

Building Justice and Security in Post-Conflict Environments



The Security, Conflict and International
Development (SCID) Symposium 2014

Building Security and Justice in Post-Conflict Environments: A Reader

Edited by Dr Eleanor Gordon

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Edited by
Dr Eleanor Gordon

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and International Development Symposium*

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Contributors

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John Cubbon has worked in the United Nations as a lawyer since 1995, since 2006 as Senior Legal Officer in Chambers at the International Criminal Tribunal for the former Yugoslavia (ICTY). Between 1998 and 2006 he played leading roles in the assessment, operation and development of the judicial system and its institutions in Kosovo, among other activities. His areas of expertise are the monitoring and establishment of judicial systems, reform of legislation and the role of transitional justice in post-conflict environments.

Dr Eleanor Gordon developed and delivers the distance-learning MSc in Security, Conflict and International Development (SCID) offered by the Department of Criminology at the University of Leicester. She has worked for over 15 years in the field of international security, justice and human rights, including 10 years in post-conflict environments with the UN and other organisations. Her work has included building state security and justice institutions, working with demobilised guerrilla groups, addressing war crimes and human rights violations, and addressing issues related to organised crime and terrorism.

Fraser Hirst has extensive experience in all aspects of justice development in conflict-affected states, specialising in Community Justice/Community Dispute Resolution and Justice for Children among other issues. He has previously worked as Head of the United Nations Legal System Monitoring Unit in Liberia, Head of UNICEF's Justice for Children Project for Somalia, Senior Justice Adviser for Helmand Province in Afghanistan, and UK DFID Justice Adviser for Afghanistan. Other legal experience includes working as: Lawyer, Court Administrator/Registrar, Magistrate, Supreme Court Judge, Prosecutor and Attorney General.

Maureen Poole has 34 years' policing experience, retiring in December 2000 to commence a second career within international development focusing on Gender, Policy and Investigations within a Police Reform environment. With extensive experience in West Africa, SE Europe and the Middle East, Maureen has expertise in different policing styles, different national and traditional law systems, international criminal law, and conflict-related sexual violence.

Malcolm Russell has policy and operational experience as a British Diplomat for more than 25 years ranging from UN and EU negotiation to working in the field in fragile and conflicted states such as Iran, Iraq and Pakistan. He is accredited as an EU Expert in arms control and strategic trade (WMD) controls and as an expert on maritime security (particularly piracy) at the International Maritime Organisation. He is also a Senior Fellow at the Institute for Statecraft and Research Associate at the Research Centre on Intervention and Knowledge, Aberystwyth University.

Keith Sargent is an independent advisor specialising in state building and good governance. In a career spanning over 40 years he has worked internationally in advisory and management capacities for governments and their development partners including the UK Government's DFID/ODA and FCO, UN agencies, the EC, the World Bank and other agencies. He is a regular chairperson and speaker on an Anti-Corruption seminar programme at the International Centre for Parliamentary Studies, where he also speaks on a Conflict Transformation programme.

Chris Sharwood-Smith spent 31 years in the Police Service and has been deployed overseas on stabilisation activities and seconded to the UK's Foreign and Commonwealth Office (FCO) to work at the UK Mission to the UN on peacekeeping training. Subsequently, Chris became involved in developing Police Peacekeeping training for the UN and represented the UK Government on the Doctrine Development Group as Chair of the Training sub-committee. Since retiring in 2010 Chris has worked with the US State Department and the UN Department of Peacekeeping Operations (DPKO) on police peacekeeping training and development.

Matthew Waterfield is a Senior Conflict and Security Expert with twenty years of experience in conflict-affected countries. He is founding Director of niche consultancy firm Aktis Strategy, which provides strategic analysis and programmes in some of the most challenging conflict affected countries. Previous experience includes serving as a senior DPKO official and work as an independent consultant. He has specialist expertise in conflict analysis, stabilisation, security and justice sector reform, conflict transitions and governance. He has also played a lead role in the definition and development of UK government approach to cross-departmental conflict and stabilisation analysis and planning.

Dr Anthony Welch OBE has over twenty years' field and academic experience in international development and the security sector. A former military officer and with a doctorate, he has worked around the world with the UN, EU, UK's Department for International Development (DFID) and the Organisation for Security and Co-operation in Europe (OSCE). He taught Security Sector Management and Reform at Cranfield University, both in the UK and abroad, and is currently engaged in security and development matters on behalf the UK and Swedish Governments, including acting as an advisor on international development and security in Parliament.

Phil Wilkinson OBE has spent 32 years in the British Army with the Royal Artillery, Parachute and Commando Brigades and Special Forces, including 6 years in Northern Ireland. He is author of UK's and NATO's Peace Support Operations doctrine manual. Subsequently, he was Senior Research Fellow at the Conflict, Security and Development Group at King's College, London helping to develop the concept and practice of Security Sector Reform (SSR). He has also been SSR/governance advisor/practitioner in Bosnia, Rwanda, Sri Lanka, Afghanistan, Palestine and Iraq.

Introduction: Building Security and Justice in Post-Conflict Environments

Dr Eleanor Gordon

The Department of Criminology within the University of Leicester offers an innovative and dynamic distance-learning [MSc Course in Security, Conflict and International Development \(SCID\)](#), which focuses on how to meet the strategic security and justice challenges of countries emerging from conflict. Designed specifically for those working - or hoping to work - in international development, the Course seeks to develop skills, knowledge and understanding of conflict prevention and recovery with a particular emphasis upon: responding to the challenges of countries emerging from conflict; Security Sector Reform (SSR); how to develop the rule of law; the importance of human rights in delivering justice and security; and broader issues relating to international security and the risks posed by countries emerging from, and vulnerable to, conflict. The Course is delivered by a specially-designed App (with an iPad provided as part of the Course fees) as well as on Blackboard, particularly to enable those working in the field who travel a lot and may not have good access to the internet to pursue their studies.

In the autumn of 2013, the Department established the SCID Panel of Experts, comprised of 70 leading international experts in the field of conflict prevention, mitigation and recovery. The Panel was established in order to further enhance the learning experience of students, exposing them to the knowledge and views of a broad range of international experts working in the field of international development and peacebuilding. The establishment of the Panel also brings students into direct contact with those working in senior positions in this field. The aim is also to make the Course more engaging, more current and more relevant to those working or hoping to work in this field. The Panel was also established in order to help bridge the divide between academia and the practical field, not least because the Course endeavours to equip its students with the knowledge and skills to pursue a career in the field of post-conflict recovery and wider international development. Ultimately, it is hoped that by bridging the gap between academia and the field, efforts to understand and better respond to the challenges posed by conflict can be enhanced. As stated by one of the member of the Panel of Experts:

The nexus of Security, Conflict and International Development is a new, and comparatively under-studied, area of work. Although its influence on international relations is clearly growing, it has been subject to very little academic scrutiny and remains surrounded by many myths and misconceptions. By providing a space for academics and practitioners to discuss and debate issues the SCID Panel is fulfilling an invaluable role.

And another:

... an innovative and ground breaking approach to bridging the often divergent worlds of academia and the worlds of practitioners and policy-makers: a divergence that does not serve the interests of those people most adversely affected by conflict and insecurity. An endeavour I am delighted to be a part of.

Panel members are engaged in a wide range of activities to enhance the Course and support its students, including contributing to the newly established SCID Blog (<http://uolscid.wordpress.com>) and email discussion list (www.jiscmail.ac.uk/UOLSCID), supervising dissertations, and marking students work. Members also provide bi-monthly Online Guest Lectures, which are uploaded onto the Blog. Members also present papers at an annual SCID Symposium, which are also uploaded in audio and video format onto the Blog and the Course platforms as well as published in the form of a Reader.

On 13 March 2014, the Department of Criminology at the University of Leicester hosted the first SCID Symposium. Ten members of the newly-established SCID Panel of Experts gave presentations on the theme of the Symposium – building security and justice in post-conflict environments. The broad range of papers presented at the Symposium addressed issues concerning stabilisation, state building, holistic security, Security Sector Reform, policing in post-conflict environments, transitional justice, community-based dispute resolution, and the value of conflict assessments. Papers were given by leading international experts on these issues with extensive first-hand experience of working in conflict and post-conflict environments. Presenters included former diplomats, retired senior police chiefs and military officers, government advisers, senior members of the legal profession, and senior officials in the UN system. The papers presented are included in this Reader.¹

The first Chapter in this Reader was not presented at the Symposium, but provides an excellent introduction to many of the issues and themes addressed in this book. In this Chapter, David Chuter provides a formidable reminder that the way in which we talk about conflict-related security and justice issues has far-reaching implications, and sheds light on the power relations that are often obscured within dominant discourses. This Chapter examines why building security and justice after conflict is so difficult and often results in failure. In order to do so, this Chapter analyses the role of discourse and what we mean by conflict, security and development. It is proposed that lack of agreement on the meaning of these concepts, particularly when taken together, causes confusion and undermines the extent to which responses to conflict and efforts to build security and development are effective. As explained by Chuter:

¹ A paper by Whit Mason (a social reconstruction approach to fostering security and justice after conflict) is not included in this Reader but is available to listen to and watch on the SCID Blog (<http://uolscid.wordpress.com>).

It's true in most areas of life that if you don't understand what you are doing, it is very hard to get the right answer. It's also true that, if you disagree with others about what the right answer is, then the chances of an overall successful outcome are even smaller. And if you can't even agree with others what the questions mean, then it's probably best to give up before you even start.

It is suggested that lack of agreement on the meaning of these concepts when taken together results from the interests that inform discourse as well as an awareness that controlling a discourse can help in controlling understanding and outcomes. It can also, as a result, help generate legitimacy and influence for those who control the discourse. Drawing on Foucault in particular, this article describes how discourse responds to the interests and views of those who have generated or control it, and a dominant discourse can help determine the actions that are deemed appropriate and, thus, the possible outcomes. In other words, as stated by Chuter '[one] of the most powerful political tactics available is the control of the way in which a problem is perceived and described'. It is also suggested that lack of agreement of the meaning of the core concepts we use when discussing conflict arises from the type of literature that often informs understanding as well as policy decisions: grey literature, which is often motivated by a specific agenda or interest and is often less intellectually rigorous, rather than academic literature, tends to be much more accessible to the media and, thus, decision-makers and the general public.

The Chapter closes by asking what can be done other than maintaining intellectual scepticism and avoiding being manipulated by discourses, in order to enhance our understanding of conflict, security and development. Chuter suggests questioning whether 'anything as simple as 'conflict' actually exists, or whether it is better simply to think of 'conflicts' in the plural, which may have some common characteristics'. And while there may be no generic causes or explanations of conflict, Chuter suggests that there are common patterns, including the prevalence of fear, confusion and misunderstanding; the motivation to control resources; and the lack of viable or more attractive alternatives to conflict.

In Chapter 2, Malcolm Russell also draws on Foucault and discusses the extent to which words matter. By examining the concepts of 'stabilisation' and 'stability', and the relationship between the two, this Chapter exposes the power relations and efforts to control that are often less visible in immediate post-conflict intervention efforts. This Chapter examines these concepts by engaging with a debate on stabilisation between Roger Mac Ginty and Christian Dennys (in *Stability: International Journal of Security and Development*), notably on the subject of control and whether or not it is inherent to stabilisation. The Chapter argues that stabilisation need not be about control but that, in contrast, endeavouring to create what is referred to as stability is about control. Moreover, the Chapter suggests that the aim of endeavouring to create a condition referred to as stability is to promote and protect the interests of the actors who are intervening and undertaking such an endeavour, rather than in the interests of a long-term, viable peace.

The Chapter considers whether the stabilisation discourse is aimed at producing an end product called stability, which reflects the interests of those intervening and 'stabilising' and

their views of how a society should be constructed, including which groups hold power. The Chapter argues that aiming at the creation such stability ‘interrupts a process of social and political evolution in response to local circumstances and diverts it in line with what the intervener believes is appropriate’. Pre-empting decisions about governance and justice systems, as well as how power is shared and which elite groups will emerge, has far-reaching social and political consequences. Furthermore, the Chapter argues that it is not necessary and, indeed counterproductive, for stabilisation efforts to focus on what is perceived to be the end product (‘stability’). Indeed, such a focus would be ‘an unwitting distraction that undermines the vital processes of sub-national political and social reconciliation which are the real essence of stabilisation’. As such, the Chapter proposes that stabilisation processes should be open-ended and continuous in order to enable a transition away from conflict that is responsive, and thus conducive, to local conditions.

In Chapter 3, Phil Wilkinson reflects upon over four decades of operational experience to argue that national security should be dealt with ‘holistically’. Additionally, this Chapter argues that sustainable security is the essential prerequisite for social and economic development and that, more generally, security and development are interdependent. A number of lessons and observations useful for the practitioner or student of post-conflict recovery are made. Not least among these is the recommendation that security should be viewed as a relative term, which means different things to different people in different places and contexts, each of whom may have different interests and motivations. This multiplicity of meanings, along with the competing demands and interests of different actors, complicate efforts to understand and build holistic security. Nonetheless, this should not detract from the need to avoid treating elements of security in ‘stove-pipes’ and as independent of development issues. Moreover, while the complexities of post-conflict environments prevent the development and application of a holistic security template, it is essential that security is dealt with comprehensively and in recognition of its interdependent relationship with development. To do otherwise, it is argued, would undermine efforts to support places recovering from conflict.

In Chapter 4, Chris Sharwood-Smith provides an overview of the history of the engagement of UN police in peacekeeping. The rationale behind the formation of the UN Police Division is examined, alongside the structure and activities of the Division and how it may develop in the near future. In so doing, the Chapter analyses the concept of police peacekeeping from the inception of the UN and provides a clear picture of the significant transformation of police peacekeeping mandates over time. This detailed consideration of the UN Police Division and the changing role of the police in peacekeeping also highlights a number of challenges facing the Division today as well as ways in which these challenges can be best addressed. Not least among these is the importance of police peacekeeping mandates remaining sufficiently flexible to be able to respond to the demands of crises as they arise and respond to the requirements of UN Member States.

In Chapter 5, Maureen Poole, provides an overview of the way in which she has approached and engaged with Police Reform in conflict-affected environments and related activities in the field of international development. This approach is informed by an extensive career in

the UK Police as well as lessons learnt from a subsequent career in international development. Above all, the mantra ‘legislation, priority and budget’ guides much of the work of the author, at least in the planning stages. This mantra serves as an effective reminder of the need to ascertain the nature of the factors which constrain and guide development work. The Chapter also pays particular attention to the role of gender in police reform and broader peacebuilding to serve as an example of how the mantra is applied in practice.

In Chapter 6, Anthony Welch examines the evolution of Security Sector Reform (SSR) and the limited success of SSR to date. Part of the reason for this lack of success is the inherent difficulties of dealing with states in transition or affected by the aftermath of conflict. However, the Chapter suggests that there are also inconsistencies in the approaches made by donor states and intergovernmental organisations when attempting to carry out SSR. This is predicated upon a lack of consensus on what constitutes the security sector and how best to reform it. In addition there is competition within and between intergovernmental organisations and inter-personal rivalry among their staff, which all serve to detract from the work of reforming the security sector. The Chapter argues that the successful implementation of SSR is often undermined by this confusion and competition within and between the intergovernmental organisations undertaking the reform processes. It is suggested that confusion, rivalry and competition are not confined just to the security field, but exist in all human activity, which perhaps explains why their impact have not been analysed in any depth.

The Chapter also argues that other obstacles in the way of successful implementation of SSR programmes include lack of genuine local ownership and lack of meaningful monitoring and evaluation methodology, which can effectively measure SSR outcomes and impact to the satisfaction of both the donor and local communities. The Chapter closes by suggesting ways in which these obstacles can be overcome and how the success rate of SSR could improve. A notable recommendation is greater involvement by the private sector in the planning and execution of SSR programmes.

Aside from the opening Chapter, the other Chapter which was not presented at the Symposium is by the chair of the Symposium and editor of this Reader (Eleanor Gordon). This Chapter (Chapter 7) is also on the subject of Security Sector Reform (SSR). This Chapter investigates the gap that exists between the SSR principle of local ownership and the extent to which it is adhered to in practice. Reasons for this gap are examined, including concerns regarding limited capacity and lack of expertise, time and cost constraints, the allure of quantifiable results and quick wins, and the need to ensure that other principles inherent to SSR are not disregarded. Where local ownership is promoted, the Chapter argues that the concept of local ownership is narrowly interpreted, both in terms of the extent to which SSR programmes are controlled and the extent to which those at the level of the community are actively engaged, despite policy guidance underscoring the importance of SSR programmes being inclusive and local ownership being meaningful.

The Chapter concludes by emphasising the vital importance of ensuring that civil society and the wider public comprise the ‘local’ that should ‘own’ the process of SSR, by being actively

engaged in SSR programmes from inception through design and implementation. It is argued that without ensuring meaningful and inclusive local ownership of SSR programmes, state security and justice sector institutions will not be accountable or responsive to the needs of the people and will, therefore, lack public trust and confidence. The relationship between the state and its people will be weak and people will feel divorced from the decisions that affect their security and their futures. All this will leave the state vulnerable to renewed outbreaks of conflict. It will be suggested that the requisite public confidence and trust in state security and justice sector institutions, and ultimately, the state itself, can be promoted through incorporating community safety or security structures into SSR programmes.

In Chapter 8, Fraser Hirst explores issues relating to incorporating initiatives to support community based dispute resolution systems within justice sector reform programmes. Specifically, the Chapter provides an overview of community based dispute resolution systems in the Helmand Province in Afghanistan in 2008/2009 and ways in which initiatives to support them were incorporated into the initial justice reform programme, when he was Senior Justice Adviser of the Provincial Reconstruction Team (PRT) there. The Chapter draws a number of lessons learnt which have wider implications, and could usefully inform programmes elsewhere. These lessons include:

- The need for a practical focus and innovative approaches on what will work and provide a practical benefit at the community level;
- The need to take a holistic approach to justice issues which takes account of all components of the justice system and the linkages between them;
- The need for programmes to be informed, driven and owned by the people they are designed to benefit;
- The need for thorough preparation and research; and
- The need for programmes to be underpinned by incorporating human rights and gender issues as a cross-cutting issue in every aspect and at every stage of the programme.

All of these recommendations underscore the need to consider and take account of justice mechanisms at a community level. In Helmand, support for community-level systems was considered to be important in order to address Taliban influence at the level of the community. Moreover, it was estimated that the informal justice systems dealt with 99% of all dispute resolution cases in Helmand and had been broadly accepted by communities for a long time. In addition, as with broader SSR and peacebuilding programmes, participation and acceptability generally determines the success of such programmes, reinforcing the need to address the mechanisms that tend to be used by most people.

In Chapter 9, John Cubbon considers the types of effects of international interventions in criminal justice related to armed conflict. The Chapter identifies these types of effects by comparing them with those of “ordinary” criminal justice. While this comparative approach identifies some similarities, it also highlights the distinctive effects of international

interventions. The Chapter concludes with some optimistic reflections on the impact of international criminal justice, including preventing crimes related to armed conflicts, as well as contributing to the promotion of peace and reconciliation. The Chapter details, however, that these positive effects can often be overlooked as they tend to be longer-term and less tangible, as opposed to attractive short term effects resulting from identifying potential peacemakers or introducing amnesties in an effort to usher in peace, for example. There also tends to be a focus on instances where international criminal justice has not prevented atrocities or has been rejected by affected populations, rather than the longer-term and less tangible effects of crime prevention and contribution to reconciliation and peacebuilding. These short-term deficiencies and short-term goals should not, the Chapter suggests, detract attention away from the longer-term and less tangible benefits of international criminal justice. The Chapter also identifies factors – fairness, objectivity and publicity – that will harness the opportunities that are contained within international criminal justice.

In Chapter 10, Matthew Waterfield provides a baseline conflict assessment of Northern Uganda in 2009. Originally drafted in 2009, the main objective of this conflict assessment was to inform the planning of the 3-year three-year (2008-2010) USAID Stability, Peace and Reconciliation in Northern Uganda (SPRING) programme. The strategic objective of SPRING was to mitigate the causes and consequences of the Lord's Resistance Army (LRA) conflict in northern Uganda, which represented one of the key challenges to addressing conflict in Uganda. This Chapter underlines the importance of conducting a conflict assessment in providing the analytical framework to identify the specific causes and consequences of a conflict' the LRA conflict, in this instance. This Chapter highlights how critically important it is that conflict recovery programmes are designed based on an explicit articulation of the understanding of the specific context of the conflict. This Chapter also shows how a conflict assessment can be conducted and what a final written conflict assessment might look like.

The conflict assessment contained in this Chapter provides an overview of the conflict and an historical background. It has also incorporated structural and stakeholder analyses, in which the causes of the conflict and the interests and means of all stakeholders have been analysed. This Chapter also highlights the importance of continually reviewing the assessment for accuracy and ensuring the assessment informs each part of the programme cycle, in order that the aims and objectives of the programme are fulfilled and contribute to the broader peacebuilding process. The particular conflict assessment contained within this Chapter underscored the importance of ownership of the peace process by Uganda as being critical to the success of the process, as well as the need to enhance the sustainability of local capacities for peace in order to counter the developing dependency culture that developed in the north.

In Chapter 11, Keith Sargent underscores the importance of addressing governance and corruption issues if post-conflict state building efforts are to be successful. With specific reference to state building efforts in Bosnia and Herzegovina, Kosovo, Iraq, Afghanistan and South Sudan, the Chapter highlights the extent to which these efforts have been undermined by a weak governance and anti-corruption agenda, particularly for the public service. The Chapter also examines the reasons why efforts to promote governance and fight corruption

have been less than successful, referring, in particular, to weaknesses in donor co-ordination, prioritisation and sequencing as well as debates over the nature/definition of governance and corruption. In conclusion, a number of recommendations are proposed that would enable governance and corruption to be addressed more comprehensively after conflict and, thus, better contribute to rebuilding post-conflict states. These recommendations include:

- The need for donors need to deal with anti-corruption in a joined-up, comprehensive and cross-cutting manner;
- The need for donors and governments to agree to prioritisation and sequencing of the elements of the state building agenda, at the outset of the state building process;
- The need for commitment to fully understand systemic corruption and act firmly against it;
- The need for the international community to commit adequate resources to the governance agenda, and particularly to obtaining ‘clean government’ and fighting corruption;
- The need to not lose sight of change initiatives to promote a culture of integrity and anti-corruption, just because they are invariably very long term.
- If the donor community is to be listened too and its wishes respected by aid recipient countries then greater attention must be paid to addressing corruption in its own organisations.

The Conclusion to this book provides a short summary of some of the common themes and lessons learnt that have permeated the Chapters of this Reader, as well as some of the recommendations for building security and justice after conflict from those with decades of specialist experience and expertise. It is hoped that discussions on ways in which to better respond to the challenges of conflict will continue in the Course as well as on the SCID Blog.

1

Fighting for the Toolbox: Why Building Security and Justice Post-Conflict is so Difficult

Dr David Chuter

Abstract: This Chapter examines why building security and justice after conflict is so difficult and often results in failure. In order to do so, this Chapter analyses the role of discourse and what we mean by conflict, security and development. It is proposed that lack of agreement of the meaning of these concepts, particularly when taken together, causes confusion and undermines the extent to which responses to conflict and efforts to build security and development are effective. It is suggested that lack of agreement of the meaning of these concepts when taken together results from the interests that inform discourse, the type of literature that often informs policy decisions, as well as an awareness that controlling a discourse can help in controlling understanding and outcomes. Controlling a discourse can also, as a result, help generate legitimacy and influence for those who control the discourse. Drawing on Foucault in particular, this article describes how discourse responds to the interests and views of those who have generated or control it, and it can help determine the actions that are deemed appropriate and, thus, the possible outcomes. The Chapter closes by suggesting ways in which to better understand the complexity of conflicts and, thus, better respond to the challenges posed.

The results of attempts to rebuild security and justice sectors post-conflict run from modest incremental improvements, to catastrophic failures, the latter being more common than the former. Why is this so, and why do so many accounts of such programmes disagree not simply about what they have achieved, but even about what it was they were trying to do in the first place?

It's true in most areas of life that if you don't understand what you are doing, it is very hard to get the right answer. It's also true that, if you disagree with others about what the right answer is, then the chances of an overall successful outcome are even smaller. And if you can't even agree with others what the questions mean, then it's probably best to give up before you even start. Much thinking, and quite a lot of practice, in the area of post-conflict

security and justice comes into the third category. Indeed, it may be said that confusion, of both conception and execution, is the normal state of affairs in such post-conflict initiatives. This is why most critical studies of them often recommend ‘better co-ordination’ between the actors. This is reasonable enough in the banal sense, but, as will be seen, it is largely irrelevant to the deeper problems. Why is this so?

It All Depends What You Mean By...

Writing about the post-conflict security and justice sectors,¹ and about the conflict/security/development nexus as a whole, is a very specific kind of discourse (a term to which I return) and is quite distinct from factual studies of particular episodes in specific countries, or empirical studies of any of the three parts of the nexus. Revealingly, perhaps, it has something in common with studies of macro-economic and international trade theory, which often demonstrate a comparable detachment from reality.

The first thing to notice is that there is little agreement about what these three terms, and numerous technical components of them, actually mean. Now of course there are always disputes over definitions, and that is healthy. But different intellectual areas have different tolerances for debate about what basic concepts mean. At one extreme, the hard sciences have to operate with certain absolute constants (the speed of sound, for example) and certain general understandings (about the functions of the liver for example). At the other extreme, philosophy is often about nothing else than the definition of, say, knowledge or ethics.

But there is a large grey area covering most of the humanities and social sciences, where debates about meaning take place, but only within agreed limits. In the case of conflict, for example, historians and regional experts study the causes, progress and consequences of real wars. At the time of writing, as the hundredth anniversary of the First World War approaches, there is a new crop of books re-opening the apparently inexhaustible question of the origins of that war (Craig, 2012, among many others). Relatively recently, a quite new interpretation of the causes of the Second World War was published (Maiolo, 2010). But such debate takes place within certain defined parameters: a historian who ascribed the First World War to the machinations of the City of London, or who argued that discussion of the Second should be confined to events in Western Europe, would not receive much of a hearing.

In security, likewise, there are certain common understandings. There are definitions of nuclear power status that are generally accepted, and debate about whether, say, North Korea, is already a nuclear power has to do with whether it has functioning warhead, guidance and delivery systems or not, and has been able to integrate them. Similarly, there is a debate about

¹ There is a pointless continuing debate about whether the justice sector should be considered as part of the security sector or something separate. My own view is that it is a separate entity, doing a separate but related job, but that does not affect the argument here.

how long it would take Germany or Japan to become nuclear powers if they wanted to, but no-one would seriously suggest that they are nuclear powers *now*.

And finally, in development, there are accepted indices and measurements that enable countries to be contrasted and discussed according to their relative success. So nobody would seriously argue that Botswana was a more developed country than Singapore because it has a multiparty political system in practice as well as in theory.

Yet when these three subjects are considered together, especially in a post-conflict context, there is no agreement about what the terms mean, what the relationship between them is, and how to understand the significance of what are claimed as the component parts. As a result, most substantial studies of the conflict/security/development nexus or some of its components start with an apology for the fact that there is no settled definition of the subject being discussed. A few examples of this disarray may make this clearer.

Thus, J. Samuel Fitch deplored ‘the lack of even a minimal consensus on seemingly basic issues’ relating to the sudden disappearance of military governments in Latin America and their replacement by democracies, and what that implied more generally (Fitch, 2001: 60). Similarly, Philip Fluri noted that Security Sector Reform (SSR), which absorbed and largely replaced the previous study of civil-military relations, is ‘an ill-defined concept’ (Fluri, 2003: 16) (I have noted elsewhere the almost total lack of agreement on the meaning of even basic concepts in discussions about SSR: Chuter, 2006 and 2011). A recent study of the problems of governance and nation-building begins by remarking that the two subjects have in common ‘a deceptive simplicity, which conceals wide disagreement about what they actually mean’ (Jenkins and Plowden, 2006: 1). The 2008 Report of the UN Secretary General on the role of the United Nations in reforming the security sector was unable to define exactly what it meant by that sector, and noted that a whole range of different elements had been suggested for inclusion (United Nations, 2008). Likewise, as the Centre for Civil Society at the London School of Economics notes, the concept of civil society is ‘contested historically and in contemporary debates’ and the boundaries between its alleged component parts are ‘complex, blurred and negotiated’ (Centre for Civil Society, 2013: n.p.). And finally, an important recent study of the rule of law begins by remarking regretfully that it is ‘*the* pre-eminent legitimating political idea in the world today, without agreement on precisely what it means.’ (Tamanaha, 2004: 4, emphasis in original) Others would go further, suggesting that ‘there are almost as many conceptions of the rule of law as there are people defending it’ (Taiwo, 1999: 151-2).

These examples could be multiplied, but the point is clear enough. All of these concepts form important parts of what is often described as the post-conflict ‘toolbox’. But in practice, it turns out that this box is full of tools that have no settled shape, can readily be mistaken for each other, and whose ownership is a matter of fierce dispute. This confusion would be unfortunate if the subject were a purely academic one, such as comparative government, or civil-military relations in post-colonial Africa. But it is more unfortunate still if it affects the way in which programmes in post-conflict states are conceived and implemented, costing as

they do hundreds of millions of dollars per year, and affecting as they do the lives and security of tens of millions of people at a time.

