

Terms of Reference: Paper “Rule of Law in times of health crises”

1. Background and context

Advocates for International Development’s (A4ID) Rule of Law Expertise UK (ROLE UK) programme is seeking a consultant to draft a paper on the rule of law in times of health crises. The output of the exercise will be published on A4ID’s and the ROLE UK Programme’s websites and shared with development organisations and legal pro bono professionals.

1.1. About Advocates for International Development

A4ID is the leading global charity that believes the law can and should be used more effectively to eradicate global poverty. We enable the world’s top lawyers to offer free legal support to organisations working to advance human dignity, equality and justice. Through a range of courses, publications and events, A4ID operates as a knowledge and resource hub for lawyers, academics and NGOs exploring how the law can be better used to achieve the Sustainable Development Goals (SDGs). A4ID also manages the Rule of Law Expertise Programme (ROLE UK), a unique collaboration between the UK government, judiciary and lawyers to strengthen the rule of law in developing countries. Further information on A4ID is available here: www.a4id.org.

1.2. About ROLE UK

A4ID’s ROLE UK Programme, funded by the UK Department for International Development (DFID), contributes to building long-term partnerships between the UK legal sector and legal actors in developing countries to strengthen the rule of law and facilitate progress towards the SDGs. The Programme focuses on the eradication of poverty; gender equality; reduced inequalities; peace, justice and strong institutions; and partnerships for development.

The ROLE UK Programme provides financial and technical support to rule of law activities, facilitates partnerships and, more broadly, promotes the generation and application of learning and evidence around how to strengthen the UK legal pro bono sector’s contribution to rule of law and development.

Activities that the ROLE UK Programme typically supports are short-term technical assistance by UK legal experts to developing countries, which may include trainings, conferences, workshops and other convenings. Further information on the work the ROLE UK Programme undertakes is available here: www.roleuk.org.uk.

1.3. Rationale for the paper

The Covid-19 outbreak, which started in November 2019 in China and spread to the rest of the world in the following months, revealed once again the close links between the authorities’ response to a health crisis and the rule of law.

In order to limit the expansion of the virus, preserve health systems and try to save human lives, governments around the world have taken measures that limit the exercise of individual freedoms. These measures range from the collection and processing of private data to general population confinement and even strict quarantine in some areas. Without pronouncing on their necessity or effectiveness in controlling the epidemic, these measures question the principle of the rule of law: were they taken by the competent authorities, in accordance with the procedure and under the conditions laid down by law, and without giving rise to unjustified discrimination?

Beyond the question of the compatibility of emergency measures with the principle of the rule of law, the programme also wishes to consider the relevance of the rule of law in the event of crises: are countries with a robust legal system better equipped to deal with an epidemic? In this sense, should development aid programmes aimed at strengthening the rule of law in developing countries (such as the ROLE UK Programme) include this dimension of crisis resilience in their support?

At the request of DFID, the ROLE UK Programme is looking for a consultant to draft a paper examining the nexus between rule of law and health crises. Given the current context, the paper will focus on health emergencies; however, it is hoped that the lessons drawn could be applied to other emergency contexts (political crises, natural disasters, etc.).

2. Objectives

The objectives of the exercise are:

- To produce a summary of the existing literature about the nexus between rule of law and emergency situations, with a focus on health crises
- To highlight the implications of a health crisis on the rule of law, as exemplified by the current Covid-19 situation
- To assess whether strong rule of law is an asset when dealing with a health crisis or, to the contrary, whether authoritarian regimes handle epidemics better
- To draw lessons on whether and how both programmes aiming at strengthening rule of law in developing countries and legal sector actors, especially those involving pro bono technical assistance, should take into consideration the country's ability to respond to health crises

3. Focus and scope

It is of particular value for the ROLE UK Programme to generate and share evidence and practical knowledge that can guide the strategic partnerships it supports between UK and developing countries' stakeholders.

Although the ROLE UK Programme would expect the consultant to generate their own issues to cover, the research and the paper produced as a result, should analyse and cover four broad questions:

- How are rule of law and health crises linked?
- What are the potential implications of a health crisis on a country's rule of law?
- Is there a – positive or negative - correlation between strong rule of law and efficient response to a health crisis? If so, which aspects of rule of law are determining factors and why?
- How can programmes seeking to strengthen rule of law in developing countries take into consideration this issue to increase countries' resilience and ability to respond to health crises?

The research and paper will be complimented by a case study – developed internally by the ROLE UK Programme team – about the work of some of its partner organisations during and after the Ebola outbreak in Sierra Leone.

ROLE UK is operating under DFID's definition of rule of law, i.e. "the rule of law is the framework that underpins open, fair and peaceful societies, where citizens and businesses can prosper. It is essentially about ensuring that public authority is bound by and accountable before pre-existing, clear, and known laws; citizens are treated equally before the law; human rights are protected; citizens can access efficient and predictable dispute resolution

mechanisms; law and order are prevalent". However, in defining the scope of this article, the consultant will explain the definition of the rule of law on which it is based.

4. Methodology

4.1. Location

The exercise will be desk-based.

4.2. Management

The exercise and the consultant will be managed by the A4ID/ROLE UK Learning and Development Manager. Final approval of the report will be given by the ROLE UK Programme Manager.

4.3. Timeline, activities and deliverables

The exercise is to be undertaken in May 2020 with a final deliverable by **25th May 2020**. It is anticipated that this will be up to 10 days work.

Timeline	Activities	Deliverable
Week commencing the 4 th May 2020	Meeting with the ROLE UK Programme team to clarify objectives, finalise methodology, discuss the structure of the paper and build understanding of the Programme.	
May	Desk based research. Drafting the paper.	
18 th May 2020	Consultant to submit draft paper to the ROLE UK Programme for comments.	Draft paper
20 th May 2020	<i>ROLE UK Programme team to provide comments.</i>	
25 th May 2020	Consultant to submit final paper to the ROLE UK Programme for approval.	Final paper

4.4. Output

This exercise will result in a publicly available paper of approximately 15-20 pages, including an executive summary and a bibliography.

5. Desired competencies

- Knowledge of the rule of law, evidenced by work experience as an academic, a researcher or a consultant in this field.
- Knowledge of public health, evidenced by work experience as an academic, a researcher or a consultant in this field.
- Excellent research, analytical and written communication skills, attested by a list of publications in refereed journals.
- Degree at master's or PhD level in relevant subject area.
- An understanding and interest in the role of international legal pro bono work as a way of strengthening rule of law.
- A commitment to and understanding of DFID key priorities, promoting the rule of law and encouraging access to justice.

We welcome joint applications from two consultants as a job-share (for instance combining legal and public health expertise).

6. Application process

Deadline for submission of applications: **26 April 2020**

Applications are to be submitted to thomas.istasse@a4id.org (copied to roleuk@a4id.org) with the subject line "Rule of Law – Health Crises" and to include:

- CV (maximum 3 pages)
- 1-2-page cover letter, which includes how you meet the criteria outlined above (please address the criteria in turn, in the order provided above)
- Your availability in May 2020
- A list of publications and an example of relevant previous written work
- Proposed costings
- Name and contact details of two referees

Interviews are expected to take place over the phone with the ROLE UK team between **28-29 April 2020**.

Proposals will be evaluated on the basis of quality, experience and value for money. Proposed costings should take into account that the ROLE UK Programme is a publicly funded non-commercial venture.