



**ROLE UK**  
Rule of Law Expertise

Briefing Paper  
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# ROLE UK: International pro bono: what do we know about what works?

Lessons from ROLE UK and the international  
development evidence base



**UKaid**  
from the British people



# International pro bono: what do we know about what works?

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## Summary

This paper brings together key lessons from the evidence on what works in international development Rule of Law (RoL) interventions, and from the pro bono assignments supported by ROLE UK. Its aim is to support more effective capacity building and technical assistance work in developing countries by UK government and pro bono legal and judicial experts. The key messages for international pro bono are:

- ***Plan and monitor for impact***
- ***Consider demand, needs, and whether the assistance is the right fit for the problem***
- ***Ask whether and how UK assistance is relevant***
- ***Understand the context***
- ***Think about whether the support will be sustainable***

## Introduction

ROLE UK is a pilot programme funded by the UK Department for International Development (DFID) that harnesses the skills and expertise of the UK legal and judicial sector to provide pro bono assistance in developing countries. ROLE also synthesises and communicates lessons from international pro bono experience, including the assignments it supports, together with evidence from a wealth of international development RoL programming, and from broader international tools and approaches. This paper draws on a number of sources including a recent ROLE UK Independent Review and Learning Exercise,<sup>i</sup> a synthesis of relevant evidence from justice and security programming,<sup>ii</sup> a number of guidance notes produced by ROLE UK and its partners,<sup>iii</sup> and evidence reviews and guidance notes by DFID and other donors.<sup>iv</sup> The international development literature on RoL is by no means complete or unanimous, and includes many areas of uncertainty, but it does contain many messages that back up what we know from studies of international pro bono work on RoL.

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## Planning and monitoring for impact

Decades of international development experience have highlighted the importance of planning interventions in such a way as to achieve results. Many development initiatives that have failed, have not fully articulated what problem they were seeking to address, why and how their intervention was the right one to address it, and how they would know if it was working, step-by-step. Fleshing out this logic can help to identify what has and hasn't worked during and after the assignment. Interventions that don't plan in this way find it hard to learn about effective practices, or to know when they are not effective and to change course accordingly. But the development literature on planning for, and measuring, results is often aimed at large programmes, not at smaller scale assignments and is also frequently jargon-heavy. ROLE UK and its partner organisations support and provide guidance to pro bono experts and clients on how to use the most relevant and feasible tools.<sup>v</sup>

## 'Demand-driven', 'Needs-based' and 'Problem-driven'

Being demand-driven may seem to be self-explanatory: if an assignment has been demanded by a country partner organisation or government department, then surely it is 'demand-driven'? But both ROLE's 2016 Independent Review and its review of evidence from security and justice programmes found that the reality is not so simple. After all a demand for assistance by the ultimate client does not automatically reflect a real need. Many international pro bono assignments are designed to improve legal or judicial capacity in developing countries, which can be a strategic and useful entry point. However, an inherent challenge is that capacity building has tended to adopt a 'deficit lens' viewing problems in developing countries as the result of a lack of expertise, requiring the injection of external expertise.<sup>vi</sup> These assumptions tend to overlook existing expertise as well as the constellation of political incentives and interests that are often the real root of problems in the justice sector.<sup>vii</sup>

Add to this the complication that there can be competing ideas about what needs are. For example, government and civil society frequently disagree about what changes are needed

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to take place to improve RoL. This also begs the question – is the ultimate client of the assistance the government or institution in country or the public who will benefit from improved rule of law? While the latter’s needs may be of greatest interest from the point of view of impact, these may be less clearly expressed by the most vulnerable in society. Technical assistance pro bono work supported by ROLE UK has included assignments that work and engage closer to community level (bottom-up approaches) such as training paralegals, as well as ‘top-down’ approaches such as reviewing draft legislation. Even requests that reflect real needs do not automatically reflect problems for which the requested assistance is a realistic response. Many RoL problems are political at root and hence require an alignment of political will for a solution. These sorts of problems tend not to be susceptible to capacity building solutions on their own in the absence of political acknowledgement of, and will to resolve, them. For these reasons, international development literature increasingly talks about being ‘problem-driven’, and ROLE UK has commissioned guidance that summarizes key points relevant to international pro bono.<sup>viii</sup>

