ROLE UK assignments:

Independent Review and Learning Exercise Report

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ROLE UK assignments: Independent Review and Learning Exercise Report

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Executive summary

1. ROLE UK is a pilot DFID programme based on harnessing the skills and expertise of the UK legal and judicial sector to provide pro bono assistance to DFID’s 27 priority countries. After some delay establishing the team, ROLE has been implementing activities since August 2015 with 16 assignments completed to the date of writing. This review, commissioned by ROLE UK, sampled 12 of these for closer investigation. These cases were used to assess the ROLE theory of change and the value of the pro bono model it supports. This report is the public version of a longer recommendation-focussed report that was presented to the ROLE Unit and Board in August 2016.

2. The review revealed significant demand for the kind of support that ROLE can provide, both from government and from civil society. It also became clear that there is a wide range of untapped demand and ROLE should make some strategic decisions around what types of demand it wants to seek out and prioritise. The ROLE model so far has been very much open to demand from any source although much of the demand has come through ROLE’s established networks. Decisions on the parameters of ROLE’s support are likely to have an impact on the sources and scale of demand.

3. ROLE has a wide network for sourcing legal expertise of different types but in many cases applicants identify their own experts. The key to ROLE’s success is the high quality of expertise and making sure that the experts deployed are the right fit for any assignment. This depends on a number of factors and there is no ‘one size fits all’ approach. Based on the assignments reviewed, we felt that ROLE has done a good job to date of ensuring that the supply matches the demand on an assignment level no matter how the experts were identified.

4. Value for Money: Pro bono experts whose work ‘is free to the client, without payment to the lawyer or law firm’ offer clear economy savings to the client of this model compared to consultancy-based models of procuring technical expertise. But this does not guarantee value for money, which depends ultimately on the effectiveness of assignments. This in turn depends on the suitability of experts. In terms of the unique value of the expertise, the nature (or lack of) of remuneration was not the aspect of the model that was offering most value. It seems that ROLE’s real points of added value in this space are its ability to source high quality government and judicial expertise and its flexibility and responsiveness.
5. ROLE defines its outcomes in terms of strengthening and influencing the way stakeholders use and plan for international pro bono work and the way UK stakeholders design and deliver their legal and judicial pro bono work. At the assignments level there is evidence that ROLE has, as much as possible, assessed and ensured strong assignment design and has offered support to some assignments on how to capture and measure results that has been highly valued. Not all assignments need the same level of help.

6. There is evidence in the 12 sampled assignments of contributions to intermediate results in longer term policy and legislative agendas, to intermediate results in institutional and professional capacity building. These changes were in proportion to the scale and duration of assignments and their broader interventions as well as how recently they took place. In terms of the types of changes, assignments have fallen into broad groups according to the type of activities they supported, for example those that provided training, or those targeted at drafting legislation, or at policy influence. Ultimately, it is the wider interventions conducted by ROLE’s partners that deliver the results to which ROLE assignments contribute. We feel that ROLE could be better at capturing the building of trusted relationships with partners who have the capacity to deliver change, as an intermediate level of ROLE’s own results.

7. ROLE has limited resources and a potentially wide geographical and thematic range. This means that, in many cases, while ROLE staff may be able to ask the right questions, they will not have the in-depth expertise to understand the context and risks associated with a particular assignment. ROLE will need to rely on applicants, in-country government offices and trusted partners to make sure it has adequate understanding. In many assignments the applicants will be in a good position to provide context to experts but ROLE may need to screen assignments to decide if further support for experts is needed in a particular case.

8. Measuring results from assignments is important to ROLE, and ROLE seeks to strengthen the way its partners measure results, to make sure their assignments are working. Monitoring and Evaluation (M&E) tools frequently used in development programmes are highly relevant here. But M&E faces some particular challenges in a programme like ROLE, where assignments support broader interventions in an area where ‘moving the dial’ on rule of law impacts can take a long time and involve many variables outside the control of interventions. Therefore, ROLE must inevitably look to capture contributions to intermediate results and indications of the right direction of travel. Where assignments are supporting specific types of interventions such as
training, ROLE could learn from the M&E literature in this area. Another challenge is that ROLE’s reporting requirements for applicants who may have limited resources and for experts who have already worked pro bono, needs to be proportionate.
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Introduction
The ROLE UK programme is an initiative funded by the UK Department for International Development (DFID), designed to test an innovative approach to supporting the Rule of Law in developing countries. ROLE's model is based on harnessing the skills and expertise of the UK legal and judicial sector to provide pro bono assistance to DFID's 27 priority countries. ROLE is one of a group of six DFID-supported UK partnerships programmes that have different models for mobilising UK expertise in supporting DFID priority countries.

ROLE UK receives applications from institutions and organisations working on the Rule of Law in DFID priority countries who have identified a need for legal and judicial expertise as part of their programming, and supports those assignments which it deems to be strategic and demand-led. Applications for access to this expertise can be made by institutions including national governments, UK Government offices, non-governmental / civil society organisations, educational institutes and professional bodies within the legal sector. ROLE UK sources legal and judicial experts, funds aspects of the assignments, and promotes the uptake of best practice in the delivery of assignments. At the time of the review, ROLE had been conducting assignments for just over a year, allowing sufficient data and information at the assignment level for a lesson learning exercise.

This review is designed to capture progress, improve understanding of outcomes and direction of travel to impacts of assignments and of the value of pro bono expertise provided in assignments to date. This report is the public version of a longer recommendation-focused report that was presented to ROLE.

Methodology
The review concentrated on a sample of 12 assignments. (out of a total of 16 completed by the end of the review). Not all assignments had the same level of background information, and the reviewers could not access the same level of respondent feedback for all assignments. Therefore, the strength of the evidence on which case studies are based is divided into three tiers, as shown in table 1 below.
Table 1: sampled assignments by tier

<table>
<thead>
<tr>
<th>Tier one assignments</th>
<th>Level of evidence</th>
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</thead>
<tbody>
<tr>
<td>1. Peer Review of a Draft Bribery Bill</td>
<td>In depth document review, interviews with ROLE staff, interviews with applicants, and beneficiary organizations (where these are different from the applicant), experts and in some cases participants in events, DFID/HMG stakeholders.</td>
</tr>
<tr>
<td>3. Training for Government Legal Officials on Contracts Management</td>
<td></td>
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<tr>
<td>4. Training for Government Legal Officials on Professional Standards</td>
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</tbody>
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<tr>
<th>Tier two assignments</th>
<th>Level of evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Support to the development of a Bail Manual and Appeals Manual for use by prisoners in representing themselves of fellow inmates; assignment focused on project start-up</td>
<td>In depth review of available documentation; interviews with ROLE staff, interviews with applicants and experts.</td>
</tr>
<tr>
<td>6. Training of Paralegals</td>
<td></td>
</tr>
<tr>
<td>7. Scoping Trip by legal experts to plan for future Business and Human Rights Training</td>
<td></td>
</tr>
<tr>
<td>8. Scoping Trip by legal experts to initiate and plan for Technical Assistance to a Legal Aid Board and a Judicial and Legal Training Institute</td>
<td></td>
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</tbody>
</table>

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<tr>
<th>Tier three assignments</th>
<th>Level of evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Train the Trainer support to a Law School</td>
<td></td>
</tr>
<tr>
<td>11. Peer Support to Commercial Court Judiciary</td>
<td></td>
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<tr>
<td>12. Expert Input into a Conference on Capital Markets</td>
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Field research for the review exercise was conducted in Kenya and Rwanda for two weeks in late June to early July 2016. A total of 52 respondents were interviewed in Rwanda, Kenya and from London. These included three categories of respondents:
ROLE experts such as academics and RoL advisers, and other donors working in the RoL space
ROLE programme-level stakeholders such as DFID and HMG stakeholders in Rwanda, Kenya and London, peer programmes, members of the ROLE board, and UK based pro bono organisations.
Assignment level interviewees including applicants, DFID or HMG stakeholders at the assignment level, in-country partners, experts and, where possible, beneficiaries.

