

# Policy Report: Shifting Discourses in Rule of Law Cooperation

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# Executive Summary

Development actors have been trying to address this issue by shifting towards people-centred justice approaches, which put communities and people's justice needs at the centre of legal and judicial reforms. There are underlying assumptions that push forward or hinder the sector's ability to translate these discursive shifts into concrete policies and to implement new practices. This policy report addresses some of the key assumptions found in rule of law and development cooperation discourses, and is addressed primarily to intermediary organisations and donor audiences, aiming to provide them with tools and suggestions to inform their work, particularly for designing reform in Rule of Law cooperation. In our research conducted for this policy report, we have examined common assumptions that are held by some actors in the field, including donors and INGOs. We found out that there is significant friction between wanting to "do localisation right" and change being hindered by the underlying assumptions about the desirability of rule of law and development cooperation, its role within the local contexts, the capacity of local actors and appropriate tools to use. Without addressing these assumptions and implementing changes on all levels – from the individual practitioner, to the organisational and system-wide levels – locally-led development risks becoming yet another "trend", void of real meaning and replaced for new trends in a few years. The aim is to carve concrete paths towards meaningful localisation and propose suitable programmatic tools.

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# Abbreviations and Acronyms

<b>RoL</b>	Rule of Law
<b>UN</b>	United Nations
<b>EU</b>	European Union
<b>MFA</b>	Ministry of Foreign Affairs
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PCM</b>	Project Cycle Management
<b>USAID</b>	United States Agency for International Development
<b>MEL</b>	Monitoring, Evaluation, and Learning

# 1. Introduction

Development cooperation, and in particular rule of law cooperation, has been grappling with an ‘identity crisis’ for quite some time now. Critical development scholars and practitioners have increasingly illustrated the fundamentally neo-colonial nature of development aid and development cooperation systems<sup>1</sup>. These critical perspectives are pushing for the **restructuring of power relations between actors in the international development cooperation field**,<sup>2</sup> rethinking the development cooperation field as a whole. Such systemic change must be accompanied by fundamental mindset shifts that translate into decolonised development cooperation policy decisions and practices. They also require embracing new ways of managing the inevitable uncertainty that innovative methods of working can bring. It is necessary to **critically examine the assumptions that shape development cooperation policies and practices**.

With some exceptions, many of the classic democratisation and rule of law programs adopted during the *first four waves*<sup>3</sup> have yielded very limited results. **Since 2016, the rule of law (RoL) has been steadily declining globally**,<sup>4</sup> including in many of the donor countries that have traditionally ‘exported’ it. Development cooperation actors — donors, intergovernmental organisations, international NGOs, and governments — find themselves back at the discussion table, facing pressure from their constituencies to deliver desired outcomes, and also pressure from their local partners to fundamentally rethink development cooperation models and their underlying assumptions.

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1 We use the term ‘development cooperation’ throughout the report rather than ‘development aid’ because the latter implies a unilateral and charity-oriented approach to development. See for instance Ilan Kapoor, *Hyper-self-reflexive development? Spivak on representing the Third World ‘Other’* (2004) *Third world quarterly*, 25(4), 627-647 page 634. Furthermore, while we acknowledge the humanitarian-development-peace nexus, throughout this report we will focus on specifically development. Some of the arguments we make below are also relevant for humanitarian actors, as we draw from the work of the humanitarian sector and rely on publications by humanitarian actors and from interviews we conducted with some organisations that fall within the humanitarian label. For more on the humanitarian-development nexus see for instance Oxfam, [‘The Humanitarian-Development-Peace Nexus: What does it mean for multi-mandated organisations?’](#) (2019); OECD, [‘DAC Recommendation on the OECD Legal Instruments Humanitarian-Development-Peace Nexus’](#) (2024); see also Jon Harald Sande Lie, ‘The humanitarian-development nexus: humanitarian principles, practice, and pragmatics’ (2020) *Journal of International Humanitarian Action* 5(18); Priya Singh and Paula Banerjee, ‘Chapter 5: Humanitarianism, development and peace: a southern perspective’ in Silke Roth, Bandana Purkayastha, and Tobias Denskus (eds), *Handbook on Humanitarianism and Inequality* (2024, Edward Elgar Publishing), pp 63-76.

2 See for instance Cheryl McEwan, *Postcolonialism, Decoloniality, and Development* (2nd edn, 2019, Routledge ) page 209.

3 David Trubek & Alvaro Santos (eds), *The new law and economic development: a critical appraisal*. (2006, Cambridge University Press).

4 [WJP Rule of Law Index Insights, 2024](#)

## Box 1 - Definitions

Throughout this report, we use a broader definition of the term **localisation**, encompassing perspectives that centre people and their communities in the pursuit of justice and development, including *people-centred justice*,<sup>5</sup> *locally-led development*, the *#shiftthepower movement*, and other forms of *locally-led solutions*. However, we acknowledge that the term **localisation** has been contested because of its top-down connotations.<sup>6</sup> Despite these critiques, it remains a widely accepted term<sup>7</sup> among development actors and is an important (emerging) concept in current development scholarship and practice. As the Civil Society Platform for Peacebuilding and Statebuilding (CSPPS) and the Ministry of Foreign Affairs of the Netherlands have noted, “How we understand, approach and roll out localisation is what matters: a process that should not be led by the Global North, but should stimulate local ownership and local leadership for action in the local context.”<sup>8</sup>

For the purposes of this report, we understand **localisation** as the broader process of shifting power and resources to local actors as part of a larger international framework. **Locally-led** development ensures that development initiatives are initiated, led, and managed by local actors themselves. **Community development** is often seen as the most localised form of development, focusing on empowerment, resilience and transformation from the grassroots level upwards.

Throughout this report, we use the terms **narratives** or **discourses** to refer to the overall *frameworks* of broader global development efforts. This includes how concepts are defined and used in scholarly literature and policy documents and reports that shape practice. It also includes how practices and actions to foster development are conceived and how their implementation is justified by actors. These narratives are rooted in **collective beliefs** and **assumptions** underlying development work.

**Assumptions** and **collective beliefs** that inform broader narratives exist in the justice sector within development cooperation as well. For instance, the assumption that Western models of democracy and rule of law are universal<sup>9</sup> and can be applied in all contexts around the world. Another long-held assumption is the subaltern role of traditional justice systems, which have been historically held to a lower standard than the states’ judicial system. These beliefs and assumptions are underpinned by historical unequal power relations, between (former) colonial powers and their colonial domains. Critical legal scholarship has begun challenging these assumptions, and in practice interventions have not always had the desired results, leading practitioners and their organisations to question some of these assumptions and collective beliefs.

5 For more on ‘people-centred justice’ see OECD, [‘The framework for people-centred justice’](#) (2021) in *OECD Framework and Good Practice Principles for People-Centred Justice*

6 Felix Anderl, [‘The myth of the local’](#) (2016) *Review of International Organisations* 11, 197–218.

7 Civil Society Platform for Peacebuilding and Statebuilding (CSPPS) & Ministry of Foreign Affairs (MFA) of The Netherlands, [‘Learning Trajectory Notes from Session II: Unboxing Localisation’](#) (2021), Page 2.

8 Civil Society Platform for Peacebuilding and Statebuilding (CSPPS) & Ministry of Foreign Affairs (MFA) of The Netherlands, [‘Learning Trajectory Notes from Session II: Unboxing Localisation’](#) (2021), Page 2.