Why are there such differences, and why is there so much dispute? The two questions are closely linked. First, it is important to recall the operational nature of arguments about security, conflict and development. International organisations and donors that are able to control or strongly influence such debates are able to control policy and programmes on the ground. In turn, this gives them influence over the most sensitive and important sectors of recipient states, and sometimes even their sovereignty. Individuals and groups wanting influence and contracts will try to situate their bids in what they understand as the views and priorities of these powerful actors, as well as trying to modify those priorities to suit their own purposes.

Discourses at War

One of the most powerful political tactics available is the control of the way in which a problem is perceived and described. For example, international financial institutions and domestic political and financial actors have been able, over the last generation, to progressively re-define economic policy-making as an essentially technical, value-free process, from which political and ethical considerations are excluded, and in which all important decisions should be taken by economists and bankers like themselves. This process (which is of course deeply political) has been shown to be incoherent intellectually as well as practically ineffective (Chang, 2007). But it remains the default interpretation, and those who urge different approaches are regarded as ‘controversial.’ So when somebody talks about the ‘free market’, we accept the phrase, with its implicit value judgment, as normal, or even self-evident. But if someone were to use the term ‘uncontrolled market’ instead, we would assume they were trying to make a political point of some kind.

What we are dealing with here is what is called a ‘discourse.’ The word itself is of long-standing, but here I want to refer briefly to one special use of it, as developed by the French philosopher Michel Foucault in the 1970s. Foucault wrote frequently and at length on the subject, but at its simplest the concept is of a collection of ideas, statements, beliefs and practices, which define what truth is, and which legitimate power and domination (Foucault 1971, 1980 and 2013 among others). Foucault was not the first, of course, to realise that the words we use partly determine the courses of actions that are available to us. Famously, George Orwell developed the concept of Newspeak, an artificial language that tried to preclude the act of rebellion by abolishing the ability to think of it (Orwell, 1949). And another French philosopher, Roland Barthes, popularised the idea that writing, as opposed to the spoken word, was always a form of ‘closure’, and was thus able to exclude things one did not want to mention (Barthes, 1972). Nonetheless, the concept of an organised discourse is useful, because it helps us understand how nations and organisations compete with each other to define problems as ones that they believe they have the knowledge and capability to address.

Take what is usually described as ‘piracy’ off the coast of Somalia, for example, though it has, in fact, little to do with piracy as practiced in the Caribbean in the eighteenth century. If in fact it is opportunistic maritime crime, then a discourse of freedom of navigation, defence and deterrence instantly imposes itself, with practical implications including naval and air patrols, and military operations against ‘pirate bases’. If it is understood as a symptom of the dislocation of traditional fishing communities by conflict, then the ‘pirates’ are in fact victims, the ‘bases’ are just the villages where they live, and the solution is to rebuild the shattered economy and society of the country. And finally, if it is understood as a traditional type of low-level conflict, now extended to foreign ships, then the ‘pirates’ are both criminals and victims, and the solution lies in developing alternative forms of economic activity.

In practice, it is likely that the problem of ‘piracy’ contains all of these elements, and more besides. But it is easy to see that different actors will favour different discourses, because they play to their strengths or reflect their concerns. Development agencies and human rights groups, for example, are unlikely to favour a military discourse, because they would have no standing, and thus no influence. Major maritime powers will want to frame the problem as one of criminality, which enables them to respond in ways that facilitate their control of the problem.

This is another way of saying that, whilst, political and military power is important for getting what you want, it does not itself provide you with legitimacy, and so is not a complete solution. The solution is to get people to accept, even unconsciously, that your norms and values are natural and universal, and that they should therefore share them and obey them. This process was christened ‘cultural hegemony’ by the Italian philosopher Antonio Gramsci, and stresses the extent to which legitimacy (he often called it ‘leadership’) is critical in all forms of domination. In practice, governments, political parties, international organisations and even economic actors strive to achieve this hegemony – an acceptance of their values and norms as being universal, at least in contexts where they stand to benefit. (Gramsci, 1971)

If this sounds a little ethereal, consider the adventures of the word ‘impunity’. It literally means ‘ability not to be punished’, although it has often had disapproving moral overtones. Over the last twenty years, however, it has achieved a near hegemonic status as part of a discourse that dictates how we should think and act towards those who are accused (not necessarily with any evidence) of being responsible for crimes and atrocities committed in war or under an authoritarian regime. Such individuals, usually identified by name by the media and human rights groups, should be unflinchingly pursued and punished, whatever the cost. To do any less is to connive at ‘impunity’, which is not only immoral, but is even alleged by some to be a cause of conflict itself. To use the word ‘impunity’ is to accept this discourse and these conclusions about a very important post-conflict question. Even to argue, as some do, that there is a ‘balance’ to be struck between ‘justice’ and ‘expediency’ to ensure the stability of the country is to accept this discourse, at least in part.

Yet the revenge-based ‘impunity’ discourse does not have things all its own way. It co-exists queasily with the discourse around truth and reconciliation (or even, as in the case of Sierra Leone, it directly conflicts with it). Political reality requires that, since both revenge-based

solutions (courts and tribunals) and reconciliation-based solutions have their supporters and funders, some attempt must be made to pretend that the two concepts can live together. But sometimes the clash is more fundamental. The ‘impunity’ discourse treats perpetrators of violent acts as criminals, needing to be pursued, tried, convicted and punished. Efforts to explain or understand why they acted as they did are signs of moral weakness, and undermine the struggle against impunity.² Elsewhere, however, there is the equally powerful discourse of victimhood in conflict, which sees non-combatants in general, and women and children in particular, universally as innocent victims, needing help and support. When these discourses come into conflict (as they did with allegations that child soldiers in Sierra Leone had committed atrocities) no compromise between the discourses is possible, since both aspire to universality and hegemony.

Anyone who has lived through an international political crisis will agree that few decision-makers or opinion formers have the time, or the interest, to delve into the details of the crisis itself. Rather, there is a competition to define which pre-existing model – discourse if you will – the crisis most resembles. This in turn dictates how the crisis is dealt with, and how the post-crisis situation is to be managed. In some cases, as in the 1998-9 Kosovo crisis, the argument about the discourse to be applied to the crisis, bitterly fought by individuals and groups around the world with no first-hand knowledge, probably determined its outcome (Paris, 2002).

In politics, the normal way of reconciling difficulties of this kind is through careful drafting, often splitting the difference between opposing points of view, and producing a synthesis which no one is entirely happy about, but which all will accept. But it will be clear that drafting your way out of a conflict between discourses is not possible, even in principle. As a result, international organisations are obliged to try to cater to all opinions and discourses simultaneously, in the documents they produce, and the usual way in which this is done is simply to add more and more words until everybody is satisfied. A good example (revealingly, it is too long to quote here) is the definition of the rule of law produced by the Secretary General of the United Nations a few years ago. It is so long and so detailed (and indeed no state could actually apply all of it in practice) that every interest group has something to point to, even if the overall effect is incoherent and not very helpful (United Nations, 2004: 4).

² ‘So you’re saying it’s not their fault and they couldn’t help it?’ objected one student when I spoke to a seminar some years ago about problems in finding and detaining alleged war criminals in parts of Bosnia where memories of atrocities from the Second World War were still very raw, and had, indeed, been a factor in the commission of the atrocities in the first place, as long-delayed revenge. I have said much more about these issues in Chuter, (2003).

Grey Areas

The second main reason for the confusion has to do with the literature on the subject. Discourses are seldom produced by individuals, although individuals may adopt them, knowingly or not. They are more usually a collective act, intended to defend and advance institutional norms and interests. One of the ways in which this is done is through documents – White Papers, speeches, policy papers, media articles by senior officials, etc. This material has been described as grey literature – grey because it is essentially functional, being written neither to inform, nor to entertain, but to convince and to further political objectives. Much of it has an ambiguous status: not quite official literature, but nonetheless closely following predetermined discourses. Thus ‘grey’ literature.

Much of the readily available writing on security, conflict and development is of this type. It is produced by governments, by international organisations from the United Nations to the World Bank, by foundations and donors, by international NGOs, and so forth. To say that its purpose is to persuade, and to promote the organisation’s position, is not necessarily to say that the content of its publications is deliberately misleading, or that the publications are without interest. But promoting knowledge and understanding is inevitably going to be secondary to promoting the organisation.

Consider, for example, an international human rights NGO, which wants to play a role in the post-conflict reconstruction of the security sector of a country in crisis. Partly, this may be for institutional reasons, partly also, perhaps, out of a genuine feeling that human rights issues are not being given enough prominence. In principle, the task is not an easy one. The staff of the NGO will probably be young human rights lawyers, who will have little knowledge or experience of security issues, and may not be familiar with the country or the region. On the face of it, it is difficult to see why anyone should take any notice of a report that the NGO issues.

As in all similar cases, however, the trick is to redefine the issue – to assimilate the reality on the ground to a discourse that will dictate what the crisis in the country is ‘about’, and what can be done to solve it. Thus, the report will argue that denial of basic human rights was the real cause of the conflict. Since basic human rights were probably lacking, at least to some degree, this interpretation is impossible to disprove. The argument then continues that the main priority in the country now must be to improve the human rights situation, through new legislation and codes of practice, judicial reform and human rights training for the security forces, in which the NGO concerned will play a leading role. The strong implication, therefore, is that an improved human rights situation will lead to more stability in the country. Donors and international contributors of troops and other resources, who seldom want to stay in a country longer than absolutely necessary, may well be receptive to such ideas, which promise a simple solution and an early exit. Thus, a report by an organisation with no knowledge of security issues may nonetheless be extremely influential in forming policy.

Contrast this with the standard academic model of careful research and reflection, repeated drafts and peer review. There, whilst institutional pressures may be present in some form, the

fundamental purpose of the document which is eventually published is to improve the state of knowledge. But such productions, whilst inherently much superior to the grey literature, nonetheless suffer from two practical limitations.

First, they are usually much more nuanced and complex than a transitory report from, say, a human rights NGO. They are also likely to be much more informed and realistic, and much less likely to offer simple analyses and solutions. When describing any complex situation, moreover, their conclusions are likely to be much more downbeat and realistic. These are academic virtues, but not necessarily political ones. Second, many academic articles, and most academic books, will be unavailable online, except perhaps through a library or by paying a fee, and, at best will be less available and less approachable than papers whose very purpose is to influence policy and promote the interests of the parent organisation. Even those available online will not necessarily be very prominent in search results from Google.

The result is that much of the understanding of security, conflict and development among officials of governments and international organisations, donors and the media, is based overwhelmingly on literature which is seldom intellectually rigorous, and is often written to reflect and reinforce a certain discourse. There are, of course, independent research institutes of different kinds, and there is no reason to doubt that their researchers do try, as far as they can, to be objective and rigorous. But the fact is that some subjects are easier to get research grants for than others, and some approaches commend themselves much more to donors than others. The most powerful discourse in the analysis of conflict today is that of the victim, and a study that focuses on victims (or at least alleged victims) of the latest conflict will be much more likely to be funded than one that describes political and military developments in detail, although that might be of much more value.

Note that here, it is not a question of bias or seeking organisational advantage, necessarily, but more of the definition of what a problem consists of. So we can say that the ‘problems’ of Africa are, for practical purposes, the sum total of the studies recently produced about the continent, and the associated media stories, since political attention and donor interest are largely determined that way. And some things get studied more than others. Only an alert reader, for example, will appreciate that, for all the mass of writing on conflict in Africa, African conflict, as such, is not a major source of suffering on the continent. By far the largest causes of death in Africa every year are malaria and diarrhoea, and a reliable supply of clean drinking water would do more to save lives in the continent than all the human rights initiatives put together. But one would not know that from the grey literature: it is not that the literature deliberately conceals these problems, but rather that the conceptual space which contains the ‘problems’ of any region of the world is always limited, and tends to get taken up by those who are best funded and shout loudest. (Similarly, Islamic jihadism is not a major everyday problem in most parts of the Arab world, even if the grey literature on the region is obsessed by it.)

All this is a way of saying that selectivity exists in every area, and what Michel-Rolph Trouillot has called the ‘Silencing of the Past’ (Trouillot, 1997) resulting from the choices historians make, extends to the present as well. Whereof we do not speak, thereof we

necessarily encourage silence. Indeed, it is not much of an exaggeration to say that in international politics problems in the non-western world do not exist until westerners write about them. It is therefore of great importance who writes what, and how.

So it is necessary to be extremely careful in our use of the literature about security, conflict and development, and even more when the subjects are treated together. It is an unfortunate paradox the much of the material that is most easily to hand is also of mediocre quality, and often serves to reinforce a discourse. The alert reader, however, can improve their use of source material by asking a few basic questions. What do we know about the authors? What first-hand understanding do they have of the problem they are discussing? What is the organisation that published the work? Who financed it? Whose objectives do the conclusions seem to serve? If the authors are writing about a current conflict, what are their sources? Are they local sources? Are they written by regional experts? How secure a grasp do they have of the country's history, and what are their sources? When discussing particular conflicts, do they use well-regarded sources for Sudan (Mamdani, 2009; de Waal and Flint, 2008; Johnson, 2012) or for Sierra Leone (Richards, 1996; Keen, 2005, among others).

In many other intellectual areas of life, this seems much easier, and takes place relatively automatically. Thus, a student essay or an academic article on the minimum wage, which quoted extensively from the documents and speeches of a government that wanted to abolish it, supported by a study from an employer-financed think tank, would understandably raise eyebrows. Yet we accept without a murmur the idea that organisations whose expertise is in human rights or economic development, should be influential when conflict and post-conflict issues are discussed.

Much of our acceptance relates to the nature of the discourse, which in the security, conflict and development area tends to be moralising, normative and often accusatory. Of course all discourses try to manoeuvre their readers into accepting value judgements as truths. In the minimum wage argument above, this is done by the use of words such as 'burden' and 'cost' to describe the initiative, and by stressing ideas like 'competitiveness' and 'freedom'. But the discourse with which we are concerned here is especially powerful because it is intended to make those who do not accept it feel morally guilty and inferior. Anyone who has ever expressed polite scepticism about uncorroborated reports of atrocities, the wisdom of revenge-based post-conflict policies or even the nature and extent of an alleged conflict, will be familiar with the reaction 'I suppose you want them all to die then!' In the last analysis, indeed, the dominant discourse in security, conflict and development relies on moral blackmail for most of its effect. After all, who wants to be thought callous or unfeeling in asking what actual evidence there is for allegations of mass rape in the Congo? (Peterman *et al.*, 2011)

Games with Names

Beyond recognising the requirement for the sort of intelligent scepticism proper to any academic enquiry, and the need to avoid being manipulated by discourses, is there anything positive that we can do to improve our understanding of security, conflict and development

and their interactions? I concentrate here on conflict, since post-conflict work, to be effective, has to be based on a good understanding of the nature and origins of conflict itself.

The first issue is whether, indeed, anything as simple as ‘conflict’ actually exists, or whether it is better simply to think of ‘conflicts’ in the plural, which may have some common characteristics. In practice, this is what happens anyway. When deconstructed, most theories of ‘conflict’ are actually based on a limited number of cases, usually of domestic armed conflict, and usually selected to support a general theory. For this reason, definitions of conflict are often cast very wide, to include low-level political violence and even demonstrations.

Yet it is obvious that any general theory of conflict has to be just that: general. It should at least explain all contemporary conflicts, or situations where conflict is likely. For example, the two most destructive conflicts of modern times have been the (US-led) invasions of Iraq and Afghanistan. Any general theory of conflict has to explain why they happened, as it has also to explain why conflict between the US and Iran (and also Israel and Iran) seemed likely at one time but did not actually happen, why war between several western powers and Syria seemed likely in 2013, and so forth. But it should also enlighten us about the reasons for the Rwandan/Ugandan invasion of the Democratic Republic of the Congo (DRC) in 1996, about the rationale for the wars between Ethiopia and Eritrea, or why NATO attacked Serbia in 1999. In practice, most theories of conflict do not even try to do this. They first define conflict to mean internal conflict only, thus ignoring not only conflicts that are clearly external, but also those (the majority) where the internal and the external are hopelessly mixed. They then select the examples to support their thesis, and usually argue that certain measures should be taken (for example protection of human rights) that will prevent the outbreak of more conflicts, as they define them.

This is obviously not very helpful if one actually wants to understand real conflicts, still less to prevent them from occurring. But such one-dimensional explanations are in fact quite common, and it is worth looking at a few of them briefly, and explaining why they are deficient.

The oldest and best established (if in some ways the strangest) is the idea that conflict begins, as the UNESCO Constitution puts it, ‘in the minds of men’ and because of ‘suspicion and mistrust among the peoples of the world’ (UNESCO, 1945). It defies belief that even those who drafted the Constitution actually believed this: they had just emerged from a war in which the feelings of the publics of different countries played no part at all. Obviously, the concept is useless as an explanation of real conflicts at actual times. But it performs two important political functions: it places the responsibility for conflict firmly with ordinary people like you and me, rather than with those who actually start conflicts, and it provides legitimacy for the work of UNESCO as a force for peace, whether that is merited in practice or not. This explanation draws a little surface plausibility from the obvious fact that conflict (in some form) is endemic in the kind of society in which we live. Not everybody’s preferences can automatically be accommodated peacefully, and groups will have objectives

that are often opposed to each other. But it is a huge, and illegitimate, step to then assuming that governments or factions are thus pushed into conflict by popular pressure.

More recently, and partly in reaction to the kind of argument described above, some commentators have taken to emphasising the rational, economic aspects of conflict. These certainly exist, and we will return to them in a moment, but it is important to be clear that while economic factors play a part, it is much harder to argue that they 'cause' conflict in any mechanistic way. It is recognised that economic problems can produce desperation and recourse to political extremism, but this does not happen consistently, or in the same way. In the 1930s, for example, extreme nationalist governments came to power in some countries (like Germany), extreme nationalist parties had some influence elsewhere (in France, for example), whilst in other countries (like Britain) they had no influence at all. All this in spite of the fact that economic conditions throughout Europe were broadly similar. Likewise, many African countries today, from the DRC to the Côte d'Ivoire, were very stable for long periods of time, in spite of having all of the economic ingredients for a conflict. What is interesting, in fact, is not the background but the foreground: not why conflicts might happen, but why they actually do so. More generally, the idea that leaders rationally choose war whenever the anticipated rewards exceed the anticipated costs, whilst appropriate for an age whose dominant discourse is that of rational economic self-aggrandisement, is bad at explaining real examples of conflict.

If the above explanations can be loosely characterised as 'greed', then an alternative is to think of conflicts as begun by 'grievance' (Berdal and Malone, 2000). Grievances certainly exist, and have been instrumental in fuelling conflict for a long time. But again, there is no simple chain of cause and effect. The international system, with its ever-increasing patchwork of states, is guaranteed to produce social, identity and economic grievances of various kinds: what is unclear is why and how such grievances lead to conflict. In principle, domestic conflict is avoided when the domestic political system is robust enough to contain and resolve differences. But some differences are actually impossible to resolve peacefully, and some political systems are not robust enough anyway. Once more though, even dysfunctional systems and irresolvable grievances do not necessarily produce conflict: discrimination against Catholics had been practiced for nearly fifty years before the Troubles in Northern Ireland began, and the situation was, objectively, no worse in 1969 than it had been before. This example (like that of Kosovo thirty years later) also reminds us that, even if there are grievances, not everyone believes that violence will solve them. The armed hardliners who conduct the conflict often have different objectives from ordinary people. The Irish Republican Army's goal of a united Ireland, like the Kosovar Liberation Army's goal of an independent Kosovo, do not seem to have been shared by a majority of the populations in whose name they were fighting. The situation is also confused by the tendency to assume that felt grievances are the same thing as human rights violations, which is rarely the case in practice.

Another set of reductionist arguments, inspired by post-First World War pacifism, takes the self-evident fact that conflicts require armed forces with weapons, and converts it into the hypothesis that if there were no armies and armaments, there would be no wars. This

hypothesis is self-evidently not true, since wars tend to produce armies rather than the other way round, but it still exerts a nostalgic attraction in certain quarters. The related idea that ‘arms sales’ cause conflict, if unsupported by any evidence, is probably based on half-remembered stories of the effects of Anglo-German naval rivalry before 1914.

A final type of one-dimensional explanation (not the last, but four is enough) is that of instrumentalisation. Here, ruthless ethnic entrepreneurs are alleged to stoke real or imagined grievances into actual conflict, and then, as ‘spoilers’ obstruct international efforts to make peace. Now as with other one-dimensional explanations, this is not entirely false. There are certainly individuals who have deliberately set out to start wars for their political and financial benefit (Charles Taylor and Paul Kagame come most immediately to mind) but in neither case was there an attempt at mass mobilisation of populations. Likewise, attempts to gain or reinforce political power by targeting foreigners or minorities have been common throughout modern history in most parts of the world. But in the Ivory Coast, for example, though they contributed to destabilisation, they cannot really be said to have caused the conflict. In fact, skilful leaders do not try to invent grievances: they articulate them. History ‘is not an infinitely malleable political tool’ and experience suggests that you can’t get people worked up over fears that don’t exist (Rubin, 2002: 27). In reality, this is another case of half-remembered historical analogies being interpreted as contemporary reality. It is a recollection of the alleged rise of nationalist extremism that is alleged to have produced the Second World War. In fact, the reality is rather different, and the grievances felt by the German people about the Versailles Treaty were entirely genuine: the Nazis just exploited them before anyone else.

If none of these simple explanations of conflict, each with its own discourse, is an adequate explanation, how can we nonetheless intelligently conduct a post-conflict reconstruction policy? We can begin by insisting that there is no such thing as ‘conflict’, but only conflicts, which start for various reasons, some deliberate, some accidental, some sought, some involuntary; and may also stop for reasons nobody can quite explain. This means that the famous ‘underlying causes’ of conflict are likely to be different from case to case, and in some circumstances there is nothing much you can do about them. It also means that some conflicts will stop relatively quickly, if those in charge judge that peace is a more profitable option, and that some may drag on until the two (or more) sides have reached exhaustion. External actors may, in the end, have little influence on whether a conflict ends, or whether it restarts again.

If there are no generic explanations of conflict, there are a number of historically attested patterns to look out for. One is simply fear. This may be fear that what others have done to you may be repeated, fear that others will take revenge on you for what you did, fear of the strength of others, fear of your own weakness, fear of what will happen if you don’t act now, fear of what happens if the other acts first. Sometimes this fear is shared at the national level, but sometimes it is strictly personal. The UN representative in Burundi in 1994 noted in an interview that what Burundi needed was not peacekeepers but psychiatrists: the politicians were all terrified of each other (Abdullah, cited in Ignatieff, 1999). Fear is by definition

irrational, and hard to study objectively, which is why it is too easily dismissed as a factor in conflict.

Another is confusion and misunderstanding. The tidy patterns clear to historians seldom seem so obvious at the time. For those who have lived through real-life crises, the usual experience is of confusion, uncertainty, lack of information on some things, too much conflicting information on others, and never enough time to think clearly or analyse sensibly. Nations and groups become ingrown and self-reflexive, finding it hard to understand how others will view their actions and statements. Fear reinforces confusion, of course, just as confusion reinforces fear.

If simple economic models of war and peace are misleading, economic and financial factors do play a role. Historically, wars have been fought to control natural resources and access to them: indeed, much British Middle East policy until the 1960s was expressly based around that objective, just as French policy was intended to frustrate it (Barr, 2012). Whilst the desire to control resources does not necessarily produce wars to order, it is often a major factor in making them attractive, as in the Rwandan/Ugandan invasions of the DRC in the 1990s. It also often tips the balance between war and peace when the outcome is not obvious. Thus, when the West was trying to work out what to do after the Iraqi invasion of Kuwait in 1990, it is clear that securing oil supplies from the region was a major factor in the decision. As one senior US official put it at the time ‘If Kuwait grew carrots, we wouldn't give a damn.’ (Lawrence Kolb, quoted in *The Guardian*, 2001).

At a domestic level, the easiest way to understand economic-based conflict is through the idea of rent, which is to say income earned from exploiting goods or services you own or control access to. This can include control of smuggling in times of conflict – one reason why conflict is often attractive. In the West, elites enjoy rents from all kinds of sources (land, property, stocks and shares, public assets and so forth) and competition and struggle, whilst often fierce, is usually confined to law courts and parliaments. But in other parts of the world, opportunities for rent-seeking may be much more restricted, the political system is often weaker, and political power, much more than in the West, will be based on establishment and maintenance of patrimonial networks (Reno, 1999). Such networks, of course, have to be ‘watered’ as the French put it, which means that a constant supply of money is needed, and conflict at some level is more or less inevitable.

A final common cause of conflict (again, four should be enough) is the sense that there is no other way to resolve a crisis. When Argentina invaded the Falklands/Malvinas in 1982, a conflict began, costing a thousand lives, which every rational person knew could and should have been avoided. If it was ‘two bald men fighting over a comb’ in the words of the great Argentinean intellectual Jorge Luis Borges (cited in Fiorentini, 2011) it was nonetheless a fight from which neither government could withdraw, without being destroyed by their own domestic political process. As is so often the case, conflict was a dangerous gamble, but the alternative was certain destruction. The idea that the alternative is worse, and that conflict, however grim, at least offers some hope of survival and victory, explains a great many conflicts. It also explains why many peace processes are so difficult.

The western liberal tradition, which lies behind most thinking on security, conflict and development, views war as an unnecessary evil. Armies are expensive and can lead to foreign entanglements, nations that trade do not fight, arms spending is a waste of money, politics is a struggle for power and wealth governed by rules of good behaviour, no rational person would prefer conflict to peace. Not all of these ideas are necessarily false, but all of them are the product of certain types of political and economic systems, which themselves, ironically, have evolved often through conflict.

Because conflict may, in fact, be avoidable. The blood-soaked history of Europe is, one hopes, now behind us, but it remains true that the unification of European states, and indeed the unification of Europe itself, was a conflictual and often violent process. Likewise, the struggle for representative political systems has involved conflict in virtually every country that has them: in some (Spain, for example), it has provoked actual civil war. History suggests that few ruling elites ever give up power without a fight, and sometimes they use actual weapons.

This does not mean that conflict is inevitable, still less that attempts to prevent it should be abandoned. There is an important category of political crisis where violent and non-violent solutions may be equally plausible, but where national leaders need practical help and advice to find the latter. What happens then may owe more to chance than anything else. This appears to have been the case in Bosnia in 1992, for example, where no party actually wanted conflict, but where the kind of bureaucratic skills and the experience of political culture that could have generated a peaceful compromise were horribly lacking. The outside world, which could perhaps have supplied this lack, was instead busy cheering on the proponents of independence and therefore of conflict.³ On the other hand, peace treaties for the sake of peace treaties are not a solution either: wars that end in negotiated settlements are more likely to produce more conflict than wars that end in victory for one side (Toft, 2010 cited in Trefon, 2011: 22). The problem, of course, is that the DRC in 2014 is not Spain in 1936, or even France in 1871. International opinion demands intervention to ‘stop the violence’, determinedly and systematically confusing causes and effects.

Finally, it should not be thought scandalous to say that some conflicts are necessary. Few of us, after all, would swap the democracies in which we may live today for some hypothetical authoritarian alternative, in order to retrospectively undo the conflict that brought about the change. Few of us, except hopeless pacifists, would regard conflict as too high a price to pay for the liberation of our countries if they were invaded, or indeed, the survival of some group in a foreign country that we support.

³ It was not until well after the end of the war that western governments started to send to the new parliament in Sarajevo experts to help with such mundane issues as framing agendas, writing procedures and taking minutes, although it was a bit late by then (personal communication).

Which is where we began: thinking about conflict, at all levels from national governments to private individuals, is hopelessly confused, and inconsistent. Thus, lifelong pacifists turned into raving militarists overnight during the fighting in Bosnia. Public intellectuals tied themselves in conceptual and moral knots trying to explain how they could simultaneously support the war in Kosovo in 1999, and oppose that in Iraq a few years later. To non-westerners, this is easily dismissed as hypocrisy, especially when framed in the fashionable but selectively applied discourses of humanitarian intervention and the responsibility to protect. But, whilst hypocrisy is a feature of all political debate, there is more to it than that.

In effect, our thinking about conflict (as with security and development) is confused because we actually accept several competing discourses of conflict at the same time, without being aware that we are doing so, and without appreciating the contradictions between them. Thus, when internationals arrive in the post-conflict stage, they are themselves conflicted, coming with different and conflicting ideas not only between them, but even within the same organisation or the same person. Careful drafting can smooth over the conflicts at the verbal level, but cannot create a viable policy on the ground.

Ironically, therefore, one of the major impediments to the sensible handling of post-conflict problems is the conflict over the causes and nature of conflict, and of security and development and the relationship between them. It has to be hoped that, as elsewhere, peace will break out soon.