## Relevance

A key development principle, relevance concerns the extent to which the aid activity is suited to the priorities and policies of the target group, recipient and donor. Assessing relevance includes asking whether or not UK expertise is relevant. ROLE’s 2016 Independent Review uncovered examples of assignments where the British expertise provided was particularly relevant. In the case of Rwanda for example, government partners value UK expertise because the country’s development of a hybrid legal system means that UK experts can help strengthen the common law aspects of the system. However, UK expertise may not always be relevant, and in some cases the assumption that UK expertise is needed may be resented. ROLE’s Independent Review found that in one assignment ROLE’s ability to support both a British and a South African expert was regarded as particularly valuable in presenting comparative perspectives.

Thinking about relevance also raises the question of what kind of specific experts, and what kind of support, are appropriate. Evidence from the ROLE Independent Review and the review of evidence from security and justice programming, as well as evidence from

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ROLE partners such as the Legal Assistance for Economic Reform Programme (LASER), all indicate that peer-to-peer professional exchange is particularly productive, for example where government lawyers share learning with government lawyers, or judges with judges.<sup>ix</sup>

## Understanding context

It is now widely accepted in international development, perhaps especially in RoL work, that an understanding of context is key for the effectiveness of interventions. <sup>x</sup> Both ROLE's Independent Review and its review of relevant development literature highlight the crucial importance of understanding context in RoL interventions. The political nature of problems, the need to assess relevance, and the development of a realistic logic for how an intervention can lead to results all require an understanding of the political context of the assignment. The ROLE Independent Review revealed that a fuller understanding of the political context of some assignments would have strengthened the assignment, or even, in one case, potentially changed the decision to conduct the assignment in the form in which it was requested.

This is partly about understanding how assignments fit into the interests and needs of the many different government and non-government actors involved, as well as the multiple donors supporting justice sector reform. Again there may be contestation here, with views of, and interests in, justice sector reform potentially differing between (and within) government, civil society and donors. Ideally, pro bono assignments will be based on an analysis of the interests and existing programmes of the various stakeholders involved and of how the assignment can best add value in that context, whilst avoiding duplication. Co-ordination and collaboration are important principles.

Clearly, pro bono experts may have limited time to access information and achieve an in-depth understanding of context. ROLE UK is developing processes to use its own access to contextual analysis and information to refine assignments and to support experts. ROLE is also developing guidance for legal experts providing justice support in developing countries on a commonly used international development tool: political economy analysis. International development practitioners have drawn from the social sciences to develop

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simple analytical tools which ask how formal and informal institutions, and the interests and motivations of key actors, promote or inhibit the change that is desired.<sup>xi</sup>

## Sustainability

Another key principle in international development, sustainability asks whether the benefits of an activity are likely to continue after the support has ended. Asking whether the assignment is part of an initiative whose benefits will be sustained is important for effective use of pro bono support. For example, even when a true problem of capacity has been identified, it is often not obvious which, or how, capacity development activities can actually build capacities in the medium and longer term. Some international pro bono assignments supported by ROLE UK are designed to assist partners within government departments or civil society organizations. But the international development literature shows that short-term assistance can substitute, rather than build capacity. There are similar lessons when it comes to training assignments, which are a common part of capacity building programmes and are sometimes assumed to be sustainable because they leave behind capacities to solve future problems. Yet the international development literature on training as a means of raising capacities is quite negative. Training interventions have often been found to be short-term, poorly tailored to needs, and to have little consideration of appropriate training methods.<sup>xii</sup> The emphasis on methods is important, since great lawyers, for instance, are not always great teachers.