9 Some scholars have critiqued this assumption. See for instance BS Chimni, ‘Chapter 13: Legitimizing the international rule of law’ in James Crawford & Martti Koskeniemi (eds), *The Cambridge Companion to International Law* (2015, Cambridge University Press) pp 290-308, page 291.

Calls are growing to expand ‘the table’ and to have more seats to be added for activists, informal justice providers, community-led organisations, and other actors that work at the local level. Simultaneously, demands for decolonising aid have become louder through the *#shiftpower*<sup>10</sup> movement, global commitments at high level fora, and the adoption of locally-led development principles in the global development discourse.<sup>11</sup> These principles are not new; they were recognised in various high-level forums on aid effectiveness, such as Rome<sup>12</sup> (2003), Paris<sup>13</sup> (2005), Accra<sup>14</sup> (2008), and Busan<sup>15</sup> (2011). However, the *formal* introduction of localisation into the mainstream development agenda began at the 2016 World Humanitarian Summit in Istanbul through the **Grand Bargain**<sup>16</sup> and reiterated in 2023 through the **Grand Bargain 2.0**<sup>17</sup>.

Such shifting the power movements have permeated into **Rule of Law cooperation** as well. Increasingly within RoL, practitioners and policymakers are shifting towards locally-led development, people-centred justice, and reassembling existing power relations between development cooperation actors to facilitate greater horizontal collaboration. Concrete steps are being taken to this end.<sup>18</sup> There has been increased mainstreaming of co-design of development projects with local partners,<sup>19</sup> providing micro-grants and unrestricted funding for civil society organisations, reexamining the existing power relations,<sup>20</sup> and creating advocacy avenues for local partners to advocate for themselves, among others.<sup>21</sup>

However, it is important to note that “shifting the power” movements, while essential for increasing representation and empowerment, do not necessarily equate to deeper processes such as decolonising development cooperation. *Shifting the power* focuses on redistributing decision-making authority by shifting the loci of control. Yet, *decolonising* requires overt and conscious dismantling of colonial legacies and power structures embedded in the development field itself. Both of these initiatives are still the exception rather than a norm, and discriminatory practices against Global South NGOs persist.<sup>22</sup> Driven by the shrinking of resources available for international cooperation, together with the public demand within donor states to make international cooperation more efficient, the interests of the Global North remain at the centre. Therefore, the practical transition towards a decolonial

10 Jenny Hodgson & Barry Knight, [‘#ShiftThePower: from hashtag to reality’](#) (2019) OpenDemocracy.

11 Peace Direct, [‘Time to Decolonize Aid’](#) (2021).

12 [Rome Declaration on Harmonisation](#), (2003).

13 The [Paris Declaration on Aid Effectiveness](#), (2005).

14 The [Accra Agenda for Action](#), (2008).

15 The [Busan Partnership for Effective Development Co-operation](#), (2011).

16 [The Grand Bargain - A shared commitment to serve people in need, 2016](#)

17 [The Grand Bargain 2.0, 2022](#)

18 Some of the practitioners we spoke to in order to prepare this report shared with us some of the steps they have taken in their work on this matter. We draw from these interviews to offer recommendations through this report to other practitioners working on RoL cooperation. We are grateful to them for giving us their time and sharing their experiences.

19 We broadly understand local partners to include formally established organisations, grassroots, activists, and other locally-led collectives involved in justice and peace work.

20 Jennifer Pobi-Browne, [‘Transforming Partnerships: Peace Direct’s Partnership Approach’](#) (2024).

21 We take a broader understanding of localisation, to encompass people-centred justice, locally-led development, decolonization, and other forms of locally-led solutions for development challenges related to peace, security, justice, and human rights (see Box 1 - Key Definitions).

22 See for instance Shiftthepower.org, [‘Too Southern to be Funded: Open Letter to the OECD DAC and an Urgent call to end discriminatory funding against Global South CSOs’](#).

development cooperation remains challenging,<sup>23</sup> to the point where development cooperation is seen as a tool for neo-colonialism or re-colonisation.<sup>24</sup>

## Box 2- Decoloniality and critiques of development

The Global South continues to contend with insecurity, poverty, malnutrition, corruption, violence, among others challenges, which can be traced to “adhering to the development recipes sold wholesale by Western and Northern development specialists and their organisations.”<sup>25</sup> Many examples of this problem have been widely discussed by development scholars and critics.<sup>26</sup> Today, there are ongoing calls to ‘decolonise’ knowledge and the methodologies<sup>27</sup> that seek to inform development practices and policies. Around the world, social movements and scholars are calling for shifting from “one-dimensional solutions to problems and the imposition of universalist claims”<sup>28</sup> towards locally-led solutions that are grounded in the lived experiences and realities of development’s ‘beneficiaries’. There is a growing body of literature developed by critical scholars who are engaged in developing ‘options’ for a more grounded understanding of humanity and social phenomena. Their theorising is rooted how the Global South served as a site of extraction and exploitation that enriched the Global North during colonial times,<sup>29</sup> and how these power dynamics are “still very much part of the international order, mutating into new forms each day.”<sup>30</sup> Critical scholars<sup>31</sup> view development as “a direct continuation of the colonial project”<sup>32</sup> and call for new approaches to development. Shifting the power, localisation, locally-led and community development, to name a few, are approaches which seek to address elements of the social transformation and radical changes required to address (neo-)coloniality in the modern context.

23 Organisation for Economic Co-operation and Development (OECD), [‘Development Co-operation Report 2023: Debating the Aid System’](#) (2023).

24 Peace Direct, CDA Collaborative Learning Projects & Search for Common Ground, [‘Aid Exits and Locally-led Development Key insights from a global consultation convened by Peace Direct, CDA Collaborative Learning Projects and Search for Common Ground’](#) (2020), page 6.

25 Bernd Reiter, ‘Introduction’ in Bernd Reiter (ed), *Constructing the Pluriverse: The Geopolitics of Knowledge* (Duke University Press 2018), page 1.

26 See for instance Dambisa Moyo, *Dead aid: Why aid is not working and how there is a better way for Africa*. (Farrar, Straus and Giroux, 2009).

27 See Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (Zed Books 2013); S Chiumbu, ‘Why Decolonise Research Methods?: Some Initial Thoughts’ (2017).

28 Bernd Reiter, ‘Introduction’ in Bernd Reiter (ed), *Constructing the Pluriverse: The Geopolitics of Knowledge* (Duke University Press 2018), page 1.

29 Frantz Fanon, *The Wretched of the Earth* (6th edn, Penguin Books 2001), page 81.

30 Luis Eslava, ‘TWAIL Coordinates’ (International Law Under Construction, 2019).

31 See for instance Gustavo Esteva, ‘Beyond development’ in *Gustavo Esteva A Critique of Development and other essays* (2023, Routledge); Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (1994, Princeton University Press).

32 Knut Nustad, ‘Development: The Devil We Know?’ (2001) *Third World Quarterly* 22(4), 479-489.

## Report Overview

In our research for this policy report, we examined some of the most common assumptions that are held by some actors in the field, including donors and INGOs. We found out that there is significant friction between wanting to *do localisation right*, and being able to enact change that was hindered by the underlying assumptions about the rule of law, questions of knowledge, the capacity of local actors, and the appropriate tools to use. Without addressing these assumptions and implementing changes on all levels – from the individual practitioner, to the organisational and system-wide levels – locally-led development risks becoming yet another ‘trend’, void of real meaning and replaced by newer trends in a few years. The aim is thus to carve concrete paths towards meaningful and sustainable localisation and to propose suitable programmatic tools.