Demand
How strong is demand for support through pro bono UK legal expertise as offered by ROLE?
ROLE was interested to investigate how much demand there is for the type of support ROLE offers, and where the existing demand for ROLE support is coming from.
In the early days of ROLE UK’s programme design, three different types of demand were expected:
1. requests for specific legal advice (in particular through, though not limited to, pro bono networks);
2. requests for training on particular topics / areas of law and mentoring support / sharing of expertise (through the Foreign and Commonwealth Office (FCO), DFID and bilaterally to domestic UK Government departments or legal bodies / individuals as well as through pro bono networks); and
3. requests for support to the reform of legal and judicial systems (DFID, FCO, bilaterally to domestic UK Government departments).”¹

ROLE assignments to date have primarily been responding to the second type of demand with requests for training and sharing of expertise being predominant. Where that demand comes from depends very much on awareness of ROLE whether through other DFID funded programmes in country such as LASER or through members of ROLE’s Board or Consortium, or through the UK Sierra Leone Pro Bono Network. This means that the origins of the 52 applications received by

¹ DFID Business Case for ROLE UK p.3
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ROLE up to March 2016, the majority of which (28) have come from CSOs, are not a good yardstick of the real balance of demand for ROLE work. Reviewers found that there is quite a high degree of untapped demand from a variety of sources including international donors, CSO's and government institutions that we spoke to during the review process and who were unaware of ROLE.

There is certainly demand for pro bono support from civil society, but the limited financial support ROLE can offer in its current model reduces the value of the support to organisations operating on tight budgets as it will be rare for a project to have funding to cover everything except the travel expenses of pro bono experts. The administrative costs associated with managing pro bono experts and ensuring their input is of adequate quality can be costly in terms of man hours for small civil society organisations. If this is an area of demand that ROLE would like to tap, it might want to consider whether it is appropriate or possible to provide a small administrative payment to applicants that are charitable organisations whether UK based or in country to support their use of pro bono expertise.

The level of demand from government will depend very much on the country and it could be useful for ROLE to consider focusing on certain countries where the type of support it can provide, particularly for government lawyers, is high. Rwanda is a striking example of high demand for UK expertise because of its unique legal and historical context. As a result of the genocide in Rwanda, there is less technical capacity in legal and judicial institutions than may be the case in other developing countries. This, combined with the Rwandan commitment to developing a hybrid civil-common law system, means that the Rwandan government and legal and judicial institutions are very keen on this kind of high level technical support from UK lawyers and judges over a wide range of topics. In meeting demand from government for legal expertise, it is important to understand the broader governance context and any risks that may stem from it.

Context is also important in understanding how much there is a perceived need for foreign experts. In Kenya, for example, there could be resistance in some quarters to the suggestion that UK support is needed as there is also home-grown expertise. A resource that provides comparative expertise alongside domestic expertise, however is much more welcome. In Sierra Leone, the country context means that
there is a great demand for expertise and a degree of ‘consultancy fatigue’ which makes the provision of senior legal expertise particularly welcome there. 

In sum, there are many different types and sources of demand in this space. Given ROLE’s limited resources, it will need to decide which types of demand it is best suited to support and prioritise identifying demand in those areas, whether geographical, thematic or typological.

**International Donors**

In some countries, rule of law programmes of the type that ROLE is well suited to support, may not be priorities for UK Government partners and other international donors and agencies may be more active in this sphere. In many cases, these are the partners who would be best suited to engaging with ROLE on suitable assignments. Organisations like the Commonwealth Secretariat, the OSCE (in Central Asia) and UN Agencies do use legal expertise, often pro bono or with low daily stipends to support their rule of law programmes. In the current climate, these organisations often have limited funds and the support that ROLE could supply in terms of the identification and deployment of experts could be a good fit. The UK is a member state of all these organisations and UK experts are regularly deployed by them. Engaging more with organisations like this could be an effective way for ROLE to strengthen its identification of demand, in particular if it is interested in identifying government driven demand in priority countries with the support of trusted in-country partners.

**Deciding which types of demand to target**

The type of demand that ROLE responds to has clear implications for the strategic direction of assignments. The strategic demands of a partner country may not match the strategic demands of UK Government in-country programmes or grassroots level demands identified by CSO’s. The question of whose strategic demands ROLE should prioritise is one that needs to be answered at this stage of ROLE’s development if it is to maximise its potential for effective influence of the rule of law in future assignments.

ROLE will need to decide whether it wants to respond to all the demands it receives within clear criteria or if it wants to be driven by UK Government strategic directions in identifying demand. With a broad definition of the type of assignment
that can be supported, the scale of potential demand across all DFID priority countries is enormous and ROLE would probably be unable to respond equally across the board. In order to clearly identify the scale of demand and decide what ROLE wants to support, more assessment of country contexts and engagement with country level partners is needed. This could most effectively be done through field visits by ROLE UK staff so that relationships can be forged as part of a scoping exercise.

How strategic and demand-led have the assignments supported by ROLE UK been to date?

Reviewers found that ‘strategic’ and ‘demand led’ meant different things in the assignments reviewed. Demand can be considered as reflecting a real and expressed need for assistance by the ultimate client of the assistance. But this 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. Identifying needs in the rule of law context in developing countries is a broad task requiring in-depth assessment. Given ROLE’s own resources it will need to rely, to a great extent on applicants to identify needs and demand. Whether or not an assignment is strategic will depend very much on whose strategy the assignment is expected to support.

Demand-Led

Some applications originated directly from in country organisations or government institutions, and some came directly from HMG, others were submitted by the British High Commission on behalf of in-country organisations. There were examples of assignments sourced through DFID that could have been sourced through other mechanisms such as the Stabilisation Unit, or one of the drawdown mechanisms available to DFID. However, this would likely have required some kind of procurement process and may not have resulted in the same match of expertise.

A number of assignments were submitted with significant support from broker organisations which identified and articulated the demand. As an example, the
project on access to justice for prisoners meets a real need in the country where over half of prisoners are on remand and unable to practically challenge their detention, but the articulation of the demand for the assignment came from a NGO rather than directly from paralegals or prisons. In other cases, demand does appear to come straight from institutions but doesn’t necessarily accurately reflect need. One assignment was submitted by a regional lawyers union, with support from a member of the ROLE Consortium. CSO’s and HMG advisers can provide important context for ROLE to assess the relevance of a particular assignment and the way it fits within a country agenda. Currently, with demand coming straight from in-country government institutions, ROLE would not be well equipped to assess whether or not it is appropriate to support a particular intervention because of its limited size and lack of in-country presence.