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2

Stabilising the Debate: Destabilising the Totem of Stabilisation

Malcolm Russell

Abstract: This Chapter engages with Roger Mac Ginty (2012) who is 'Against Stabilisation' and Christian Dennys (2013) who responds by arguing 'For Stabilisation'. It picks up on the question of control and contends that it is inherent in creating the condition of stability but can be absent from the processes of stabilisation. This Chapter argues that stabilisation processes need to remain open-ended and continuous to mediate conflict into political and social contention that facilitates societal evolution in ways that respond to local conditions. They should not be shaped into a condition called stability because this is a construct defined by an intervening state based on its world view, reflected in its foreign and security policies, and practiced in accordance with its norms and values. Insisting on stability is a normative action that interrupts a process of social and political evolution in response to local circumstances and diverts it in line with what the intervener believes is appropriate. The intervener thus decides which elites will emerge and which systems of governance and justice will be adopted. Taking such important decisions at this early stage in a post-conflict intervention has far reaching political and social consequences. The underlying argument is that the process of stabilisation should not lead to a condition of stability that represents achievement of landmarks set by the intervener. Instead, it should provide a continuous means for peaceful political and social evolution. Stability situated as the necessary outcome of stabilisation has become a misleading totem.

Introduction

We must conceive discourse as a violence we do to things, or in any case as a practice which we impose on them (Foucault, 1981:67).

Words matter. Both Mac Ginty (2012) and Dennys (2013) defer to the French philosophers who remind us that the way in which words are used has tremendous meaning. But in the stabilisation and stability debate these words have been ascribed meaning so

broadly and assumptions made so readily about the linkages between them that they have, in fact, become both meaningless and multi-meaning. Or have they? Has the stabilisation narrative become discourse aimed at producing a condition called stability that reflects the intervener's view, based on its own interests, of how a society should be shaped and which elites should gain control over the monopoly of the use of violence within their territory?

Stability of this type is a construct of an intervener's power relationship advantage: in other words, a product of the intervener's control. And if this is the desired outcome and it is labelled stability, then the processes that have been labelled stabilisation to achieve this outcome have become tools and methods to achieve this control. Stabilisation would therefore have a meaning that is shaped by the intervener's regime of truth, based upon its own interests, values and social norms. This Chapter looks at whether the condition of stability that is referred to in the stabilisation debate is this type of construct and whether the condition of stability is indeed needed to facilitate longer term political and social evolution as Dennys claims.

Stabilisation

This Chapter identifies that stabilisation starts at the sub-national level within a state at the point when armed violence is receding past its peak. Stabilisation provides the political and social means for the drivers of conflict to be addressed but does not, in itself, provide the solution to a conflict. It is a process that takes different forms at different times and places to provide the mechanisms through which conflicted parties can find an accommodation without resorting to violence. Stabilisation is, therefore, a series of processes aimed at ensuring conflict is managed in ways that do not lead to violence. These processes are specific to the circumstances and conditions that prevail in each place. Stabilisation is a dynamic process that facilitates the social and political dialogue that addresses the conflict drivers at their roots and which causes (and gives the political and social space for) the evolution of systems of governance and justice that correspond to local circumstances. This makes the social and political evolution appropriate to local conditions, owned by the society that is evolving and therefore durable.

Christian Dennys argues that stabilisation does not necessarily require an intervening state to exercise control but that the outcome of stabilisation is stability, which provides the basis on which longer term social, political and economic progress can be based. This Chapter engages with his argument but contends that stability, in the intervention context, is *not* a natural outcome of stabilisation. It is a different concept that is a product of an intervening state exerting power and control. Stabilisation, therefore, need not be about power and control, but stability in this context *is* a product of power and control. For similar reasoning, this Chapter agrees with MacGinty that stabilization – *with a view to achieve a condition of stability* that reflects the intervener's world view based on its premise of international security, values and interests – is a projection of the intervening state's power and control, but it argues that the process of stabilisation itself need not comprise this tacit or overt prescription. It argues that stabilisation need not be about control if it is not drawn into a discourse reflecting outcomes consistent with the intervener's world view. It is only when

stabilisation is aimed at producing the condition of stability that it becomes part of the discourse control mechanism. This is because the condition of stability is based on parameters set and measured by the intervener and these are based on the intervener's own values, norms, and interests: in other words, in line with its own world view and consistent with what Foucault would refer to as its discourse.

It is, perhaps, because stabilisation can exist within and outside the framework comprising an intervening state's world view, and is practiced in both ways, that Mac Ginty and Dennys disagree on whether it inherently comprises control and whether stabilisation is a new name given to existing activities (Dennys, 2013) or whether it is something new (Mac Ginty, 2012).

The key issue is that an intervening state has extensive power to decide what stability means and what it comprises. Invariably, this means that stability is measured using the intervening state's assessment and benchmarks, based on the intervener's world view. This Chapter argues that this is much along the lines of what Foucault (1981) would refer to as the nature of discourse. Jordanova (2006: 76) describes this type of discourse succinctly as implying a 'coherent world view' behind a language based cultural product. Stability, this Chapter argues, is the embodiment of this condition, created by an intervening state's world view from which perspective it sets specific benchmarks towards the achievement of its own vision of what stability comprises.

Achieving a condition called stability, this Chapter argues, is the factor that causes control to be exercised. Stability is created by, and reflects, an intervening state's foreign and security policy and is reinforced by the ways these policies are implemented by practitioners who need to work consistently with them. But the processes of stabilisation, if they are not being channelled towards producing a condition of stability, need not impose external controls in a post-conflict society and practitioners are also able to implement them neutrally this way too.

The processes of stabilisation (without an intervener's directive control) play a crucial role in political reconciliation and longer term political and social evolution of a post-conflict society. Stabilisation of this sort, at the sub-national level, is, as Dennys argues, viable, and it is also highly desirable. But both authors touch upon the fact that stabilisation processes are being implemented and interpreted selectively. They provide good examples of how stabilisation processes vary depending on local circumstances and how they can be claimed to cover a wide range of activities, demonstrating how they can be used for political reconciliation and in lieu of a security or peace agenda. Dennys (2013: 9) distinguishes stabilisation from other forms of intervention by stating:

... stabilization is distinct, it provides a way for intervening states to maintain sufficient stability (i.e. sufficient functioning of the society as it had previously) to prevent humanitarian disasters from occurring or becoming worse. It also provides a way for the sub-national structures of recipient nations to access support in how to, politically, grapple with changes associated with development, technology and climate change and prevent political tensions from becoming overtly and significantly violent. Most critically it is the primary form of intervention for dealing with political threats that cannot be addressed through inter-state diplomatic action.

Mac Ginty, however, writes (2012: 1): 'It seems that stabilization is axiomatically connected with foreign policy stances that tend to prioritize national interests.'

There is, therefore, a divergent opinion on what stabilisation is but both authors credit it with a huge remit. Both, in actual fact, credit stability with agency and link it to the strengthening of governance structures. Their difference is that Dennys sees this as a way to enhance local capacity in its own right, whereas Mac Ginty sees it as influence and control by an intervening state.

These explanations, although taking differing stances, help to distinguish when power and control is exerted by the intervener and when it is not. They provide many of the ingredients for a further discussion on why this difference in application of stabilisation processes exists and this Chapter picks up from their opening to unpick further this part of their debate. In particular, Mac Ginty (2012: 24) in his article seeks to address 'the underlying ideological and power dynamics that underpin stabilization'. This Chapter examines whether this ideological and power dynamic is in fact reflected in the creation of a condition of stability rather than in the processes that underpin stabilisation.

There is much in a name: the word stabilisation carries with it the overtones of something that it is not, and should not be, and stability, this Chapter argues, is the totem to which it wrongly pays homage. For why this is particularly important, the timing of the stabilisation phase of a post-conflict intervention needs to be considered.

When is Stabilisation?

This may sound like an unusual question because it implies that outside a certain period that is given this name, stabilisation will have less importance, or none. But it is generally agreed that stabilisation is the phase of an intervention when armed violence starts to recede and longer term capacity building begins. Stabilisation is also seen as the processes underway within this period. But there are many other processes underway in this period too and there are many actors who lay claim to undertaking stabilisation.

Ask a military intervention force when the stabilisation phase of operations commences and they will likely tell you that it is towards the end of kinetic phase, but before civilians are able to operate freely in an area. Indeed, that is how stabilisation is often initially framed after armed conflict: with a military flavour, reflecting the way in which military forces balance defeating the enemy with winning the peace. Mac Ginty provides a detailed argument that stabilisation is borne of military and security parents (Mac Ginty, 2012: 23). Military forces now build stabilisation into doctrine and plans (HQ ARRC, 2014; Binnendijk and Johnson, 2004) drawing on the stabilisation and reconstruction role training gap that analysis of earlier intervention in Afghanistan and Iraq revealed.

From an intervening state's civilian perspective, stabilisation has a specific role and place in the conflict cycle that fits with this military view in terms of timing. The British Government's Stabilisation Unit, for example, situates stabilisation as an early post-conflict phase of the conflict cycle. In its cover page to on-line stabilisation resources it describes

stabilisation as 'the process of establishing early peace and security in countries affected by conflict and instability' (Stabilisation Unit, 2014). The Australian government shares this view as reflected on its Civil-Military Centre website, which states that stabilisation 'bridges the response element with the recovery and development elements of the spectrum' (Australian Government, 2014).

Ask a Stabilisation Adviser (Stabad) practitioner when stabilisation starts and ends and you will get a range of answers but most Stabads would agree that there is a definite sequence that leads from conflict, through security to development that coincides with the above timing. Dennys, for example, identifies stabilisation as providing 'a platform for longer-term social, economic and political evolution' (Dennys, 2013: 6). Therefore, he situates stabilisation as preceding these longer term political and social developments.

The start and end point of stabilisation, and its processes, are therefore fuzzy. This is even more the case operationally where there is little obvious distinction between overlapping activities of stabilisation, military peace-making, humanitarian assistance, developmental and structural planning and a host of other activities. Moreover, some activities are 'claimed' under more than one heading and some are antagonistic to the concept of stabilisation (and even to stability). This antagonism is looked at more closely later in this Chapter.

But within this hubbub of activity there are trends and a general acceptance of the sequencing of when stabilisation intervention is expected to be undertaken, with stabilisation following immediately on from kinetic military activity and being less prominent the more that developmental and capacity building activity comes on stream.

The important factor here is this sequencing: the relationship in political terms between conflict, security and development. Stabilisation is generally seen as the period and processes that fall towards the end of armed violence and the early part of the political and social evolution of a post-conflict state. Decisions taken in this period influence subsequent political and social evolution considerably due to this timing sequence. Looking more carefully at stability and stabilisation explains why.

Stability and Stabilisation

'It is not an argument against stability' is how Roger Mac Ginty opens his paper (Mac Ginty 2012: 1) before going on to link stabilisation and stability as elements of an intervening state's foreign and security policy, undertaken for the interests of the intervening state, referring to 'our interest in stability, and the often draconian stabilization policies pursued in societies emerging from conflict'.

'Stabilization is a new term that has been applied to many old practices' says Dennys (2013: 1). But Mac Ginty describes his paper as 'an argument against the specific policies enacted under the name of 'stabilization'' (Mac Ginty, 2012: 1) and goes on to say that his article 'explains the ascendancy of the term, and the practice of stabilization locating much of the explanation in the fallout of the War on Terror.' His view is that stabilisation is not only a new term but also describes a new purpose for an intervention that focuses on security and

control rather than peace and emancipation. He quite rightly points to the way in which the term and the concept of stabilisation has its roots in military stabilisation: 'In relation to peace and conflict, the term truly 'arrived' with the establishment in January 1996 of the Stabilization Force (SFOR) for Bosnia and Herzegovina' (Mac Ginty, 2012: 23) and he explains further the pedigree of the term through the military lens.

Mac Ginty fears this new focus inevitably spells control 'that privileges notions of assimilation with international (Western) standards and mainstreams the military into peace-support operations.' (Mac Ginty, 2012: 1) Dennys, on the other hand, argues that control is not inevitable and argues that Mac Ginty takes his position 'because there is a mismatch in the [Mac Ginty's] article's argument between the strategic aim of stability, and the local intervention activities which can be characterized as stabilisation.' (Dennys, 2013: 2). Here we see Dennys distinguishing between stabilisation and stability. In fact both authors nearly vocalise the conceptual difference between stabilisation and stability, and could then have distinguished where the power relations underpinning control reside, but they seem to draw back into different arguments before doing so.

These extracts from Dennys' and Mac Ginty's papers highlight the way in which stabilisation and stability are used loosely within the post-conflict lexicon. The authors conduct sound arguments about the way in which stabilisation has been applied as a normative tool and as a catch-all phrase for many different types of intervention and that it should result in stability. This is, indeed, a commonly held assumption. And why should it not be so?

Instinctively the link between stabilisation and stability seems right. Looking at it from a linguistic perspective suggests, at first sight, that this is correct. Stabilisation, according to the online Collins dictionary (Collins, 2014) is 'the act or process of making stable or more stable, steady, or unchanging'. Stability reflects, according to the online Cambridge Dictionary (Cambridge University Press, 2013) 'a situation in which something is not likely to move or change'. Pursue stabilisation to secure stability.

Instinctively also, stability is accepted as a necessary condition that should be achieved through post-conflict intervention to allow subsequent societal and governance rebuilding, along the lines of Paris' argument for institutionalisation before liberalisation (Paris, 2004: 179). Indeed, Dennys says that he expects stability to be the outcome of stabilisation when he refers to 'the goal of stabilization, i.e. stability' (Dennys, 2013: 2) and that stabilisation provides 'a platform for longer-term social, economic and political evolution' (Dennys, 2013: 6). He is taking stability as the necessary outcome from successful stabilisation to provide the platform for this further evolution. Mac Ginty does not dwell on the difference between stability and stabilisation but sees their objective as being security and securitisation of aid based upon the perspective of security carried within the intervener's policies and norms.

Thus, it has become accepted that stabilisation interventions should be aimed at creating stability. It seems right instinctively that stabilisation begets stability because the language indicates it to be so, and because it appears that stability is the condition necessary to facilitate the further political and social evolution in a post-conflict society. But are these two terms automatically connected in the context of post-conflict intervention?

Looking more closely from a linguistic perspective, stabilisation is described as '*the act or process of making more stable*' whereas stability is '*the situation in which something is not likely to change*'. The former is a process, the latter a situation. The difference may be subtle, but it is important. Stabilisation is an act or process - it is dynamic. Stability is static. In linguistic terms the former could lead to the latter, but this is not axiomatic or inevitable. And the same is true in the real world of post-conflict recovery. Indeed, the condition of stability that can be measured in absolute terms is difficult to identify objectively in the actual conditions on the ground. Information is often incomplete, misleading, misunderstood and contradictory in this phase of a post-conflict intervention. Stability in such conditions will be in the eye of the beholder and is therefore much more than just a grammatical conclusion of stabilisation. It has a different conceptual base: stabilisation is a largely value free process, whereas defining a condition of stability requires a value judgement. Despite Denny's comment that it need not be of a liberal democratic type (Denny, 2013: 6), the reality is that the benchmarking of stability is invariably set using the intervener's policies and norms that reflect this model of democracy. Thus, the condition of stability is closely associated with compliance to the intervening state's own interests, values and social norms.

There is clearly an expectation that the condition of stability will be reached but few questions are asked about who it is that sets its parameters and on what basis. It is usually the intervening state, and often the intervening state's own intervention forces and representatives, that make the assessment of what stability comprises and whether it has been achieved. The conditions-based withdrawal of troops across Iraq and Afghanistan after the interventions in these two countries are examples of one aspect of where intervening states make such assessments. Therefore the intervening state sets the benchmarks and scores progress against them in assessing the condition they refer to as stability. Thus, the intervener has the power to say what stability means and what it comprises and, of course, is usually also part of the conflict dynamic with vested interests in certain types of outcome (for example, in Iraq and Afghanistan). It needs to be considered then, what it is that the intervener means by stability.

Stability in this form can be seen as part of an intervening state's foreign and security policy just as Mac Ginty describes because it carries with it subjective and political perspective. Stability measurement may include statistical elements (such as numbers of attacks/incidents/deaths and so on) but an intervening state still wields power and control because it makes the decisions about what to include and exclude from this assessment (for example, structural violence considerations, social injustice indicators, positive and negative rights, systems of governance, and causes of violence) and decides how much weight to give them. An intervener is likely to make this judgement based on its norms, its policies, its interests and its own understanding of the local context. The term stability, therefore, becomes a label that an intervener can affix to a condition that is judged to comply with the rules it sets: its own regime of truth, creating thereby a stabilisation discourse based on its own definition of stability.

Creating a Condition of Stability

An intervening state wants to demonstrate tangible positive results at the end of the stabilisation phase of an intervention and looks to the condition of stability for this. To achieve these results, the processes of stabilisation that are underway in this period will have needed to be aimed towards this outcome. With a strong military framework to the intervention, there are heavy overtones of security and cessation of violence playing a significant role in this model of stability. There will also be compelling reasons for this vision of stability to comply with the wider policy objectives of the intervening state. To achieve this, the intervening state needs to exercise control. This has its advantages in stopping violence and establishing governance and rule of law systems at an early stage after an armed conflict, but there are disadvantages too.

The decisions an intervening state takes to achieve this interpretation of stability have far reaching political and social consequences because of what they comprise and when they are taken. These decisions necessarily involve choices of which elites to support and which governance and justice systems to implement, build or strengthen. With the advantage of power, control and resources, an intervener creates winners and losers that polarises local society, shaping the political economy of violence and the power relationships within the society in which they are intervening. And because of the timing in which the stabilisation phase of an intervention is situated, all this is done *before* the longer term social and political evolution (that stabilisation, as explained by Dennys, is supposed to provide the platform for) has happened. This sets the agenda for future political and social evolution in ways that are more consistent with the intervener's priorities than with the demands of local conditions. This further reinforces the nature of creating stability as part of an intervening state's discourse. But it also cements in place, with new veneers of legitimacy, the same legacy of repression, or a continuing turmoil to overthrow it, as existed prior to the intervention. Whether it be regime change or regime support, an intervener takes a side, and supports an outcome in achieving the condition of stability.

The intervening state's discourse for stabilisation is shaped by its wider international policies and is therefore driven by issues that lie outside the direct causes of conflict where the intervention is taking place, for example, in relation to international terrorism. This may be a legitimate aim for the intervening state from its own perspective, and may be effective in achieving its wider policy objectives. But it is less good at supporting the notion of societal and political evolution that is responsive to local needs in the state where it is intervening. Human security through control may be reassuring in addressing organised armed violence, but it does not address a broader understanding of violence (such as structural violence) or provide the framework for social and political evolution through contestation in which conflict, mediated through political and social systems, is part of a continuum. This could result in a re-emergence of violence as locally responsive social and political equilibrium is sought (as in Iraq, Libya and Egypt, for example) and may therefore not be in the intervening state's interests (or the interests of the state where intervention is underway) in the longer term.

Stability: A Closer Look

Intervening states rarely overtly dominate to set the conditions for stability but sometimes this is the case, for example in terms of regime change. More often their influence is through subtle micro-measures and agenda setting along the lines that Steven Lukes (Lukes, 2005) describes as being hidden faces of power, and sometimes the influence is unintended or tacit. The usual route through which this influence is exercised, however, is by shaping local responses to challenges that arise within a governance framework the intervener introduces, based on its world view. Stability is a function of this process. Intervening states set the framework against which it is measured and its values, because that is what their own experience and perspective indicates are the correct responses for the challenges they perceive.

Dennys, for example (2013: 9) describes that addressing political threats is a characteristic of stability. The British Government's key policy document (British Government, 2011: 2) on stabilisation intervention, the Building Stability Overseas Strategy (BSOS), gives an 'insight that stability can only be achieved when a society has the strong and legitimate institutions it needs to manage tensions peacefully'. It goes on to characterise stability (British Government, 2011, 5) as:

... political systems which are representative and legitimate, capable of managing conflict and change peacefully, and societies in which human rights and rule of law are respected, basic needs are met, security established and opportunities for social and economic development are open to all. This type of "structural stability", which is built on the consent of the population, is resilient and flexible in the face of shocks, and can evolve over time as the context changes.'

This seems eminently sensible and reasonable, but it does not, however, touch upon why certain political systems and leadership are selected and supported over others, against which/whose criteria they are representative and legitimate, or what these terms mean. Nor does it address what type of law, and who enforces it, or the value system that lies behind an interpretation of what human rights mean in this context means.

It is the ideological interpretation of what these examples identify and the norms against which they are measured that are important. For example, Dennys refers to addressing political threats but on whose interpretation does the threat exist? The British Government document refers to representative and legitimate political systems but these are all qualitative and subjective terms, and there is no indication who would set the ideological framework in which these terms are measured. The assumption, for example, is likely to be that legitimacy is measured against the benchmarks of a western form of democratic process. It is the expectation of outcome that is driving the measurement of its achievement in terms of stability in much the same way that Carothers (2002) argues that the democracy transition paradigm was used in the 1970s to 1990s to measure democratic transition but became enmeshed in self-confirmation and failed to account for new forms of political and social

equilibrium that fall outside the expected norms. Stability measured against such principles will reflect normative behaviour based upon a more powerful state's intervention paradigm.

These are the factors underpinning the normative approach of a condition of stability with which this Chapter engages. The assumptions behind this approach are based upon a certain world view that is shaped by international and domestic pressures, resources, the need to achieve and be consistent with achieving wider foreign and security policies that protect and promote interests and values, and so on. The discourse of stability is shaped by what the intervening state takes as its regime of truth within its wider international policy engagement. Therefore, distinguishing stabilisation from stability is not a question of words but a question of meaning within this discourse.

The Consequences

This is particularly problematic at the early, stabilisation phase of a post-conflict intervention when the situation and the root causes of conflict are difficult to determine and understand and when the only real engagement opportunities are with existing power elites, who may well hark back to the previous regime. Decisions are taken by the intervener in this confused and confusing condition based on the assumptions inherent in their own world view and, perforce, implement them through those local elites who have sufficient power within communities to engage with them. The outcome is that an intervener uses its power relationship advantage to exercise control over the stabilisation process to address the symptoms of violent conflict that it perceives. This does have a number of advantages but the intervener has had to make choices about which elites to support and how to structure social and political systems and this has consequences, particularly if done during this early, formative part of the conflict cycle. This provides existing elites with a veneer of legitimacy even though the political and social systems they control have not changed.

This can be understood more fully by looking at the context in which it is occurring. During an intervention there will be continuing international and domestic pressure to achieve results so that the intervener can withdraw. Resources will only be diverted by a state to support its intervention if its national policies of promoting and protecting its interests are being shown to be achieved. Creating the condition of stability as described by the BSOS is strongly defensible and can produce practical benefits quite quickly – for example in building institutions of democracy, courts and judicial systems – while at the same time defeating widespread armed violence through the use of military force, military training for local forces and cheque book diplomacy. This provides the benchmarking time line for an intervening state to work towards specific objectives and sets the conditions against which military forces can develop and implement an exit strategy, much like the transition paradigm Carothers (2002) describes.

Wider consent for a directive approach to producing stability of this type is generated by the way in which it facilitates and supports activities that the international community is undertaking at the same time as the stabilisation intervention is underway. This includes humanitarian assistance, capacity building, rebuilding life support structures, recovery and

reunion of families and internally displaced people. They all benefit from the condition of stability achieved through this directive influence and decisions taken by the intervener. There are, therefore tangible advantages and the pieces all fit together to confirm that stability in these terms is a positive development, which further reinforces the intervening state's world view that this approach is the way to address the post-conflict challenges it perceives.

On the other hand, imposing political control to create this type of condition of stability at this stage in the conflict cycle will set the conditions for political and social controls that mirror, or are influenced by, the intervener's power advantage and will set not just the direction of political and social evolution, but also its leadership, political systems and the way in which social engagement evolves. The deep rooted local societal tensions may show only their symptoms, not their causes, in this period and they may be based on concepts and values that are unfamiliar to an intervening state and its practitioners, they may therefore be made worse by the directive condition of stability. In any case, this type of approach closes down political space in which social and political transition can occur that is responsive to local conditions, leaving no chance for forms of democracy to develop from within communities, as part of a social transition to democracy, as many academics now argue are more relevant than imposed models ((Gaventa 2006; Kurki and Hobson 2009; Farrelly and Skelcher 2010). Instead, favoured elites are supported in return for adopting (or sometimes seeming as if they adopt) the intervener's approach.

Stability by this means is an act of power and can cement in place a status quo that may be inappropriate for the context or circumstances in the society affected, causing conflict to be suppressed rather than addressed, only to emerge again in the future. This is because inequalities, injustices, exclusion, and other local factors that may not be visible to the intervener, are likely to be hammered down by elites that have adopted the veneer of democracy in return for an intervener's support. There are parallels with the democracy promotion project in Iraq where elites hijacked the democracy programme and created a condition in which the boxes could be ticked for the institutions of democracy to be in place while the grass roots transition to democracy did not occur (Bridoux and Russell, 2013). Signals of a similar sort can be seen in the way in which transitional justice is being promoted. Research on transitional justice (MacDonald, 2013) shows this to be an area in which there are concerns about unintended consequences of intervention and a lack of clarity over for whom the intervention models are supposed to bring justice.

In some ways Dennys acknowledges this type of problem when he says: 'The tools and methods of stabilization also lead to the jettisoning of another principle, that of "do no harm"'. Whilst stabilization is not an argument for creating further harm, the idea that political interventions can be wholly benign is anachronistic.' (Dennys, 2013: 6). But the harm done is considerable if looked at from the wider perspective.

Thus, while there are advantages in following the intervener's world view led discourse in making judgements on what stability means and what it comprises, doing so in practice (particularly in the stabilisation phase of a post-conflict intervention) imposes controls that can have unpredictable long term consequences. In this type of complex situation definitive

solutions (such as a condition of stability) are unlikely to be without value-led interpretation and outcomes can be influenced by commission or omission based on perspective and societal values.

This is not only a conceptual challenge but one that has significant real life implications. We must not forget that this is a discussion about people in societies that are under enormous strain. This is about people with their own aspirations, fears, concerns, beliefs and cultures and it is about a range of, often overlapping, power relations and drivers, many of which lie outside the norm framework of an intervening state. The overlapping priorities of protecting life as an imminent element of human security and of inclusive political reconciliation compete for resources, priorities, time and justification with humanitarian assistance, reconstruction, and embryonic longer term plans. This too generates a sense of agency through competition. Decisions taken by an intervening state that influence political and social evolution at this time may demonstrate a continuity of the cessation of violence, but the longer term impact may provoke it to return, or at least perpetuate social injustice.

In short, seeking to create this condition of stability is likely to be a major factor in perpetuating the grit that grinds the drivers of conflict in the future. But this is not an inevitable result of *stabilisation*. Stabilisation processes do not need control to be effective because they are catalysts and therefore do not take part in the reaction. The chemistry is between the local parties who are using political and social mechanisms to resolve conflict through contestation peacefully rather than use violence. This is the basis of societal evolution. Stability, however, is a construct that reflects conditions an intervening state sets, based on its own intervention paradigm. For example, where Mac Ginty links securitisation to *stabilisation*, this Chapter links it to *stability* as conceived within an intervention discourse. It is not the stabilisation processes that exercise control, but the insistence on using these processes to produce this condition of stability that is measured against the conditions set by the intervener. It is the conflation of stabilisation's processes and the concept of stability as defined and utilised by the intervener in deciding where the stabilisation processes should end up, that has given rise to a discourse about stabilisation with stability as its totemic icon.

Stabilisation without Stability

There is good indicative evidence that stabilisation can be undertaken without having to shape it into an end product of stability. Both Dennys and Mac Ginty indicate that they see a variety of methodologies through which stabilisation can occur. Dennys highlights the importance of *how* they are undertaken as a feature that distinguishes stabilisation processes from other activities in the stabilisation phase of an intervention. He explains (Dennys, 2013: 4 and 5) how stabilisation activities vary depending on circumstances in different places but makes the generic point that:

... instead of external inputs having value in themselves, it is the way in which inputs (physical or not) function and are applied through local *political systems* that promotes stability. Any intervention that does not engage with the local political system is

simply hot air blowing over an area while local political actors wait out the interveners to continue their own way of life (Dennys, 2013: 5 - italics in the original)

Dennys therefore describes a narrative for stabilisation processes that, despite the reference to stability, demonstrate a focus on dynamic process of political and social reconciliation not fixed end state of stability.

Mac Ginty (2012: 21 and 22) takes a different tack and points to a 'rowing back from a rigid acceptance of western state building and governance norms' but worries that the 'good enough' approach that allows for 'recognition of the utility and legitimacy of forms of governance that admit the importance of indigenous, customary or traditional decision-making processes' might imply an easier and lower standard exit strategy than a more engaging and reflexive approach for stabilisation processes. This too, even though taking a different perspective, highlights process as being key in stabilisation.

If the processes of stabilisation were not channelled towards the intervener's definition of stability they could continue to facilitate the longer term social and political evolution of a state recovering from violent internal conflict. If that occurred, the tensions that Dennys (2013: 6) identifies between the process of stabilisation and the subsequent social and political evolution in a post-conflict state would not arise. It would be one continuous process with stabilisation being the catalyst and the lubricant that starts and supports the political and social transitions over the longer term. If this were the case, the answer to the earlier question of when stabilisation should be underway could be that it should be a permanent part of a state's social and political evolution.