Our method for this report draws on desk research, empirical evidence we gathered through interviews, adaptive management tools,<sup>33</sup> and our lived experiences as law and development academics and practitioners. We relied primarily on Rule of Law and development cooperation documents that discuss localisation, including reports, policies, and policy briefs written by donors, international and other multilateral organisations, and non-governmental organisations, among others. We also built on scholarly literature to discuss the changing discourses on localisation, *#shiftthepower*, and decolonisation. To gain a more in-depth understanding of the ongoing changes in the field, we also carried out 6 semi-structured interviews with donors and practitioners<sup>34</sup> working in *rule of Law, peace, and security*. We utilised the program ATLAS.ti to carry out a *content analysis*<sup>35</sup> of these documents in order to develop a more systematic analysis of RoL documents. This allowed us to identify main assumptions and examples of the discursive shifts we discuss in the sections below.

This report is primarily aimed at intermediary organisations and donor audiences, providing them with tools to inform their work, particularly in designing reform in Rule of Law cooperation. Recommendations, therefore, seek to address donors and intermediary development actors like medium-to-large sized international NGOs, inter-governmental organisations (for instance UN Agencies), and other Northern-based development organisations more broadly. Ultimately, this is due to the success of the localisation agenda being dependent on donors and intermediaries to adapt their practices and approaches. These actors hold significant power in development partnerships, and meaningful change will not be achieved without system-wide reforms.

We are also aware that systemic change is a monumental endeavour, and it cannot be achieved overnight. Therefore, we invite organisations to adopt a **‘targeted and incremental steps’ approach** and to continue their efforts to work in a more interconnected manner at the (sub)national, regional, and global levels. We also invite academics to continue engaging with the ongoing debates, and proposing new perspectives through their research and building on critical theories. Finally but not less important, we aim to build future dialogues to improve on the recommendations we offer in this

33 This will be discussed in more detail in section 3. See also Graham Teskey and Lavinia Tyrrel, [‘Implementing adaptive management: A front-line effort. Is there an emerging practice?’](#) (2021) The Governance & Development Practice. Working Paper Series.

34 Their names and affiliations will not be disclosed, in order to protect their privacy. The interviews were not recorded, and we sought their voluntary and informed consent before starting each interview.

35 We developed a set of 9 codes, focused on assumptions and the challenges/opportunities identified by the entities that authored the documents we analysed.

report. **These dialogues will be inclusive of the knowledge and expertise of activists, community-led organisations, and locally-led organisations.** Specifically, dialogues focusing on how to continue pursuing localisation in RoL cooperation, drawing from their expertise and experiences. We hope to contribute to ongoing conversations on localisation, and to provide actors with an open list of recommendations they can use in their localisation efforts.

In writing this report, we also acknowledge our positionality as Northern-based law and development researchers and practitioners, and especially acknowledge the limitations of this positionality. We do not aspire to 'lead the charge' on localisation, but we want to offer our knowledge and experience to those who might find it useful. Through this report we wish to reconcile more critical perspectives with finding practical ways to enable incremental and consistent change in rule of law development cooperation. We welcome feedback from our audience, and hope to continue engaging with our readers in dialogues on this important topic through continuing research and advocacy.

We begin this report with an analysis of dominant assumptions about localisation and rule of law development cooperation. In section 3, we introduce the **'targeted and incremental steps' approach, which builds on an adaptive management framework**, to create paths for shifting rule of law cooperation towards meaningful localisation. By **'targeted and incremental steps'** we mean focusing on concrete actions to shift the system from within, making strategic gains towards accomplishing the main goal: to shift rule of law cooperation in a way that it can become more equitable. To facilitate this, we present recommendations that act as a foundation to be built upon and as an invitation for future contributions.

## 2. Unpacking the assumptions about rule of law and localisation

Changes are taking place at a broader level within development cooperation, at both the practice and discursive levels, including *#Shiftthepower*, *localisation*, and — for RoL — *people-centred justice*. These ongoing discursive shifts in development cooperation are rooted in the advocacy efforts by civil society and activists who are actively campaigning for shifting the power dynamics in development cooperation. These shifts also overlap with calls for *decolonisation*, which have been taking place at a theoretical and philosophical level for decades. In this section, we identify and analyse the main assumptions about rule of law and localisation, and discuss how they overlap. Through this, we provide a critique to mainstream development discourse. This section will provide a foundation for the recommendations that we introduce in section 3, aiming to translate these critical discourses into practice. We will begin this section by unpacking some of the dominant assumptions that drive localisation efforts within the rule of law cooperation sector.

### 2.1 Assumptions about rule of law

Whilst the RoL sector is interconnected with every other aspect of the development ecosystem, it has a very distinct set of challenges and assumptions. For instance, where the classical development framework focuses primarily on economic development and sees law and regulation as merely a tool for economic growth,<sup>36</sup> RoL-specific development work places value on the enjoyment of human rights as an end in itself, rather than as a means to increasing economic growth. Therefore, classical development logical frameworks do not necessarily work in the context of RoL practice.

The RoL often functions more as a principle than as a clearly defined concept, meaning that RoL is hard to quantify, measure, and study empirically.<sup>37</sup> This becomes complex for implementers, because it is difficult to demonstrate results and impact, making it complicated to meet evaluation and learning objectives. Causality becomes difficult to demonstrate during MEL in the RoL project cycle, as RoL reform is increasingly qualitative than quantitative and is based on context-analysis, perceptions and values.

<sup>36</sup> See for instance Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (2000).

<sup>37</sup> See for instance Siddarth Peter De Souza, *Designing Indicators for a Plural Legal World* (2022, Cambridge University Press).

## Rule of law in theory

Scholarship on rule of law definition is extremely vast. For the purpose of our analysis, we will use the classical framework suggested by Raz that mentions two conceptions of the RoL:

an **instrumental** conception, which he sees as “an effective mechanism to achieve whatever goals society has set for itself”<sup>38</sup> including justice, the enjoyment of rights, social and political order, governance, among others.

an **intrinsic** conception of the rule of law, which “consider[s] it a goal in its own right”<sup>39</sup>, embodying societies’ values and aspirations like justice, democracy, and human rights.

### Assumption 1: The rule of law is a universally accepted value

The first assumption is the universality of the RoL as an intrinsic value that can be replicated in other contexts, and is shared by all people around the world. In reality, RoL is an essentially contested concept that scholars, policymakers and practitioners have been struggling to define and implement both internally and in the context of development cooperation.<sup>40</sup>

This can be explained by multiple factors. First is the lack of consensus on what the rule of law is, and the challenges with attempting to measure it<sup>41</sup> have prompted various development actors to define it as a list of **values**, **principles** and **standards**. It is presumed that their presence in a given context signifies the presence of the rule of law.

