

APPENDIX B

Becoming a Rule of Law Practitioner

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Introduction

Advancing the rule of law abroad as a career is bound to have an enormous impact on both the professional and on the project pursued. Whether the project is a short-term consultancy to address victims of human sex trafficking in South Africa or gender-based violence in Afghanistan, a volunteer opportunity to help disabled citizens of Paraguay gain access to equal employment, or a long-term consulting position to help facilitate the establishment of new rules for an Eastern European stock exchange, there are many avenues with which to pursue the rule of law as a career.

More and more we find that lawyers, non-lawyers, and citizens from any country are successful in making invaluable and enduring contributions. This chapter will provide insights to those interested in pursuing opportunities in the rule of law field, particularly lawyers.

The Rule of Law When Job Seeking

As the editor and contributors have discussed throughout the different chapters of this book, because there is no single definition of the "rule of law," job seekers should take care to note how different institutions approach the concept and their institutional priorities.

The views expressed in this chapter should be attributed solely to the author and do not necessarily represent the opinion of the U.S. Agency for International Development (USAID) or the U.S. government.

Through my own experience with the U.S. Agency for International Development (USAID), interventions to advance the rule of law are often more targeted at the justice sector. These might include actions to change legal frameworks (judicial independence, criminal codes, or civil procedure) or improve the institutionalization of justice by helping public organizations (courts, prosecutors, public defenders, police, and prisons, among others) or private groups (like justice sector watchdogs, citizen groups, or media associations).⁴⁶⁴ Alternative dispute resolution is another area often considered part of the rule of law for USAID purposes.⁴⁶⁵

Other examples are brought by the regional development banks. The Inter-American Development Bank (IADB) has a number of very innovative programs organized under "Institutional Capacity and Financial Sector."⁴⁶⁶ Similar programs are administered by the African Development Bank (ADB) and the Asian Development Bank (ADB). The World Bank (WB) has one specialized unit that deals specifically with "Justice for the Poor." That being the case, job applicants may want to broaden their search to include these other areas and not limit themselves to "rule of law" projects which might be narrowly defined by an international, multilateral, or bilateral organization.

Not All Rule of Law Jobs Require Law Degrees

It is important to note that not everyone who works on rule of law projects is a lawyer or an economist. One good example is the Victims' Assistance Center in Guatemala.⁴⁶⁷ Psychiatrists, prosecutors, translators, emergency medical response units, social workers, clerks, and others were all organized to create a 24-hour-a-day response unit for victims. Part emergency medical facility, part legal help center, and part refuge, the center helped any victim who walked in the door. That effort was headed up by a social worker, not a lawyer.

Another example of a rule of law project that did not require a law degree was a project that modernized the Clerk of Court office, again in Guatemala City.⁴⁶⁸ Previously, every court held its own records. Important documents often "disappeared" from the system. The 11 criminal courts were reorganized with a single clerk of court office to administer the system. That office also received a modern case-management system. This award-winning project was conceived and managed by a clerk of court from the state of New Mexico, who was not a lawyer.

How to Start: Get Involved

The adage "The easiest way to find a job is to have a job" seems to hold true in the rule of law area. Being involved with activities opens the door to contacts and awareness of other opportunities while also building experience for the resumé. It is also important to remember that people already known to the applicant are probably the most important to remember.⁴⁶⁹ and when making a contact, it is important to ask for a reference instead of a job, to avoid putting people on the defensive.

A starting point for job seekers is the ABA Section of International Law (ABASIL), where committees are organized covering all kinds of projects and its membership comprises of both American and non-American lawyers.⁴⁷⁰ ABASIL's International Law Resource Center (ILRC) was founded with the United Nations Development Program (UNDP) in 1999 to create volunteer opportunities for lawyers interested in working abroad.⁴⁷¹ The ABASIL or ABA Rule of Law Initiative (ROLI) websites⁴⁷² may have examples of work across a broad spectrum, covering commercial law, trade law, intellectual property, real estate, criminal law, and civil procedure, all in an international context. The World Justice Project defines the existent conditions required for the Rule of Law with a set of four universal principles, as discussed in Chapter One. Opportunities are posted on a regular basis. ROLI also posts volunteer opportunities for ABA members along with select longer-term, paid jobs.⁴⁷³ Other opportunities may present themselves through religious or private voluntary organizations of which the applicant is already a member.