Strategic

In order to assess whether or not an assignment is strategic, there needs to be a clear definition of what counts as ‘strategic’. Whether or not an intervention is strategic depends very much on what strategy is in play. For example, an assignment may be considered strategic for ROLE because it allows ROLE to develop relationships with a country applicant while at the same time, the assignment itself could arguably be un-strategic in terms of its substance and likely impact on the rule of law.

ROLE does scrutinise these dimensions in the relevant sections of its application form. But given that ROLE staff do not have in depth access to advice on the contextual appropriateness of proposed assignments, this means that in cases where the context is less familiar ROLE is relying to a large extent on the applicants or their intermediaries to make the case for the strategic importance of the assignment to rule of law in the context in question.

There were certainly a number of sampled assignments that have contributed to broader programmes or initiatives that were strategic. Examples of this type of assignment include the paralegal training and the support to the access to justice for prisoners project. These programmes provide very practical support at grass roots level to empower paralegals to help guarantee women’s or prisoners’ rights. Although their impact may be limited by numbers, this kind of project is likely to
have a real concrete effect on vulnerable people’s rights and poverty alleviation. Training paralegals to hold institutions to account is an effective way to improve accountability ensuring that norms and laws are applied in practice and may ultimately lead to pressure for institutional reform and strengthening at the local level. Other examples of assignments feeding into wider strategic goals include the assignment on Business and Human Rights training which comes at a time of growing interest from international businesses and complementary interventions in that country at this time, and an assignment advising on a draft constitutional text, which had the potential to be a very strategic input into a critical political process.

Other assignments are very strategic in the way they target key capacities in the government institutions of priority countries. For example, the training on contracts management was strategic in that it made a practical contribution to government capacity to effectively manage contracts. This is important to encourage investor confidence in that government’s ability to manage large contracts which should encourage growth while also minimising the government’s exposure to costly litigation.

Other assignments were strategic in terms of ROLE’s own strategy of building new relationships. Two assignments focused on scoping needs for support in Sierra Leone took place shortly following the Ebola crisis in Sierra Leone where there had been a build- up of demands for support and technical assistance that had been put on hold. So scoping exercises were crucial to the prioritisation of demands and enabled the development of important relationships and a coordinated support strategy.

There was one example of a training assignment that was strategic in terms of relationship building, allowing ROLE to work with a partner with whom it would like to work again, but which was not strategic in substance in that it became clear that some senior participants understood the purpose of the training differently to the experts, and in a way that did not reflect best practices in promoting rule of law.
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Ultimately, to ensure that it is supporting assignments strategically, ROLE needs to settle a clear definition of what ‘strategic’ means for ROLE, and whose strategy is being supported, to help ROLE to make informed decisions.

Matching supply to demand
ROLE has access to a wide range of government and other legal expertise. To date, assignments have involved experts from government, retired judges, senior barristers, academics, civil society lawyers and solicitors from big city law firms. The legal fields covered include corporate law, criminal law, administrative law and equality law among others. Support has covered a variety of different services including training, legislative review and scoping exercises for future capacity building with participants ranging from grass roots paralegals to senior judges. The range of legal expertise available through ROLE could feed into demand from a large number of different sources.

ROLE does not support pro bono legal expertise to provide legal advice or representation but rather for capacity building and technical assistance assignments in developing countries. The type of work as well as the fact that it is pro bono may well have an impact on the type of supply available and it would be useful to consider establishing a broad definition of what is included as ‘pro bono’ for ROLE’s purposes. Too strict an interpretation of pro bono might affect the ability to use the most appropriate experts in particular assignments.

In order for ROLE support to be effective, it is crucial to provide the right expertise for a particular demand. Decisions which prioritise particular types of demand would allow ROLE to focus more on developing partnerships which strengthen particularly relevant supply streams.

How is ROLE UK identifying appropriate supply of UK legal expertise?
ROLE UK identifies appropriate supply of UK legal expertise in a number of different ways. On some assignments the applicants themselves come forward with experts already identified. On others, ROLE plays an active part in identifying appropriate experts which is particularly useful for the identification of government lawyers or specialists who may not form part of the established pro bono legal networks. ROLE has also used its partners in the consortium and on its Board to identify the supply of experts with varying levels of success.
Views differ over whether ROLE should be trying to identify experts in every case. Some respondents were unconvinced that identifying experts was part of ROLE’s core added value, others depended entirely on ROLE for identifying experts and were extremely happy with the result. The focus should be on sourcing the right experts rather than creating tasks for ROLE. Applicants may sometimes be in the right position to identify the right people for the job and in any case, ROLE depends on its partners, including pro bono NGOs to identify experts. It would be counter-productive for ROLE to insist on sourcing the experts itself when part of its value is in the reach of the networks its partners have.

Experts identified by applicants
The assignments where applicants, or their intermediary organisations, had selected experts showed as good a match of experts to assignment as those where ROLE had sourced experts in most cases and include cases where experts had a long standing relationship with the recipient organisation where law firms were able to provide experts with very good credibility for the assignment. ROLE initially questioned the suitability of experts identified by applicants in at least one assignment asking whether lawyers from a commercial law firm were the right experts for the assignment in question. Where the experts are selected because of their corporate association rather than their particular expertise and fit for an assignment, even if the wider project is valuable, it is important to question whether the assignment ROLE is supporting is the best technical fit for the demand and therefore whether it is good value for money from ROLE’s perspective.

Experts identified by ROLE
A particularly good example of the way ROLE identifies high quality legal experts is through the development of contacts with the Government Legal Department (GLD). This developing relationship resulted in experts being identified for assignments on administrative law and contract management. These Government lawyers were particularly valued by applicants and recipients alike as they can provide genuine peer to peer support for government lawyers in-country in a way that consultants or lawyers in private practice could not. Applicants also noted that they would not have had access to these experts without ROLE’s involvement. The government experts themselves seemed to really appreciate the opportunity to
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work with governments in developing countries. This was their first experience of this kind of work and they were keen for more opportunities.

What does ‘pro bono’ mean for supply?

ROLE UK is premised on the pro bono model of supplying UK legal and judicial expertise. But throughout the review and learning exercise, it became clear that ‘pro bono’ means very different things in different contexts and this may affect the type of supply available. There is no universally agreed definition of pro bono legal support and it potentially covers a wide variety of different practices\(^2\). The definition adopted in the Joint Pro Bono Protocol for Legal Work endorsed by the Law Society of England and Wales, the Bar Council and the Chartered Institute of Legal Executives\(^3\) is:

> legal advice or representation provided by lawyers in the public interest including to individuals, charities and community groups who cannot afford to pay for that advice or representation and where public and alternative means of funding are not available... Legal work is pro bono legal work only if it is free to the client, without payment to the lawyer or law firm (regardless of the outcome) and provided voluntarily either by the lawyer or his or her firm.