The United Nations<sup>42</sup> has provided a definition of the RoL, which has been endorsed by other development cooperation actors, such as USAID<sup>43</sup> and the Dutch Ministry of Foreign Affairs,<sup>44</sup> and further reflected in the SDG16 targets. The view of RoL as a guiding principle is also endorsed by other development cooperation actors. The European Union (EU) defines RoL as a fundamental **principle** that underpins all its actions and policies, and includes principles of legality, legal certainty, prohibition of arbitrariness, access to justice, respect for human rights, and independence of the

38 Joseph Raz, ‘The Rule of Law and Its Virtue’ (1977) *Law Quarterly Review*, page 195.

39 *ibid.*

40 In this report we do not wish to provide a full account of the debate. For further reading on the plurality of views and approaches to the rule of law see for instance: BS Chimni, ‘Chapter 13: Legitimizing the international rule of law’ in James Crawford & Martti Koskeniemi (eds), *The Cambridge Companion to International Law* (2015, Cambridge University Press) pp 290-308; M Hertogh, ‘Empirical Approaches to the Rule of Law: Contours and Challenges of a Social Science that Does Not Quite Yet Exist’ (2024) *Annual Review of Law and Social Science*, 20, Peerenboom, R. (Ed.). (2003). *Asian discourses of rule of law*. Routledge.

41 USAID points out, “we can only measure what we can define, and we will only achieve what we can measure.” see [USAID Rule of Law Policy](#) (2023), page 4.

42 The UN defines it as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” See UN Secretary General, [‘Report of the UN Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies. S/2004/616’](#) (2004).

43 USAID endorsed this definition in its [2023 Rule of Law Policy](#).

44 Government of the Netherlands, [‘Security and Rule of Law Theory of Change. Contributing to peaceful, just and inclusive societies’](#) (2023), page 3.

judiciary.<sup>45</sup> However, RoL backsliding in the EU and in the US is evidence that these values are not as universally accepted in the Global North either.

The second reason is a limited awareness of the contexts where the RoL programs are being implemented, which ignores non-Western and non-state centred legal systems or worldviews. The work being carried out within the EU's RoL framework in Europe—where the RoL serves as a cornerstone of European regional cohesion and stability—will be vastly different from RoL programs implementation in conflict-affected contexts like Afghanistan. This is the case for both national and international actors, and for national, regional, and international RoL reform processes.

### Assumption 2: Rule of law is an instrument for democracy, peace and economic development

The second assumption presents RoL as the *instrument* for democracy, peace and economic growth, which are also seen as universal aspirations.

Empirical evidence and postcolonial scholarship suggest that democratic governance is not inherently linked to peace.<sup>46</sup> There is also evidence that economic development and RoL are not always directly correlated.<sup>47</sup> Moreover, defining development as merely economic growth reinforces Western liberal economic principles and perpetuates neo-colonialism. If we want to 'do RoL localisation right', we must recognise the plurality of approaches to forms of government, and to development that extend beyond the narrow focus on economic growth.<sup>48</sup>

### Assumption 3: Rule of law can be measured, and it can be achieved through technocratic solutions

In the past three decades, RoL interventions have focused on technocratic and institutional reforms,<sup>49</sup> often decoupling politics from laws and institutions. Such interventions were designed as a means for increasing economic prosperity and growth, an approach which has proven to be inefficient and unsustainable.<sup>50</sup> However, if the notions of justice and RoL are linked to state institutions, then localisation efforts are inherently **political**. Circumventing national and local politics has resulted in interventions that were either transplants from Western models of rule of law and good governance, or transplants from interventions that were successfully implemented elsewhere.

45 European Commission, [Communication from the Commission to the European Parliament and the Council: 'A new EU Framework to strengthen the Rule of Law'](#) (2014) COM/2014/0158.

46 See Tarak Barkawi and Mark Laffey (eds), *Democracy, liberalism, and war: rethinking the democratic peace debate* (2001, Lynne Rienner Publishers).

47 Some scholars have critiqued this stance, for instance, Przeworski et al note that "there is no trade-off between democracy and development, not even in poor countries." See Adam Przeworski et al (eds), *Democracy and development: Political institutions and well-being in the world, 1950-1990* (Vol. 3) (2000, Cambridge University Press), pages 60-61.

48 See for instance Amartya Sen, *Development as Freedom* (Oxford University Press, 1999); see also Ashish Kothari, et al (eds), *Pluriverse: a post-development dictionary* (Tullika Books, 2019).

49 Some scholars have critiqued this technical approach that seeks to depoliticise development. Nustad for instance has stated that development organisations often "identify the lack of some specific piece of technology (a well, a community centre, houses) as a problem and concentrate efforts on delivering it. This explains the widespread emphasis on technical solutions and the construction of the problem as localised. In this way, the depoliticising effect of development is produced" Knut Nustad, 'Development: The Devil We Know?' (2001) *Third World Quarterly* 22(4), 479-489, page 482.

50 Alvaro Santos, 'The World Bank's uses of the "rule of law" promise in economic development' in David Trubek & Alvaro Santos (eds), *The New Law and Economic Development. A Critical Appraisal* (Cambridge University Press, 2006), page 251.

This assumption is also related to the *instrumentality* of the rule of law, which assumes that the rule of law can be **quantified**, for instance, through the SDG16 targets,<sup>51</sup> or the Rule of Law Index.<sup>52</sup> The discussions on how to define and measure the RoL become increasingly complex when we consider how RoL programming intersects with related domains such as peacebuilding, security, and democratic governance and adopts locally-led development principles.<sup>53</sup>

The realisation that depoliticising development was inefficient and unsustainable led to a significant shift in policy debate around “politically smart forms of engagement”<sup>54</sup> and rethinking of the role of international actors in RoL reform efforts. In practice, this thinking led to the emergence of movements such as “*Doing Development Differently*”<sup>55</sup> and the “*Thinking and Working Politically*” Community of Practice. These movements emphasise the importance of solving local problems by implementing solutions that are legitimised on all levels, and focusing on power dynamics, interests, incentives and institutions.<sup>56</sup>

#### Assumption 4: Rule of law is intrinsically top-down and state-centred

Due to the dominant colonial past and decades of top-down approaches to rule of law cooperation, the Western liberal ideas and notions of what RoL and ‘good governance’ means as the golden standard, still dominate development cooperation.<sup>57</sup> It is assumed that **the top-down nature of classical state-law** is globally applicable, because it is the system that can bring equality, justice, prosperity, and international (legal) order. However, this system became globalised through colonialism, which further imposed hierarchies of law i.e. the supremacy of state-law over other forms of law such as non-state, traditional, religious, customary and other forms of legal and justice systems.

Development actors have attempted to address this issue by shifting towards people-centred justice approaches, which places communities and people’s justice needs at the centre of legal and judicial reforms. However, current development cooperation systems rely heavily on ‘formal’ partnerships and organisational structures, ultimately pose challenges for ‘informal justice’ providers like courts of elders, paralegal programs and refugee community-based organisations. These groups and other actors need to meet additional requirements to qualify for donor funding. For instance, some donors require that recipients are formally registered, which can exclude informal groups, and bring additional burdens. In some instances this can even result in harm — including violence, censorship, and discrimination — from the authorities, which is disruptive for their work.

51 [https://sdgs.un.org/goals/goal16#targets\\_and\\_indicators](https://sdgs.un.org/goals/goal16#targets_and_indicators)

52 See World Justice Program, ‘[Rule of Law Index 2023 Report](#)’ (2023).

53 On legal pluralism within rule of law cooperation, see Siddarth Peter De Souza, *Designing Indicators for a Plural Legal World* (2022, Cambridge University Press), pages 55-111.