Volunteer Opportunities

American-trained lawyers may use their volunteer work advancing the rule of law to meet their ethical requirements. ABA Model Rule 6.1 addresses Voluntary Pro Bono Service. That rule suggests that lawyers contribute 50 hours a year to volunteer activities.⁴⁷⁴ State, local, and other bar associations often have similar rules. While it is not completely clear if that rule emphasizes only direct representation of the indigent, as opposed to institutional activity, rule of law volunteer work certainly appears to satisfy the spirit of the rule.

Volunteering on rule of law programs may open the door to further professional development. If the goal is to just volunteer on an occasional basis as a sideline to a regular law practice, exposure to international pro bono experiences could give a litigant that extra edge and insight to think outside the box, new ways to approach problems, different vantages, and new tools.

and not-for-profit entities with which USAID works. Nearly all of these entities also work with the WB, the various regional development banks, the UN, and other organizations. As such, it is a "who's who" listing of which organization is doing what to advance democracy and the rule of law around the world. Each project or award is described in summary. Job seekers should remember that there are many more employers also engaged in international development in areas such as disaster relief, health, education, gender,⁴⁷⁵ the environment, or economic growth.⁴⁷⁶

For-profit firms are engaged in promoting international development, democracy, or the rule of law. In fact, many do excellent work. Many of those working on projects are extremely dedicated people with incredible experience just like their colleagues in the not-for-profit world. Often they do very similar work, with similar motivations, often for similar pay. The International Development Exchange (www.devex.com) is a helpful website, with the feel of an international development magazine. It posts international development news, and provides links to job announcements, updates on donor programs and news about projects.

Job Search Strategy: Know Your Market

U.S.-Based Employment

Working in international development directly with the U.S. government seems like one obvious path. But what fresh job seekers may not understand is that there are various ways to "work for" the U.S. government. The most obvious way may be through the civil service. These vacancies are regularly advertised on the Office of Personnel Management (OPM) webpage.⁴⁷⁷ Once at that site, applicants can either review the individual announcement or go directly to an automated employment application system called *Avue Digital Services (AVUE)*. At *Avue*, applicants register and then apply for jobs. A paper application requires the submission of an Applicant Questionnaire Form that must be completed and submitted before the closing date of the announcement.

Candidates for career overseas jobs with the State Department⁴⁸⁰ or USAID⁴⁸¹ usually apply through the competitive Foreign Service system.⁴⁸² The State Department and USAID both recruit new career Foreign Service Officers primarily through its Junior Officer (JO) Program. Qualifications for the State Department include the Foreign Service Exam, whereas USAID uses an extensive interview process. Because of the expanded demand for diplomatic involvement worldwide and the limited availability of staff resources to provide developmental expertise in key sectors (e.g., food, health, basic education, conflict mitigation), both the State Department and USAID offer a limited mid-level hiring program for

International rule of law experience also gives a practitioner new cultural insights and, as discussed throughout the chapters in this book, this is a fundamental factor in supporting the task or mission, since understanding the cultural, social, and legal context has proven to be the critical ingredient to helping local problems, as an outsider to that society.

Career Opportunities

Whether the applicant is looking for a job with a non-governmental organization, a donor, or a for-profit firm, he or she should not assume this is an easy field to break into. Employers will want to know the quality and amount of an applicant's past international experience. For example, for some employers it will be important to know if the applicant was a Peace Corps volunteer (if a U.S. citizen), or if the applicant has done international work for other organizations or lived in other cultures. If the applicant has not worked overseas, then organizational work within the applicant's own country is invaluable. In addition, if the applicant is an expert in a particular field (such as the clerk of courts in New Mexico) those skills are indispensable.