Pro bono assignments may be inherently more short term than other types of technical support, but they can nonetheless benefit from explicitly considering the likely sustainability of the work to which they are contributing. If we know that both training and technical assistance achieve better results when they are part of ongoing partnerships, involve mechanisms for longer term mentoring and advice, and incorporate practical learning, then pro bono assignments that support wider assistance with these characteristics are likely to be more effective.

Having considered sustainability in planning support, how can we know if training is on track to achieve longer term results after it has taken place? There are well-respected

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frameworks available for evaluating and measuring training results, some ROLE assignments have shown early results against this framework, and pro bono training assignments might want to explicitly incorporate this framework in assessing their early results.<sup>xiii</sup>

## Where to go for more detail

For more detail on the points above, to access tailored guidance and evidence reviews, or to request support for a RoL initiative, please visit the [ROLE UK website](#).

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## Notes

- <sup>i</sup> Alegre, Susie & Paterson, Anna (November 2016) 'ROLE UK Independent Review and Learning Exercise: Public Report' ROLE UK Public Report
- <sup>ii</sup> Denney, Lisa & Domingo, Pilar (September 2016) 'Reflections on ROLE UK's approach: Learning from reviews of justice and security programming' ROLE UK
- <sup>iii</sup> Denney, Lisa & Domingo, Pilar (forthcoming) 'Political Economy Analysis Guidance for Legal Technical Assistance' ROLE UK Guidance Paper; LASER (May 2016) 'Guidance for donors and development practitioners: Learning from LASER's use of pro bono legal expertise: how legal pro bono assistance can add value to development programming.' LASER Guidance Paper; LASER (February 2015) 'The why, what and how of monitoring and evaluation: guidance for providers of international pro bono legal assistance' LASER Guidance Paper; LASER (November 2015) 'Making the most of international pro bono assistance: a handbook for legal pro bono providers and their developing country clients' LASER Handbook
- <sup>iv</sup> ICAI (Independent Commission for Aid Impact) (2015) *Review of UK Development Assistance for Security and Justice*, Report 42, London: ICAI; Roseavere, Caroline (ND) 'Rule of Law and International Development Literature Review' DFID Research and Evidence Division Evidence Products; GSDRC Applied Knowledge Services (2013) 'Evidence on establishment of the 'rule of law' through deliberate interventions' Helpdesk report for DFID; UNDP (2014) *Why, What and How to Measure: A Users Guide to Measuring Rule of Law, Justice and Security Programmes*;
- <sup>v</sup> ROLE (forthcoming) 'Guidance on Monitoring and Evaluation for pro bono assignments'; LASER (February 2015) 'The why, what and how of monitoring and evaluation: guidance for providers of international pro bono legal assistance' LASER Guidance Paper
- <sup>vi</sup> Kenny, S. and Clarke, M. (2010) *Challenging Capacity Building: Comparative Perspectives*, New York: Palgrave Macmillan.
- <sup>vii</sup> Cox, M., Duituturaga, E and Scheye, E. (2012) 'Building on Local Strengths: Evaluation of Australian Law and Justice Assistance,' *Evaluations and Reviews*, Canberra: AusAID and ODE.
- <sup>viii</sup> Denney, Lisa & Domingo, Pilar (forthcoming) op. cit.
- <sup>ix</sup> LASER (May 2016) op.cit.
- <sup>x</sup> Cox, M., Duituturaga, E. and Scheye, E. (2012). *Building on Local Strengths: Evaluation of Australian law and justice assistance*. AusAID ODE Evaluations and Reviews.
- <sup>xi</sup> Denney, Lisa & Domingo, Pilar (forthcoming) 'Political Economy Analysis Guidance for Legal Technical Assistance' ROLE UK Guidance Paper.
- <sup>xii</sup> Denney, L. and Valters, C. (2015) 'Evidence Synthesis: Security Sector Reform and Organisational Capacity Building,' London: Department for International Development.
- <sup>xiii</sup> Alegre & Paterson (2016) op. cit.



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