The kind of pro bono work ROLE is providing, however, is quite different to this definition. ROLE doesn't pay for legal advice and representation as such and it is arguable that other sources of funding could be available for the type of development work ROLE supports – indeed, funding is required for every other part of a project except the services of the legal experts. This means that, while ROLE might provide a useful and flexible source of top-up resources, projects should be able to budget in most cases for the transport costs of experts at an early planning and funding request stage. At this point in ROLE's development, it is worth asking what the benefit of the pro bono element of ROLE's model really is and what impact it has on the support ROLE can offer.


\(^3\) http://www.lawsociety.org.uk/Support-services/Practice-management/Pro bono/The-pro bono-protocol/
There are a number of reasons why international pro bono work might be attractive to UK lawyers of different types. Latham & Watkins in their survey on pro bono practices and opportunities noted that: “Pro bono initiatives in international law provide a unique opportunity for lawyers to influence and learn from an evolving jurisprudence. International pro bono work provides a sense of global teamwork across offices and gives young associates the opportunity to develop the skills necessary to work in multicultural settings − a facility which can be carried over into non-pro bono practice.” The aspect of global teamwork was echoed by respondents in the review. But it is important to bear in mind that ROLE does not support pro bono legal representation or advice which makes up a significant proportion of pro bono legal work on the international level. While pro bono casework might help to bolster a lawyer's reputation and experience through involvement in high profile cases, technical assistance work may lead to the establishment of new business contacts in emerging market. It may also appeal to lawyers with an interest in learning about different systems or government lawyers or judges who are keen to share their expertise and gain some international experience but may have limited outlets. The supply for this type of work may be driven by different factors than those driving pro bono legal representation.

ROLE UK provides support to assignments that are both desk-based and for in-country missions. In a report commissioned by ROLE on the International Pro Bono sector it was noted that a large proportion of pro bono legal work in the UK is carried out by newly qualified lawyers, much of it is desk-based and it often comes directly from civil society organisations or through IPB ‘hubs’ and networks. In a large proportion of IPB work, therefore, the support offered by ROLE will be of limited value as there is little need for networking and there are no additional costs involved in the desk based work that the ROLE model could meet.

Turning to the definition of pro bono as ‘without payment to the lawyer or law firm’, it is worth noting that, in fact, on a variety of assignments, the experts were being paid in one way or another for the time they committed to the assignment. For example, experts who are engaging in pro bono work for corporate law firms are

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5 Hook International (2016) ‘Private Practice Participation in International Pro Bono’ p. 3
not, themselves, giving up their time for free although the firm is not charging for their time.

The report commissioned by ROLE on the International Pro Bono sector recommended that ROLE should avoid the artificial distinction of focusing on how experts are paid and, instead reposition itself to act as ‘a coordinator of pro bono effort’ and focal point for supporting work in developing countries ‘regardless of how it was to be remunerated.’ In so doing:

*It would fill a niche that is currently unoccupied in the UK, whereas the pro bono coordination world is already a crowded field; ...This would position it more effectively to ‘sell’ external legal experts to government departments. There is wariness in some quarters about the potential consequences of using ‘free’ lawyers, in terms of commitment and quality.*

There are concrete business reasons why large law firms engage in pro bono work and one respondent observed that, for lawyers wanting to engage in public interest work, it might be more difficult for them to get unpaid leave to do work than it would be to get authorisation to do pro bono hours for the firm. In assignments involving staff from applicant organisations as legal experts, the experts may be salaried but it is difficult to see why this should be treated differently to assignments involving the pro bono department of a large law firm where the experts are often paid a higher salary for their time.

**What do ROLE experts bring to technical rule of law capacity building efforts that is unique and valuable?**

The ROLE model intends to add value because the expertise it supports is:

- High Quality
- Otherwise not available
- Pro Bono
- Peer to Peer
- From the UK
- Value for Money

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*Ibid p. 5*
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The review reveals that these different factors have varying importance in practice and ROLE may want to reconsider which elements of the model it should prioritise. Rule of law support in developing countries is a crowded space including development consultancy models, pro bono models and civil society programmes among others. It seems that ROLE’s real points of added value are its ability to source high quality government and judicial expertise and its flexibility to respond quickly to requests. In terms of focus, we would recommend that ROLE should develop these two aspects further.

High Quality, Peer to Peer and Otherwise Not Available
The quality of legal expertise will be very much dependent on it being the right fit for the context. An expert may be highly competent in their own field but have limited abilities in other areas of law and practice.
There are some contexts where the seniority of the expert is especially important to the success of an assignment. In many countries UK lawyers and judges have a good reputation so the possibility to source senior professionals from the UK to engage with their counterparts in developing countries can help to ensure the right level of senior engagement in country to improve the impact of projects. In Sierra Leone, there has been a great deal of rule of law development in recent years. Some respondents highlighted the fact that, in the Sierra Leone context, the engagement of senior judicial and legal experts was a welcome antidote to the feeling of ‘consultant fatigue’ in country.
There was anecdotal evidence, not directly related to ROLE assignments, however, that managing senior legal and judicial experts can have downsides as it may be more difficult to give feedback to ensure quality control and outputs that meet the particular needs of an assignment. While a senior lawyer may be extremely good at their job, they don't necessarily have the skills to provide technical assistance and will probably have little recent experience of receiving feedback on their work. This problem could be exacerbated where they are giving up their time for free. Having said that, this was not an issue with any of the experts in the assignments sampled.
There were a number of assignments, in different country contexts, where senior experts appear to have been particularly valued, with the time judges or government lawyers being particularly appreciated. In some of these cases, the genuine peer to peer nature of the expertise was the real added value. It seems
that ROLE is particularly well placed to meet this kind of need and could develop this further.

When talking about peer to peer expertise, it is important to know the audience in advance in order to find appropriate experts. So, for example, if the participants are paralegals or legal aid lawyers, their peers would be legal aid lawyers or paralegals in the UK who share some of the challenges in their daily work or lawyers working in public interest law for civil society organisations who are familiar with the environment and the legal framework that the participants are operating in. Although the paralegal training assignment did provide this sort of expertise, this is an area that ROLE has had limited involvement in so far. ROLE may need to re-calibrate its emphasis on the pro bono nature of support if it wants to develop this kind of assignment more effectively.

Whether or not the expertise would have been available but for ROLE in other circumstances is less clear. In the field of corporate pro bono, it is arguable that law firms and even individual experts do have funds to support their pro bono effort, it is just a question of how they choose to use those funds. While ROLE may be a source of travel funds, other sources would probably be found if ROLE did not supply them or projects would be designed differently. For civil society organisations, the limited nature of ROLE support may make it difficult to use in all but a limited number of cases and these organisations usually have their own strong networks of experts. ROLE may, however, still be a useful resource for ad hoc needs in these contexts but will need to be flexible on the criteria for funding assignments to meet this need.

**UK Expertise**

In countries with a common law system, UK experts may be in a good position to provide comparative input on legal developments as they have an understanding of the underlying principles of the common law. But the colonial history of the UK can give rise to local sensitivities and this should be borne in mind when designing an assignment. The combination of UK and South African expertise within one assignment helped to mitigate this problem by promoting a view of shared and comparative experience rather than technical support. But it was the fact that the UK expert was a government lawyer providing clear peer to peer exchange of views rather than the fact that he was a UK expert that gave real value to the assignment.
In Rwanda, the country's history and the development of a hybrid legal system means that it values UK expertise in particular as a means of strengthening the rule of law and developing the common law aspects of the system. But the practical peer to peer nature of one assignment in Rwanda was probably as important as the fact that the experts were British.