Using stabilisation processes to create an intervener's view of stability undermines this process and changes its nature from being supportive of social and political transition to becoming the medium through which control is exerted. It is this link which creates the control aspect of the intervention. Thus stabilisation, which need not inherently demonstrate control, becomes an instrument of control. Without the directive discourse defining stability, stabilisation processes could be free of political discourse control.

In essence, stabilisation is the provision of a means of political and social reconciliation that manages conflict away from violence and into political and social dialogue, building up governance systems, capability and capacity in response to local need. It is a process and it is open-ended. An intervener may initiate the process but the task is to embed it, not to draw it to a close. This brings us back to the start of this Chapter to remark that there is much in a name: is stabilisation its correct label? Has the term stabilisation arisen as a result of the stability intervention discourse and been applied to processes that are, in their original form, unrelated to it?

Policy Perspective: Control in Stability or Control Instability?

There may, of course, be the need to exercise control to prevent violence during the phase when these processes of stabilisation are underway. But this needs to be clearly identified for

what it is: the provision of safe space within which political and social reconciliation can occur. Local perception is crucial. From a local perspective, achieving stability can become an act of power if these elements are not kept distinct.

The provision of safe space is an exercise of power. What happens inside this safe space should not be. And the processes inside the safe space need to include those against whom power is being exercised to create the safe space. Therein lies a significant tension but the only way towards reconciliation is to face up to this and mediate political and social engagement. This is the true art of stabilisation and it is separate from (and antagonised by) the use of force to create a safe space. The temptation, and the risk, is to structure the political and social engagement in a way that suppresses the drivers of the armed conflict by creating powerful local machinery that can do so. Suppression is not the long term solution, but it is what the condition of stability, as it has emerged through the intervention discourse, is likely to do. It can polarise society, create a stigmatised 'other' and it makes a value judgement that emphasises a Manichean good/bad view of society.

This is, of course, very difficult in practice. There are no absolutes. In the real world of conducting stabilisation operations much of what is done runs together. Military action is often still underway while humanitarian aid begins to flow, political and commercial advantages are being pursued and capacity building is starting. These and other activities become entwined with (and some lay claim to being) stabilisation processes. There are many unknowns in this type of environment, and it is difficult to make informed judgements, especially by an intervener whose cultural values systems and interests can be different from the local population. Those who have engaged in stabilisation operations in this transition period will know the fog of war applies just as much to non-war armed violence and civilian actors finding their path through it as it does to military commanders and their troops.

The most overt influence on how stabilisation is perceived is the military operations that normally precede it (and which are often underway during its early phases, often by the same military personnel who are undertaking kinetic military action against an 'enemy').

Military personnel play a key role in the earliest engagements with local populations and are often decisive in making key contacts with influential elites. Perforce, this will be those who wield power and influence. One argument could be that this demonstrates good local sensibilities, but another is that it enhances the traditional power relationships that are at the heart of the conflict.

The inherent power relationship of military power on civilian populations and the primary role of securing a cessation of violence, tends towards prescription and control with a specific end in mind and this needs to be borne in mind during these early engagements. In Iraq for example the US military undertook a great deal of initial political contact, including full scale political re-shaping of towns as this extract from the official US military account (Wright and Reese, 2008:401) of Operation Iraq Freedom in 2003 shows:

As part of Combined Joint Special Operations Task Force–West (CJSOTF–West), these Soldiers had been searching for Saddam’s Scud missiles in the western desert of

Iraq. However, once they occupied Ar Rutbah, the SF teams adopted a very different mission: the establishment of a new system of governance for the city. Without any guidance, preparation, or special resources, the Soldiers created a new political structure for Ar Rutbah that was responsive to the citizens of the community. In the process of overturning the old governing regime, the SF Soldiers recruited a new police force, invented their own de-Baathification process that included a pledge of allegiance to the new Iraq, made arrangements for mayoral elections, facilitated the creation of a city council, and ensured that tribal and religious leaders in the city were integrated into the new structure. When the SF teams left just 2 weeks later, the city was headed in a new political direction.

Seen as a success story this cameo of 'instant democracy' betrays a more widespread misunderstanding of what happened in Iraq. With limited time, very challenging conditions and a blueprint based on a predetermined system of western democracy, there was no time or thought given to the social transition that underpins democracy. Instead the institutions and systems of democratic process were set up, and existing elites were painted with the veneer of legitimacy when they made the right moves to comply with them in principle (Bridoux and Russell, 2013)

Military involvement remains at least as integrated into stabilisation now as it did in the 2003-4 period to which this extract refers. For example, the Allied Rapid Reaction Force that is NATO's primary military intervention force describes its role as 'a stand-alone military force available for rapid deployment as a collective-defence, crisis management or stabilization force' (HQ ARRC, 2014) and the British Government Stabilisation Unit is a tri-departmental Diplomatic, Aid and Defence organisation that promotes their integrated approach within stabilisation activities. While the approach now may well be modified significantly from the overtly directive approach that the above report indicates was taken in Iraq, stabilisation interventions still carry with them a significant policy payload. This starts from the planning processes (the British Government's joint analysis of conflict and stability, for example) right through to the point of implementation where military, diplomatic and aid practitioners interact closely and continuously.

There is no critique intended of this integrated *approach*. It is a sound doctrine and there is most certainly a need for military forces to respond to the needs for stabilisation (not just defeat of the enemy) at the appropriate time in the military campaign, including engagement with local elites and training for military and security forces. But it is important to keep separate the political reconciliation *processes* that lead to political and social evolution and the use of force to provide the space within which this can occur. The parameters and expected outcomes of the political and social engagement should not be specifically directed towards addressing the violent symptoms of conflict, but its underlying political and social causes.

Permeating all of this, as Mac Ginty (2012: 1) describes so well, is political doctrine. Foreign and security policies drive state level intervention and its agenda is shaped by wider external conditions within an international framework as much as being specific to the state in which

the intervention is underway. One of the key factors is to stop violence. While this is not necessarily sufficient cause, even within the responsibility to protect debate, to *intervene* (for example, Syria and, from another perspective, Chinese non-intervention policies), it still remains a strong and defensible benchmark as *an exit strategy* (arguably, Afghanistan, Iraq and Libya - all of which either have, or are likely, to result in a resumption of internal conflict quite soon afterwards). This creates strong pressure to exercise control for a particular type of outcome in which armed violence has been stopped. The stability benchmark, as influenced by political doctrine of the intervening state is therefore likely to include, or be focussed on, cessation of violence.

Stabilisation intervention, however, is part of a state's wider foreign and security policy and it needs to sit squarely with the intervening state's other policies concerned with promoting and protecting its interests and values, not just stopping violence. The European Commission (European Commission, 2013), for example, refers to 'the pull factor of the EU through the perspective of joining the Union - in combination with intense diplomatic engagement - continues to play a vital role in conflict prevention and longer-term stabilization.' Shaping a society in this way by taking action against a specific perceived political threat (Dennys, 2013: 9) means taking a political stance and exercising a power relationship. Mac Ginty fears that this causes the loss of 'emancipation, autonomy and dissent' because 'stabilization is axiomatically connected with foreign policy stances that tend to prioritize national interests' (Mac Ginty, 2012: 1). These issues form the policy backbone to stabilisation intervention and create its underlying payload of values and interests. These policies are based upon and reciprocally reinforce the discourse on which the concept of stability is founded. Indeed, from the intervening state's perspective, it may be perfectly legitimate and reasonable to act within this discourse because that it is consistent with its wider policies to promote and protect its interests.

It could be argued that this is a short-sighted policy because introducing radically different new values in a fragile society is likely to generate more conflict in the longer term. Governance and justice systems that develop through the processes of political and social reconciliation and evolution are more likely to be able to respond effectively to the underlying drivers of conflict within that society because they would develop in response to them. Ownership of process and outcome from well-understood initial conditions, would increase legitimacy and would be more likely to be used widely. This will take time, and would not, therefore, bring the quick, tangible results that sit comfortably with an intervening state's world view, its norms and objectives or its intervention paradigm. But it might have much more chance of longer term success in preventing armed violence. Creating the condition of stability is not, however, just a device against which to achieve an exit strategy. It is a method of measuring what the intervening state views as being the necessary ingredients for the development of a peaceful, just and democratic society. States use this discourse because they believe it is right. This is the underlying factor of the stabilisation intervention discourse.

Stability: A Totem

It is, therefore, the intervening state's world view that drives the discourse of stability and causes it to exercise control. This world view is based on an integrated mixture of factors: a cultural perspective on the social and political shape of the world and how it is expressed. Within this a state positions itself and constructs a regime of truth upon which its political views, values and norms are situated. It has aspirations and concerns that shape its view based on domestic and international dynamics. For example topically, the international security architecture where values-led conflict overseas is seen as a potential radicalisation threat domestically. This is what shapes a state's perspective when it undertakes a post-conflict intervention. It is against this background that an intervening state assumes its own political and social norms and uses them as a benchmark against which to judge the concept of stability that it has created as a means to elaborate how it sees the challenges in the post-conflict state can be addressed. Stability, therefore, becomes an element in an intervening state's stabilisation discourse. This makes it an ideological totem: an unwitting distraction that undermines the vital processes of sub-national political and social reconciliation which are the real essence of stabilisation.

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3

Holistic Security – A Practitioner’s Perspective

Phil Wilkinson OBE

Abstract: In this Chapter the author draws from over four decades of operational experience to argue that national security should be dealt with ‘holistically’ and that sustainable security is the essential prerequisite for social and economic development - and vice versa. Among other observations and lessons for practitioners, policy-makers, students and those otherwise interested in building security in conflict-affected environments, the author underscores the need to view security as a relative term, which means different things to different people in different places and contexts, who have different interests and motivations. While holistic security implies that all aspects that comprise security can be identified and addressed, in practice this cannot be the case due to the multiplicity of meanings, competing demands and interests of different actors, and the plethora of unknowns. Nonetheless, this should not detract from the need to avoid treating elements of security in ‘stove-pipes’ and as independent of development issues, if efforts to support places recovering from conflict are to be successful. While the complexities of post-conflict environments prevent the development and application of a holistic security template, it is essential that security is dealt with comprehensively and in recognition of its interdependent relationship with development.

Introduction

I want to start by stating that I have grave concerns about applying the word ‘holistic’ to security as it suggests that we have a comprehensive or even complete understanding of the whole challenge of security in any context. What I have learnt over my forty four years of operational practice is that security is a relative term depending on definition, condition, context and a plethora of unknown unknowns. The national, societal and human requirements and expectations of security are fundamentally different from London to Baghdad. The demands of international human rights lawyers may have little traction with those governments and peoples trying to recover from genocide. What troubles me about this concept of holistic when associated with security is that it implies that we can identify all of the elements that make up security when clearly we cannot. There are just too many competing demands from the national, to individual levels and too many unknowns.

What I hope will become clear in this Chapter is that there is no ‘holistic security’ panacea or template that can be over-lain on a country trying to recover from a state of conflict. The inter-actions between national, societal and individual security needs are too complex for stylised templates. What I hope that my experiences will demonstrate is that treating elements of security in ‘stove-pipes’ and outside a development context has generally proven counter-productive, certainly at the national level. I hope to demonstrate that at the national level at which policy is made, security must be treated at least comprehensively if not holistically and, why security, as a matter of national policy, should be addressed within a broader social and economic development framework.

While continuing to enjoy the academic debate that is engendered by the exploration of the synergistic loop that is conflict, security and development, from a development practitioner’s perspective it is my experience the basic premise under-pinning this relationship is a fact of everyday life, a matter of common-sense and not some form of advanced development thinking for academic theoreticians alone.

Purpose and Process

The under-pinning purpose of this Chapter is to argue the case for why national security should be dealt with ‘holistically’ and why sustainable security is the essential prerequisite for social and economic development and vice versa. Rather than make the case from an academic perspective I intend to draw on my practical field experience. In so doing I shall try and avoid an anti-institutional rant and will attempt describe my experiences in a way that can positively inform practice in the field and also the work of policy makers in national capitals. That said I am sure that there will be some who consider my views shallow, scurrilous or even scandalous and for that I apologise. However, they are based upon my interpretation of the events that I have observed and experienced. I shall also try and avoid the Chapter becoming a litany of my ‘war-stories’ however, should that be the received perspective I do beg the readers indulgence. My final explanation relates to a lack of academic references; my references will essentially be those to which I have contributed or personally written as information briefs for my partners or reports for my employers. Apart from the joint publication on Peace Support Operations that was published in 1991 (Joint Doctrine and Concepts Centre, 1991) and my contribution to the work of the Conflict Security and Development Group (CSDG) at King’s College, London headed by Dr Chris Smith that first developed the concept and practice of Security Sector Reform (DfID, 2002), most of my written product has to this point been subject to client confidentiality. The work of CSDG pre-dated that of the Security and Defence Advisory Team at Cranfield and the Geneva Centre for the Democratic Control of Armed Forces.

Background

Introduction

My operational experience (1967-1999) in the British Army was generally unconventional and mainly of a counter-insurgency nature, that is if 6 years in Northern Ireland can be called

counter-insurgency. For the last five years of my military career, I was responsible for lessons learned and the development of a new doctrine for those operations other than war (Gulf War 1) in which the British Army and close allies were then engaged: Rwanda, Sierra Leone, Somalia, East Timor, Bosnia, Kosovo. During its development the name for this new doctrine evolved from ‘Beyond Peacekeeping’, through ‘Wider Peacekeeping’ to Peace Support Operations (PSO). When I left the army in 1999, I became a senior research fellow in the Conflict Security and Development Group (CSDG), headed by Dr Chris Smith at King’s College, London. The CSDG was funded by Clare Short, then Secretary of State at the relatively new Department for International Development (DfID) and was, I believe, the first fully-funded university research department examining the synergies between conflict, security and development and how this enhanced understanding should better inform development practice. At the CSDG, my role was to offer a security practitioner’s perspective into the developing concept and practice of Security Sector Reform (SSR). The work of CSDG, however, was not entirely academic and some of us were deployed back into the field. This combination of academic exploration, operational practice and policy development created a dynamic discourse and learning environment that I believe greatly enhanced my understanding and subsequent ability to deliver holistic security and policy advice.

Observations and Lessons Identified and Some Learned

Early Military Experience

My first exposure to soldiering was shaped by those officers and senior non-commissioned officers whose professionalism was steeped in the culture of counter-insurgency¹ and the transfer of governance to indigenous peoples in the draw down from empire. My first posting abroad was to Malaya and Singapore for 18 months (May 1970 – Nov 2001) and my first course was at the Commonwealth Jungle Warfare School. This course was attended by US Special Forces and Australian soldiers about to deploy to Vietnam and was focused on the carefully targeted use of force and ‘hearts and minds’ as practiced by the British Army in the Malayan Insurgency of 15 years previous. My first operational tour was in the province of Dhofar in the Oman in 1972. This was a largely clandestine operation (1970-75) fought against a communist backed insurrection determined to overthrow the rule of Sultan Qaboos of Oman. As described by Major General Jeapes (2005: 13) in his book *SAS – Secret War – Operation Storm in the Middle East*:

The aim was not to obliterate the enemy but to persuade them to join the government’s side. It was first and last a war about people, a war in which both sides concentrated upon winning the support of the civilians of the Jebel Dhofar and which was won in the end by civil development. Military action was merely a means to that end.

¹ I served with 95 Commando Light Regiment Royal Artillery that served in Malaya, Borneo and Aden in what was called by many the ‘draw-down’ from empire.

And,

Two things were clear: first, that the answer to the insurgency lay in civil development, and second, that the answer had to be found by the Omanis themselves.

My most vivid recollections of this tour are:

- As an artillery forward observer² responsible for calling in fighter ground attack and indirect fire I was not allowed under any circumstance to bring down fire of buildings even if we were receiving fire from those buildings; there was to be no collateral damage.
- All prisoners were to be treated with respect and the word surrender must never be used. We were directed that all prisoners were to be treated with honour and that we should happily accept his 'return' to the fold given that his only fault was that he did not know the truth. Consequently, and as the civil affairs programme developed, many captured 'enemy' combatants turned and fought for the government with great effect.
- We were constantly briefed on the local Dhofari culture and the need to be culturally sensitive. Patrols often lived with the local tribes and learned to respect the Dhofari people who were/are a proud and noble mountain people. To enhance understanding and co-operation every patrol included an interpreter.
- Lastly, all patrols had a veterinarian attached or at least a soldier trained to administer injections against various forms of cattle blight and disease. Cattle are highly prized by the Dhofari tribe's people. This very practical step and went a long way to winning hearts and minds.

My experience and study of operations in Dhofar, and the successful development of Oman, bears testament to the benefits of employing force not merely in a Clausewitzian manner in support of political goals, but of using military forces as an integral element in a coherent long-term political strategy focused on social and economic development. This of course begs the question of why that central lesson was not applied in Afghanistan and Iraq.

Experiences in Northern Ireland and the Influence of Police Supremacy

I spent a total of six years in Northern Ireland (NI); first, as a uniformed platoon commander then as a detachment commander with covert Special Forces (SF) (2 plus years) and finally in a senior intelligence role working alongside the Royal Ulster Constabulary (RUC) Special Branch (SB). From 1976, the RUC had primacy and as much as the Army initially resented their subordination it quickly become an operational fact. Consequently, those republicans and loyalists para-militaries who opposed the rule of law by force were treated as criminals

² I was not badged SAS or Special Forces at that time but in support.

and not terrorists; domestic law and the rules of evidence prevailed. Every incident had to be investigated by the police and every bullet issued had to be accounted for whether fired or not. Of course there were rogue individuals and crimes committed by all sides but essentially the rule of law prevailed; good governance was never really in doubt and huge efforts and financial resources were given to social and economic development. At the tactical level, I remember in 1972, my unit taking children – from both republican and loyalist communities – camping in the hills of Antrim in an effort to improve inter-communal relations.

Of the many tactical lessons learned in NI, from my perspective the most important relate to restraint and the minimum use of force, of the importance of community policing, the role that strategic intelligence plays in the political (peace) process, and the importance of strategic communications. Every tactical action whether conducted by military forces or development agencies will have consequences with a political impact and, as far as possible, therefore should be treated synergistically and not just within a holistic security frame but within a broader political context. I also observed that no matter how well trained the soldier may be, direct contact between the security forces and the local population should, in the first instance, be left to the police. The role of community policing, respect for the rule of law, and the need for an effective justice system that could be trusted by all communities without fear or favour, is critical to establishing security at the personal level. I also observed the need for oversight and accountability, even of the most special intelligence agencies, and the need for regulatory powers of control, such as the UK's Regulations of Investigatory Powers (RIPA) 2000³.

In NI, the army gradually transitioned from armed street patrols without policemen, to joint patrols with the police, to the close protection of police patrols, to area framework operations that allowed the police to operate independently. While the Army tried to do something similar in Basra (2003-2009) those to whom they were attempting to handover responsibility for the rule of law were non-government militia and consequently this led to a deterioration of security for the people of Basra. As we saw in NI, effective governance and a monopoly of the use of force by the legitimate government are essential for security at all levels.

A very personal lesson that I experienced in NI on the need for reconciliation and transitional justice, and have been able to use to good effect, is the need for individuals to make concessions, compromise and try to forgive in order to move forward; tough though that may be. There was a particular IRA leader who was almost certainly directly responsible for a number of killings and whom I very much wanted to bring to justice. Some way into the peace process in NI, I was tasked to provide this individual with protection, a few years after that I had cause to address him as 'sir' and ten years after that we shared a panel at an international peace and reconciliation seminar. Both of us have since used our emotional

³. I have used RIPA to guide training that I have helped develop for special police and intelligence agencies in Iraq, Afghanistan and the Occupied Palestinian Territories (OPT).

struggles to reconcile and to come to terms with ‘loving your enemy’ as example for others similarly challenged by the need to compromise and forgive.

Peace Support Operations

In June 1993, after two years teaching at the Canadian Land Force Command and Staff College, I was posted to the British Army’s newly formed Headquarters Doctrine and Training (HQDT) to join a team of three tasked by the Army Doctrine Committee with developing a doctrine for the more volatile peace-keeping missions that were then being conducted in Somalia, Sierra Leone and Bosnia. It was felt that the guidance offered in existing peace-keeping doctrine based on the non-use of force was inadequate⁴. The idea that British forces should have doctrine that caused its people to think rather than offer a check list of best tactical lessons, as was the general practice at the time, was novel. This is not least because as many in the British Army had become intellectually moribund having spent 45 years doing very little of a challenging professional nature in the British Army of the Rhine⁵.

Initially, the peacekeeping doctrine team consisted of three officers. Our first effort was to offer more of the same UN/Nordic doctrine in a manual called in early drafts *Beyond Peacekeeping* but subsequently *Wider Peacekeeping* (Ministry of Defence, 1994)⁶. I was concerned that the doctrine in *Wider Peacekeeping* was too pacific and overly reliant on the non-use of force. I therefore thought it prudent to insert the word ‘interim’ on the front cover, in the knowledge that my two colleagues were due to be posted and I would be left with sole responsibility for doctrinal development in this area⁷. In my discourse with commanders in Bosnia and those civilian agencies and NGOs working in the same operational areas, I, and many other practitioners, had become all too aware of the need for a doctrine that addressed the need to provide security not only for military contingents and civilian organisations engaged in the mission but also the local population. This required that we addressed security geographically across the whole country and vertically from the requirements of the state down through different ethnic groups to individual citizens and in a way that, as far as possible, set the conditions for long-term stability and reconstruction. In 1998, I wrote a paper tracing operational security challenges and the range of doctrinal responses in terms of consent, impartiality and the minimum necessary use of force (Wilkinson, 1998). The need to

⁴ Nordic peace-keeping doctrines were most favoured by UN peace-keepers. They advocated the ‘non-use of force’

⁵ Author’s opinion and probably substantiated by the fact that virtually all of the successful British generals in the post-Cold war decade had spent their formative years in regiments such as the Parachute Regiment, Royal Marines and Special Forces that had not spent their time in BAOR; FM Guthrie and Generals Mike Rose, Rupert Smith, John Reith and Mike Jackson spring to mind.

⁶ Army Field Manual ‘Wider Peacekeeping’ was produced at the Directorate of Land Warfare, which was an organisation within Headquarters Doctrine and Training.

⁷ It was during this period that I first started to draw academic support directly into my work. Dr John Mackinlay at the Centre for Defence Studies was preeminent in this area of study and played a significant role in helping me to develop what eventually became PSO. See a ‘Guide to Peace Support Operations’, edited by John Mackinlay. Thomas J. Watson Jr Institute for International Studies, Brown University 1996.

have a flexible response and, as far as we could determine, holistic response to security challenges was at the core of what became known as Peace Support Operations doctrine. In early 1999, I was posted to the newly formed Joint Doctrine and Concepts Centre (JDCC) at Shrivenham⁸ and the army lead with the immediate task of converting my burgeoning PSO draft that was already in wide usage into a 'joint'⁹ manual that was acceptable, as far as possible, to the FCO, DfID and NGO community. In *Joint Warfare Publication (JWP) 3-50 Peace Support Operations*, the first British joint doctrinal manual, PSO were defined as:

PSO are multi-functional operations conducted impartially involving military forces and diplomatic and humanitarian agencies and are designed to achieve a long term political settlement. PSO include peacekeeping, peace enforcement as well as conflict prevention, peace-making, peace building and humanitarian operations. PSO are generally in support of a UN or OSCE mandate.

And to emphasise the multi-functional and strategic nature of PSO, success was defined as follows:

PSO are designed to conclude conflict by conciliation among the competing parties, rather than a short term and superficial termination of the conflict by force. Military activities in PSO are designed to create the conditions in which other diplomatic and humanitarian agencies are more able to redress the symptoms and underlying causes of the conflict and thus achieve long term political settlement. A stable settlement not military victory is the ultimate measure of success in PSO.

In 2000, I wrote an update of PSO doctrine that was published in *International Peacekeeping* (Wilkinson, 2000). The original JWP 3-50 PSO was updated and re-issued under the title of *'The Military Contribution to Peace Support Operations, Second Edition'* in 2004. The Second Edition of JWP 3-50 also traces the history of PSO doctrine back to its Counter-Insurgency roots.

US Military Doctrine Comparisons

From the early formation of the army's doctrine centre at the HQDT in 1993 we quickly established an excellent working relationship with our US military counter-parts at their HQ Training and Doctrine Command (TRADOC). As a generalisation, TRADOC had the lead on war-fighting doctrine while HQDT had the lead on operations other than war and especially PSO. This was acknowledged in a letter from the US Army Chief of Staff to the Chief of the General Staff December 22¹⁰, in which he stated. *'On a final note, I also believe that it is important to spread the word that U.S. and UK peacekeeping doctrine are compatible'*. Perhaps the only significant doctrinal difference was that whilst we wished to use the term

⁸ Now called the Defence Concepts and Doctrine Centre (DCDC).

⁹ 'Joint' meaning acceptable to the army, RN and RAF

¹⁰ I have a copy of this letter from General Gordon R. Sullivan to General Sir Charles Guthrie.

PSO in acknowledgement that military operations were in support of other diplomatic, humanitarian and political goals, TRADOC wished to use the term Peace Operations in order to demonstrate the primacy of military action. However, TRADOC also acknowledged, albeit after some persuasion, the primacy of the three principles of consent, impartiality and the use of force with restraint¹¹. In 1999, the US military signed up to these principles in the development of the NATO manual for PSO, *Allied Joint Publication (AJP) 3.4.1 Peace Support Operations*¹². I make the point about shared US and UK consensus in the development of PSO doctrine in the light of what was to follow after the events of 11 September 2001.

Security Sector Reform (SSR)

In 1998 I was invited to join the Conflict Security and Development Group (CSDG) at King's College, London headed by Dr Chris Smith as a visiting fellow. CSDG consisted of a small team of development practitioners and academics. CSDG was funded by DfID and tasked directly by Claire Short, the Secretary of State, to examine the synergies between conflict, security and development and, more specifically, to develop the concept and practice of SSR. The importance of SSR as a PSO activity was clear and with the support of CSDG I included SSR as a likely pre- and post-conflict activity in a broader PSO strategic framework. An image from one of my many presentation of the time is below.



¹¹ This was in marked contrast with what subsequently became known as the ‘Powell Doctrine’ of the overwhelming use of force, so named after General Colin Powell and which set the scene for operations in Iraq and Afghanistan.

¹² I was the initial chairman of the NATO doctrine committee for the development of PSO. On leaving the army I was replaced by Lt Col Ben Lovelock RM who took our draft manual to endorsement in 2000.

In December 1999, I left the army to join CSDG as a senior research fellow. In 2002, CSDG was tasked by DfID to condense its research into ‘guidelines for the use of its governance advisors and country programme managers considering how to support the security sector’. Consequently, CSDG published ‘Understanding and Supporting Security Sector Reform’ (DfID, 2002). In many ways the framework provided by DfID for the Guidelines restricted the ability of CSDG to demonstrate how their research had broadened the holistic security paradigm which required a much broader focus than simply on the security sector.

While the DfID Guidelines were focused largely on issues of external governance and accountability of the security forces, unlike military and police assistance and training missions that generally had their focus on matters of internal governance and professionalism, the longer term goal of CSDG was to develop a more comprehensive and holistic approach to SSR that was designed to persuade the security forces of the advantages of modernisation and efficiency and set these improvements in a broader political framework of social and economic development. CSDG largely believed that the creation of a professional ethos of service was more likely to be engendered within the supported security forces through the medium of a constructive and positive dialogue than by taking a patronising and pejorative approach.

CSDG SSR Practice in Indonesia, Sierra Leone, East Timor, Uganda, Rwanda, Sri Lanka and Bosnia

In parallel with its academic work, the CSDG became engaged by DfID in SSR programmes in Indonesia, Sierra Leone, East Timor, Uganda, Rwanda, Sri Lanka and Bosnia. While military reform and training programmes under Partnership for Peace (PfP) were being conducted in countries in Eastern Europe, the wholesale reform of the South African Defence Force was perhaps the first serious attempt at SSR, as it later became known. The genesis for SSR as we now know it largely evolved from the discourse between the SSR ‘reformists’ in South Africa and the CSDG¹³. It is interesting to note that SSR was originally such an anathema to many in the development and aid community, and created such a furore that when CSDG engaged in its first major overseas SSR programme in Indonesia, the Director CSDG was subject to abusive comment in the media and even received a death threat. While at CSDG, I was involved in the programmes in Bosnia, Sri Lanka and Rwanda and will focus my comments on those programmes. My later involvements in Afghanistan, the Occupied Palestinian Territories (OPT) and Iraq were conducted as an independent consultant affiliated to the Royal Institute for International Affairs (Chatham House), where I remain a Research Associate.

¹³ CSDG, with DfID first established the Global Facilitation Network for SSR in order to share SSR lessons learned and best practices. This programme is now managed by the University of Birmingham.