As applicants approach a position, they should be aware of language requirements. If applicants plan to work in a Spanish-speaking country, unless they are experts in a very rare field, they will be expected to speak Spanish. Only really exceptional individuals will be given translation services. On the other hand, if applicants are looking to work in Afghanistan, in all likelihood they will not be expected to speak Pashtun (though it may be extremely helpful for many reasons, not the least of which could be security). As a rule of thumb, rule of law advisors are seldom required to know esoteric or rare languages—where there would be few experts with that knowledge. But where languages are broadly spoken and many would be available that speak that language, then the competitive environment would require that language.

Speaking the local language is not only necessary to remain competitive as a job seeker, it is also a vital tool for the mission. Language is an entree to the local culture; interpreters often do not know legal terminology; and cultural bridges are crossed when the job seeker or volunteer is able to communicate in the local language.

Whether applicants are American or citizens of another country, whether they want to work with an international donor organization, a not-for-profit, or a university, one of the best places to start a job search strategy is USAID's programming guide.⁴⁷³ This resource is updated regularly and has always been available on the USAID website.⁴⁷⁶ It lists all of the contract and grant mechanisms that USAID uses in the democracy sector—along with contact names, addresses, websites, phone numbers, and emails of all the for-profit

specific technical specialties. Most career officers at the State Department or USAID have to come in at a near entry level. It is important to note that most Foreign Service jobs are located outside the United States, although officers have opportunities to rotate through jobs in Washington during their careers. Officers are required to sign up for "worldwide" availability—meaning that the U.S. government could send them to places they might not otherwise pick, like Afghanistan, Iraq, or Sudan. Lawyers with USAID can be either civil service (Washington-based) or Foreign Service (mostly overseas).

Lawyers working for the State Department and USAID are focused on providing the support systems and legal advice necessary for running the organization's business—they are not managing programs. The lawyers are active in setting up contracts and grants with non-governmental organizations, contractors, or the host governments to carry out development objectives. They are also experts on government personnel law, government contracting, ethics, and other public administration law and management issues. However, they are not engaged in running rule of law projects or other development programs. That is the work of the technical officers—democracy, economic growth, environment, health, education, and so on.

Lawyer applicants for USAID Foreign Service do enter at levels higher than they would if they entered the junior officer program. Those openings are advertised on the USAID webpage. Like other Foreign Service officers, the lawyers (called Resident Legal Advisors, or RLAs) could be posted anywhere in the world but are expected to be available to serve in Critical Priority Countries (currently defined as Pakistan, Afghanistan, Iraq, and South Sudan) if needed. These positions are very competitive with most selected applicants having law degrees from elite universities with three to five years of major law firm or comparable experience. Many have prior international experience or speak a foreign language.

Both the State Department and USAID employ many Personal Services Contractors (PSCs), especially in locations needing a lot of officers (like Afghanistan) or in specialized skill areas like rule of law. PSCs are hired competitively, but not through the personnel system. Announcements are posted on the Federal Business Opportunities webpage (www.fbo.gov/) like any other competition for federal government contracts. These usually full-time jobs can be in Washington or anywhere around the globe. There are advantages to being a PSC—there is no "worldwide availability," as there would be for the Foreign Service, for example. Therefore, a PSC employee would not have to go to a location that he or she does not want to work in. PSC arrangements also allow for easier mid-career entry, again unlike the Foreign Service, which usually requires new hires to start at the bottom of the ladder regardless of past experience. Nevertheless, PSCs are contractors: they do not accumulate retirement with the federal government, they are supervised by someone who is a direct-hire

U.S. government employee (so they are rarely "the boss"), and the PSC contract has to be re-competed on an occasional basis. Finally, there is usually zero promotion potential; to get promoted, the applicant must leave one job and compete for another contract. PSCs work on technical programs (democracy, economic growth, environment, health, education, and so on) and are not the lawyers for the organization.