In some types of assignment, the UK origin of the expertise is less important than knowledge of international standards and a good understanding of the country context. This is particularly so in cases like paralegal training where it is important for participants to know domestic law and procedures as well as international human rights standards as a practical tool to use in casework. In this type of project, it is important to understand the practical constraints of the system that paralegals will be working in. This requires in depth knowledge of the rule of law context in a developing country which a UK lawyer without a background in this field would not have. Having said that, UK legal expertise does include lawyers working in civil society organisations and academia or with experience working in development and at the moment, London is a major international centre for civil society organisations working in the rule of law and human rights sphere. So there is scope for sourcing UK experts with the ideal combination of skills and experience but ROLE may need to ensure pro bono expertise can include staff lawyers from relevant organisations. There may also be a need to communicate more clearly what is meant by ‘UK legal expertise’ to clarify exactly which experts would be covered based on nationality, residence or training for example.

Pro Bono and Value for Money

'Value for Money' or VfM is an assessment frequently used in social interventions or public spending to ensure the optimal use of resources to achieve the intended outcomes.

It is beyond the scope of this report to make a value for money (VfM) assessment of ROLE as a whole, which would include an assessment of the programme management functions, value and cost. However, we will comment on the proposition that the experts themselves represent good VfM. In DFID funded programmes, (VfM) is usually assessed using the approach favoured by the UK National Audit Office and by a range of leading aid agencies, namely the ‘three Es’
framework – looking at economy, efficiency and effectiveness, to which a fourth ‘E’ is commonly added: ‘E’ – equity. We define the 3Es as follows

- **Effectiveness:** qualitative and quantitative measures of outcomes which show that a programme is effective in achieving its intended objectives
- **Efficiency:** measures productivity - how much you get out in relation to what is put in
- **Economy:** measures what goes into providing a service - costing inputs, for example, unit costs

Returning to the Law Society definition of pro bono as ‘is free to the client, without payment to the lawyer or law firm’ there are clear economy savings to the client of this model compared to consultancy-based models of procuring technical expertise, and given that these models are often expensive, the cost savings may be significant. Calculating these savings using hourly or daily rate comparisons is difficult however, as the nature of the assignment may be different to work that would be conducted on a consultancy model, and also different to the type of work for which experts would be charging their standard rates. One important question is who the client is, and whether this is DFID or the applicant, who is making the savings, to whom is the value delivered, and who if anyone would otherwise have paid for consultants or staff members to deliver the work. For DFID, the economy and efficiency savings may be savings of their own time and processes as well as in the cost of the expert's time. One UK government respondent commented that the value of using ROLE assistance in an assignment was the fast turnaround and the level of expertise that was accessed without the need for a procurement process rather than any cost savings. As ROLE continues to pilot different models of providing expertise, potentially considering closer work with development programmes that could be managed by commercial suppliers, it is worth asking to whom the model would be offering economy savings in these cases?

The value for money of any intervention depends ultimately on the effectiveness (the third ‘e’ in a e ‘Es’ framework) of that intervention, and the effectiveness of ROLE assignments is dealt with extensively elsewhere in this report. The point is that although experts are economical to the client, this does not mean that all assignments on this model automatically represent value for money. The more
ROLE is able to learn about the effectiveness of its assignments, the more information it will have to allow a fuller VfM assessment.

Given that this review has focused on the use of expert and partner organisation time in assignments alone, and not on ROLE as a whole and the economy and efficiency of ROLE staff time used to support assignments, we can only comment on one part of the economy and efficiency of assignments. At the expert level efficiency is clearly boosted in a pro-bono model due to the low levels of resources being put in compared to other models. However, it is difficult to assess whether experts are more or less productive than they would have been had they been paid, or under a different model, such as a consultancy based model and respondents were divided on this matter.

We have seen above that the expertise ROLE has offered has delivered specific types of value in assignments. We now ask whether, aside from economy savings, the way the experts are remunerated is delivering additional value. Through this review and learning exercise, a number of respondents expressed the view that the pro bono nature of the work made no difference to the value in country or to the way experts approached the work. The one exception was in Sierra Leone where it was reported that there was a degree of ‘consultant fatigue’ that made the use of practicing lawyers particularly welcome. But even in this context, it was unclear whether the fact that the experts were not being paid was important or rather the fact that they were senior practitioners instead of rule of law consultants. All in all, we found relatively little evidence that the way the experts were being remunerated had a particular value in and of itself to the delivery of the assignment and the way it was regarded by recipients.

Outcomes – strengthening the pro bono model

As we suggest above, it may be that ROLE should focus on strengthening its model of provision of legal expertise in a development context rather than focusing on the pro bono model. The limited nature of ROLE’s support to many assignments, which are themselves limited contributions to wider interventions, means that the expectations of what ROLE can achieve in terms of changing individual assignment design and delivery may be modest. ROLE may better articulate its outcomes by assessing the extent to which it has brokered new relationships and curated a portfolio of assignments that can test the value of this model of expertise in a
development context. Some of the assignments in that portfolio may have required significant strengthening, others hardly any. That is not to say that ROLE hasn’t had an impact on strengthening the model in some assignments and it is also important to stress that the professional input of ROLE’s staff has been welcomed and praised by the majority of respondents who have had direct contact with ROLE in terms of logistics, substantive input and support for M&E.

Meanwhile, ROLE may not be adequately capturing outcome level results that also reflect the logic of the programme and were widely reported as a merit of working with ROLE, namely the flexibility and responsiveness of the model and its ability to respond to windows of opportunity in a timely and relatively straightforward way. For DFID stakeholders, providing they understand what the ROLE model can offer, ROLE can supply expertise of a kind, and with a speed, that would be difficult through other mechanisms. Draw-down mechanisms such as the PEAKS often involve a shortened procurement process, and help-desk mechanisms would struggle to find experts with the specific skillset, calibre and seniority of some ROLE experts as would mechanisms such as the Stabilisation Unit. One of ROLE’s peer programmes, IFUSE, has more explicitly included responsiveness in its reported results.

**To what extent has ROLE UK influenced and strengthened the design/delivery/monitoring of those assignments?**

One of ROLE UK’s key objectives is to further strengthen the value and impact of international pro bono assistance through the approaches it employs. It may not be appropriate for ROLE to expect to strengthen every assignment. In some cases, assignments had a good internal programme logic, even where this is not initially expressed in the format or terminology of a typical development programme. ROLE certainly does need to ensure that its assignments are well thought out, which means it does have to assess the strength of the design of assignments and the wider interventions in which they take place, and offer support, particularly on monitoring and evaluation, to assignments that need strengthening. But the scale of ROLE’s input needs to be proportionate to the scale of its support and tailored to the needs of a particular assignment.
There are certainly examples, shown in assignment documentation and revealed in interviews, where ROLE has strengthened the design of assignments. This has sometimes happened quite informally through telephone conversations, which can be hard to evidence. But these improvements to assignments are inevitably proportionate to the scale of the assignments so they can often appear quite modest. They include reported conversations in which ROLE encouraged experts to go out to meet partners more proactively, or where ROLE encouraged experts to work as closely as possible, and to establish relationships, with local partners.