Bosnia 2001 - 02

The particular SSR programme in Bosnia and Herzegovina (BiH) in which I was engaged was funded by NATO and, apart from me, consisted of two officers from the Joint Services Command and Staff College. Our task was to conduct a full Training Needs Analysis (TNA) that would shape the restructuring of the three factions in order to draw them into one fiscally-sustainable, unified force¹⁴. Backed up by NATO's military resources, the World Bank's financial clout and the EU's political authority, the Tri-presidency of BiH had little choice but to endorse and enact the eventual recommendations of the programme. That said, the senior military leadership of all three factions were included in all phases of the review and, after some arm twisting, they broadly supported its recommendations, painful though many were, before they were sent for political endorsement¹⁵. The huge advantage that this mission had over others in which I have been involved was that it was supported by a coherent and co-ordinated political hierarchy in the person of the High Representative, Paddy Ashdown. This was to be in marked contrast to subsequent missions in Afghanistan and Iraq, where the support from those involved countries and international organisations was generally incoherent and often at cross purposes.

SSR in Rwanda 2000 - 2002

My engagement in Rwanda involved five visits of between 4 to 8 weeks in 3 years. The programme was initiated in early 2000 by Clare Short. Due to the excellent relationship between Clare Short and President Kagame, I had regular access to the highest levels of government at all times when in Kigali and, towards the end of the programme, President Kagame paid a surprise visit to King's College (which caused a flutter or two in the Chancellor's office but was a real honour). An analytical report that I produced for the British Ambassador, entitled *Forces for Development*, is referenced and available on request (Wilkinson, 2003b). I have no doubt that CSDG's engagement in Rwanda set the scene for much of my subsequent work in other countries. After Dr Smith and I had established the outline of my programme in Kigali, it quickly became clear to me that I could not conduct a technical reform programme of the security sector without first addressing some macro strategic issues, not only across the security sector as a whole but wider given that security affected and is affected by other government policies. In grand terms, what was the security sector for and what resources were available to satisfy the country's security needs when set against the competing priorities. Such competing priorities included the continuing threat

¹⁴ This was primarily a military focused mission similar to those being conducted under the Partnership for Peace (PfP) programme in those countries in Eastern Europe emerging from the Soviet Union and was not as broadly focused as those SSR programmes conceived by the CSDG, which embraced both the external and internal governance challenges of all elements of the security sector but, in addition, set those challenges in a national development context.

¹⁵ The culmination of the military negotiations involved a 24 hour session where a very large amount of whiskey was drunk before we could reach agreement, but that's another story.

from ‘genocidaires’ in DRC, poverty, HIV/aids (societal genocide legacy issues) and the need for reconciliation, sustainable social and economic development, and national unity.

Within the scope of the programme, considerable progress was made addressing technical issues such as the structure, numbers and posture of the army and police, which were re-orientated from ‘war-fighting’ to PSO and community policing¹⁶, set against an ongoing UNDP-managed Disarmament, Demobilisation and Reintegration (DDR) programme . This DDR programme for the military was being conducted outside of the broader requirements of the security sector and with no consideration of the manpower requirements necessary to (re)build an effective police force¹⁷. There was no immediate plan to build and reform the police to meet the security needs of ordinary citizens, neither was there a plan to redesign the justice or prison sector to meet an expected increased through-put of criminal cases that would result from an improved police service. It was clear that to address one element of the security sector alone could prove counter-productive. Therefore, it was agreed that we would address security needs horizontally across the security sector and then vertically from the constitution and high-level governance issues and the development of a Code of Conduct to relatively minor issues of presentation. The name of the Rwandan Patriotic Front was changed to Rwandan Defence Forces to indicate that a new way forward had been chosen.

The government also made huge efforts to address the needs of national reconciliation and the 120,000 prisoners from the genocide languishing in prisons. By 2000, the International Criminal Tribunal for Rwanda in Arushu had dealt with only 12 prisoners. Not surprisingly the 120,000 prisoners were creating a huge strain on not only the Rwandan justice system but also the Exchequer. The Rwandan policy initiative to solve this huge problem was to establish the Gacaca Courts, which graded genocide victims allowing the lowest grades to be dealt with in a ‘village court system’ While few international human rights lawyers supported the gacaca system it was a Rwandan solution that largely worked for Rwandans. After 18 months or so of Rwandan Government initiatives across the security and justice sectors, it became clear that we needed a process to rationalise these initiatives across government and within the national fiscal round. This was the genesis of the need for a comprehensive national security policy.

After consultations in the President’s outer office in late 2001, it was agreed that the first step towards achieving greater coherence was for CSDG to assist the government with the conduct of a comprehensive national threat assessment. It was also agreed that I should immediately start work on this with my Rwandan colleagues¹⁸. We agreed that this should

¹⁶ I assisted in the re-alignment of the training at the RDF military training schools and a team of policemen from Bramshill did the same with police training.

¹⁷ I had several discussions with the PM of the UNDP DDR programme. This individual had no cognisance of military culture, had been isolated by senior Rwandans and in my view was simply being used to disburse funds according to narrow sectarian priorities.

¹⁸ I worked closely with the Chief of Staff, the heads of the Army, Police, Intelligence Service and entire cabinet on an as required basis, which was remarkable.

not only address the concerns of the state but also civil society and citizens. In August 2002, a team from King's College, consisting of Professor John Garnett, sadly now deceased, Professor Mike Clarke, Dr Randolph Kent and myself assisted the President's Office to run a major workshop exposing our initial draft Comprehensive National Threat Assessment to civil society. The President, who stayed for ½ day, opened the workshop. His opening speech is referenced (*Rwanda Rugali*, 2002). The rest of the Government of Rwanda (GoR), including the Prime Minister and the complete Cabinet, stayed for the duration of the workshop (2 ½ days). Civil society consisted of the senior members of the 'establishment': political party leaders, religious leaders, university rectors, major indigenous NGOs and the like. In addition to debating the threat assessment paper, I presented the process and mechanisms that might be used to conduct a holistic security and defence review¹⁹. When completed in late 2002, the major sections of the National Threat Assessment addressed: the legacy of the genocide; the weakness of Rwandan civil society; internal and external security threats; health and socio-economic threats; infrastructure threats; and an assessment of existing government policy responses, conclusions and recommendations (Centre for Defence Studies, 2003)²⁰. In summary, the Rwandan national security policy was designed to give a frame of reference and guidance to all the security line ministries and security forces, and to the foreign ministry²¹. It also attempted to cross-reference and rationalise the actions of all of the above within the national fiscal round as set against competing financial priorities.

By early 2003, it was assessed that the Government of Rwanda no longer needed direct support from CSDG and they were well able to take forward further development initiatives across government and the security sector with the minimum support²². CSDG was also under pressure to provide support elsewhere, initially in Sri Lanka and then the OPT, Iraq and Afghanistan.

SSR in Sri Lanka 2002 - 03

As a consequence of the 22 February 2002 Agreement on a Ceasefire between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam, and in the context of the political agreement, the so called co-habitation between the President and Prime Minister, the Government of Sri Lanka, established a Defence Review Committee (DRC). This Committee was chaired by Mr Austin Fernando Secretary/Ministry of Defence and Lt Gen (ret'd) Denis Perera. The Terms of Reference of the DRC stated that the role of the DRC was to examine matters pertaining to higher defence control, revision of regulations made under relevant

¹⁹ I have soft copy of the Workshop Report. The Threat Assessment was a classified document.

²⁰ I have one hard copy of this document, which I am prepared to share.

²¹ The foreign ministry being responsible for promoting and protecting Rwanda national interests abroad using all appropriate political, diplomatic, economic and social means and arrangements.

²² It is a fine line that must be drawn between creating dependency and self-sustainment. Unfortunately, it is my view that there is far too much money to be made by the development agencies and private development companies such that for reasons of their self-sustainment they continue with programmes as long as funding is available.

service acts, and on the future organisation and structure of the armed forces. This was subsequently expanded to include missions, roles and doctrine²³. After several meetings and a raft of correspondence between Lt Gen Perera and Dr Chris Smith, that included a proposed draft SSR strategy paper (Smith, 2003b)²⁴, Mr Austin Fernando wrote on 26 September 2002 to The British High Commissioner (BHC), Sri Lanka, requesting the support of CSDG²⁵. After discussions between the BHC and CSDG, it was agreed that the UK would provide this assistance but with two critically important provisos; one that the review would be expanded to include the police and justice sector but, more significantly, that the work of the DRC should be exposed to the Tamil Tigers as a confidence-building element of the Norwegian-managed ongoing peace process. Much to our surprise the Sri Lankan government agreed to both conditions. This was to take our SSR efforts into another wider sphere.

This led to two separate but co-ordinated work streams. I was embedded within the various committees of the DRC providing technical advice but also using every opportunity to try and expand the mandate of the DRC to include a holistic approach to security and the development of a national security policy paper²⁶, while Dr Smith managed the synergies with the politics of the peace process and set about engaging civil society, especially the Tamil diaspora via the development of a strategic communications strategy (Smith, 2003a)²⁷. This public relations strategy involved running workshops in the South and Tamil North and the creation of a website that could be accessed by all including the diaspora²⁸. We were also invited by the Minister of Defence into Parliament to give a series of briefings, but after objections by some opposition groups were asked to leave. Much to the embarrassment of the government this was widely reported in the media²⁹. In spring 2003, the High Commissioner following advice from the Defence Attaché engaged the Defence Advisory Team (DAT) to work with the CSDG team. However, within months, and despite the best efforts of both teams, the programme was side-lined by the Sri Lankan government when the ‘cohabitation’ relationship between the President and Prime Minister collapsed. The SSR programme was only a minor casualty of the collapse of cohabitation as the longer term consequence was the collapse of the peace process.

²³ Terms of Reference for the DRC, issued by Mr Talik Marapana, Minister of Defence dated 5.7.2002. I have hard copy

²⁴ Soft copy available.

²⁵ I have hard copy of this letter dated 26 September 2002 and entitled ‘Request from the Government of Sri Lanka to the United Kingdom for Technical Assistance to the Defence Review Committee’.

²⁶ I gave a series of presentations and wrote a paper for the DRC entitled “The Relationship, between Policy, Doctrine and Security” in order to demonstrate why we need a national security policy statement to set the context for the technical SSR work that I was doing with the DRC committees. I have soft copy of this paper.

²⁷ Soft copy available.

²⁸ I have soft long and short copies of this strategy.

²⁹ The Sri Lanka Sunday Times December 15 2002, Lobby Section, and an article entitled “‘Strangers in the House liven up a lacklustre debate’”.

The Occupied Palestinian Territories 2003 – First Engagement

In July 2004, I was employed by a well-known UK development agency for one month in the OPT and tasked with developing a SSR strategy for the various Palestinian security forces. I knew that I would not be able to develop the necessary relationships in that time to develop a meaningful SSR strategy but, based on my experience in Sri Lanka, I felt that I might be able to develop a series of reform measures to act as confidence-building measures in the ‘road-map for peace’. Consequently, I wrote a strategy paper (Wilkinson, 2003a)³⁰ that provided a possible process for the development of the required strategy and proposed a series of confidence-building reforms³¹. Subsequently, and using personal contacts extraneous to this contract, I was able to brief my paper and my PSO doctrine to the Israeli National Security Advisor, Uzi Dyan, and the Israeli National Security Council. I have no idea whether or not my presentation had any effect, I suspect not.

SSR in Afghanistan 2004 - 06

In an Afghan Research and Evaluation Unit (AREU) Briefing Paper (Bhatia, Lanigan and Wilkinson, 2004) that I co-wrote with Michael Bhatia in June 2004, we wrote:

SSR is largely broken; urgent attention is needed by the Government and international community to fix it. SSR is the Government’s prescription for security self-sufficiency, and the international military’s exit strategy – though the broader international community must remain closely and substantially engaged with Afghanistan long after the international military mission is accomplished³².

As a consequence of giving that paper at the AREU offices in Kabul to some senior Afghan officials I found myself some six weeks later working alongside the Afghan Director for SSR within the Office of the National Security Council (ONSC) in the Arg palace³³ and tasked by the FCO to help build capacity within the ONSC and to offer technical SSR advice. On arrival, and having been pre-briefed by my presentation at the AREU, we commenced a comprehensive national threat assessment. This must remain a classified document.

At that stage, the major concern of the ONSC was not only a lack of resources but more a lack of co-ordination and coherence within those countries directly engaged in the SSR process. The Bonn process had given the lead for military reform to the Americans, for police reform to the Germans, justice reform to the Italians, DDR to the Japanese and UN, and counter-narcotics to the British. Countries had their own agendas, philosophies, resource

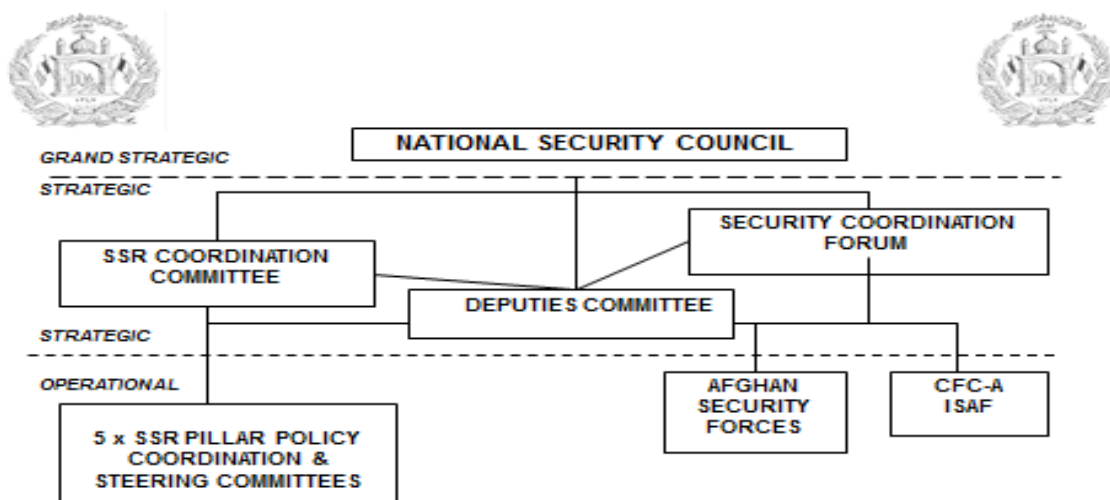
³⁰ Soft copy available.

³¹ Although largely hypothetical this paper was a useful model that I was able to use to explain SSR to the senior leaders course that I helped to set up in the OPT in 2011-12.

³² Michael Bhatia, who was completing his PhD at St Catherine’s College, Oxford, and my co-author, was subsequently killed by an IED when working as part of a US Human Terrain Team.

³³ The Arg Palace is the residence of the President and Royal family and hosts the president’s office and office of the NSA.

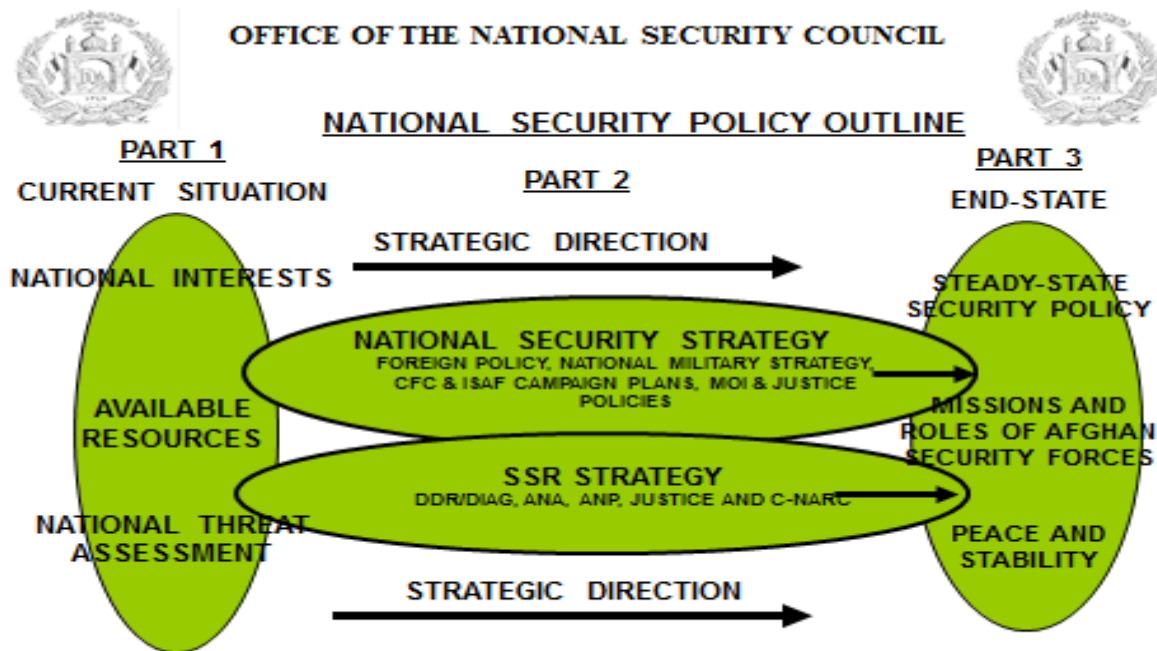
levels but from an Afghan perspective³⁴ many national efforts were also incoherent often due to competing ministerial agendas. While the UK and others may profess joined-up government it rarely seems that way to recipient governments. And overlain on the various SSR activities were the security activities of two different 3-star military commands; ISAF conducting peacekeeping and the Coalition conducting counter-terrorism – the Global War on Terror (GWOT). Although President Karzai did make two attempts to establish co-ordination mechanisms with the international community, they had little effect. The following diagram shows the committee system that we, in the ONSC, tried to impose; one major committee for SSR and another to deal with real-time security issues and the two to be co-ordinated at the level of the National Security Council (NSC) chaired by the President.



As oft described to me by the NSA and his principal staff, their wish was to develop a comprehensive Afghan National Security Policy (NSP) statement that would provide a framework around which to co-ordinate not only Afghan security efforts but also those of the international community. The goal of the NSA was to develop a security policy statement that co-ordinated and directed the activities of the security line ministries and foreign ministry, and which was closely co-ordinated with the burgeoning Afghan National Development Strategy (ANDS). The NSC, consisting of security line ministers, the Foreign Minister and professional heads of service and chaired by the President would have executive authority of the NSP. With the active support of the President, the development of NSP took

³⁴ I worked within the ONSA which was located within the Arg palace. As such I was the only international policy advisor in the Palace and had privileged access to the views of my Afghan colleagues.

two years and was presented to the international community by President Karzai and the Afghan National Security Council at a seminar at the Serena Hotel 26-28 February 2006. By ‘going public’ it was hoped that the International Community would be coerced into supporting this hugely important Afghan political initiative. The following image, which we hoped encapsulated national security policy, was set within the broader framework of the ANDS.



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The table of contents of the NSP was as follows:

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- Chapter 1 - National Interests and Vision.**
- Chapter 2 – Strategic Context.**
- Chapter 3 – National Interests and Security Goals.**
- Chapter 4 – National Security Architecture, the Roles of Security Forces and Coordinating Mechanisms.**
- Chapter 5 – National Security Policy.**
- Chapter 6 – National SSR Strategy.**
- Chapter 7 - Countering Illegal Narcotics.**
- Chapter 8 - Developing Good Governance and Justice.**
- Chapter 9 – Expanding Economic Development and Strategic Reconstruction.**
- Chapter 10 - Promoting Good Relations with our Neighbours and Other International Partners.**

12

This was a profoundly political document, which attempted to look at security from an amalgam of national, societal and personal perspectives, set within an international, regional and national political, social and economic context. While we understood that this was a huge

political and conceptual challenge we felt that the dire circumstances of Afghanistan merited the attempt. Sadly, while I was confident that my Afghan colleagues understood the complexity of the challenges they faced and the required responses I did not feel that the international community shared that understanding and if they did they were unlikely to subordinate their own narrow national agendas for the wider good and I was proven right. In 2006, the International Community in Afghanistan, led by the US was still focused almost exclusively on winning the Global War on Terror (GWOT) and was only paying lip-service to the need to address security holistically or within a longer-term development context. A switch to a more political approach that viewed security holistically did not come about for another couple of years, until what we might call the General Proteus era of counter-insurgency, but by then the Afghan NSP was history³⁵.

DDR, Reconciliation and SSR in Iraq 2008 – 13

From 2008 to 2013 I have had a series of contracts in Iraq with UNDP interspersed by a year in the OPT for the UK's Ministry of Defence (MOD). My first trip to Iraq was from September 2003 to March 2004 when I was employed by the Coalition Provisional Authority via a British Private Security Company (Global Strategies) as the operational director of the Iraqi Currency Exchange (ICE) programme. This involved the collection, replacement and destruction of the equivalent of US \$4.5 billion of Saddam Iraqi dinars. This was a hard security operation but one without which the Iraqi economy was unlikely to recover. My role allowed me to liaise with key Iraqi officials and tribal leaders and these contacts were to prove invaluable in later work in Iraq. In 2007 and early 2008 I conducted two short SSR assessment missions to Iraq on behalf of the US Government.

My first UNDP mission was November 2008 to March 2009. My mission was as follows: 'the consultant will develop a DDR strategy to frame future UN programmes in Iraq.' It was unstated in my Terms of Reference but clear to me that this would involve liaising with the Iraqi Government and its DDR Bureau, with UN agencies and the international military. There were well over 100,000 militia personnel in Iraq who could be eligible for DDR³⁶. With the active support and resources of Coalition forces and in my discussions with my Iraqi colleagues and other UN programme managers it quickly became clear that the real challenge of DDR in Iraq was the reintegration of the militia members into society in an equitable way that supported stability rather than creating additional social and economic pressures. It was clear to me from previous experience that there was a raft of insecurities that would need to be addressed in a major comprehensive, co-ordinated and coherent plan. The following schematic is taken from the Executive Summary of my proposed plan and indicates just how

³⁵ I have all of the supporting documentation and scripts from the Serena Seminar; in addition I wrote a review of SSR covering my time in the Arg palace at the end of my time in Kabul, which I can also make available as required³⁵.

³⁶ According to my US colleagues there were 105,000 members of the Sons of Iraq, the US-funded Sunni militia in Anbar to be disbanded and they were but one militia group.

wide I viewed the insecurities and how inclusive I believed the DDR strategy needed to be (Wilkinson, 2010)³⁷.



While I strongly felt that in order for any DDR plan to succeed it would need the level of co-ordination implied in the above diagram, I had little hope of it ever being put into practice. In my experience, proclamations of a desire to co-ordinate or taking a comprehensive approach or to support joined-up government rarely happen³⁸. Sadly, this plan did not even get buy in from the inter-agency process in the UN Assistance Mission in Iraq (UNAMI).

³⁷ Soft copy available.

³⁸ While I had plenty of experience of a failure to co-ordinate within the British and military community generally, this was as nothing compared to the infighting in the aid and development communities. In 200 I was employed by DPKO as part of a small team to write an 'Inter-agency Guide to the Conduct of Complex Peace Operations'. The horror that the level of required co-ordination proposed in this document in UNHQ in New York would have been comical if it was not so counter-productive. I retain a copy of our draft.

As part of my efforts to develop the DDR plan, I had met a number of senior members of the Implementation and Follow-on Committee for National Reconciliation (IFCNR), which was located in the Prime Minister's outer office. Having presented my DDR plan, one year later, I was asked by UNDP, with the agreement of the IFCNR, to deploy to the IFCNR to help develop a national reconciliation strategy. This was another 4 month contract. While I make no claim to be a reconciliation, or transitional justice expert I thought I might be able to offer structural advice on policy development based on my experiences in Rwanda. In discussions in the IFCNR, the model that seemed to have the most resonance was that of de-nazification in Germany. There were useful tactical lessons to be drawn but without a Marshall Plan equivalent de-nazification only offered a partial framework. What I quickly discovered was that the IFCNR had no mandate to develop policy but had assumed from their discussions with UNDP that I would have resources that they could use tactically which I did not³⁹.

What I did discover was that unbeknownst to the International Community, from 2007 onwards, the IFCNR had been developing a series of local committees to facilitate reconciliation using traditional Islamic, Iraqi methods. By the time I left the IFCNR in early 2011 they had established 242 Support Councils, each with their own budget to facilitate reconciliation. These very practical measures should have been applauded but I felt that because they had been developed by the Iraqis, rather than a UN agency, they were ignored. In my final report I stated that:

As has been explained in the IFCNR, al Fas'l, Sulh (tradition of settlement) and Musalaha (reconciliation) are traditional tribal means of conflict resolution, that have their history in Islamic legal jurisprudence; and have a similar legal standing as common law in the UK. There are Islamic scholars who specialise in Al Fas'l. A' Fas'l is based upon the Islamic tenet of forgiveness. As was explained, westerners do not understand al Fas'l is because it is not based upon the principle of individual responsibility but designed to give priority to inter communal harmony. As a process it involves a broad audience of tribal Sheikhs to bear witness of the crime and to comment upon the case from both a victim and perpetrator's perspective. The sheikhs then offer broad guidelines for reparations, justice and reconciliation to the involved families. The families then go through a process of detailed negotiation until common resolution (reparation) is agreed. That solution is then presented to the audience of tribes/families for endorsement. There is then a ceremony of justice and reconciliation, and they all have dinner together. Eating together draws a final line under the Al Fas'l process (Wilkinson, 2011)⁴⁰.

While the IFCNR's effort to support reconciliation had considerable initial success the religious friction that has rebounded back from the Syrian conflict has undone much of their good work.

³⁹ In my experience, the creation of false expectations by agencies to generate requests for assistance and donor funding is not unusual.

⁴⁰ Soft copy available.

Occupied Palestinian Territories – Second Engagement April 2011 – May 2012

For this period I was employed by the MOD as part of the British Support Team (BST) as the Co-director of Studies at the Palestinian Senior Leaders College. My job was to help the Palestinian security forces revise, expand and elevate their senior leader's course to the strategic and policy level. The course was designed for military and civilian staff up to general level. Having assisted my fellow Palestinian instructors run the first new course we were all confident that they could continue with the minimal international support. The beauty of this time in Palestine for me was that I was privileged to sit in on many formal and informal discussions with instructors and students and to gain their views on of the strategic themes that were being introduced in the new course. It was quite remarkable that even living under the oppressive regime of the Israeli Defence Force⁴¹ the vast majority of the Palestinians that I met understood the relationship between conflict, security and development and, in their specific case, the need for peace and security to set the conditions for economic advancement. This view was in marked contrast to the image of Palestinians presented in much of the international media and especially those that tend to support the current Likud-led government in Israel. It was clear from my time in the OPT that the need to address security holistically was a matter of routine to those inflicted by a deluge of insecurities.

Security Policy Development in Iraq June 2012 – May 2013

In my work on DDR and reconciliation, I had many discussions with the senior staff of the National Security Advisor and had described to them, both verbally and in a short paper, the advantage of developing a national security policy to draw together the various elements of national, societal and individual security in one comprehensive, holistic security statement. In 2007 US advisors had already produced an Iraqi security statement called 'Iraq First – Iraqi National Security Strategy 2007 – 2011' (Wilkinson, 2008)⁴². There had been very little Iraqi input to this document and, in 2012, the NSA and his principal staff decided that with the departure of US support they wanted to develop their own Iraqi security strategy. Consequently the NSA⁴³ wrote to the UNDP country director and asked if I could return, which I did for one year starting April 2012. My role was twofold; first, to help my Iraqi colleagues to develop their own national security policy statement and second, to help develop the enduring capacity to develop, enact, oversee and keep national security policy up-to-date. In Kabul my Afghan colleagues decided to develop this capacity within a

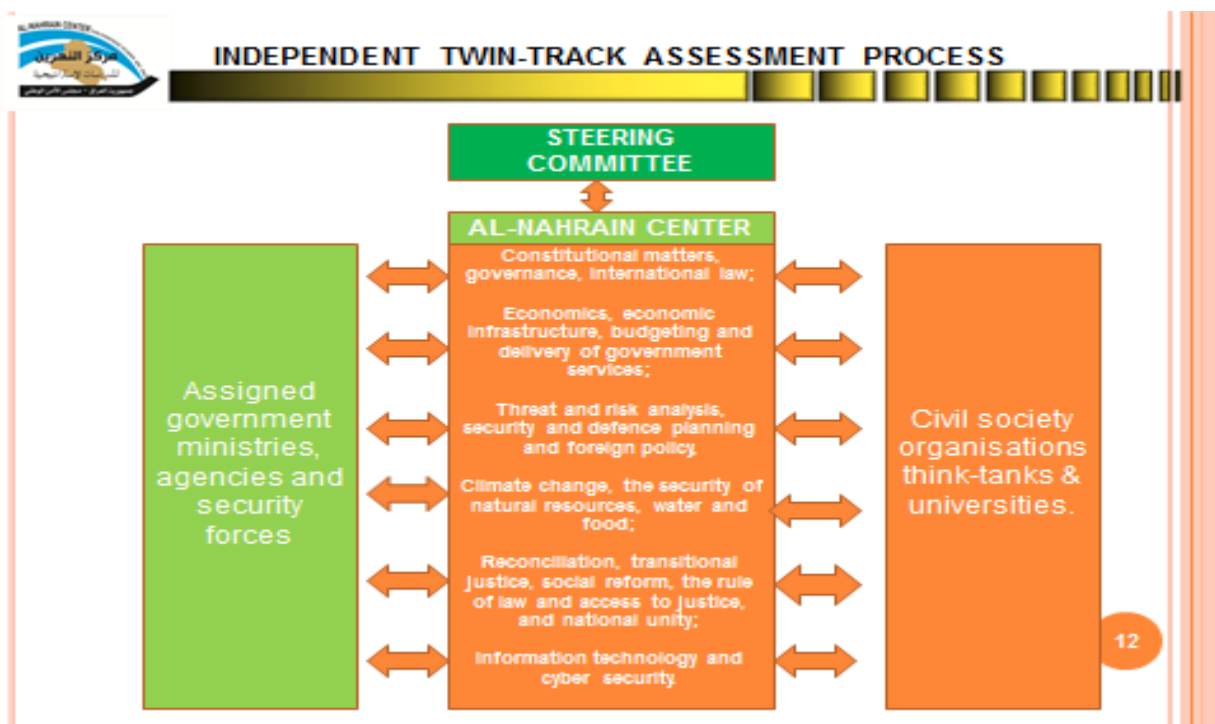
⁴¹ I had to run the gauntlet of IDF check-points every morning on my way from Ramallah where I lived, to Jericho where I worked. While trying to be as objective as possible I have to say that if my soldiers in NI had behaved as badly towards ordinary civilians as the IDF soldiers regularly do to Palestinians I would have locked them up.