54 Pilar Domingo, ‘Rule of law, politics and development. The politics of rule of law reform’ (2016) Overseas Development Institute, page 4.

55 The DDD Manifesto, <https://media.odi.org/documents/5149.pdf>.

56 Thinking and Working Politically <https://twpcommunity.org/about-us/what-is-twp>.

57 According to Chimni, this “a-cultural conception has its roots in the assumed superiority and universal applicability of the Western model.” BS Chimni, ‘Chapter 13: Legitimizing the international rule of law’ in James Crawford & Martti Koskeniemi (eds), *The Cambridge Companion to International Law* (2015, Cambridge University Press) pp 290-308, page 291.

## 2.2 Assumptions about Localisation in the rule of law

One of the areas where shifting RoL discourses are becoming evident is in efforts to **localise RoL cooperation**. Within the rule of law sector, the adoption of localisation principles in practice has been challenging, due to RoL's contested nature and its inherently top-down characteristics rooted in state-centred legal systems. This section explores the intersection of rule of law development cooperation and the decolonial approach.

### Assumption 5: Global North interventions are indispensable for the rule of law development in Global South

Traditionally, development cooperation and humanitarianism were based on a paternalistic assumption of the intrinsic value and indispensability of the Global North's knowledge and financial resources to develop the Global South. In the RoL sector, in particular, the assumption of the universality of the Western model of the rule of law, or liberal peace theory and democracy has led to many disappointing programmes. Donor organisations and governments have imposed unrealistic expectations detached from the specific country's context merely aiming to duplicate Western institutions. As Carothers has noted:

Aid providers know what endpoint they would like to help countries achieve – the Western-style, rule-oriented systems they know from their own countries. Yet they do not really know how countries that do not have such systems attain them. That is to say they do not know what the process of change consists of and how it might be brought about.<sup>58</sup>

More recently, the donors and intermediary organisations broadly acknowledged the need to decolonise aid and to rethink their role in the development sector critically.<sup>59</sup> For instance, USAID states that

Through USAID rule of law programming, we assist our partners in their efforts to develop and improve their own rule of law systems, not replicate the American system or any other. In doing so, we endeavour to ensure these systems accord with international and regional norms and standards **while also reflecting their own traditions**.<sup>60</sup>

The evaluation report of Dutch contributions to stability, security and rule of law emphasises the following:

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<sup>58</sup> Thomas Carothers, '[Promoting the Rule of Law Abroad: In Search of Knowledge](#)' (2006) Carnegie Endowment Working Papers, page 9.

<sup>59</sup> Peace Direct, '[Time to Decolonize Aid](#)' (2021).

<sup>60</sup> USAID, '[USAID Rule of Law Policy](#)' (2023), page 5.

Furthermore, the MFA and implementing partners should develop mechanisms for downward accountability to better reflect local perspectives and operationalise the MFA's ambition to promote localisation. **At the same time, the MFA should articulate how to deal with possible tensions** between promoting the norms and values underlying Dutch interventions on the one hand, and the ambition to promote localisation on the other.<sup>61</sup>

Both USAID and the Dutch MFA acknowledge the existing tension and hierarchies between reflecting their own traditions and promoting the Global North RoL systems, norms and values. This wording still highlights unequal power relations between the North and South.<sup>62</sup> It is inevitable that this Western RoL model will be perceived as 'foreign' in many of the countries where international RoL organisations operate.

Current approaches create tension and resistance,<sup>63</sup> and it is unlikely that these imposed reforms will be adopted long-term. These tensions should not be treated as a nuisance or addressed as an afterthought, but rather as a valuable source of knowledge and learning. It is imperative for RoL practitioners to engage in processes of self-reflection and "unlearning the dominant systems of knowledge and representation."<sup>64</sup> In combination with this, remaining critically engaged with local discourses and perceptions of law, norms, and social conventions, is the first step in implementing lasting change.

Calls for equitable partnerships between donors and local organisations, as well as mutual accountability and risk sharing, require that Southern partners are actively involved in the decision-making process on the programmatic outputs and priorities. However, long-standing implicit and explicit neo-colonial power dynamics make such partnerships challenging. For instance, the 2020 evaluation findings of the Dutch rule of law programming "show that northern organisations are more frequently in the lead and play larger roles compared to southern partners, leading to often unbalanced collaborations."<sup>65</sup> This confirms that in practice not much is changing, despite the best intentions and pledges made by donors and INGOs. The persistent status quo indicates that deeper transformation not only of development cooperation systems, but also of the wider societal processes in which the system is embedded, is crucial. For this reason, in section 3 we suggest a number of targeted and incremental steps which we believe can lead to exponential change.

61 Ministry of Foreign Affairs of the Netherlands, '[Inconvenient Realities: An evaluation of Dutch contributions to stability, security and rule of law in fragile and conflict-affected contexts](#)' (2023), page 51.

62 McEwan notes that the idea of development has allowed the North to control the past, present and future of the South through the imposition of its worldviews — including Northern systems of norms, rules, and values — as universal. Decoloniality highlights how knowledge—rather than being universal and objective—is situated in the local contexts where it is created See Cheryl McEwan, *Postcolonialism, Decoloniality, and Development* (2nd edn, Routledge, 2019) page 209.

63 For instance, Daniels and Trebilcock have noted that in some contexts where local rule of law operators "legitimately fear that they will be summarily displaced or the illegitimate prerequisites of the public office eliminated when new institutions are created, then their resistance to reform is likely to be all the more intense" Ronald J. Daniels and Michael Trebilcock, 'The Political Economy of Rule of Law Reform in Developing Countries', *Michigan Journal of International Law*, 26 (2004), 133.

64 Ilan Kapoor, Hyper-self-reflexive development? Spivak on representing the Third World 'Other' (2004) *Third world quarterly*, 25(4), 627-647.

65 Ecorys, [Security and Rule of Law Programme Evaluation Final Evaluation Report for the Dutch Research Council Science for Global Development](#) (2020), page 9.

## Assumption 6: the key to localisation is increasing direct funding of local organisations

In the past decade, donors have been increasingly acknowledging the importance of changing funding structures by redirecting funding from multi-partner consortia, multilateral organisations and INGOs towards local organisations. For instance, USAID’s localization targets include: 1) by 2025, to direct 25% of their funding to the local partners, and 2) by 2030, to place local communities in the lead to set priorities, co-design projects, drive implementation, and deliver results in 50% of Agency’s programs. In reality, the transition has been much slower: according to the Agency’s 2023 localisation report, “the percentage of funding going directly to local partners in 2023 declined slightly from last year, from 10.2 to 9.6.”<sup>66</sup> This shows that a significant gap between the policy goals and the implementation realities persists.

While it is crucial to fundamentally rethink funding practices to support localisation ambitions, this exercise should not solely focus on the amount of direct funding. In our view, this fundamental shift requires embracing a **mutual accountability and risk sharing** culture to facilitate trust and equitable partnerships between the donors, intermediary, and local organisations.

