular, measures aimed at longer-term development reforms—through administrative laws and processes, anti-corruption strategies, property, land and housing rights, and natural resource management—are still comparatively neglected in UN approaches.

7. While the rule of law is increasingly included as part of post-conflict peacebuilding strategies, considerably less attention has been given to the role that rule of law can play in conflict-prone societies. As relevant actors seek to encourage rule of law support beyond current peace operations, it is necessary to apply certain lessons learned in these areas to the conflict prevention paradigm.

## IMPROVING RULE OF LAW POLICY AND PRACTICE

- While the last few years have seen the progressive recognition and affirmation of the importance of the protection of civilians and of human rights in the mandates of peace missions adopted by the Security Council, experts favor more consistent inclusion of rule of law elements in Security Council mandates and peace agreements. This would help clarify the role and tasks of rule of law components in peacekeeping operations and would consolidate current international practice.

- The primary objective in the immediate aftermath of conflict is to re-establish security, in particular internal security, which is a prerequisite for the successful implementation of longer-term development strategies. There needs to be a better understanding of the inter-linkages between the various components of the criminal justice system—courts, corrections, criminal defense, police and prosecutors. Other areas should also be considered, in particular those connected to the return of refugees and displaced persons, such as housing, land and property, and citizenship issues.

- Future reforms need to be undertaken which help to bridge the divide between the immediate restoration of basic law and order and the perhaps less visible yet equally pervasive aspects of wider, longer-term rule of law initiatives aimed at economic, social and political transitions.

- Rule of law institutions have been granted a primary role in achieving national reconciliation. By addressing past human rights abuses and fighting impunity, domestic legal institutions can

gain greater legitimacy among the population. There is, however, a broader role for legal institutions beyond transitional justice, such as in the realm of social and economic rights, which have tended to be overlooked in rule of law programs of UN agencies.

- Rule of law practitioners have learned that the best-laid plans will backfire if no strategy exists to handle well-organized spoilers. Some level of international control may have to be adopted in the early stages of the mission. Yet engaging the political leaders and local elites and building national reform constituencies will still be a crucial task of rule of law practitioners in field missions.

- International approaches should ideally be based on: the identification and utilization, as part of strategic planning processes, of local reform constituencies; the use of local experts to produce needs assessments; the accessibility (including through the appropriate use of local languages) of international norms and regulations; and the adoption of meaningful participatory approaches.

- While evaluations, assessments and lessons learned on rule of law programming have flourished in recent years, their use and relevance for practitioners is still sparse and they are not sufficiently disseminated.

- Improvements are still needed in the provision of adequate rule of law expertise to field missions. There is a need to move away from the exclusive focus on lawyerly expertise and to draw on a wider set of skills for effective and professional rule of law field practice.

- Efforts need to be made to better engage political representatives at the international level. Besides ensuring better pre-mission briefing of Special Representatives of the Secretary-General (SRSGs) on rule of law issues, there is an urgent need to give wider international legitimacy to current UN efforts in order to secure steadier financial support for rule of law tasks in post-conflict contexts.
- The proposed rule of law unit within the support office of the recommended Peacebuilding Commission at UN headquarters should be entrusted with a clear and robust mandate and adequate resources. At the national level, the creation of a transitional rule of law unit or a focal point within the national government of post-conflict countries, which would be in charge of strategic planning, sequencing and prioritization of activities, should be considered.

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The background note, agenda and participants' list of the 29 October 2004 IPA Conference on *Rule of Law in Peace Operations: Toward a Conflict-Sensitive Perspective* can be accessed online at [www.ipacademy.org](http://www.ipacademy.org).

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#### The Security-Development Nexus Program Policy Papers and Conference Reports

*Peacebuilding as the Link between Security and Development: Is the Window of Opportunity Closing?* Necla Tschirgi. Policy Paper, December 2003.

*Strengthening the Security-Development Nexus: Assessing International Policy and Practice since the 1990s*, Agnès Hurwitz and Gordon Peake. Conference Report, April 2004.

*Police Reform through Community-Based Policing: Philosophy and Guidelines for Implementation*, Hesta Groenewald and Gordon Peake. Policy Paper, September 2004.

*Post-Conflict Peacebuilding Revisited: Achievements, Limitations, Challenges*, Necla Tschirgi. Policy Paper, October 2004.

*Building Effective Partnerships: Improving the Relationship between Internal and External Actors in Post-Conflict Countries*, International Peace Academy and WSP International. Conference Report, October 2004.

*Police Reform in Post-Conflict Societies: What We Know and What We Still Need to Know*, William O'Neill. Policy Paper, April 2005.

*Achieving the Millennium Development Goals in Conflict Contexts*. Prepared for the United Nations ECOSOC High-Level Segment Luncheon. Policy Brief, June 2005.

*Rule of Law Programs in Peace Operations*, Agnès Hurwitz and Kaysie Studdard. Conference Report, July 2005.