⁴² I have soft copy of this NSS.

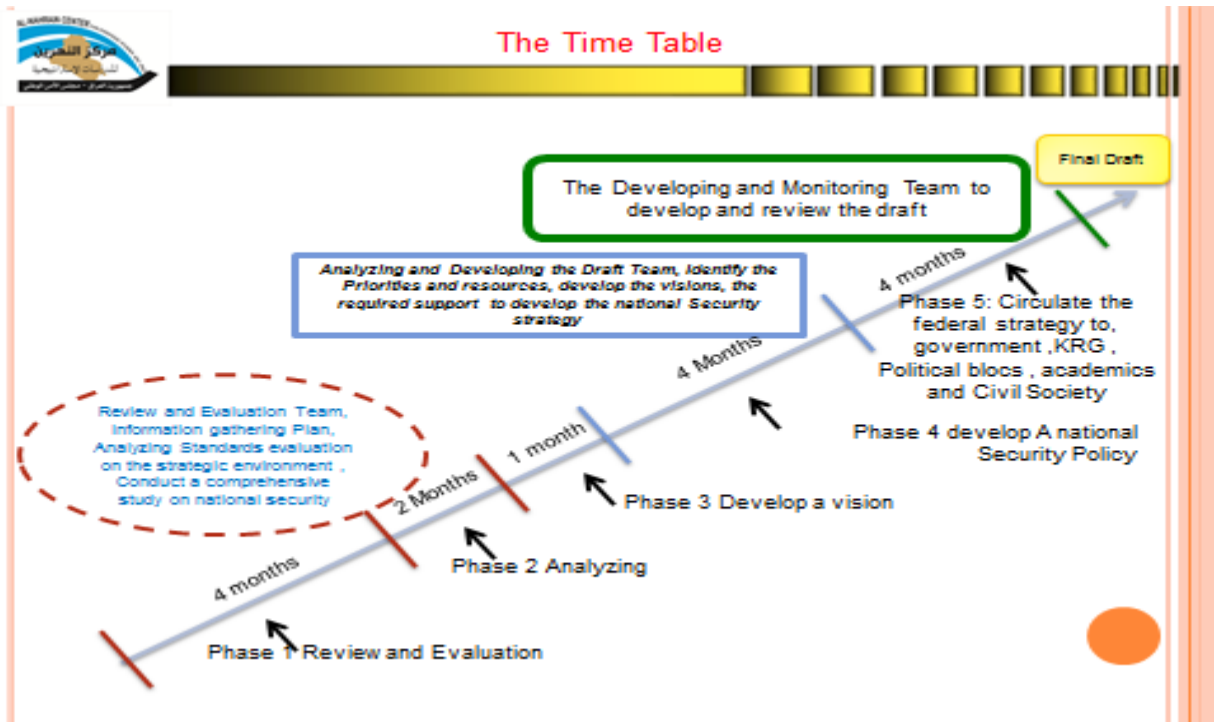
⁴³ Falihh Al Fayadh wrote to Mr Peter Batchelor 2012/6/March. I have a copy of this letter.

dedicated staff for the NSA, whereas my Iraqi colleagues decided to develop a quasi-official policy ‘think-tank’ to be called the Al-Nahrain Center for Strategic Studies (A-NCSS).

The A-NCSS and senior staff were tasked by the Prime Minister to develop an Iraqi process for security policy development, which they did with minimal international input. Their process was to be managed by two independent tracks co-ordinated by the A-NCSS on behalf of the Deputy NSA. The first track was to consist of government security agencies and civil servants, and the second track was to be conducted in parallel by Iraqi universities and other non-government policy ‘think-tanks’ and civil society groups. The A-NCSS would then synthesise the product from the two independent tracks for decision by the NSC. That was the theory, which was presented by a delegation of senior Iraqi from the Office of the NSA at Chatham House at a UK-funded seminar to mark the tenth anniversary of the invasion of Iraq 18 March 2013. While most countries, with an eye to their democratic legitimacy, include some form of consultation with civil society, the Iraqi process of civil society engagement was more inclusive and formal than any other that I have seen. This twin-track process and the areas to be considered are shown in the following image, which was part of a presentation given by Mr Hamza Hasan Sheriff, the senior civil servant in the Office of the NSA at Chatham House 18 March 2013. The first step of the process was to be a comprehensive national threat assessment.



And the timescale of the review was to be as follows. This was to work back from the national elections planned for spring 2014.



In April 2013, with the general security situation being negatively affected by the spill-over from Syria such that my Iraqi colleagues were seriously distracted from the policy review, yet with UNDP pushing to invest more of UK funding in a stalled political process, I felt that I could no longer continue to work with UNDP and therefore resigned. In my final report I stated:

While my departure from the Project may be the simplest option for HMG (Her Majesty's Government) and will allow UNDP to protect their income stream from the project, my prediction is that our Iraqi counterparts will shortly realise that further international advice and support is unnecessary now that the review process is up and running. Should that be the case, and further unnecessary expenditure avoided, I believe the Project, to this point can be judged a success. What is for certain is that for my own professional and ethical reasons I can no longer work with the current UNDP management regime in Iraq and must therefore leave the project.

My Iraqi colleagues had taken many of the basic concepts and processes that I had developed over the years with other partners and, having modified them for their own challenges, were clearly moving forward in a most constructive manner. While the UNDP programme officially continues, but to little effect, I continue to engage with my Iraqi friends. It is to be hoped that the current easing of tensions between Iran and the West, and Iran and the Sunni Arab states in the Gulf region, will allow the Iraqi Government to press on with their inclusive and comprehensive security review. Should the security situation moderate I will return.

Summary

When I started to write this Chapter I had intended to identify common themes and lessons, which have caused me to address security in a holistic and comprehensive manner. However, now that the Chapter is complete I believe that those themes and lessons that I have identified are self-evident and do not need further repetition. I am also conscious that I have been pretty hard on the aid and development community in general, but with further reflection I believe that is fully justified. While there are hugely motivated people in the field, I believe that many are as frustrated as me by narrow agency agendas, inefficiencies and the ever present competition for donor funding support. With that as context I hope that some of the lessons and observations that I have had and seen will help others develop more effective responses than I have thus far.

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4

The Structure and Activities of UN Police Division

Chris Sharwood-Smith

Abstract: This Chapter provides an overview of the history of the engagement of UN police in peacekeeping and the related rationale behind the formation of the UN Police Division. The structure and activities of the UN Police Division will then be examined, before looking ahead to how the work of the Division may develop in the future. In so doing, the Chapter analyses the concept of police peacekeeping from the inception of the UN and provides a clear picture of the significant transformation of police peacekeeping mandates over time. In order to continue meeting the challenges presented by places emerging from conflict, the Chapter also underscores the importance of police peacekeeping mandates remaining sufficiently flexible to be able to respond to the demands of crises as they arise and also respond to the requirements of the UN and its Member States.

Policing as a part of peace operations is not a new concept. However, the Police Division itself is a relatively recent body within the UN Department of Peacekeeping Operations (DPKO). Nonetheless, its roots are founded in the very conception of the UN. This Chapter seeks to explain much of the rationale behind the formation of the Police Division and the concepts that are being developed within it today. It will be done through an overview of the history of the police involvement in peacekeeping and how that went on to shape firstly the Civilian Police Unit and then Police Division. The Chapter will also refer to its location today within the Office of Rule of Law and Security Institutions (OROLSI), along with other sections whose overarching aim is to contribute to stabilisation and peacebuilding through establishing security and rule of law systems after conflict. Then, the Chapter will examine the physical structure of the Division along with a brief explanation of the various sections and branches together with their projects and management structure. This Chapter will end with an overview of the main projects currently being undertaken within the Police Division. This final section will, however, emphasise that the Police Division, which could be argued to be the leader in crisis management the UN, will always focus on current

peacekeeping mandates, which will take precedence over policy and doctrine for obvious humanitarian reasons.

Peacekeeping in its early days and indeed throughout most of the Cold War period was almost exclusively a military domain, despite the foresight of first Secretary General, Trygve Lie, who proposed a UN Police service in 1948. Unfortunately the Member States did not share his vision as they rejected it following a study by a special committee in 1949.

Military domination at the time is perhaps unsurprising. Most of the world powers were entering their post-colonial period and public disorder had traditionally been handled by the military or, failing that, colonial police militias that were paramilitary in nature. Added to that, the very nature of the majority of the mandates in those early years was to separate two warring factions and enforce a cease-fire: this was perceived as very much a military rather than a policing function.

So, UN policing was side-lined until 1960 when events in the Congo led to the deployment of a contingent of Ghanaian police to assist with public order duties. Although this was more of a paramilitary force designed to bolster the host state crowd control capability. This could conceivably be considered the birth of the Formed Police Unit concept.

Following the deployment in the Congo there was a further requirement for police, in this case to the UN Security Force in New Guinea. This was much more related to mentoring and training as their role was to build a new police force for the region, and the mandate had specified the maintenance of law and order. With the adoption of General Assembly Resolution 1752, the UN had effectively created its first executive policing mandate, something that would not occur again until the end of the century.

The following year the UN Mission in Cyprus also had included in its mandate the need to maintain and restore law and order. Police were deployed for that purpose. They were, however, deployed in contingents, much more in line with the military model of peacekeeping.

For much of the remainder of the 20th Century prior to the fall of communism, peacekeeping operations revolved around monitoring ceasefires and were almost exclusively military in nature. It appeared that the superpowers preferred a policy of non-intervention holding their allies close in check to avoid matters being raised at the Security Council and the unique balance of power between the permanent five members was finely tuned to reduce the need for UN interventions, something that still has repercussions today.

The end of the Cold War brought a number of consequences that affected police peacekeeping. Public protest had become commonplace even in totalitarian countries. Without their superpower backers to prop them up, fragile states fell leaving the UN to intervene when the country fell into chaos. Mandates started to increase in number. Global modernisation of policing, and a similar reduction in the size of standing armies in many countries as a result of the 'Cold War dividend', led to peacekeeping functions becoming perceived as suitable for police deployment. The military role became more one of 'Force Protection'.

To manage the transition of power in Namibia the UN Mission deployed 1,500 police officers to oversee and monitor the activities of the national police. Similar Missions in Angola, El Salvador, Cambodia, Mozambique, Somalia, Rwanda and Haiti followed.

The effect of these increased deployments of police officers saw the need for support in the UN Secretariat and the Civilian Police Unit was formed in 1994. It is interesting to note that the military influence was still there in the fact that the police in peacekeeping operations were referred to as CIVPOL which is a military acronym that is a shortened form of Civilian Police to differentiate them from Military Police.

It was the UN operations in the former Yugoslavia that transformed UN policing. The deployment of UN police in Bosnia and Herzegovina had an unprecedented mandate; to develop the existing police into a democratic and representative police service. The Police are often key spoilers in post-conflict countries where corruption and nepotism have been allowed to run rife.

The mission in Kosovo saw a country effectively without a police force and so the UN returned to an executive mandate for their police element. This was repeated in East Timor. In both places the UN police were armed, which was rare in UN missions. This period also saw the introduction of the Formed Police Units (FPUs) as a result of the need to carry out both public order policing and protection duties in support of other UN policing activities. It had been discovered that military units, whilst trained in crowd control techniques, tended to lack the experience to deal with protestors as they had limited powers of detention. Sworn police officers, on the other hand, could not only carry out the function but had the training, structure and logistics to deal with any subsequent prisoner handling requirements.

In 2000, the *Report of the Panel on United Nations Peace Operations* (otherwise referred to as the Brahimi Report) recommended "...a doctrinal shift in the use of civilian police and related rule of law elements in peace operations" (UN, 2000: ix) and that they should be far more involved in deployments than had been the case in the past. To cope with this increased workload the Police Division was formed, this separated the police from the Military Division where the Civilian Police Unit had sat.

To indicate the break from the military the universal term for UN police changed to UNPOL in 2005. As the challenge of police peacekeeping continued to grow with more missions, the topic of a Standing Police Capacity (SPC) was revisited. In 2006 the UN Member States approved an initial capacity of 25 officers and in 2007 it became operational, just less than sixty years after Trygve Lie had first proposed it.

In that same year the Department of Peacekeeping Operations (DPKO), recognising that the various different elements that make up the security and justice sector are all inextricably linked in most Peacekeeping Operations, formed the Office of Rule of Law and Security Institutions (OROLSI). This brought together key elements such as Correction, Courts, Security Sector Reform, and Police.

The deployments continued in Sudan, Liberia, Serra Leone, Cote D'Ivoire, Democratic Republic of the Congo, and Chad. In 2007 another first was the mandate of 6,432 UNPOL to

Darfur with the African Union (AU)-UN Mission in Darfur (UNAMID) this was the largest deployment of UN police in the history of the UN, and the first joint UN and AU deployment.

The role of Police Division is defined in their booklet *United Nations Police – On Duty for Peace*:

The Police Division provides strategic planning and operational support for United Nations Police components in peace operations. It develops policy and guidance on international police peacekeeping and undertakes selection, recruitment and deployment of qualified staff (UN Police Division, 2012: 18).

Police Division is based at the UN Secretariat in New York, with the exception of the SPC.

The Police Adviser is the senior UN police officer and is normally a high ranking police officer (who normally holds Commissioner/Chief Officer/Police General status in their domestic force or service) seconded from a Member State for 3 – 5 years. The Police Adviser is assisted by a Deputy and the Head of the Standing Police Capacity who are of similar rank seconded on the same basis.

There are three departments under the office of the Deputy Police Adviser each with a section Chief who hold the UN grade of P5 (which is Chief Superintendent/Police Colonel equivalent). Some are seconded officers from Member States some are Contracted Officers who are UN employees, normally from a policing background in their native country.

The Mission Management and Support Section directly supports the field missions dealing with deployment and queries from the mission Police Commissioner's Office, reinforcing policy and practice and advising where necessary. The number of Police Division officers for each mission will depend on a number of factors but mainly the police commitment within the individual mission. For example, UNAMID has two officers to deal with the high level of police deployment. Mission Management also includes the FPU cell which deals specifically with Formed Police Unit issues.

The Selection and Recruitment Section does what it suggests: it runs the processes for selection and recruitment for the various roles, liaises with Member States with regard to seconded officers and liaises with the missions over recruitment needs.

The Strategic Policy and Development Section (SPDS) is further divided into three Units: Policy, Planning and Development. The Policy Unit develops police-related UN policy when required, either as a result of a review or suggestion of the Member States, or from requests originating within missions. The Policy Unit will also advise on cross-cutting issues within the UN that may impact on police peacekeeping. The Planning Unit is responsible for developing plans for forthcoming missions and mandates. This is so as to provide a basis for the mission prior to the deployment of resources, in order that the UN police have a framework to deploy into. Of particular note is that the Unit has developed a template for planning future international police peacekeeping missions. The Development Unit is responsible for developing police peacekeeping initiatives and concepts. One of the more

recent examples of this is the West African Coast Initiative (WACI), where the Development Unit worked with a number of UN partners along with the Economic Community of West African States (ECOWAS) to set up Transnational Crime Units to counter the threat from drugs, human and diamond trafficking in the region, given that it is well-known that criminals do not respect national boundaries.

The SPC, which is now standing at approximately 40 officers, is divided into three teams for ease of deployment. They are led by a senior police officer who reports directly to the Police Adviser. They are available to deploy in the start-up of new missions to fill the gap that will inevitably come following the creation of a new mandate before the member States can deploy their units. They are also available to carry out monitoring and assessment of the police components of existing missions if required by the Police Adviser. The SPC is based in the UN logistics base at Brindisi, Italy.

It is interesting to note that as the SPC has become established it is now being seen as the way forward in Security Sector Reform (SSR) both within the UN and elsewhere:

The UN has begun to address rapidly deployable rule of law capacity through the development of a small standing police team established in May 2007. OROLSI is also exploring the creation of a similar rapidly deployable team, comprising justice, corrections, and other rule of law – related expertise (Sherman, Tortolani and Parker, 2010).

In 2010, this was achieved and the Justice and Corrections Standing Capacity (JCSC) is stationed together with the SPC in Brindisi.

It should be noted that police advisers are also embedded in the Integrated Operational Teams that sit in the geographical teams under the Office of Operations. Police training specialists are also part of the Integrated Training Services under the Policy, Evaluation and Training Division. Whilst these are UNPOL officers they report to separate Divisions of DPKO.

Currently UN Police Division oversees eleven peacekeeping missions and seven UN special political missions along with one political mission overseen by DPKO (UNAMA). Police officer deployments are currently running at a mandated total of around 14,800 UNPOLs, although the actual figure is around 13,000 due to the time it takes to deploy officers. See Figure 1 below for the detailed list of Missions.

As has already been discussed, the traditional role of the UN Police was to monitor, observe and report on the local police, very much in line with the Military ethos of supervising a cease-fire. This was not a complicated role and therefore the missions just required the officer to put the common principles of universal policing into practice and then report on what they had seen. The result was that there was little or no pre-deployment training. The officer was also in a unique role where their rank or speciality meant little and, therefore, the concept of ‘rankless’ missions was conceived. Previously all UN police officers were CIVPOL and their rank in the mission was irrelevant: it was their role that mattered. While this was appropriate, as mandates become increasingly complex it is perhaps time for the UN to rethink this concept.

Modern mandates may call for the UNPOL to carry out interim law enforcement, but in a post-conflict country this will be very different from their experience of domestic policing. There is also the need to provide operational support which can range from public order management to high risk operations, but may also include any area of specialised policing, particularly where the host state police force does not have the capacity. This is particularly relevant in cases such as UNAMID where the host state police do not have the infrastructure to carry out long range patrolling and protection of civilians particularly in the internally displaced persons (IDP) camps. Finally there is the need to assist with reform, restructure and, where appropriate, rebuilding. This can cover a whole host of skills including training, mentoring and supervising through to assistance with designing police stations and provision of physical resources.

Mission	UN Title	Date Commenced	Type
United Nations Peacekeeping Force in Cyprus	UNFICYP	March 1964	Peacekeeping mission
United Nations Mission for the Referendum in Western Sahara	MINURSO	April 1991	Peacekeeping mission
United Nations Interim Administration Mission in Kosovo	UNMIK	June 1999	Peacekeeping mission
United Nations Mission in Liberia	UNMIL	September 2003	Peacekeeping mission
United Nations Operation in Côte d'Ivoire	UNOCI	April 2004	Peacekeeping mission
United Nations Stabilization Mission in Haiti	MINUSTAH	June 2004	Peacekeeping mission
African Union-United Nations Hybrid Operation in Darfur	UNAMID	July 2007	Peacekeeping mission
United Nations Organization Stabilization Mission in the Democratic Republic of the Congo	MONUSCO	July 2010	Peacekeeping mission
United Nations Organization Interim Security Force for Abyei	UNISFA	June 2011	Peacekeeping mission
United Nations Mission in the Republic of South Sudan	UNMISS	July 2011	Peacekeeping mission
United Nations Multidimensional Integrated Stabilization Mission in Mali	MINUSMA	April 2013	Peacekeeping mission
United Nations Assistance Mission in Afghanistan	UNAMA	2002	Political mission
United Nations Office in Burundi	BNUB	January 2011	Political mission

United Nations Support Mission in Libya	UNSMIL	September 2011	Political mission
United Nations Assistance Mission for Iraq	UNAMI	2003	Political mission
United Nations Assistance Mission in Somalia	UNSOM	May 2013	Political mission
UN Integrated Peacebuilding Office in the Central African Republic	BINUCA	July 2013	Political mission
United Nations Integrated Peace-building Office in Sierra Leone	UNIPSIL	August 2008	Political mission
United Nations Integrated Peace-building Office in Guinea-Bissau	UNIOGBIS	January 2010	Political mission

Figure 1: Current Peacekeeping and Political Missions with a police element

With the mandates in UNMIK and UNMIT there was a need to both train and then mentor the newly formed police at the same time as carrying out executive policing functions.

Operational support is normally the domain of the Formed Police Unit (FPU), a Gendarmerie style paramilitary unit which consists of between 120 – 140 officers that are self-sufficient with their own command structure and resources. FPUs are always armed units. Although they are normally only lightly armed with assault rifles and handguns, they will also have armoured personnel transport which may carry heavier machine guns. Their main role is to provide support to host state police and support UN police by providing public order management, protection and, where appropriate, operational mentoring and advising in these roles.

The final element of the UNPOL role is to assist in the Security Sector Reform (SSR) element of Peacekeeping and Peacebuilding; this can take on a whole host of different tasks which will depend on a whole variety of circumstances. The Organisation for Economic Co-operation and Development (OECD) *Handbook on Security Sector Reform* identifies the lessons from the Joint Assessment Mission in Darfur that preceded the UNAMID deployment:

The findings of the rule of law cluster were quite sobering. Notwithstanding the signing of the peace agreement, the continued armed conflict has led to repeated violations of human rights and humanitarian law and a significant deterioration in safety and security where women and children in particular are especially vulnerable to physical harm and sexual abuse. Restoration of credible rule of law institutions is crucial to the success of any peace initiative and early recovery programme. Trust between IDP communities and the government of Sudan remains extremely low (OECD, 2007).

This led to the UNPOL role including escorting the IDP population when carrying out their daily search for firewood outside the confines of the camp; it also triggered much of Police Division's work on sexual and gender based violence (SGBV) of which more will be said later. But it also led to the setting up of Community Police stations in remote areas and supporting the local police in this effort. This would mean UNPOL officers having to cope with many privations in their efforts to train and mentor the local police in remote locations. These officers could be either former members of the rebel movements or poorly trained and resourced local Sudanese police.

Perhaps the United Nations Office on Drugs and Crime (UNODC) sums up the difficulties of police reform in peacekeeping most succinctly in their *Guide for Practitioners in Criminal Justice Reform in Post-conflict States*:

Police reform is a complex challenge in any environment. It is particularly daunting, however, in post-conflict situations in which the police have operated more like an occupying army than public security officers. The police may also have perpetrated serious human rights violations, which, in turn may well have fuelled conflicts. Transforming such police forces into rights-respecting police services that simultaneously provide protection and fight crime has challenged local and international reformers around the world (UNODC, 2011:69)

All of these roles need support from the Police Division at HQ: the UNPOLs must be recruited and the roles within the mission resourced; and advice is required in the form of policy and procedure. The SGBV issue has already been alluded to above, but there are other issues, such as the resourcing, funding and equipment of FPUs and their rules of engagement as well as their training and deployment in the field. The Police Division also acts as the link with the 193 Member States and their permanent missions in New York: the Division can lobby for donor support in the form of both resources and training provision and, where the UN system cannot assist, it may be able to get the job done by way of suggesting bilateral assistance. This will often take place in quiet diplomatic discussions over coffee in the delegates' lounge of the UN building with the appropriate diplomat or police adviser from one of the Permanent Missions. Without this assistance the UNPOL on the ground would find their job a lot harder.

Along with the increase in responsibilities for UNPOL the sheer scale of increased deployments over the last two decades is sufficient to keep the Police Division gainfully employed. Since the early 1990s the police deployment to peacekeeping missions has steadily increased, and the increased use of FPUs within missions has grown sharply at the same time. The need to recruit and select over 14,000 UNPOL, most of whom will be seconded for anything between six to twelve months, keeps the Recruitment and Selection branch of Police Division busy. Meanwhile, the Mission Managers need to work out the logistic of the rotations in and out of the mission. This becomes even more complex when it entails the deployment of an FPU with all their equipment, particularly to areas that may have little in the way of infrastructure. Often units are deployed in advance of the majority of their equipment which needs to be shipped in and then transported across vast areas of desert or

jungle where roads are basic if they exist at all. That will mean that they will not become an effective unit until all their equipment arrives. This can be a frustrating time for the Police Commissioner who is unable to utilise units that are in mission but non-operational due to a lack of equipment. This situation in UNAMID led to the then Police Commissioner, Mike Fryer, to arrange convoys to and from the Logistic base at El Obeid (a distance of over 500 miles) to expedite the deployment of his FPU's. These were probably his most important assets in relation to his plan to protect the IDP camps. This had to be co-ordinated through the Police Division back in New York, which was able to ensure that the Department of Field Support (DFS) could confirm that the equipment had arrived at the logistic hub and that the escort was not going on a fruitless mission.

Police peacekeeping has often been seen (erroneously) as a male domain and despite a rise in the number of female police officers worldwide there was no similar rise in UNPOLs. As a result Secretary General Ban Ki Moon launched a drive for member states to increase the number of female UNPOLs deployed in mission to 20% by 2014. Currently the number is running at around 14% so it will be interesting to see if the UN will hit this ambitious target. Needless to say this is a key issue for the Police Division's Recruitment and Selection branch.

The rise in the deployment of FPU's has not been without its problems. Following a review of units in 2008 it was found that there was little commonality between countries and that work needed to be done to standardise the equipment and training of FPU's deployed to the UN. In the same year the UN had initiated a Pre-Deployment Training programme for Member States deploying individual UNPOLs to missions, it was decided that the same should be done for FPU's. Following the formation of a working group and several meetings that encompassed all Member States the revised DPKO/DFS policy on UN Formed Police Units was issued, at the same time a standardised curriculum was agreed upon and the UN embarked on a series of train-the-trainer courses, which is still ongoing. In 2012 the standard operating procedures on assessment of capabilities of FPU's was adopted to bring the assessment regime into line with the new curriculum. While Pre-Deployment Training is always the responsibility of the Member States, the UN is doing what it can to ensure that this is standardised.

Another of the lessons that has been learned from UNAMID and the Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) is that there is a growing concern about the levels of gender based violence in post-conflict countries. The Police Division has looked at how to both mainstream gender issues into all its peacekeeping missions but also to educate UNPOLs and properly prepare them for deployment into missions where they will have to deal with levels of SGBV that they may not have encountered in their domestic policing. This has led from ad hoc training provided by donor countries to the adoption in 2011 of the United Nations Police Standardized Training Curriculum on Preventing and Investigating Sexual and Gender-based Violence in post-conflict environments. It consists of eleven modules including dynamics of SGBV; the legal framework; investigative procedures; and specific crimes such as domestic violence, human trafficking, mass rapes, and traditional harmful practices. Through regional train-the-trainers

courses and Member State run courses there is now a global pool of over 6,000 specially-trained SGBV investigators for deployment in UN peace operations worldwide.

Perhaps the most exciting project is the Strategic Framework Guidance (SGF) which is Police Division's attempt to introduce global doctrine for police peacekeeping. In the Police Division's own words:

The development of the SGF responds to the complexity of current and anticipated future UN peace operations and the need for enhanced strategic thinking and more sophisticated understanding of how to face the tasks at hand. The SGF is intended to enhance the effectiveness of UN Police peacekeeping through more consistent, harmonized approaches to the provision of public safety, police reform and support to host-state police services, and to link these to a more sophisticated recruitment of staff with the necessary specialised skills and experience (UN Police Division, 2012).

The process has so far resulted in the adoption of the policy on United Nations Police in Peace Operations in January 2014; this is a wide ranging strategic document which lays out in broad terms what is expected of the UNPOL in a Peacekeeping mission. As the introduction states:

1. This Department of Peacekeeping Operations (DPKO) and Department of Field Support (DFS) Policy on United Nations Police in Peace Operations spells out the core functions of United Nations police peacekeeping and the fundamental principles guiding its activities.
2. The Policy is designed to assist police components in furthering the rule of law and the provision of public safety and ensuring the safety and security of police officers deployed by the United Nations. A clearer understanding of what United Nations police peacekeeping entails will allow United Nations police to be more professional in how they design the police components in order to fulfil mandates of missions, how they recruit and train, and how they implement police assignments in international peace operations.
3. By clarifying core functions and fundamental principles, the Policy on United Nations Police in Peace Operations shall serve to guide planning processes and inform other mission components as to how United Nations police are to approach the implementation of their mandated tasks. In the same way, the Policy shall provide insights to Member States on the core responsibilities of the police officers and units they contribute to United Nations peace operations (UN, 2014: 2).

