insights on how to do so by navigating all the different opportunities that exist within different entities while highlighting the remarkable work of the Association.

**Twelve Key Lessons**

This book offers not only many practical insights into specific aspects of rule of law missions but also considerable food for thought about the rule of law enterprise in general. The reader will undoubtedly discover a wide variety of stimulating ideas and provocative arguments in each of the following chapters. Here, just before the reader delves into those chapters, let me highlight twelve lessons that emerge from this volume. Some of these reflect accepted wisdom in the rule of law field, whereas others spotlight new or growing challenges, as well as emerging opportunities that require further thought, reflection, research and learning.

1. **Understand the scope and embrace the confusion.** The diversity of actors engaged in the rule of law enterprise and the multifaceted nature of that enterprise generate confusion. They inspire a variety of definitions of the “rule of law”; produce a wide range of approaches to conducting rule of law missions; and create problems of coordination and duplication of effort. At the same time this confusion is inevitable, and it should not be avoided but embraced. Practitioners can accept the confusion but nonetheless achieve concrete goals by keeping in mind the specific mandate of each rule of law mission, by having a clear conception of the actors involved, and by being able to design an approach that responds to a given context while looking at opportunities for coordination across other rule of law initiatives, cross-fertilization, strategic engagement and partnership development across sectors and actors.

   There is also a need to shift practitioners’ mindsets. While the focus of a rule of law initiative may be to strengthen a justice system, reform legal frameworks, or work with justice sector and legal professionals, the ultimate goal of the initiative is to have a direct impact on people’s lives, the end users of these reforms. Practitioners should design and implement rule of law initiatives with that fact clearly in mind: the importance of designing demand-driven interventions. Doing so will produce much greater success over the long term because practitioners will be helping to bridge the divide between what the law says should be the case and what people experience when they try to access the system and feel disempowered or excluded by it.

2. **It is everyone’s responsibility to promote the rule of law at both international and national levels.** From its earliest days, the United Nations has made progressive and substantive
efforts to promote the rule of law and further the centrality of rule of law discussion among member states. Critics, however, have asked some difficult questions about the extent and effectiveness of these efforts: Are international and national declarations and commitments to promote the rule of law binding? To what extent are declarations and conversations translated into action? These questions are fair, but answering them is not just the United Nations’ responsibility. Other international organizations—global, regional, and bilateral—must also accept the responsibility to abide by the rule of law in their operations to become accountable. And as for promoting the rule of law at the national level, while states are sovereign, they should not shrink their commitment to uphold and respect the rule of law within their own sovereign borders and take ownership of any reform initiatives within the context of sovereign equality. In this process, balancing thick and thin definitions of the rule of law is also at the heart of this discussion where both states and rule of law promoters need to engage on a careful exploration both on their commitments, mission, and accountability measures as they embark on specific reforms or initiatives.

3. Don’t neglect the private and public dimensions of international law. International law in both its private and its public dimensions as two opposite parts of the same coin is at the core of the rule of law agenda. Rules governing private transactions have a direct impact on the lives of individuals, private companies, public institutions, and even states. Efforts to codify and harmonize these rules thus further the rule of law at international and national levels. However, as the rule of law agenda expands to incorporate private-sector legal principles, particularly in the context of the United Nations, whose main focus has been in conflict and post-conflict settings, some words of caution apply. Codification and harmonization of laws and procedures will not by themselves foster developmental change, the same way that declarations and international regulations generated as a result of interactions between the states will not be able to accomplish development or rule of law goals by themselves. Nor will they ensure that those laws and procedures are applied and enforced at the national level. Individual countries need international help in developing the capacity and the will to implement these standards without overlooking their own responsibilities to implement them and make them sustainable at the national level.

4. There is no room for one-size-fits-all solutions. Rule of law promoters are challenged to think outside the box and respond to different situations with different toolkits, instead of relying on technical best practices or transplanting models from one legal system to another. Customizing interventions in this way demands an excellent understanding of the different political, cultural, and social traditions that make up a particular
legal context. It also requires practitioners to incorporate a conflict-sensitive approach into their rule of law initiatives to better respond to different challenges and opportunities. Instead of developing best practices that are supposed to work in any context, practitioners should consider locally designed and owned solutions. I am reminded of a conversation I had with a Chief Justice who reflected on the importance of generating the local buy-in of any justice sector reform initiatives instead of just reacting to external trends without any prospects of long-term sustainability of these reforms.

5. **Understand the importance of securing local ownership of rule of law initiatives.** Far too often, rule of law practitioners encounter resistance, lack of buy-in, and even lack of interest amongst local actors. This reality emphasizes the importance of truly listening to and understanding the voices of local actors, rather than exhausting local people by repeatedly asking for their input and then ignoring what they say. (An indigenous woman in the highlands of Guatemala once pointed out to me that I was the fifth international expert to ask her the same questions.) Instead of promoting pre-packaged, top-down solutions, practitioners should conduct in-depth analyses (not just assessments) of the local context as well as mapping local actors and issues. Practitioners need to widen participation of local actors and understand all the political realms that need to be navigated at the local level. The benefits of this approach include creating opportunities for local buy-in and ownership of the project and generating conditions for comprehensive local capacity development. The role of the rule of law advisor is to assist within a limited time frame as an outsider and a facilitator of processes. The national actors need to champion their own reforms and secure long-lasting change.