In some assignments ROLE strengthened the assignment by ensuring a high level of expertise that would otherwise not have been available. Other assignments didn’t require ROLE’s assistance in identifying experts although at least one respondent did say they would be interested to try sourcing experts through ROLE in the future to see if this opened up new sources of expertise to them.

In general, respondents praised ROLE for its logistical support in organising trips, but the ability of ROLE to respond to some types of assignment seems to be limited. So, for example, some assignment have not gone ahead because of concerns from the experts about levels of insurance that ROLE can provide. This does raise questions over ROLE’s ability to support anything more than desk-based assignments in actual fragile or conflict affected states, or fragile areas in otherwise stable states. In other cases, the model for funding expenses added another layer of administration for experts or prevented ROLE from providing support where it could have added value. The possibility of offering a per diem to cover all expenses including accommodation expenses may be more appropriate in some cases, this will be particularly relevant in assignments that involve experts travelling up-country where travel arrangements can be better organised on the ground.

There have been examples where ROLE has offered significant M&E support to assignments, including an M&E workshop which seems to have been a useful capacity building tool for applicant organisations more broadly, and respondents were very positive about the support that had been provided. There are other examples where assignments would have liked more M&E support.
To what extent has ROLE UK influenced the way in which either UK or in-country stakeholders will approach their pro bono / rule of law work in the future?

This question was particularly difficult to answer given that the changes that a pilot programme can expect to bring to the approach to pro bono work are necessarily limited after barely a year of implementation. However, the types of changes reported by respondents in this review were grouped into themes.

**Awareness of the ROLE model and ideas on how to use it in the future**

This was by far the most common way in which respondents said they would change their approach. DFID and HMG respondents in Kenya and Rwanda had all actively considered how to use the ROLE model as a result of their exposure to ROLE, and of building their understanding of what the ROLE model can and cannot offer.

The question of what ROLE can and cannot offer is crucial to the extent to which ROLE can hope to influence an approach to pro bono work or the provision of legal expertise. There do seem to be logistical limitations on ROLE’s ability to support in-country support in fragile and conflict affected states. This needs to be resolved so as to avoid disappointing applicants and ROLE may need to make it clear that, in those areas, it can only provide desk based resources.

In many cases involving civil society applicants, the bottom line is funding. The amount of funding ROLE provides is minimal in the context of any intervention. There is some evidence that the limited scope of ROLE’s funding could mean applications are withdrawn. This is because there will be very few situations where it makes sense to engage with two separate funders from the outset at a project design stage although in cases where match funding is required this may be helpful. ROLE may also be useful in ad hoc applications where an unexpected need for legal expertise or travel of legal experts arises.

**Awareness of the added value of theory of change and M&E support**

There was evidence from the sampled assignments that applicants and experts were interested in the M&E focus brought by ROLE and had engaged with the often challenging task of thinking about and measuring outcomes. Respondents were very positive about the M&E expertise that ROLE could bring them more broadly
and the workshop on M&E organised by ROLE had good feedback. Some respondents on assignments welcomed the opportunity for capacity building on M&E from ROLE on an ongoing basis beyond the discrete assignment.

**Contribution and direction of travel to impacts**

*One of the things we all grapple with is measuring the impact we have. You can’t evidence that the minute after your intervention. And whilst you can track longer term impact there are lots of intervening factors that could affect the result - positively or negatively.*

A ROLE partner from a pro bono organisation

Is there evidence (at this stage in the programme) that the ROLE model can contribute to brokering meaningful change?

Monitoring and evaluating changes at the impact level are particularly difficult when a number of other things have to happen for the intervention to produce results over time and the interventions themselves are modest and frequently one-off, short contributions. This is also particularly challenging for interventions working on Rule of Law which is ‘multi-dimensional and has numerous functions - so much so that it is often difficult to measure with time-bound indicators.’⁷ In these circumstances, building evidenced cases of change is an appropriate approach to testing and measuring results. However, the time that has elapsed since the assignments sampled took place is a maximum of 11 months and a minimum of 1 month.

Therefore, the changes we look for should be the types of changes that could be expected at this stage - and in most cases they will be intermediate changes. Some assignments will have the potential to achieve breakthrough impacts on policy or legal processes given the right technical inputs at the right political moment. Such opportunities may be rare, and hard to predict and, as we elaborate below, they also involve the risk of failure, which should not be seen as a prohibitive risk in a programme like ROLE.

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We believe there is a significant intermediate level of results between the current outcome and impact level, numbered 1 in the diagram at figure 2 above. These involve the building of relationships with trusted partners to deliver interventions that can achieve successes in capacity building and change to laws or policies. Multiple respondents in Kenya and Rwanda emphasised that results would be reliant on developing relationships with the right partners. This is a particularly important level for a pilot programme and could be evidenced with qualitative stories with some indicators such as levels of post-assignment interaction, recommendation of applicants by other in-country applicants or stakeholders, and repeat applications. Given that ROLE has recently begun implementing, partnerships will be at an early stage, but there are certainly results at this level, even for assignments the substance of which did not go entirely as planned.

At the level of changes to laws, capacities and practices, given our caveats above, and using an approach that looks for realistic intermediate changes and direction of travel we have found evidence in the 12 sampled assignments of contributions to intermediate outcomes in longer term policy and legislative agendas, to intermediate outcomes in institutional and professional capacity building as well as an intervention which had the potential to have direct and rapid policy impact but was hampered by political factors. In terms of the types of changes, assignments have fallen into broad groups according to the type of activities they supported, for example those that provided training, or those targeted at drafting legislation, or at policy influence. These types of interventions have their own unique challenges in terms of measuring impact, but they also have their own bodies of literature on M&E best practices. It may make sense for ROLE to draw up typologies of interventions and to draw on the relevant literatures for M&E. We have drawn briefly on a well-established model for evaluating training in our assignment level assessment below.

To what extent have assignments supported by ROLE UK to date contributed to changes in policy or law, or to strengthened capacities or practices?

Some assignments supported interventions targeting policy change, some targeting capacities and practices. Interventions also differed in the length of the intended results chain, with some targeting a time bound opportunity to progress a policy or
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law, and others investigating broad areas of law, policy and implementation. Some interventions were aimed at building professional and institutional capacities in a broad sense, and others at developing capacities to respond to new laws or guidelines.

Policy and Law
In one assignment, ROLE supported expert input into a workshop to support the development of practical steps towards effective implementation of constitutional law in public administration. Although there have been no practical changes as a result of the workshop as yet, there is evidence that the workshop opened up the space to discuss how the application of administrative law could be improved.

The peer review of a draft bribery bill was an intervention at a moment of increased political will to tackle corruption, but was contributing to an agenda that several respondents described as incremental and ‘long-haul’. Respondents reported that the experts had added to the credibility and quality of the drafting process. The bill is on its way to its second reading and has reportedly raised the profile of anti-corruption in the media. Although these are promising early signs, to which ROLE did contribute in a modest way, there are serious obstacles facing the bill during consultation, and with implementation should it be passed.