Current donor funding policies prioritise the donor governments’ accountability towards their taxpayers over their accountability towards development partners. This can be explained by the existing perception by the populations of Global North that development cooperation is an act of charity and goodwill, rather than a collective responsibility. As Tammam Aloudat stated during the [Dialogue Series on the Decolonisation of Aid](#), “there is no justice with charity. Those who give charity cannot be held accountable”. Donor funding reforms should start with addressing this fundamental contradiction between the intention to shift the power and perception of development cooperation as an exercise of goodwill, instead of that of mutual accountability, reparations, and healing.<sup>67</sup>

In this section, we presented some of the dominant assumptions about RoL and its localisation as identified by the literature. Our goal is not to provide any definite answers to confirm or debunk these assumptions, but to provide resources for further reflection and dialogue on these complex problems. In the following section, we suggest an open list of recommendations for development actors for continuing their path towards localisation.

66 [USAID Localization Progress Report FY 2023](#). According to [DEVEX](#), “In 2011, former administrator Raj Shah announced a similar target of 30% but ultimately backed away from it — calling it an aspirational goal — in the face of stiff resistance from some U.S. development organisations and their congressional allies.

67 It is also important to acknowledge that shifting power conversations should be extended to the international financial institutions’ policies. In June 2024, increasing pressure from the International Monetary Fund caused protests across Kenya. According to independent calculations, over 60% of tax revenue in Kenya goes towards servicing its external debt see Samar Al-Bulushi, [‘The Global Stakes of Kenya’s Protests’](#) (2024) *Jacobin Magazine*.

### 3. Transformative actions through a 'targeted and incremental steps' approach

Over the past decade, nearly every donor government, INGO, and development think tank created tools and recommendations for localisation of development cooperation<sup>68</sup>. In this report, our goal is not to reiterate all existing recommendations and recreate yet another technocratic solution. Rather, we aim to bring the ethics of development cooperation practice into the discussion, alongside evidence from critical development scholarship and lessons from Adaptive Management approach.

Some of the recommendations outlined here may resonate with those familiar with locally-led development discourse. However, we aim to offer fresh perspectives that will be valuable to donors and implementers alike. Our intention is for these suggestions to serve as a foundation for collaborative efforts with local partners, creating a shared "policy commons" for ongoing dialogue and innovation.

In this section, we present tools to help development practitioners take '**targeted and incremental steps**' to further their localisation efforts. Earlier, we noted that systemic change is a sum of shifts in the mindset and behaviour of every actor. This is important to keep in mind especially during times of sector-wide funding cuts, which create uncertainty and increasing pressures on the development cooperation sector. Consequently, it is important to have a range of pragmatic, strategic and impact-focused measures in place to ensure that work towards localisation can continue. In order to support this, we offer practitioners a set of principles, critical theoretical insights, and tools they can use to challenge certain assumptions and collective beliefs that underpin current development cooperation frameworks and contribute to hesitance in fully shifting towards localisation.

By 'targeted and incremental steps' we refer to small but practical and intentional actions that can be taken throughout the project management cycle by individual practitioners, or more broadly at an organisational level whether by direct implementers, intermediary organisations or donor organisations. These suggestions are tailored for **policy-makers and practitioners** and the **organisations where they work**, particularly those who work at donor and intermediary organisations.

We believe that at the **individual level**, practitioners can take 'targeted and incremental steps' to drive structural change. Actions taken by individual practitioners can contribute to broader structural shifts and initiate or facilitate wider organisational change within their institutions. Development actors, including donors and intermediary organisations like UN Agencies, are composed of individual practitioners who conduct research, develop policy, run programs, and work daily towards ensuring that the desired outcomes are achieved. Therefore, our recommendations targeted both organisations but also individual practitioners who are agents of change.

68 For a detailed review of such recommendations in the field of humanitarian assistance see, for instance, Barbelet, V., Davies, G., Flint, J. and Davey, E. [Interrogating the evidence base on humanitarian localisation: a literature study. HPG literature review.](#) London: ODI (2021).

In the sections below, we propose adopting an **ethics of development cooperation practice** and thinking beyond the classical project cycle. Our approach, built on the **Adaptive Management (AM)**<sup>69</sup> framework, stresses a ‘targeted but incremental steps’ to make gradual progress towards the structural changes necessary for mainstreaming localisation.

### 3.1 An ethics of development cooperation practice

Development cooperation is interconnected with questions of ethics, yet these are not always clearly visible or articulated in practice. Standards such as the ‘do no harm’ principle, institutional codes of conduct and other guidelines, or research ethics procedures shape ethics practices in development cooperation. However, these existing frameworks are often developed internally, rather than through engagement and dialogue with partners. An explicit ethics framework for development cooperation remains to be articulated. We therefore propose a more mutually engaged and situated<sup>70</sup> process to develop ethical cooperation within current practices. This takes to heart the ‘no one is left behind’ approach, whilst acknowledging the interdependence of each actor involved.

Development cooperation raises questions of ethics through its very nature. Creating change in the field – in particular in relation to localisation – requires further ethically engaged conversations and practice, which can take the form of ethics guidelines that assist practitioners as they navigate ethical questions in their work. As mentioned previously, biases and positionality – such as the prioritisation of ‘expert knowledge’ over local experience – can also lead to questions of ethics. For example: *whose values underpin decision-making processes in localisation, and whose values are (inadvertently) excluded?* Engaging in ethics dialogues can lead to practical steps such as co-designing ethical principles for localisation and building mutual accountability frameworks to address these issues. Such practices can further develop more open and visible conversations on ethics in development cooperation.

The ‘targeted and incremental steps’ approach begins with personal and organisational self-reflexivity. We cannot take the appropriate steps to change the system without having individually taken the first steps to understand our place within it. Once we have confronted our positionality, identity, and role in the wider system, we can begin taking ‘targeted and incremental steps’ to achieve the change we seek - namely, meaningful localisation.

### 3.2 Adaptive Management: Beyond the classical project cycle?

The **classical Project Cycle Management (PCM)** approach has been traditionally used for development programming by all major donors. It usually consists of the Identification, Appraisal,

69 See Duncan Green & Irene Guijt, ‘[Adaptive Programming in Fragile, Conflict and Violence-Affected Settings. What Works and Under What Conditions? The Case of Institutions for Inclusive Development, Tanzania](#)’ (2019) Action for Empowerment and Accountability Research Programme. Sussex: IDS; Kimon Schneider, [https://ethz.ch/content/dam/ethz/special-interest/gess/nadel-dam/documents/research/policybriefs/NADEL\\_Policy\\_Brief\\_PCM.pdf](https://ethz.ch/content/dam/ethz/special-interest/gess/nadel-dam/documents/research/policybriefs/NADEL_Policy_Brief_PCM.pdf) *Past and future of Project Cycle Management (PCM)* (2022) ETH Zurich Policy Brief.

70 Kirandeep Kaur, Ben Grama, Nairita Roy Chaudhuri, and Maria Jose Recalde-Vela, ‘Ethics and Epistemic Injustice in the Global South: A Response to Hopman’s Human Rights Exceptionalism as Justification for Covert Research’ (2023) *Journal of Human Rights Practice* 15, 347–373.

Financing, Implementation and Evaluation stages.<sup>71</sup> It has been questioned as an appropriate tool for shifting towards locally-led development because of its linear and prescriptive nature. The PCM is critiqued for its lack of political sensitivity, adaptability, and flexibility, which can hinder locally-led approaches to development.<sup>72</sup> This is particularly true in RoL cooperation where predicting whether certain activities would lead to a certain outcome is challenging because of the complexity of the environment where RoL programs unfold.