6. **Employ thoughtful and consistent approaches to using data and measuring failures in the design and implementation of a rule of law mission.** The different approaches and strategies developed to promote the rule of law have led to what Thomas Carothers calls the “problem of knowledge” in the field—namely, the thin base of knowledge “about how change in the rule of law occurs and the real effects of the changes that are produced.”41 To tackle this problem, a higher degree of investment in and dedication to the design and implementation of a rule of law mission are needed, while also looking at “the effects of the particular set of indicators developed” for a given mission.42 Such a commitment also calls for the development of results frameworks and indicators that will highlight the challenges a rule of law mission faces, help monitor its performance, and begin generating cross-regional and comprehensive knowledge and metrics with which to gauge success and failures. Indicators and metrics should not be used merely to measure compliance with operational and project management benchmarks. Instead, the organizations conducting the rule of law mission should implement a broad strategy
that views evaluation (of the mission itself and its impact and outcome) as part of a larger institutional commitment to building knowledge and improving future operations and ongoing programming.

7. *Avoid being gender neutral in the process of designing rule of law missions and interventions.* Great effort has been devoted to combating gender-based violence, advancing women’s legal rights, and improving the status of women in society, but much more work remains to be done in this very challenging area, as I am reminded of a conversation I had some years ago with a woman in Madagascar whose husband tried to kill her with a machete because she did not have the food ready by the time he got back home. Rule of law strategies should make use of multidimensional and disaggregated data regarding women’s experience with legal systems and the extent to which women feel that they receive or are denied “justice.”

8. *Design approaches that bridge the gaps between law, society as a whole, and particular groups within society.* For many rule of law practitioners, this advice is not new, but translating it into practice remains one of the biggest challenges facing rule of law missions. Multisectoral and multidisciplinary strategies are required to help practitioners understand the dynamic relationships among law, a society, and individual groups.

For example, rule of law practitioners may determine that the long-term success of their mission depends on working with youth as a way of investing in the future of a particular society by training them to respect the rule of law and to develop conflict resolution skills. In doing so, practitioners must not overlook the realities that the youth face. For instance, are the majority of young people within or outside the educational system? What are those outside the system doing? Are they engaged in gang activity or organized crime? What types of opportunities for self-development and education exist for young people? Is the economic and social fabric of their society organized in such a way as to reward their endeavor? These are challenging questions that require holistic responses as rule of law promoters and their institutions embark on exploring the impact of putting the youth at the heart of the governance, democracy and rule of law agenda.

9. *Bridge the gap between the civilian and military forces in rule of law development.* Both civilian and military actors are engaged in promoting the rule of law. The military has a specific role to play in conducting rule of law development during and after armed interventions. Undoubtedly, soldiers and security forces are better equipped than civilians to tackle armed groups that contest efforts to introduce law and order, as has been the case in Iraq and Afghanistan. However, dialogue and engagement between the civilian, military, and security communities must be expanded and deepened to understand frameworks that sequence engagement of military and civilian actors engaged in rule
of law promotion. While the role of the military is critical for restoring order in highly volatile and unlawful environments, it is understood that “once order is restored as the primary role of intervention, then the security obstacles to the deployment of civilian experts are removed.”43 The questions of legitimacy and legality that surround the military’s participation in rule of law efforts must also be addressed with the understanding that the military is always subject to civilian authority and conducts operations within the limits and boundaries established by a rule of law framework provided by international and constitutional law.

10. **Unpack the role of the private sector and national governments to foster the rule of law in development, conflict, and post-conflict settings.** The linkages between business and the rule of law require extensive consideration and cross-sector dialogue to better understand how business and the rule of law can complement one another and how can businesses incorporate a conflict and development sensitive approach to their headquarters and field operations. Part of this dialogue should examine how to bring all different stakeholders together (governments, civil society, and the private sector) and develop a shared understanding of why it is in everybody’s best interest to foster and promote the rule of law. It is in the best interest of the private sector to uphold the rule of law, adopt international standards, and foster multi-stakeholder engagement to secure efficient operations, particularly when working on conflict, post-conflict, and development settings to avoid corruption and respect human rights and the environment. At the same time, governments are called upon to play a fundamental role in leading public policy initiatives at the national level aligned with international standards that protect human rights and promote transparency and the rule of law when dealing with the private sector while using a sustainable development approach to attract foreign investment into the country. Lastly, both actors are called to secure the existence of appropriate judicial and non-judicial remedies to secure properly addressing community grievances.

11. **Explore the contributions of I/CT to support rule of law initiatives.** I/CT platforms and social networking have indeed the potential to create the conditions to reform and strengthen the delivery, management, and administration of rule of law initiatives. It is important, however, to place focus on exploring how these platforms and interventions can facilitate access of traditionally excluded groups and have the true potential for combining access, scale, and sequencing to actually generate long lasting impact on structural reforms by facilitating true inclusion of diverse voices and participation.

12. **Understand the diversity and contributions of those involved in rule of law development.** Another challenge confronting the rule of law community is making the cadre of international rule of law development practitioners more diverse and balanced in terms of its members’ professional, legal, national, and cultural backgrounds. The modern rule
of law enterprise was shaped by the export of Western legal concepts intended to support the opening and development of societies. Today, however, Western concepts and practices coexist alongside legal principles from all corners of the globe, and rule of practitioners work within many different cultures, societies, and legal traditions. Therefore, the rule of law movement must be careful not to promote a particular set of values and legal principles, and must instead design strategies that emphasize interconnections and complementarities among different legal systems and traditions through dialogue and participation that respect and welcome diversity. Such a strategy should welcome rule of law professionals coming from all these different backgrounds and representing the diversity of a mosaic of traditions, cultures, and languages as part of the future of the rule of law movement.

In the chapters that follow, contributors offer their own insights and ideas regarding the rule of law as both an ideal and an endeavor. I hope this book will prompt the reader to join this conversation about how to foster, respect, and uphold the rule of law at national and international levels as part of the privileged role we lawyers have played over the centuries and will continue to play in years to come.