The next phases of the project are to gather subject matter experts together to look at the various elements of the policy and to look to provide further guidance and doctrine at a Tactical and Operational level.

So the concept of police peacekeeping has been examined from the very start of the UN to the present day and the ongoing drive towards police peacekeeping doctrine suitable for the modern UN mandate. During this period the scope of police peacekeeping mandates has

developed dramatically, as has been illustrated in the manner in which police deployments have changed over the years.

This Chapter has followed the history of police in peacekeeping operations, from the original role as an adjunct to the Military through to the modern structure of Police Division and its location with the other key elements of stabilisation in the Office of Rule of Law and Security Institutions (OROLSI) as a key component of the Department of Peacekeeping Operations (DPKO). Current projects have been studied bringing the reader up to date with the work of the Division today; the author has relied on his experience in working with Police Division as both a seconded officer and a consultant over the last five years, and would further recommend the Police Division website as a source for further reading and research (<http://www.un.org/en/peacekeeping/sites/police/division.shtml>).

There is no doubt that Police Division will continue to develop as mandates evolve in line with the different nature of crisis around the globe, and the only certainty in an organisation that deals with crisis management is that they must be flexible enough to react in line with the requirements of the Member States through the General Assembly and the Security Council.

It should be noted that the figures quoted within this Chapter with regard to number of UN officers deployed were accurate at the time of writing (January 2014).

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5

Police Reform: Legislation, Priority and Budget

Maureen Poole

Abstract: This Chapter presents an overview of the way in which the author has approached Police Reform in conflict-affected environments and related activities in the field of international development. This approach is informed by an extensive career in the UK Police as well as lessons learnt from a subsequent career in international development. Above all, the mantra ‘legislation, priority and budget’ guides much of the work of the author, and is a reminder of the need to ascertain the nature of the factors which constrain and guide development work, with specific regard to integrating a gender perspective in Police Reform.

Introduction

In order to reflect upon putting Police Reform into practice, in this Chapter the author, Maureen Poole, reflects upon her extensive experience within the police service in the UK as well as the principles of policing which were introduced by Sir Robert Peel in the beginning of the nineteenth century. In so doing, the author discusses the mantra of ‘legislation, priority and budget’ which guides her work in Police Reform and related activities in the field of international development.

Sir Robert Peel (1788 – 1850)

There is no definitive police reform handbook. Looking to history, however, the majority of the various styles of a police service seem to have followed the principles of policing which were introduced in 1824 by Sir Robert Peel, who at that time was the UK's Prime Minister. Nowadays many police reform programmes, whether or not they are part of a comprehensive post-conflict security programme use those principles of policing.

The prime purpose of policing, according to Peel, is the prevention of crime. Therefore, it follows that local style of policing will more than likely be influenced by the external factors presented in the communities in which they serve.

Sir Robert Peel's principles have traditionally been regarded as the foundation for *ethical* and *accountable* policing:

Every police officer should be issued with an *identification number*, to assure accountability of actions.

E f f e c t i v e policing is not measured on the number of arrests, but on the **l a c k** of crime.

Principle No. 1: The basic mission for which the police exist is to **pre vent crime and disorder**.

Principle No. 2: The ability of the police to perform their duties is dependent upon **the public approval of police actions**.

Principle No. 3: Police must secure the **willing co-operation of the public in voluntary** observation of the law to be able to secure and maintain the **respect** of the public.

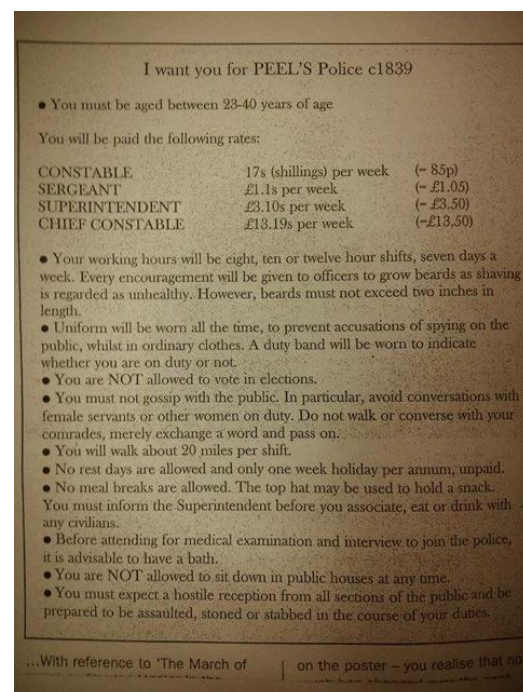
Principle No. 4: The **degree of co-operation from the public** that can be secured diminishes.

Maureen Poole, Staffordshire Police (1966 – 2000)

With the knowledge of Sir Robert Peel's principles behind me, after a life-long career in the UK police, initially as a civilian when I was too young to join the regular service, I feel as if I have made a seamless 'local to global' transition.

Policing is global: it is also a complex phenomenon, where numerous skills, activities and specialisms have developed in response to a particular peacekeeping style tailored according to local, national or regional needs.

Prior to retirement from the UK police service and before commencing a second career within the arena of International Development/Security Sector Reform (SSR), I already possessed a personal drive to find out more about the different policing styles in Europe, USA and Africa. At that time reform was mainly about uniforms, equipment and whether there should be equal pay for female police officers, rather



than what policing style was most appropriate according to a country's national culture and/or political context; and most importantly, what could be achieved.

Through a unique combination of policing experience, investigating Sexual and Gender Based Violence (SGBV), academic research and the drive to find out more about a nation's police service, I found that positive results within this area of international development can only be achieved through looking at the criminal justice system as a whole; and, where possible, speaking to the practitioners who are responsible for keeping the wheels within the machinery of justice turning, for example:

- (a) Consultation with local stakeholders and opinion-formers, to find out what they wanted;
- (b) Collaboration with co-workers and non-state actors to develop the most suitable implementation process;
- (c) Assessing the efficiency of the prosecution and court process to respond to the results of the newly implemented reform process; and
- (d) Whether the existing detention system is able to meet the increased demand.

To that extent I developed my own mantra of 'Legality, Priority and Budget' to approach Police Reform.

Security Sector Reform and International Development

Security Sector Reform (SSR) cannot be looked at in isolation. SSR has its limitations. It is not sufficient to identify gaps in the system and thereafter focus on implementing change. There are overarching objectives and aims that guide SSR and other work in the field of peacebuilding and international development. The elimination of poverty is one of the objectives that the majority of international development donors insist is included in SSR programmes and gender inequality is one of the priority areas that has been identified as being a driver behind poverty.

Gap Analysis

Gap analysis is not a philosophy on its own: each gap, or omission, identified within research findings needs to be addressed within the cultural context of the host country. Legality and priority are two of my mantra components and they are used as my tools when I identify gaps in the host country's social and political infrastructure. Once I have identified what needs to be done, I can set about drafting appropriate and feasible recommendations that will fit in with the host country's legal framework and meet the Project Management Board's expectations. Legality is the foundation for the research and the starting point is the project document's specific objective, or priority.

Plugging the Gap

A significant portion of international donor aid is linked to SSR and poverty alleviation. The style of the implementation of recommendations may be flexible. However, there is always a need for a degree of uniformity and coherence (and to avoid re-inventing the wheel, duplicating efforts, causing confusion or leaving gaps). With respect to ensuring uniformity and coherence of efforts with respect to poverty alleviation and gender inequality, the UN Security Council has adopted a series of resolutions on Women, Peace and Security¹, which are aimed, in part, at tackling gender inequality as a means of poverty alleviation. These resolutions, notably United Nations Security Council Resolution (UNSCR) 1889 (2009), together with the Millennium Development Goals (MDGs), urge the UN and Member States to implement monitoring systems to measure the improvements, or challenges, that when taken together should systematically improve gender equality (UNSCR 1325 *et. al.*); the education of young children (MDG 2); girls as well as boys in secondary education (MDG 3); and improve the maternal health of mothers (MDG 5).

Gender

October 2000 was the turning point for involving women in peacekeeping and peacebuilding. At that time, the women of Sierra Leone raised the alarm and demanded to be heard in the peacemaking process. They were the ones, they argued, who had been raped, lost parents, brothers and sons in the rebel war and were left to manage their families, homes and livelihoods in the absence of the men folk. UNSCR 1325 was the first of many recommendations that the Security Council made to embrace the three ‘P’s of participation in conflict prevention and peacebuilding, protection of the human rights of women and girls during conflict, and the prevention of sexual and gender-based violence (SGBV). Hundreds of thousands of women and girls (and men and boys) have been raped and suffered from conflict-related sexual violence, among the many other consequences of conflict. In the war in Bosnia, for instance, the UN reported that between 20,000 and 50,000 Bosnian women were raped. But it didn’t stop there, my own experience is primarily African based, and although we had started to protect the women (Mercy Ships and similar charities) we heard of 250,000 – 5000,000 rapes during the Rwandan genocide and hundreds of thousands more in the Democratic Republic of the Congo.

Learning from Experience

One thing is certain: a thorough review of the capacity of existing in-country staff should be undertaken before the decision is made to bring in international experts. Not so long ago I was in Liberia and driving past what I initially thought was a crowd waiting for a football

¹ Security Council Resolution 1325 (2000), Security Council Resolution 1820 (2008), Security Council Resolution 1888 (2009), Security Council Resolution 1889 (2009), Security Council Resolution 1960 (2010), Security Council Resolution 2106 (2013) and Security Council Resolution 2122 (2013).

match to start, when I realised that in the middle of a cordoned area was a body. The local police had already been called, but without any further ado, the villagers had literally drawn a line in the sand and were all standing on the other side of the line, clearly not wishing to contaminate the scene. In this instance, what can outsiders teach village people about preserving evidence when they do it so naturally?

I was Strategic Planning Advisor and working in Sierra Leone when I faced my first major hurdle over the implementation of any of my recommendations. The law was out of date and no longer applicable to the new Constitution, and, most importantly, there was no one in country who could draft legislation. The second area of concern was not about any additional changes in legislation, but that a key aspect of the project (links between prosecution and court management) could not be implemented because it had been omitted from the overarching project. Fortunately, as a lawyer I was able to draft the new legislation, and as a keen networker I found another donor whose own project objectives included the changes within the court process and as such their budget covered the cost of its implementation. It is for this reason that Legality, Priority and Budget became my mantra. Regular attendance at NGO meetings and other co-ordination and reporting meetings as well as collaboration with partner project managers, including the local Department for International Development (DfID) office, was needed to address gaps in projects, and, fund the improvement.

Legislation, Priority and Budget

Legality, Priority and Budget became my ABC for problem identification and drafting achievable recommendations. The first consideration was whether the recommendation was legal within the national law; if not the second consideration was to find out if any member of the national staff was able to draft the legislation to facilitate its implementation. The third, and possibly the most important, is who pays! With respect to this latter point, it is important to remember that if a proposed recommendation or its objective is not contained within the aims of the project document, the project budget cannot be used for its implementation.

Legislation

Each country has a variety of rules that bind any recommendations made by the members of staff employed within the terms of reference of the project. Experienced consultants are aware that any recommendation must be SMART:

- SPECIFIC;
- MEASURABLE;
- ACHIEVABLE;
- REALISTIC; and
- TIME-BOUND.

SMART recommendations are regularly drafted but care needs to be taken to ensure that they can be implemented. This is where my mantra of Legality, Priority and Budget presents itself

in all of its glory. First, check out the legality of the project, by examining any of the following specific documents:

- Statutory foundation (Constitution, in-country legal foundation and precedent);
- Employment Contract;
- Terms of Reference of Project between host government and donor;
- Drafting reports, research, recommendations and monitoring/review of implementation process.

International agreements recognise that any proposed development must be for the benefit of the nation and appropriate for the culture and context of the specific country. From my perspective there needs to be a seamless integration into mainstream policing and if the existing legal system does not have space for the potential recommendation, then someone is needed to draft the legislation to permit the change. In my experience, I have not only needed to find a solution and tailor it to the culture and context of the country, I have even needed to draft the legislation to make it happen.

Priority

My working mantra of Legality, Priority and Budget focusing on gender and police reform will only be successful if what I deem to be required resonates with the objective of the overarching project document. Gap analysis, transferable skills, knowledge, a solid background, and experience of operational policing are all very well but unless an objective is contained within the overall reform programme, the best well written policy cannot implement a proposed reform activity.

Budget

The final element of my mantra is budget. Thus, it follows that if the law doesn't permit the implementation of a well-researched, thought-through recommendation, and there is no-one available to draft the legislation (or, for whatever reason, it isn't adopted), the proposed recommendation will not find fruition. On the other hand, if the recommendation is covered by local law, aligned to the broader reform programme, and there is no specific objective or superseding priority, project money can be used for its implementation. Development programmes often bring in experts on short-term contracts who, with the benefit of a summary of the problem, will go away to find out all about it and speak to members of the government of the host country. On the surface it then appears as if it is all systems go. However, if the potential outcome does not fall within the objectives of project then the project budget cannot be used for its implementation. Project creep can only occur when there is a flexible budget.

Conclusion

The end is near, the project moves from ‘plugging the gap’ into bridging the gap which is why the three words of ‘legislation, priority and budget’ are so important when it comes to assessing the suitability of actions for reform of the local police.

6

Inter-Agency Co-operation in Security Sector Reform and Development

Dr Anthony Cleland Welch OBE

Abstract: The successful implementation of Security Sector Reform (SSR) is often undermined by confusion and competition within and between the intergovernmental organisations undertaking the reform processes. A want of true local ownership and the lack of a meaningful monitoring and evaluation methodology further hamper the outcomes of reform. The Chapter identifies areas of competition and confusion, which dilute the efforts of intergovernmental organisations to create democratic and effective security sectors, allowing sustainable development. It suggests ways that this situation might be improved and how SSR and development related tasks could be better planned and applied.

Introduction

It is generally accepted that the democratic reform of the security sector remains unfinished business in many parts of the world. This is despite wide international organisation engagement and the substantial donor funding that has been devoted to Security Sector Reform (SSR) and to the improvement of conditions for sustainable development. In some measure, the reason for this lack of success is the inherent difficulties of dealing with states in transition or affected by the aftermath of conflict. However, there are also inconsistencies in the approaches made by donor states and intergovernmental organisations (IGOs) when attempting to carry out SSR. This is predicated on a lack of consensus on what constitutes the security sector and how best to reform it. In addition there is competition within and between IGOs and inter-personal rivalry among their staff, which all serve to detract from the work of reforming the security sector.

This Chapter examines the evolution of SSR and the role of international agencies. It explores the barriers to successful SSR, and through it sustainable development, and identifies the major difficulties that occur within and between IGOs when dealing with SSR. It identifies the areas of competition and confusion diluting the efforts of IGOs striving to

create democratic and effective security sectors. It then suggests ways in which this situation might be improved and how SSR related tasks could be better planned and applied.

The Evolution of Security Sector Reform

The concept of Security Sector Reform (SSR) was first publically articulated in 1998 during speeches by the Secretary of State in the United Kingdom's (UK) Department for International Development (DfID). The need for comprehensive reform of the sector had been earlier identified by Ball, Hendrickson and Woodward (Ball, 1998) but it was Claire Short and the policy statements of her Department that made SSR prominent as a concept (Short, 1998, 1999 and 2002). However, there is little agreement on what defines SSR. Edmunds asserts that there are difficulties in translating SSR theory into practice and that there is, '...no clear or agreed set of definitions for SSR. Present usage tends to be dictated by the concerns of particular academic or policy communities' (Edmunds, 2002: 1).

The term 'Security Sector Reform' is also contested: some prefer 'system' to 'sector' to stress the inclusion of local actors other than state security actors. There is recognition that solutions to complex security sector problems must involve promoting the rule of law and good governance; protecting individuals; addressing social and economic needs; upholding human rights and dealing with a broad range of collective security actors and threats.

Other variations have been coined such as 'transition' and 'transformation'. The United Nations Development Programme (UNDP) Bureau for Crisis Prevention and Recovery (BCPR) use 'justice and security sector reform' as their definition, thus further complicating the debate. The Organisation for Economic Co-operation and Development - Development Assistance Committee (OECD-DAC) believes that SSR covers more than just the traditional areas of the military, police and justice and can deal with such entities as government departments, private companies, non-governmental organisations (NGOs) and paramilitary forces. To emphasise this wider engagement, OECD-DAC use the term 'security system reform' and cite the overarching objectives for international actors engaged in supporting post-conflict or developing states as:

- Establishment of effective governance, oversight and accountability in the security system;
- Improved delivery of security and justice services;
- Development of local leadership and ownership of the reform process;
- Sustainability of justice and security service delivery (OECD-DAC, 2007b: 21).

The concept of security and the reform of the security sector, therefore, can be viewed in many ways; it may be confined to issues pertaining to the defence of the state from external threats or it can be broadened to envelop wider development agendas, including economic issues, health and human rights. Nevertheless, although the definition of SSR may evolve it must always remain in contact with its values of pluralistic democracy, democratic control, transparency and accountability. However, the diversity of these views have caused problems

for academics and practitioners alike, who continue to look for effective definitions for both the security sector and security sector reform (Edmunds, 2007).

A major issue in agreeing a universal definition of SSR is what security, in a post-conflict environment, actually means. It is clear that security represents different things to different people; it varies depending on whether it is interpreted by the armed forces, aid workers, politicians or local populations (Donini, Minear, Smillie, van Baarda and Welch, 2005). The premise of 'negative peace' versus 'positive peace' and of security in military terms, as opposed to security in human terms is also significant:

The absence of fighting (negative peace) can be seen as an end state sought for some, while others would have a much broader approach to security, encompassing political, as well as economic and social, aspects (positive peace) (Tardy and Mani, 2005: 3).

In addition, it is often the case that security institutions are less guarantors of security than agents of insecurity. Finer (1962) believes that armed forces and militia can have an overwhelming political advantage over civilian organisations in terms of organisation, symbolic status and the force of arms. In order to address this imbalance, in the application of SSR, emphasis has been placed on the need to achieve democratic civilian oversight of the armed organisations and the reform of civil-military relations. At its most rudimentary level, therefore, SSR is obliged to seek to improve the professional capacity of the security sector whilst ensuring that security actors are free from corruption, are democratically accountable and that human rights are respected (von Tangen Page and Hamill, 2006).

As SSR has evolved, so the scope of the concept has increased. However, this evolution has not been uniform within and between International Organisations (IOs) and IGOs. Each has tended to adopt SSR strategies to suit their particular areas of interest. The Organisation for Security and Co-operation in Europe (OSCE) has advanced a concept that addresses economic, environmental and humanitarian dimensions, as well as military reform issues. The North Atlantic Treaty Organisation (NATO) has developed an approach that is more concerned with the governmental/military interface, whilst the UN has sought to deal with a wider range of security threats, which embrace policing and the rule of law.

Individual states have also been active in development and peacebuilding and have tailored their SSR agendas to suit their requirements. For instance, France has adopted a comprehensive approach to SSR, which sees the reform process taking account of all security actors including private security companies, judicial institutions and the mechanisms of democratic oversight by relevant government ministries (Ministère des Affaires Étrangères et Européennes, 2008). The United States of America (US) is less advanced in its development of a SSR concept than many of its European allies. The main advocate for security reform is the Department of Defense (DoD) but the United States Agency for International Development (USAID) and the State Department also have input into the process (Ball, 2005: 18). The main driver for the US concept of SSR is the International Military Education and Training Programme that have the purpose of schooling US allies and other nations in the management of defence resources, improvement of military justice and the fostering of an

understanding of the principles of civilian control of the military (US Defense Security Cooperation Agency, 2008).¹

Despite these inconsistencies in definition and application, it is suggested that it is not enough to merely reform the armed forces, police and justice sector when trying to improve security sector governance. If SSR is to be a requirement for the creation of sustainable peace and development, with the interaction between the security sector and political and economic reform and regeneration, then it cannot be confined to matters of civilian control of the armed forces and the reform of security sector institutions. Much more must be done to introduce security, human rights, gender issues and good governance to a post-conflict situation. However, this enlargement of the scope of SSR brings with it difficulties of scale. A decision has to be made as to just how far the SSR process should involve itself in areas that do not deal with the relationship of a civilian government to its agencies of enforcement. With the development of thinking on the practice of SSR it is being accepted that a narrow definition risks underestimating the importance of civil society groups and institutions as core SSR actors and stakeholders and of the role of private security (or non-state) entities. With these imperatives in mind, the following table, adapted from the OECD-DAC appreciation of security actors, demonstrates the possible range of actors associated with SSR.

Core security actors	Armed forces; police; gendarmeries; paramilitary forces; presidential guards, intelligence and security services (both military and civilian); coast guards; border guards; customs authorities; reserve or local security units (civil defence forces, national guards, militias).
Security management and oversight bodies	The Executive; national security advisory bodies; legislature and legislative select committees; ministries of defence, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning units); and civil society organisations (civil review boards and public complaints commissions).
Justice and law enforcement institutions	Judiciary; justice ministries; prisons; criminal investigation and prosecution services; human rights commissions and ombudsmen; customary and traditional justice systems.

¹ The US Defense Institution Reform Initiative (DIRI) are currently assisting the Government of the Republic of Kosova with a Strategic Security Sector Review SSSR), which began in 2012. DIRI have confined their assistance to purely military matters.

Non-statutory security forces	Liberation armies; guerrilla armies; private body-guard units; private security companies; political party militias.
Other Departments identified by the population as relevant to security	Ministries of Health, Education, Social Welfare, Trade and Industry, Minority Affairs. Civil Service. Municipal Authorities. Non-Government Organisations.

Figure 1: Possible Security Sector Actors (adapted from OECD-DAC, 2007b)

However, identifying security sectors actors within a state is not enough. Germann (2002) believes that SSR is rarely generated by the state itself as such fundamental reform can often be viewed by the dominant group in the country as not being in its best interest. Thus, the issue of local ownership comes to the fore; SSR is far more likely to be effective if the donor and recipient state governments have compatible objectives. It has therefore been mooted that a broader focus on the security views of the populous on the nature of sustainable peace and its building blocks is required (Annan, 2005). Indeed, the scope of activities that may occur during a SSR programme can, in themselves, entice those involved to ever widen their engagement, leading to what might be termed ‘generational evolution’. Edmunds (2002) believes that there have been two generations of evolving SSR methodology, which have moved the process from the reform of traditional civil-military institutions to dealing with wider issues of democratic oversight and transparency. Borchert (2003) goes further, suggesting that there is a third generation of SSR, which provides for capacity building and improvement of co-operation among security sector actors.

There has been a tendency, however, for international bodies to approach SSR in a compartmentalised manner, with different aims and objectives, and without necessarily linking the processes together in an overarching strategy. As thinking on the composition and methodology of SSR evolved, there was recognition that effective and enduring reform was possible only if the process embraced a more eclectic definition. There was, nevertheless, a danger that too broad a definition could cause a loss of focus and make the process unmanageable. Notwithstanding such difficulties, account had to be taken of parallel developmental reform efforts in areas such as electoral systems, justice and rule of law. The third generation SSR takes this wider approach and moves towards the concepts of democratic governance, building capacity and international / national co-operation (Borchert, 2003).

Nevertheless, Schnabel and Farr (2012: 12) suggest that, ‘SSR and development interventions in transitional societies are based not only on vague links and complementarities, but essential – and quite possibly existential – joint objectives’. Therefore, Security Sector Reform should be planned and executed in concert with developmental activities. However, Schnabel and Farr assert that such collaboration has yet to be fully achieved in the field (2012: 13). Edmunds (2007) nevertheless considers that SSR is a process through which security sector actors adapt to the political and organisational demands of transformation. At

the most simplistic level SSR can be viewed as a value-free technical activity used to organise security organisations after political and social change. However, the act of SSR is not value-free as it has consequences related to choices made based on considerations of value and to decisions founded on the interests of the actors involved in the reform programme at both international and local levels. Therefore SSR is a normative-driven process of change that concerns how the security sector, within a framework of civilian control, contributes to the security and development of the community.

Such linear theory of generational evolution is a tidy but inaccurate way of explaining the progression of SSR. In reality, the migration from one level to the next has been spasmodic and experimental. First and third generation SSR may exist alongside each other, undertaken by different IGOs. The decision to widen the scope of a SSR programme is frequently undertaken by practitioners in the field rather than by policy makers or theorists. This indicates that it is often pragmatism based on local conditions, rather than overarching strategy, that has widened the scope of the SSR process.

Although acknowledging the need to take account of local conditions, Edmunds (2002) observes that connecting with local actors and creating local oversight structures are difficult to achieve in the context of international intervention. Notwithstanding the difficulties of engaging in a 'local' approach, once SSR practitioners move away from their own perceptions of security to the realities, as perceived by the local population, they find that what is viewed as state, community and personal safety is closely linked to concepts of human security. This forms the basis for what might be termed 4th generation SSR, which is strongly related to the concepts of capacity development.

Capacity Development

Capacity development issues have concerned development agencies for decades. As early as the 1950s, donors and academics undertook considerable work on public sector institution building, with a substantial emphasis on human resource development. This was heavily influenced by the notion of knowledge transfer from the North to the South. Capacity development emerged as an instrument for filling perceived institutional and skills gaps in recipient countries. However, in many post conflict and transitional states this assistance brought little tangible return.

Capacity development has been one of the least responsive targets of donor assistance, lagging behind progress in infrastructure development or improving health and child mortality. For example the 2004 Global Monitoring Report (IBRD/World Bank, 2004), which reviewed advancement towards the achievement of the Millennium Development Goals (MDG), noted that the improvements in public sector management and institutions, key indicators of public sector capacity, had lagged behind all other MDGs benchmarks. Over the last decade, the international development community has come to realise that it is impossible to induce and sustain transformation and change without a shift in the 'business as usual' approach to development assistance.

This shift is depicted in Figure 2 below and is based on the recognition that conventional technical co-operation often disregards, and even harms, the growth, retention and effective use of national capacity. The consequence of the dependency on aid and reliance on external expertise and decision-making processes to move forward national development agendas should be replaced by a more locally based ‘learning by doing’ methodology.

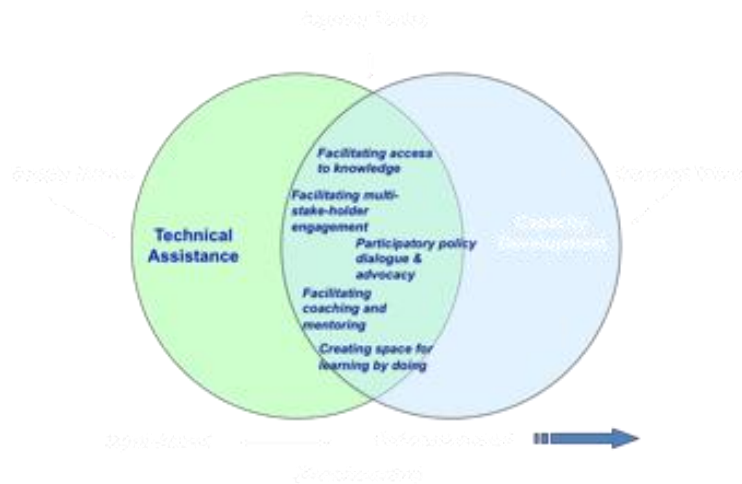


Figure 2: Capacity Development Methodology (UNDP, 2008: 23)

In 2001 the UNDP spearheaded an innovative applied research initiative. The objective of this initiative was to review the experience in capacity development since the 1950s, to share information on what worked for, and what detracted from, the growth, retention and effective use of national capacity. The overall conclusion was that, despite of the fact that a great deal was being spent in support of capacity development, it remained an elusive goal. Developing countries still depended on donor aid to improve the performance of the public sector and to promote human development and security. Since 2001, there have been a plethora of publications and workshops expanding upon this theme (Lopes and Theisohn, 2001; Browne, 2002; Fukuda, Lopes and Malik, 2002; UNDP, 2008; UNDG, 2008).

This work has determined that a more holistic approach to capacity development, particularly in the security sector, is needed. The approach should embrace three distinct levels:

- a. The individual level, which includes individual personal experience, knowledge, technical skills and competencies;
- b. The organisational level, which includes systems and procedures, rules of the workplace and the organisational arrangements – this provides the structure and framework for individuals to connect and achieve goals beyond individual capacities;
- c. The enabling environment level which provides the policy, legal and regulatory framework, power relations and social norms and incentives which enable organisations and individuals to function.

Additionally, it has been found that the factors favouring or blocking capacity development are often systemic, meaning that attention needs to be focused on the relationship between the enabling environment, the organisational and individual levels. Experience suggests that

attempts to address capacity issues at any one of the three levels, without taking into account the others, are likely to result in developments that are inefficient and, ultimately, unsustainable.