Simultaneously with the expansion of locally-led development discourse, scholars and practitioners have been devising new approaches to development programming that incorporate locally-led development principles. They include the *Problem Driven Iterative Adaptation* (PDIA)<sup>73</sup> approach, the *Doing Development Differently (DDD) Manifesto*,<sup>74</sup> the *Thinking and Working Politically (TWP)*<sup>75</sup> community of practice, and the *Adaptive Management (AM)*<sup>76</sup> framework. All these new approaches acknowledge the importance of context and depart from best practices and blueprints while also advocating for flexible, adaptive, and responsive programming. They revisit the classic PCM framework to incorporate politically sensitive, flexible and adaptive programming tools. The **Adaptive Management** approach, in particular, in our view provides a fertile ground for operationalizing locally-led development.

While we acknowledge the limitations and criticism of program-based approach to development work, we believe that Adaptive Management framework is a useful tool for implementing the 'targeted and incremental steps' approach. As shown in the graph below,<sup>77</sup> Adaptive Management consists of three elements:

1. **Adaptive Delivery (implementer level)** is day-to-day activities where project staff has a full grasp of the operational context, and is able to "navigate through a fog of ever-changing conditions, many moving parts and players, ambiguity and uncertainty and towards political ends (shifts in power imbalances)"<sup>78</sup>;
2. **Adaptive Programming (intermediary level)** is based on the learnings from the operational outcomes that may potentially lead to adapting the program delivery;
3. **Adaptive Governance (donor level)** consists of both "managing up" to communicate program learnings to the funding decision-makers, and "managing down" to ensure compliance while having space for adapting programs to the changing context.

71 See, for example, Humanitarian Aid Office, '[ECHO Manual Project Cycle Management](#)' (2003).

72 Graham Teskey and Lavinia Tyrrel, '[Implementing adaptive management: A front-line effort. Is there an emerging practice?](#)' (2021) The Governance & Development Practice. Working Paper Series.

73 Matt Andrews, Lant Pritchett, Salimah Samji, and Michael Woolcock, 'Building capability by delivering results: Putting Problem-Driven Iterative Adaptation (PDIA) principles into practice' in *A Governance Practitioner's Notebook: Alternative Ideas and Approaches* (Organisation for Economic Co-operation and Development (OECD), 2015) pp 123-133.

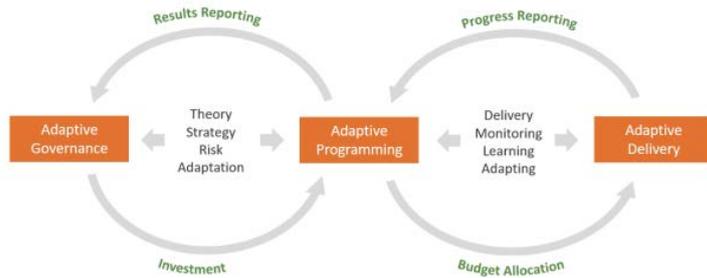
74 Overseas Development Institute, '[Doing Development Differently \(DDD\) Manifesto](#)'.

75 [Thinking and Working Politically](#) community of practice.

76 See ee Duncan Green & Irene Guijt, '[Adaptive Programming in Fragile, Conflict and Violence-Affected Settings. What Works and Under What Conditions? The Case of Institutions for Inclusive Development, Tanzania](#)' (2019) Action for Empowerment and Accountability Research Programme. Sussex: IDS.

77 Duncan Green & Irene Guijt, '[Adaptive Programming in Fragile, Conflict and Violence-Affected Settings. What Works and Under What Conditions? The Case of Institutions for Inclusive Development, Tanzania](#)' (2019) Action for Empowerment and Accountability Research Programme. Sussex: IDS, page 5.

78 *ibid*, page 5



The fundamental difference of the AM approach is that it departs from donor-led design towards co-creation and design with local partners who lead problem definition and design. It also — perhaps more implicitly — creates space for a more holistic approach, accounting for the interdependence of all development actors and mutual accountability. In this section, we provide an open list of recommendations for the implementation of the *'targeted and incremental steps'* approach on each area of the AM framework. For each area, we divide our recommendations in three groups that correspond to groups of dominant assumptions identified during our research:

- Shifting paradigms, mindsets, and approaches
- Reassessing risk assumptions
- Changing systems and structures

## 3.3 Recommendations for Adaptive Delivery (Implementer Level)

These recommendations are addressed to the local offices of international organisations that work on the day-to-day delivery of programs on the ground and engage with local partners.

### 3.3.1 Shifting paradigms, mindsets, and approaches

- **Reflect on positionality.** This requires the individual practitioner to take sufficient time for reflection and addressing the biases that underlie program delivery, and implications of the insider-outsider positionality of the local staff with regards to the local authorities and other local actors.
- **Acknowledge community resources, indigenous knowledge and non-state legal systems as sources of law:** this should include reassessing how certain communities understand their resources and legal systems, to be able to provide meaningful support without duplicating efforts, perpetuating inequality and creating harm.

### 3.3.2 Reassessing risk assumptions

- **Implement mutual accountability and risk sharing frameworks and embrace uncertainty and ambiguity:** this requires a transparent and open communication chain from the front line development workers to the donors, as well as acknowledgement of different levels of risk appetite and ability to handle uncertainty that different actors have.

- **Prioritise learning and collecting evidence** on what works and does not for all actors involved. Active listening and learning can be a powerful way to challenge risk assumptions and build trust with local partners.

### 3.3.3 Changing systems and structures

- **Carry out a stakeholder analysis** from a holistic perspective, analysing the interdependence of different actors in an ecosystem and tap into existing coalitions, networks and initiatives rather than focus on starting new projects or building new systems and platforms. From a rule of law perspective, this can entail using known justice tools, like training paralegals from the communities the projects intend to serve, to improve access to justice. The paralegal approach is used around the world, and paralegals are recruited among members of local communities. In performing a stakeholder analysis, a particular attention should be paid to excluded and marginalised groups.
- Engage in **Dynamic Policy dialogue** regularly with other donors, partners, host countries governments, regional cooperation entities. Such dialogues should include regular assessment of desirability of the donor's presence in certain contexts, as well as the assumptions that guide their political decisions on funding allocation.
- **Encourage coalitions.** Many local organisations are not registered, and end up being excluded. Working through formal coalitions made up of formal and informal organisations can allow for organisations that lack legal registration to participate in processes they would normally be excluded from due to their 'informal' status and perceived as lacking legitimacy. Ideally, donors should revise their granting requirements to expand the range of actors eligible to receive assistance. However, creating coalitions can be a temporary measure to facilitate this transition.
- **Hire local staff prioritising diversity and inclusion**, to increase the likelihood of project sustainability and retain organisational knowledge instead of deploying short-term international staff.
- **Incorporate participatory learning, monitoring and evaluation throughout the projects** as an integral part of it by allocating sufficient resources for and stepping away from standard indicators. In rule of law programming specifically, impact and success should be measured based on the indicators defined by the local actors themselves and embrace plurality of views on how success of a program can look like.

## 3.4 Adaptive Programming

Adaptive programming recommendations are addressed to intermediary organisations, like international and national NGOs and IGOs – for instance UN Agencies – and regional development cooperation organisations.