Beyond the State Department and USAID, other U.S. government agencies also play active roles. The U.S. National Security Strategy⁴⁸³ calls for a "whole of government" approach to delivery of foreign assistance. As a result, other organizations bring the skills they have to bear to the effort. At the U.S. Department of Justice, the Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT)⁴⁸⁴ and the International Criminal Investigative Training Assistance Program (ICITAP)⁴⁸⁵ both provide assistance to advance the rule of law. Generally, OPDAT focuses more on prosecutorial support, with ICITAP focused more on the police. The U.S. military also provide rule of law help in places like Afghanistan and Iraq. The Commerce Department's Commercial Law Development Program has about 30 lawyers working in roughly 50 countries on commercial law reform.⁴⁸⁶

Non-U.S.-Based Employment

Unlike the State Department or USAID, where the lawyers are primarily focused on providing the institutional and legal support to the organization but technical officers typically run the day-to-day programs, including in the rule of law area, other donors are organized quite differently. At the WB, for example, lawyers in the General Counsel's Office may be involved in project design or management. The bank has a chief counsel who heads up the Legal and Judicial Reform Practice Group, under the Bank's Legal Vice Presidency. These lawyers are substantively engaged in defining rule of law and other development programs, managing their performance, measuring results, and evaluating impact. Of course, lawyers in the Bank also perform roles similar to lawyers at the State Department or USAID—that of internal organizational support, contract drafting, personnel law, and so on. Of note is that donor organizations with similar missions have different ways of organizing how they manage staff working on rule of law projects. Like the WB, the IADB also has lawyers in its General Counsel's Office who get involved in project management.

However, lawyers wanting to work on the rule of law in these types of organizations should not ignore the fact that many of these programs are managed outside the General Counsel's Office. For example, lawyers, economists, business managers, and others form multidisciplinary teams to work on the design of rule of law and other programs. At the

WB, Senior Public Sector Management Specialists, for example, working on Poverty Reduction and Economic Management, may be economists, but may also be lawyers or persons with other top academic credentials and extensive experience in international development. At the IADB, while there are lawyers in the General Counsel's Office, they could also be on the Modernization of the State team, Finance and Basic Infrastructure office, or in the Social Development Division. The Pan-American Health Organization (PAHO) has its General Counsel's Office but also incorporates legal advice in, for example, the Violence and Injury Prevention, Healthy Settings Unit, under the Sustainable Development and Healthy Environment Area. Again, it is noteworthy that important rule of law and other international development program management may occur in the legal division, but is often done outside of that office by other multidisciplinary teams that often include lawyers.

UNDP has advisors around the world who are active not just on rule of law, but in a range of development programming. Other United Nations (UN) entities—like the UN Environment Program or the World Health Organization (WHO)—also are active on rule of law or international development projects. Other organizations a job seeker may wish to explore include the UN and its specialized agencies, the Universal Postal Union (UPU), Interpol, the World Trade Organization (WTO), the World Customs Organization (WCO), the International Finance Corporation (IFC), and the International Monetary Fund (IMF). Other regional entities that might be of interest include the North Atlantic Treaty Organization (NATO), the Council of Europe (CoE), Organization for Security and Co-operation in Europe (OSCE), the European Union (EU), African Union (AU), Organization of American States (OAS), Association of Southeast Asian Nations (ASEAN), Arab League, and Union of South American Nations (UNISUR), among others.

There are a number of public international organizations that hire lawyers. The Justice Studies Center of the Americas⁶⁷ was created in 1999 by resolution of the Organization of American States (OAS) General Assembly. Another similar entity is the Inter-American Institute for Human Rights,⁶⁸ also affiliated with the Organization of American States (OAS), based in San Jose, Costa Rica. The Organization of Islamic Cooperation and the Organization for Economic Co-operation and Development (OECD) are other interesting avenues to explore, depending on a job applicant's interest and background.

Conclusion

As discussed throughout this chapter, there are a myriad of ways to be involved with advancing the rule of law in the international sphere. Volunteers and paid practitioners alike come from varied social, cultural, and legal backgrounds. The field is highly competitive,

with remuneration much less than in private-sector practice. New specialized fields have emerged to monitor impacts, integrate gender, and advance justice in conflict settings. While the interest in the field continues to grow, those seeking to start a career in this field should be aware that having a legal training is not enough, and acting as rule of law advisors asks for a set of multidisciplinary skills to better respond to challenges to the rule of law in troubled societies.



PROMOTING THE RULE OF LAW

A Practitioner's Guide to Key Issues and Developments

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