The review of a draft constitution was an assignment requested by DFID to ensure that the draft had been scrutinised by a specialist in constitutional law. The advice provided by the expert was highly valued and well positioned to influence the final draft of the constitution, but in the event the advice was not used to its full extent. This illustrates that some assignments with the potential to influence policy and law involve a level of risk taking.

Capacities and practice
A number of assignments were focused on capacity building through training and other support, including for law students and their teachers, commercial lawyers, government lawyers, paralegals to support access to justice for women and prisoners.
One of the most established models for evaluating training is the Kirkpatrick model\(^8\) which looks for evidence of change at four levels.

**Table 2: Kirkpatrick’s model for evaluating training**

<table>
<thead>
<tr>
<th>Level</th>
<th>What is measured</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Reaction</td>
<td>Reaction evaluation is how the delegates felt about the training or learning experience.</td>
</tr>
<tr>
<td>2</td>
<td>Learning</td>
<td>Learning evaluation is the measurement of the increase in knowledge – before and after</td>
</tr>
<tr>
<td>3</td>
<td>Behaviour</td>
<td>Behaviour evaluation is the extent of applied learning back on the job – implementation.</td>
</tr>
<tr>
<td>4</td>
<td>Results</td>
<td>Results evaluation is the effect on the business or environment by the trainee.</td>
</tr>
</tbody>
</table>

At each level, measuring change becomes harder, and for ROLE-supported assignments, some of which have come at an early stage of the wider intervention, it is harder to trace impact to level 4. For some assignments it was difficult to assess direction of travel towards changes to capacities and practice even at level one because of the early stage of the interventions, where actual training or support had not yet begun. In others, assignments were designed as scoping exercises therefore the main changes they could have expected to make related to changes in the design of future technical assistance strategies rather than direct changes.

For example, the assignment on support to the judiciary working within a commercial court was designed to increase investor confidence in the commercial court by addressing the chronic backlog of cases. As a first step, this particular assignment was meant to scope out the potential for support to clear backlogs. The scoping revealed that the issues of backlog were not with the commercial court itself but elsewhere in the system. The expert did, however, carry out a thorough assessment of practical changes that could be made to the commercial court system. Although there was no evidence gathered in this review to indicate that his

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recommendations have been taken up, the exercise does seem to have contributed to the development of the support strategy of the pro bono network which was involved in the assignment.

Another assignment that involved a scoping exercise shows promise, and also showcases the value of the pro bono model (as argued above). The business and human rights scoping exercise was designed to contribute to increased understanding and better implementation of the United Nations Guiding Principles (UNGPs) on Business and Human Rights, and generated promising interest.

One assignment involved scoping the technical assistance needs of a legal aid board and a judicial and legal training institute. It was designed as a scoping exercise but included an element of legal training as well. The political context around the legal aid board limited the possibilities for change or institutional capacity building. But there is some evidence that the scoping exercise and training helped to kick start the training institute, although it is still unclear whether that change has been sustained.

Some assignments showed some evidence of changes at the level of reaction and learning. Trainee feedback forms from one of the trainings for government officials show extremely positive responses on the relevance and quality of the training, and this was confirmed by interviews undertaken for this Review. The train the trainer support to a law school was part of a six year relationship providing training to this law school, which reported observed improvements in teacher performance over that time, although reviewers were unable to verify this.

A strong example of changes at the learning level was the paralegal training assignment, which involved training across three two-day workshops to paralegals from Community Based Organisations (CBOs). In order to monitor the effectiveness of the training, and the progress of the paralegals, at the conclusion of each workshop, the participants undertook a test which included questions on each of the four areas. All of the participants passed the test, with the average mark being 77%. At this stage, there is no clear evidence of how this has translated into impact on access to justice in practical terms but the NGO involved will commission an evaluation of the programme overall which should allow for a deeper understanding of impact on the long term, evidencing changes at level four of Kirkpatrick's model. The legal experts' feedback report highlights the fact that, on
this type of assignment, paralegals are working on a shoe-string budget and providing an enormous amount of pro bono time that they can ill afford. In this context, the experts point out that real sustainable impact will only be possible with the support of financial resources for participants as well as the pro bono technical resource.

For one assignment there was some emerging evidence of impact on capacity and practice to the level of behaviour and results. This was the training for government officials on contracts management, where in-country partners reported an improvement in the quality of contracts management since the training and reduced litigation as a result.

Risk and Political Context

How is ROLE UK currently assessing the political context and possible sensitivity of assignments?

ROLE had originally expected that it would be able to draw more consistently on DFID country offices for support on the political context and political economy analysis, and in identifying assignments that were politically strategic. In fact, DFID country offices are likely to focus stretched resources on their own programmes, and if the justice sector is not an office priority, there may be less traction, unless legal expertise is clearly required in another programming area such as economic growth. The extent to which ROLE is assessing the political context and possible sensitivity of assignments varies according to the level of input ROLE has from in-country trusted partners. In at least one assignment, ROLE questioned the validity of going ahead with the assignment because of the political context. This concern came from contacts ROLE had in country but the applicants reassured ROLE that they were aware of the context and would be able to carry out the assignment sensitively so as to mitigate political risks. As ROLE works remotely, it relies on information from partners and UK Government offices in country and may find it difficult to weigh up different accounts of the political context of sensitivity of assignments.

The ROLE UK Internal Lesson Learning exercise identified the following:
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ROLE UK staff have broad expertise on development and RoL technical assistance programme management including within DFID contexts. However, it is not possible for the small UK-based staff team to have in-depth knowledge of all DFID country contexts. The time requirements to gather information from relevant thematic and country advisers creates a tension between the value that ROLE can provide in terms of ensuring that assignments are strategic and the value in terms of being responsive and able to approve assignments and deploy experts quickly. 9

In many of the assignments reviewed, the applicants were trusted partners of ROLE and they provided the political context for the assignment that ROLE relied on. Given the limited resources that ROLE has for political economy analysis and the wide potential spread of assignments across DFID priority countries, this seems to be a pragmatic and appropriate way of getting the information required for political context and possible sensitivity. However, relying on information from only one source may mean that ROLE can be caught up in the agenda of other organisations without an objective sounding board. There may be conflicting interests or unintended consequences which mean it could be helpful to have a second opinion on the desirability of an assignment.

While in-country government partners can give good contextual analysis on the country an assignment is designed for, they may not be aware of the sensitivities associated with some UK law. In some areas, UK legislation may represent best practice on an international level but some UK legislation is controversial and has been criticized at an international level because of its impact on human rights. 10 It would be helpful if ROLE could use the expertise of its Board to highlight any risks or sensitivities that might arise on assignments in relation to areas of law where the UK has been criticized.

To what extent is the ROLE UK programme ensuring that experts are sensitive to context?