### 3.4.1 Shifting paradigms, mindsets, and approaches

- **Approach work from the position of humility and as a restorative action** rather than from a position of experts and an act of "doing good" or charity.

- **Use visioning for program design**<sup>79</sup> to embrace uncertainty and depart from the predominantly Western way of conceptualising the future as only technological and material.
- **Institutionalise mutual capacity-building**: work along with local partners to co-develop capacities (reciprocity). This allows for sharing the burden of reporting and adapting the projects as needs change.<sup>80</sup>

### 3.4.2 Reassessing risk assumptions

- **Implement Risk sharing frameworks** to build trust and promote mutual accountability of all partners.
- **Prioritise mutual Accountability and sustainability**. Create trust with the implementing local partners to ensure that accountability is a two-way street, and that they can take over the full management to make change sustainable.

### 3.4.3 Changing systems and structures

- **Co-create tools for program design and management**: this may entail a complete rethinking of approaches to programming, such as use of unrestricted funding, eligibility criteria, application processes, and mutual accountability mechanisms.
- **Allocate sufficient flexible funding** for staffing to avoid relying on volunteers, which perpetuates inequality and exclusion.
- **Normalise reporting on failures, roadblocks and issues, and implement learning steps**: implement clear, participatory and transparent processes for program reviews based on the learnings.
- **Rethink monitoring and evaluation of projects**: Grappling with the difficulties in quantifying RoL, shift towards more qualitative metrics. Focus more on restorative action rather than on formal ticking of the boxes.

## 3.5 Adaptive Governance

On the governance (donor) level, the recommendations address the need to “manage up” to communicate program learnings to the funding decision-makers, and to “manage down” to ensure compliance while having space for adapting programs to the changing context.

### 3.5.1 Shifting paradigms, mindsets, and approaches

- **Institutionalise learning from reflexivity and positionality**: individual and organisational reflection on the motivation biases that underlie funding allocation and checking the assumptions on desirability of a certain outcome for the local partners.

79 Ramia Mazé, 'Politics of designing visions of the future. (2019) Journal of Futures Studies: Epistemology, Methods, Applied and Alternative Futures, 23(3), 23-38.

80 Conductive Space for Peace, Civil Society Platform for Peacebuilding and Statebuilding, Knowledge Platform on Security and Rule of Law, & Dutch Ministry of Foreign Affairs, '[Unboxing Localisation III - Chains Of Influence](#)' (2022).

- **Review funding models:** for instance, by sharing funding opportunities in a transparent way, improving local partners' abilities to recover their full costs of implementing awards by expanding existing and introducing new indirect cost-recovery options; and expanding opportunities for local partners to engage in these processes in languages other than English.<sup>81</sup>
- **Avoid box-ticking when assessing results:** departing from a normative and state-centred approach to rule of law programming, with the focus on the number of laws and regulations adopted, or judges trained, and moving towards a pluralistic and holistic approach, which acknowledges the coexistence of different legal systems within society, and bridges them to deliver people-centred justice.
- **Prioritise inclusive and systematic dialogues on resources, needs and mutual expectations.** Introduce and cultivate spaces for inclusive and direct dialogue with local partners. Discussions and co-creation of knowledge tools are important for creating a framework for reflection.
- **Embrace multi-sectoral partnerships:** create opportunities for partnerships with development actors across thematic, regional, and sectoral borders, including philanthropic organisations, public-private partnerships, and other groups.

### 3.5.2 Reassessing risk assumptions

- **Reassess current sets of assumptions:** Check assumptions on feasibility of development interventions that are built into procurement, compliance and other financial regulations. Stay engaged with the mission of development cooperation and understanding how decisions trickle down the development chain with concrete examples and case studies.
- **Adopt evidence-informed risk policies,** Including how to address uncertainty when there is no evidence, or it is scarce.<sup>82</sup> To address uncertainty, knowledge gaps and inform risk policies, co-create research agendas with local NGOs, community-led organisations, academia, INGOs, IGOs, governments and other stakeholders.
- **Implement sharing frameworks.** Risk sharing, as opposed to focusing on managing their own risks, can help all actors involved build equitable and sustainable partnerships based on trust and understanding that they work towards one common goal.
- **Provide untied funding.** Provide sufficient space for piloting, innovating and experimenting within the project structure, alongside with a set of pre-defined outcomes can be a good practice to adopt. For instance, allocate a budget within a project that can be used for new initiatives or activities that align with the project goals but could not have been predicted at the start of the project. This should then be used to further inform the donor's approach. If donors cannot do this, an alternative is to establish partnerships with philanthropic organisations who can cover these costs.
- **Develop adaptive contracting in terms of partnerships and regranting.** This can entail expanding eligibility criteria to include traditionally excluded and marginalised actors, and to provide flexibility for the implementing partners can involve organisations and individuals that are best fit for the job.

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81 USAID, ['Moving Toward a Model of Locally Led Development - FY 2022 Localization Progress Report'](#) (2023).

82 <https://www.usaid.gov/sites/default/agency-policy/596mad.pdf>

### 3.5.3 Changing systems and structures

- **Carry out thorough and dynamic stakeholder analyses from a holistic perspective.** This entails analysing the interdependence of different actors in an ecosystem and tap into existing coalitions, networks and initiatives rather than focusing on starting new projects or building new systems and platforms.
- **Mainstream rule of law.** While most funding is allocated thematically and geographically, it is important to make sure that the rule of law and peacebuilding programs are embedded into the broader development agenda in a holistic way, and are driven by the local approaches.
- **Focus less on innovation and more on providing tailored solutions fit for the purpose** - there is no need to ask the partners to reinvent the wheel just for the sake of labelling the project as "innovation". In rule of law cooperation, innovation sometimes is necessary, but in other instances known approaches, for instance the paralegal approach, can create meaningful change for communities if these known approaches are implemented adequately.
- **Maintain donor coordination, including pooling of funding with philanthropic organisations, and creating unified requirements for grant proposals and compliance:** Create a universal funding database, and of funding application and reporting standards. Harmonise procurement and reporting systems across donors.
- **Engage in policy dialogues** regularly with other donors, partners, host country governments, regional cooperation entities.
- **Adjust Monitoring and evaluation frameworks:** RoL is difficult to monitor and evaluate through quantitative metrics. Shift expectations and create space for participatory design of monitoring and evaluation frameworks, and decisions on how all actors can deliver and show results.<sup>83</sup> Focus more on restorative action.

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83 For instance, see the [Theory of Change for the Global Partnership for Effective Development Co-operation \(GPEDC\)](#).

## 4. Conclusion

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This policy report explores the challenges of localising rule of law cooperation, highlighting significant friction between the desire for genuine localization and underlying assumptions hindering change. These assumptions include the universality of Western rule of law models, its role as an instrument for democracy and economic growth, its measurability through technocratic solutions, and the indispensability of Global North interventions.

The report proposes a “targeted and incremental steps” approach using adaptive management framework. This involves fostering ethical development cooperation practices, implementing changes at individual, organisational, and systemic levels, and prioritising learning, mutual accountability, and risk sharing. Recommendations are offered for implementing this approach at each level, focusing on shifting mindsets, reassessing risk assumptions, and changing systems and structures. The report emphasises the need for inclusive dialogues, equitable partnerships, and a move away from donor-centric approaches toward genuinely locally-led development.

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