



**CENTER ON
INTERNATIONAL
COOPERATION**

Building the Rule of Law
Summary of 6 May 2010 Thematic Series Panel Discussions

The Permanent Mission of Canada to the United Nations and the Center on International Cooperation held their fifth panel discussion of the thematic series, “Building More Effective UN Peace Operations,” on 6 May 2010. The event focused on the proliferation of mandates tasking UN peace operations to support the rule of law in post-conflict environments. Following introductory remarks from Canada’s Deputy Permanent Representative, Ambassador Henri-Paul Normandin, CIC’s Director Dr. Bruce D. Jones moderated panelists H.E. Prince Zeid Ra’ad Zeid Al-Hussein (Ambassador of Jordan to the United States) and William G. O’Neill (Program Director, Conflict Prevention Peace Forum) in a discussion of the strategic, operational, and institutional issues driving the evolution of rule of law activities in peace operations and the challenges that they face. The meeting’s proceedings were governed by Chatham House Rule.

Owing to the experiences of the 1990s, where war profiteers exploited the lack of capable structures to address corruption in Bosnia and East Timor, as well as a recognition that these issues are directly related to the sustainable drawdown of a peacekeeping mission, building the rule of law has emerged as a central task for UN peace operations. Indeed, nearly all of the missions mandated by the Security Council since 2000 have included supporting the rule of law as a prominent, if not central goal. Nevertheless, the panel agreed that despite its prevalence, implementing rule of law activities in the field remains an underdeveloped policy area; one that suffers from a lack of clarity on definitions, as well as roles among the multitude of institutional, regional and bilateral actors involved in these tasks. Recognizing these deficiencies and drawing on their extensive field experience, the panelists identified several areas that, if better addressed, may help streamline rule of law programming and ensure that achieving these goals is a more realistic prospect.

First, and most importantly, an overly technical approach to strengthening rule of law – a defining characteristic of these activities over the course of the past decade – ignores the fundamental reality of the task at hand: it is an inherently political exercise that aims to alter power relationships in a given post-conflict society, and which directly touches on state sovereignty. Approaches that concentrate exclusively on the mechanics of training judges and police, building jails and writing legal codes, while necessary, are likely to be ineffectual in the long term if underlying political issues are not simultaneously dealt with. In the same vein, for rule of law programs to attain positive gains, they need to be supported by solid political frameworks, both at the headquarters level and, more importantly, in the host country.

Second, accountability across actors and institutions must be the foundation of any rule of law programming. On one hand, it is crucial that international actors themselves remain accountable and avoid transgressions that could tarnish the implementing body’s reputation and call into question the legitimacy of its intervention. The conduct of UN personnel in operations has been detrimental to building the rule of law in several cases. On the other hand, local rule of law institutions need to demonstrate that they, too, are accountable to the law; something that often necessitates breaking from a past where rule of law institutions have contributed to or have been employed as actors in conflict.

Finally, without local ownership, rule of law activities are unlikely to achieve their goals. While difficult, ensuring that programs are tailored to the realities of the situation and involve broader civil society is cornerstone to the longevity of rule of law programming. Each case is unique and devising strategies for building rule of law must be tailored along the spectrum of scenarios from post-conflict settings with strong governments still in power to those where the state has been decimated or where national capacity is low. Further, establishing local ownership in many contemporary cases often entails engaging traditional and non-state actors, requiring a good deal of familiarity on the part of international presence and a departure from conventional approaches.

The lively open discussion that followed the presentations featured comments from member state representatives and UN Secretariat officials. The theme of local ownership figured largely in the discussion, with particular focus on the

importance of striking an appropriate balance between support for different local actors and international intervention. It was widely acknowledged that building the rule of law is not a quick endeavor – one that certainly will not be completed during the lifespan of a UN peace operation. This highlighted the potential added value of the Peacebuilding Commission in ongoing peacekeeping operations. But it also emphasized how the absence of both an appropriate, agreed division of labor among the wider set of actors in the international system and clarity on the sequencing of activities have hindered efforts to consolidate the rule of law. These issues deserve more attention moving forward.