ROLE has limited direct contact with the experts in relation to the context of an assignment. As many of the applicants are, or are supported by, ROLE trusted partners, the programme relies on their knowledge to ensure that experts are

9 ROLE UK Internal Lesson Learning
10 In particular legislation related to counter-terrorism but also other areas
briefed and sensitive to context. In a number of assignments, the experts had a great degree of experience in the country or in the rule of law context in developing countries and it was their understanding of the context that drove the design of the assignments. In these cases, it is difficult to see how ROLE could have added significantly to ensuring that they were sensitive to context. However, there were cases in which experts said that they would have appreciated more information on the context they were going into and were interested in understanding the context better in hindsight as part of the review.

It would be helpful for ROLE to consider in each assignment whether or not the UK expert is likely to need additional support to understand the context of the assignment and to identify an appropriate source to provide that. On some assignments, ROLE has funded an additional person to accompany the expert. This may be an efficient way of ensuring that there is adequate contextual expertise in assignments where this is felt necessary as ROLE itself has little capacity to provide tailored briefings on such a wide range of potential assignments and countries.

Measuring and monitoring results

One of ROLE UK’s key objectives is to promote useful learning from development programming to strengthen international pro bono assistance. ROLE also needs to understand the results that the assignments it is supporting are achieving. To do this ROLE works to strengthen the use of monitoring and evaluation (M&E) tools common in development programmes by its partners as well as having a robust M&E system of its own.

ROLE’s M&E strategy acknowledges some of the unique challenges faced by the ROLE model of supporting interventions for measuring, monitoring and demonstrating results, especially the results that assignments ultimately aim for - at the outcome and impact level.11 Firstly, ROLE faces the challenge of isolating the specific difference that these assignments make to the overall rule of law context, given. Secondly, it is challenging for ROLE to get enough M&E data from applicants and experts given the very specific, often modest, and short-term nature of the funding.

ROLE tracks results of assignments from the design phase to follow up six months after assignments have taken place, to ask the following questions:

11 ROLE UK (May 2016) Monitoring, Evaluation and Learning (MEL) Strategy 2016-17
At the assignment level, the main tools that ROLE uses to monitor at these levels are:

**Before the assignment**
- Application form describing the purpose of the assignment, its problem statement, activities outputs and outcomes, and relevance to the context and sustainability, monitoring and evaluation plans, and risks. There are often amendments to the application as a result of discussions with ROLE staff.
- ROLE assignment criteria checklist which is filled out by ROLE staff after receipt and discussion of the application. This asks whether a theory of change with clear outputs and outcomes can be identified and what the M&E plans are.

**After the assignment:**
- Feedback reports, in a standard ROLE template, from recipients/country partners and experts.
- Outputs of the assignment
- Any additional M&E material produced by the applicant or expert.
An independent review of assignments six months or more after the assignments (incorporated into the current review)

Not all this documentation is available for all assignments, and ROLE operates an M&E scale, according to which assignments are given either ‘light’ or ‘deep’ M&E resources. Securing follow up is challenging, given that experts have already worked pro bono and recipients or in country partners have often received a modest level of support. Feedback forms have lacked detailed responses in some cases.

How best can ROLE UK continue to monitor and evaluate the value and impact of this work?
ROLE UK already has a method for dividing assignments into light-touch and deeper M&E categories. The below points suggest it may be useful to develop further typologies of assignments for M&E purposes, including assignments with weak versus strong existing M&E capacities amongst applicants, intermediaries or experts and those without, and potentially also type of intervention such as ‘training’ or ‘drafting’ or ‘policy advocacy.’

Learning from similar programmes and intervention typologies
ROLE can, and has begun to, learn from programmes that face similar M&E challenges. Another of the UK Institutional Partnership programmes, designed to share UK technical expertise with partners in developing countries, the Investment Facility for Utilising UK Specialist Expertise (IFUSE) has also found that the balance of emphasis in feedback data is on the inputs, outputs and processes level. However, some of these programmes, such as Legal Assistance for Economic Reform (LASER) have M&E systems which are more complicated than would be appropriate for ROLE. ROLE may also learn from small grant-making mechanisms such as Challenge Funds, which face similar issues in needing to avoid overburdening grantees with excessive data collection ad reporting, and articulating what their portfolios add up to. Many Challenge Funds have M&E systems that are light-touch. As we have indicated above, if ROLE assignments

12 IFUSE Monitoring and Evaluation Framework Year 4-5
group into types of interventions, such as training, or policy influence, ROLE may also want to learn from M&E practices in these areas of programming. Since ROLE offers modest levels of support, and uses expert time on a pro bono basis, it should be proportionate in the amount of time it expects experts, applicants and recipients to give for M&E data collection. Multiple respondents, especially applicants, told this review that they found the process of making applications for assignments quite arduous in proportion to the amount of support received. Many applicants, or intermediary pro bono organisations are struggling to fund the wider interventions in which the assignments take place and may have limited staff, which means that overburdening them may be inappropriate.

Conclusions

As emphasised in our introduction, this review has focused on the assignments conducted by ROLE so far and has not looked at ROLE’s emerging work on knowledge, evidence and lesson learning which aims to contribute to strengthening the use of UK pro-bono on a wider scale than at the assignment level. But at the assignment level, we find that there is evidence in the 12 sampled assignments of contributions to intermediate results in longer term policy and legislative agendas, to intermediate results in institutional and professional capacity building. These changes were in proportion to the scale and duration of assignments and their broader interventions as well as how recently they took place. In terms of the types of changes, assignments have fallen into broad groups according to the type of activities they supported, for example those that provided training, or those targeted at drafting legislation, or at policy influence. ROLE UK aims to provide legal and judicial expertise, on a pro bono basis, that offers a unique skill set and brings particular types of value and benefits to rule of law programming in developing countries. We found that the ROLE model often matched the right experts to assignments. The time of senior experts such as judges or government lawyers that ROLE is able to source was particularly valued. In one case commercial lawyers were a uniquely good fit for an assignment, but in other cases the suitability of commercial lawyers is less clear. Although the model on which ROLE provides experts is undoubtedly good value for money compared to consultancy models on the economy front, calculating the cost effectiveness of the
model depends on the suitability of experts and effectiveness of assignments. In terms of the unique value of the expertise, the nature (or lack of) of remuneration was not the aspect of the model that was offering most value. We found that there were no clear definitions of what ‘pro bono’ means and that in fact it meant different things for different experts in the 12 sampled assignments.

ROLE UK aims further to strengthen the value and impact of this type of technical assistance through the approaches it employs. The first part of this ROLE hypothesis rests on ROLE’s responsiveness. ROLE was praised for its responsiveness and flexibility by a number of stakeholders, and we feel that ROLE should more explicitly capture evidence of responsiveness in its monitoring. All assignments are demand-led to the extent that they were demanded by applicants, but ROLE is not tapping into the fullest range of demand because of limited awareness of the programme, and there are decisions to be made over what type of demand to prioritise. We found that assignments were strategic to different degrees, and again this depended on identifying what strategic means in promoting rule of law in different country contexts. Incorporating an understanding of country political context and managing related risk was an area in which ROLE had assumed more support and engagement from DFID country offices than has actually been the case. ROLE may need to rely on other means of improving contextual understanding. Finally, we found that in many cases ROLE had strengthened the design of assignments, and the provision of ROLE support on M&E was highly valued. But whilst ROLE needs to assess the strength of assignment design and not every assignment will need support.