Thus, it is necessary to consider organisations as ‘open systems’. Organisations are embedded in a context, hence the context has to be explored, as well as the stakeholders who can induce or impede change. Thus, capacity development can be understood as a process of unleashing, strengthening and maintaining capacity and goes well beyond just training approaches. The stock of human capital and the supply of general and technical skills are important; however a country’s ability to use its personnel to good effect depends on the incentives generated by the organisations and the overall environment. Effective capacity development transcends a singular focus on individual skills and goes beyond training to address questions of empowerment, leadership, public participation and institutional change. Indeed, the OECD DAC suggests that:

...if local ownership of security system reform processes is to be taken seriously, international support should help increase the capacity of partner country policy makers and civil society to analyse, understand and debate their own security problems (OECD DAC, 2005: 37).

To achieve this level of security sector capacity development there needs to be a holistic approach to SSR. However, the success of holistic SSR depends upon an integrated approach to multi-faceted problems. In its turn, the success of this methodology depends to a greater degree on the ability of IGOs to co-operate with one another and with the recipient state.

Security Sector Reform Agency Co-operation

The most critical component for the involvement of international organisations in SSR is the ability to successfully co-ordinate and co-operate. Intergovernmental organisations have traditionally been seen as instruments through which states pursued national interests in the regional or international arena, ‘States saw IGOs as providing an environment of enhanced predictability for consultations with other states and as a ready meeting place’ (Law, 2007: 11). Increasingly, however, IGOs have evolved to become crucial elements in the spread of ideas and the promotion of policies that would possibly fail without their engagement and sponsorship. Therefore IGOs have had a key role in developing norms for SSR and in spreading an embryonic understanding of the relationship between the condition of the security sector, sustainable social development and economic viability. However, despite this advance in understanding, divergence still exists between and within many IGOs as to how best to progress and encourage SSR in post conflict situations.

Although there are three accepted ‘generations’ of Security Sector Reform (with a possible fourth generation now evolving), the development in thinking has not overcome the difficulties facing security sector actors when responding to the political and organisational demands of post conflict transformation. This failure is based on the lack of agreed definitions and strategies for SSR, coupled with a lack of academic and practitioner accord over how deeply and widely the security sector should be viewed. Arising from this debate is

the dilemma of what constitutes local ownership and how far the myriad concepts of human security should be included in the reform process.

Notwithstanding the recognised need for co-ordination and co-operation between the various actors in SSR, international engagement has shown a marked lack of synchronisation. One reason for this failure is the want of harmonisation among the international groups:

Many of the organisations that intervene [in post-conflict situations] often do so with a strategy and presence that is ignorant of what has gone before them, and unaware how their efforts might be consistent and supportive of the efforts of others, rather than independent or in competition with them (Chayes, 1998: 287).

However, organisations involved in SSR seldom have the time or resources for the research and contingency planning needed to ensure the absence of overlap and competition. Security Sector Reform interventions are more often than not launched without recourse to earlier missions or to initiatives taken by other international bodies. In addition, despite the growth in the clearinghouse concept for discrete areas of technical involvement, there is no single overarching body that can initiate or co-ordinate the diverse groups working in a post-conflict environment. Although attempts have been made to introduce such a co-ordinating body into intervention mechanisms the results have yet to make a significant impact. As an example, an attempt by the United Nations High Commission for Refugees (UNHCR) to co-ordinate the activities of the UN agencies, NATO and NGOs through a Coordination Centre established in Kosovo, directly after the end of the conflict in June 1999, was a failure. Each organisation preferred to make its own arrangements and direct its efforts as it chose. This led to some areas being oversubscribed with international assistance and advice, whilst others received no support or guidance whatsoever. It appeared that most IGOs and NGOs focused on their own perception of what was required and pursued that aim without any regard for the work being undertaken by others.

In many security reform missions the objectives to be achieved have tended to be set by whichever organisation or state was prepared to intervene. Consequently, the need for adherence to national interest goals and for political compromise has often led to indistinct and often incoherent aspirations and a lack of clarity in the objectives. These problems are compounded if the mission is hastily mounted with little or no forward planning. However, some actors are beginning to recognise the need for strategic operational planning in readiness for possible interventions. The military have traditionally made generic plans for a variety of situations but, until recently, forward planning has been lacking in the principal international organisations. This lack of forward planning often can stem from a deficiency in cohesion between the members of the organisation. Law (2007: 3-22) suggests that many IGOs have found that disagreements between and among their members have led to a lack of consensus on major decisions. Mobekk (2008, 113-168) notes that an absence of an integrated vision on SSR at the strategic level will undermine the work carried out in the field. Without a strategy agreed by the headquarters, the mission and the team undertaking SSR activities will have little chance of success.

Competition and overlap between organisations can also cause disruption in both the planning and execution of SSR programmes. Khandwalla (1981, 409-432) argues that ‘an organisation creates part of the competition it confronts’. Creating overlaps is an actor-driven process. As an example, the decision of the Euro-Atlantic security institutions to duplicate each other was as much a conscious choice as was the EU decision in 1999 to take a role in military crisis management, thus duplicating NATO’s decision-making bodies and capabilities. The EU created a number of committees similar to the corresponding NATO bodies: the Political and Security Committee (PSC) bears a resemblance to the NATO Council, the EU Military Committee (EUMC) to NATO’s Military Committee and the EU Military Staff (EUMS) to NATO’s International Military Staff. Where overlap exists, competition will often arise; organisations offering similar competencies will compete for their place on the international stage.

In recent years, the concept of core competencies has been widely debated and refer to skill sets and technologies that enable an organisation to provide particular benefit and hence to compete more effectively. Organisations will have necessary competencies and differentiating competencies; necessary competencies are those that create value, but differentiating competencies are those that give a particular competitive position. These differentiating competencies are what Itami (1987) refers to as the organisation’s competitive weapons, and Stalk (1982: 57-69) and Lawler (2001) consider as being the basis for competition. It can be argued that it is crucial for an organisation concerned about its future success to be pre-emptive in its development of competencies in order to maintain a competitive edge. Thus, a strategy for future competitiveness necessitates that organisation leaders focus on enhancing core competencies and avoiding co-operation and co-ordination of effort with other organisations possessing similar abilities. This runs contrary to the most effective method of achieving the objectives of peacebuilding and SSR operations.

Given that co-ordination and co-operation between the various actors is best practice in SSR then the public statements of the involved organisations have generally been helpful in this respect. For instance, Solana has stated that ‘...as far as NATO is concerned, we will in the coming years be literally working side by side in the security field’ (2004: 9) and de Hoop Scheffer (2007: 2) has agreed that: ‘...NATO and the EU have worked together very effectively, and I am optimistic about our ability to do so again...’ It should be acknowledged, however, that there could be a gap between public rhetoric and reality. Frequent references to difficulties at the institutional level of the EU and NATO suggest that problems exist at the strategic level and there appears to be a number of obstructions to co-operation many of which seem to be political in nature. For example, De Hoop Scheffer, at the Security and Defence Agenda Conference in Brussels held in November 2006, devoted part of his speech to the need to break the deadlock in the NATO-EU relationship. Nevertheless, some European nations who are members of both NATO and the EU seem concerned that a deeper relationship between the two organisations could provide the US with undue influence over European affairs, which might prove detrimental to ongoing European integration. Indeed De Hoop Scheffer, referring to this dilemma, suggests ‘...some [member states] deliberately want to keep NATO and the EU at a distance from one another’

(2006: 9). Despite attempts to harmonise both internal and external action, only in the realm of discreet technical functions has a degree of success been achieved. The multiplicity of tasks required for even a limited SSR programme makes it difficult for single IGOs to successfully engage. However, international organisations have both strengths and weaknesses in the SSR field; Figure 3 below gives a summary of each of the key organisations.

Organisation	Strengths	Weaknesses
European Union	A prominent international development donor with an emerging security capacity, which is developing its own SSR concepts. Has the Stability Pact as a platform for SSR work, along with the criteria for security reform for states desirous of accession status.	Lack of coherence between SSR activities of Council of EU (mainly ESDP) and Commission (mainly development); lack of resources for more widespread and challenging security contingencies. A perceived withdrawal from the aspirations of further EU enlargement, which has been a useful tool for setting SSR norms in aspirant countries.
North Atlantic Treaty Organisation	Only multilateral organisation capable of protecting actors delivering SSR in hostile environments; experience in successive generations of defence reform. It is currently developing its own SSR strategies.	Some member states are resistant to developing concept for SSR weakening transatlantic solidarity in sharing the security burden and the weakening appetite for, and capacity of, many member states for SSR activities.
United Nations	A relatively well developed organisation which possesses global authority, albeit sometimes questioned, for 3rd-party interventions, decisive for SSR in post-conflict environments. Is moving towards a more active SSR role.	Lack of coherence between the UNDP and UNDPKO who are its main SSR actors; lack of support for SSR among permanent UNSC members; questionable prospects for developing SSR concept acceptable to all members
Organisation for Security and Cooperation in Europe	First comprehensive approach to security sector, developed by both transitioning and developed democracies; comprehensive approach to security; almost one-third of world's states are members.	No consensus to update Code of Conduct norms to correct shortcomings and integrate innovations provided by SSR. Challenges from within its ranks to OSCE <i>acquis</i> and questioning of the organisation's relevance by some members has led to growing dissension within the organisation which may undermine its authority and ability to act.

Figure 3: Summary of IGO Strengths and Weaknesses in the SSR Field (Law, 2007: 13)

There is, however, another level on which discord can occur; IGOs are composed of member states and international bureaucracies, which can be further separated into intra-organisational groups. Inter-organisational co-operation and rivalry are the result of multifaceted intra-organisational processes, whereby one actor frequently gains internal dominance when defining the relationship with other organisations. This driving force can be a key member state or group of states, the vigour of the international bureaucracy or just an intra-organisational group or key official.

Decision-making in security institutions is generally based on consensus and therefore inter-governmentalism dominates. The result is that each member state, regardless of size, has the potential to shape an inter-organisational relationship according to its own parochial interests. This tendency has proved to be an enticement to misuse, especially among those member states only represented in one of the concerned organisations. Thus, actor-driven special interests can override co-operation.

Intergovernmental organisations tend to be ranked corresponding to relevance and authority and, as a consequence, resources are granted, tasks assigned and attention paid accordingly. However, as long as organisations do not overlap, it is difficult to shift resources, tasks and attention from one to another. During the Cold War, only NATO was available to the western powers for collective defence so the extent to which members were satisfied with the organisation was of little consequence as it was not possible to shift support to another institution. The only alternative was to leave all or part of the organisation, as France did in 1966 when leaving the integrated military structure.

However, when alternatives become available and overlap comes into play, institutional preferences gain relevance. There currently exists considerable overlap, especially in Europe, with numerous institutions attempting to coexist. Within the system there is increasing duplication of competencies, which allows for choice among organisations and, as a consequence, the strategies of the member states as to institutional preference. Because of this ability to choose inconsistencies can arise, particularly concerning resource allocation and task assignment. In effect, the availability of alternatives creates incentives for 'the strategic selection of favourable venues from among a plural menu of alternatives' (Yupille, 2008: 1). This strategic selection can affect both the intra- as well as the inter-organisational approach of member states. For instance, France has stressed the primacy of the UNSC, not least to protect its own great power status. The US, conversely, has sometimes seen its UNSC membership as a hindrance, as it has served to delay or block decision-making and interfere with the autonomy of action, which the US has become inclined to exercise.

Nevertheless, the desire to be free of constraint or to act in a manner that favours perceived national interest can product dilemmas. These contrary intra-organisational strategies are derived from the presence of choice. The freedom of choice between international institutions has, therefore, become an additional source of rivalry and, thereby, has reduced the opportunities for co-operation. However, although it can be seen that IGO structure provides the basis that can support rivalry it tends, in the main, to be actor-driven since member states are primarily interested in advancing their own authority and autonomy. It has been suggested

above that there are numerous pressures that can be brought to bear on organisations and institutions to promote and maintain authority and autonomy when faced with overlap and domain similarities. It is mooted that the rivalry and competition that arises in the various planes within the international system closely mimic the competition that occurs in nature. Thus, it is arguable that these tendencies to promote the self, in relation to others, will exist in individuals working within international organisations and institutions. It is also manifest that these tendencies will operate just as strongly at an interpersonal level as within a group setting. Indeed, personal relationships are largely founded, as with inter-organisational relations, on interaction and interpersonal communication (Anderson and Neistadt, 2003: 3)

Generally, a deficiency of trust and the resultant breakdown in communication are at the heart of deteriorating interpersonal relations. The lack of trust may be engendered by competition and the resulting emotional reaction to it. It can also be provoked by a clash of personalities that, in itself, may be the result of a lack of effective communication between individuals. Trust between group members may take months to build but can be rapidly displaced by the loss of group intercommunication or respect. Group members typically wish to feel that they are valued members of the team (emotional association and the achievement of personal goals and status). An individual who feels undervalued therefore becomes anxious and can become alienated from his co-workers; this in turn can lead to interpersonal rivalry and competition. When such conflict occurs, the way in which it is managed can determine whether the group will function effectively or if it will disintegrate. Six interpersonal conflict management styles have been identified by researchers and can be categorised as:

Styles	Action and Conclusion
Avoiding Actions	A retreat from the conflict but typically results in nothing being resolved.
Smoothing Actions	Focuses on accepting the situation as it stands and emphasising areas of agreement; this is likely to only provide a short-term solution.
Compromising Actions	Compromising is bargaining; if both sides agree a definitive solution can be achieved.
Forcing Actions	Forcing is an authoritarian style that results in the promotion of one viewpoint at the expense of all others and the lack of consensus will typically result in the prolonging of the dispute.
Collaborating Actions	Collaborating reflects a long-term strategy; once everyone comes to agreement, a long-term solution is possible.
Confronting Actions	The confronting mechanism seeks to define and addresses the core problem, looks for alternatives through dialogue and provides a solution.

Figure 4: Interpersonal Conflict Management Styles (Burnette and Forsyth, 2003)

Time is needed to properly apply conflict management actions. However, in international interventions time is not a readily available commodity. In determining the best approach to ensuring interpersonal harmony it is therefore necessary to consider the relative importance of the interpersonal conflict, time pressures, the location of the actors, and how the approach relates to strategic goals.

Notwithstanding these techniques for de-conflicting interpersonal conflict, the condition remains one of the most potent drivers within inter- and intra-organisational relationships, particularly in testing field conditions. Often line managers are removed by both space and time from those working in the field and are unable to easily and effectively intervene when relationships fail. However, even when the management structure is in place to handle these situations, it is often the impression that one person has regarding another that is the cause of alienation and no amount of interpersonal conflict management effort will overcome it. Ichheiser believes that:

False images often come from genuine illusions, errors of judgment, or social defamation, and are not always a rationalisation of pre-existing feelings. Interpersonal misunderstandings do not automatically correct themselves but may become chronic and reciprocal, the persons adjusting their behaviour in various ways to the false images (Ichheiser, 1943: 302-305).

Contemporary managerial emphasis on collaboration overlooks these obstacles. Organisational structures tend to encourage the build-up of negative perceptions. This occurs because their 'pyramidal values' stress the importance of institutional goals, based on rational concepts, rather than acknowledging the emotional aspects of interpersonal relationships within organisational structures. Organisations are interested in power and those further up the hierarchy will react to interpersonal conflict below them by tightening controls rather than dealing with the root causes of the problem. As a result, organisations tend to experience progressively deteriorating interpersonal relationships and, therefore, overall effectiveness (Argyris, 1965: 102-110; Banner, 1994: 250 -253; Daft, 2003: 412-416; Schein, 2004: 113). Thus, relations between and among governments and international organisations can be said to be based on human decision-makers, acting singly or in groups.

Institutionalism, Competition and Rivalry

Few mainstream international relations (IR) theories take note of the human element and, therefore, the essential medium for change, creativity, persuasion, accountability and rivalry is missing. However, neo-institutionalists argue that organisations create a set of formal rules whenever they see that these rules will serve their interests. They do so by increasing the options available to states and by altering the incentives to select appropriate courses of action. Institutional theorists see four ways by which institutional rule sets can make a difference. Firstly, by acting as a focal point to help states solve macro-level co-ordination problems (Duffield, 1994). Secondly, assisting in ensuring standards of state behaviour. Thirdly, by reducing uncertainty; if co-operation and adherence to rule sets have been accepted then states can gain a clearer understanding of other's interests and capabilities.

Finally, institutions provide opportunities for negotiation. Institutional procedures assist states in resolving disputes by reducing the cost of interaction and by reacting effectively when non-compliance occurs (Keohane, 1984: 86-88; Martin, 1992: 143-178; Tuschhoff, 1999: 140-161).

Proponents of institutionalism note the pursuit of organisational legitimacy and suggest that organisations look to the wider institutional environment for direction. In addition to the isomorphism, produced by this quest, organisations are subject to pressures exerted by other organisations and by the expectations of the society within which they operate. Thus, isomorphism and domain similarity are often the outcome of the need for both legitimacy and institutional survival. Functionaries tend to become infused with an identity associated with the role of their organisation and then define themselves in terms of this identity (Simon, 1995: 115, 136).

However, it has been questioned if the schools of institutionalism have presented anything innovative in the study of IGOs engaged in SSR. It has been noted that the unravelling of institutionalism is difficult ‘in multilevel and multi-centred institutional settings, characterised by interactions among multiple autonomous processes’ (March and Olsen, 2009: 8) as is the case in SSR programme delivery. Some academics (Fehr and Gächter, 1998) observe that actors within organisations sometimes deviate from what institutional rules prescribe and that interaction, experience and memory make a difference, as do the degree to which goals are shared, and how the needs of the organisation and the individual are satisfied.

Nonetheless, Miles and Snow (1978: 21-32) suggest that institutional effectiveness relies on the perception of the operating environment and decisions about coping with it. Taken in the round, the principle objective is to reduce uncertainty within the organisational operation. The ideal organisation will have systems that ensure efficiency and reduce uncertainty, while simultaneously allowing appropriate innovation. This appreciation is in accord with the work of IGOs in the field of SSR. However, it is concluded that although the theories of the neo-institutionalism may be useful for understanding the strategic level of the institutional environment, in which SSR operates, it is silent on the issues that dominate and shape the successful realisation of SSR in the field. It is argued that the theories of neo-institutionalism, in all its guises, is better suited for the more ordered world of business, corporations and organisational headquarters than for the highly volatile, acutely political and uniquely unpredictable world of grass-roots Security Sector Reform.

Thus, IGOs involved in SSR in the field can be handicapped by the internal struggles that they are prone to. However, they must all the while ensure that their policies and actions are acceptable to the recipient states in which they are working. This is not always easy to achieve.

Local Ownership

Although it is used extensively in conflict transformation and development literature the term ‘local ownership’ has not been precisely defined. The literature directly addressing its

conceptualisation or implementation is modest but it is clear that the term seldom indicates full control by local actors over the security reform process.

Commentators on SSR have acknowledged the significance of local actors, with peacebuilding and development activities being conceptualised as an engagement involving the entire recipient society and not as a top-down process. Strengthening and supporting local actors who have an active interest in building security should be seen as a 'key principle of civil conflict management' (Ropers, 2000: 29).

The same lack of definition occurs when theorists attempt to focus on local stakeholders. Here the term 'local security actors' may be used but there is rarely any consideration as to which group this term refers. Such discussion that has taken place typically focuses on the role of external actors within the host state, all the while suggesting that local actors need be involved in the process (perhaps in a 'supporting role?'). Thus, deciding who are the local actors is the pivotal question regarding local ownership. This dilemma highlights the difficulty of identifying local security reform partners; an aspect that is crucial for the planning of projects wishing to engender local input and involvement. Current SSR interventions seem to suggest that it would be more accurate to use the term 'local inclusion' rather than local ownership as this more accurately denotes local involvement that falls short of ownership.

Despite the lack of consensus over the term, the emphasis on the role of local actors has, since the mid-1990s, been a common component of the literature on the conflict transformation process. As conflicts take place within societies, it is within these societies that SSR must be rooted. Acknowledging the importance of nurturing civil society, theoretical literature encourages local actors to manage security transformation processes. Indeed, strengthening, fostering and supporting local actors with an active interest in building peace are seen as key principals of post conflict development management despite the ongoing confusion over who they actually are.

Field experience has shown that SSR activities are often unsustainable if they are interpreted and designed wholly by outsiders and just implemented locally. The population has a pivotal role in the formation of security reform processes, as they are the primary source of legitimacy, local ownership and sustainability, with such involvement being essential to the long-term effectiveness of democratic reform efforts and sustainable development.

However, the involvement of local actors in the SSR process has consequences for the conceptualisation of activities and interventions by third parties. While most international actors agree on the merits of local ownership, there are differing perceptions of the implications of participation by local actors and the resultant repercussions for third parties. Involvement by local actors in the SSR process may be desirable, but the reality of such participation carries with it difficulties both for the intervening parties and the local participants in terms of control and design. Bryden observes that a flaw in SSR practice lies in the fact that it is, 'externally induced, funded and driven, creating an inherent tension between local ownership and external assistance' (Bryden and Hanggi, 2006: 37). He believes that donors, multilateral organisations and NGOs involved in SSR activities have

displayed little appreciation of local culture and circumstance, resulting in unfulfilled prospects and disenchanting local actors.

Scheye, commenting on the international effort in Kosovo, believes that in dealing with internal security there was a lack of dialogue between the local population and the central security institutions, including the United Nations Mission (UNMIK), leading to an absence of effort to engage with civil society (Scheye, 2007: 199-229). Others note that the role and influence of civil society in the post-conflict reconstruction of security institutions has received little systematic analysis and that there is little engagement with the local population below the level of senior government officials. Abdela (2000: 5) shares this view suggesting that in Kosovo, ‘...the population and community leaders felt completely excluded from the process of trying to find new solutions’.

Thus, an environment is created where the local population sees the international community as imposing their norms with little regard to the wishes, aspirations and culture of civil society and its leaders. Notwithstanding the general acceptability of many of these standards, the international community can often be seen as constituting an intrusion into the way of life of the local population. Although this difficulty can be overcome by promoting local ownership, the reality is that often other imperatives get in the way. Grazhdani (2004), commenting on peacebuilding, development and SSR in Kosovo, suggests that the international community was so immersed in international issues that they had no time to build local ownership.

Even when efforts are made to secure local ownership, the choice of partners typically reflects the principles, values and interests of the interventionist. The selection of local associates entails a decision, most likely taken abroad, as to who might be of most benefit to the intervening body in terms of acceptance of their views and agendas. This can have the effect of creating local power shifts, as one group is favoured over another. However, if the local populace is engaged in the design of an SSR and development intervention then the security fears and aspirations of those at the grass roots can be used as a guide to what should be considered in a SSR project. Yet engaging the local population in dialogue appears to create difficulties for the international community. The NGO Christian Action Research and Education (CARE) notes that, during the period 2004-2006 in Kosovo, IGOs and NGOs were ‘biased towards working with people who were easier to reach and... easier to work with’ (CARE, 2006: 21). Often they selected participants from programmes run by other agencies doing similar work, in close proximity to each other. This served to create an educational, class and urban bias.

There is also the issue of norm resonance; local populations and their leaders are asked to comply with norms imposed by the international community. However, while much of the population may welcome these norms there remains a bias towards the wishes of the norm-setters, which can become an irritant to the local population. They become an obligation rather than something that is readily and easily accepted. Compliance works best in a climate of shared norms; however, in order to achieve this, persuasion and socialisation into particular behavioural patterns is required. Wiener (2004: 189-234) suggests that such forced

acceptance of norm-construction is likely to impede norm resonance. Cortell and Davis (1996) believe that only the localisation of international norms will ensure their success, whilst Schweltnus (2005) posits that norm setting processes instigated by domestic actors rather than IGOs are the most effective. Thus, the imposition of norms, despite the expectation of being accepted by the norm-followers because of the perceived benefits, can lead to rejection and the undermining of the overall reform process.

Despite all these shortcomings, it can be said that at the core of SSR philosophy lays the ideal of a security reform objective, which has been achieved in co-operation with the recipient state and its population. If achieved, this endeavour will be beneficial for the host country and for the wider international community. Thus, an ‘...end-state, free of conflict and rooted in democratic principal [that] can attract foreign investment and contribute to regional stability’ can be achieved (Ferguson, 2004: 2-13).

Creating Success

It has been noted that the foundations for SSR are not yet firm: there continues to be wide debate as to exactly what constitutes the security sector and how it is to be reformed. There is a plethora of interpretations of these definitions and IOs and IGOs continue to reflect upon them. The OECD has followed up its seminal examination of security reform with further work (OECD-DAC, 2007a) expanding and explaining its view of SSR and how it should be applied in the field. The larger IGOs also continue to hone on their understanding of SSR. In 2008, the UN brought SSR practitioners from across the UN agencies to a SSR Workshop in Brindisi intended to familiarise them with the UN’s emerging view on the application of SSR. It is also recruited SSR practitioners to act as a pool of expert consultants to be called upon when required. Meanwhile, NATO continues to develop its own SSR methodology. The academic community is also considering how SSR should be refined. Three major works were published, in concert with the UN’s 2008 initiatives, exploring the theory and practice of SSR (Hanggi and Scherrer, 2008; Spence and Fluri, 2008; Law and Myshlovska, 2008) and numerous conference papers have since been presented and published on the subject. Even so, it is disconcerting to find that the major IGOs seem incapable of pooling their knowledge or of reaching a shared understanding of the difficulties facing SSR application in the field. It is also conspicuous that none of the organisations appear to have requested any of the recipients of SSR programmes to state if they have achieved the objectives desired by the host state.

Thus, there is still a need for a pan-organisational agreement on the basics of SSR. The definitions of the security sector, the depth and breadth of the approach to its reform and how donors, organisations and practitioners co-operate in the forming of a concept for SSR and its application in the field should constitute the foundation for SSR practice. Debate on SSR should not be undertaken in isolated groups or solely within institutional structures. Rather they should be held in forums that can create both a spirit of co-operation and an actuality of co-ordination across all the major organisations dealing in post-conflict activities. It really does not matter what theorists and bureaucrats believe makes up SSR, what matters it whether they deliver security to the individuals on the ground. In essence, the referent of

security reform is the individual but unless organisations and practitioners have mutually agreed aims and objectives then that security cannot be satisfactorily delivered. Etherington believes that there is:

...a need to raise the game; integrated pre-planning is very necessary with a blurring of the boundaries between civilian, military and local authorities. Regrettably, institutional protectionism is very present in the existing system (Etherington, 2008:13).

General Sir Michael Jackson uses the analogy of a length of rope to describe peace support operations in post-conflict situations; SSR is only one strand that makes up his rope, others are economic and social progress, political stability and humanitarian assistance. Singularly the strands cannot resist the strains inherent in the post-conflict environment but together, he suggests, ‘the strands become stronger than the sum of their parts’ (2007: 212). This illustration can be equally relevant to the application of SSR in that the means of applying Security Sector Reform practices must be interrelated and co-ordinated in order to achieve the overall SSR objective:

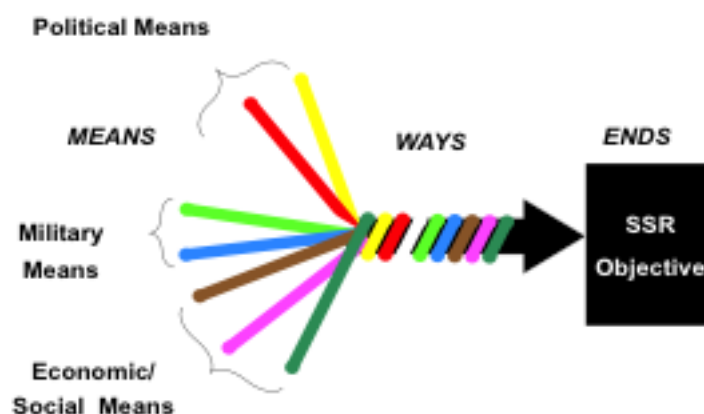


Figure 5: Interrelated Strands of Security Sector Reform

However, the illustration emphasises the need to be clear as to what constitutes the security sector and how holistic the reform process must be. It has become fashionable to talk about ‘holistic SSR’ but there remains little understanding of what this means in practice. It is often left to the practitioner on the ground to determine how wide the interpretation of the meaning of the word ‘holistic’ should be. Thus, the donor community, the initiating organisation and the local community have little idea, before a SSR programme starts, what the project is trying to achieve.

A methodology that assists the monitoring and evaluating (M&E) of project progress is required to ensure that the SSR process has coherent and achievable aims and remains true to its objectives. It also needs to act as a means of assisting policymakers and practitioners marshal resources and expertise to best effect. Within the development community, M&E

systems relevant to SSR have been identified by Fitz-Gerald and Jackson (2008: 1-20). The methodology includes a 'balanced scorecard' approach that is seen as a practical tool for SSR measurement. The assessment of this method is that 'it is a balanced system of indices for effectiveness and has been widely accepted in the management of small, medium and large organisations from [both] the private and public sector' (Shalamanov and Nikolova, 2005: 32).

What is significant, however, is that evolving models focus on the principles and concepts driving the frameworks used when developing measurement systems. This is opposed to focusing on the minutiae of measurement as earlier SSR M&E models tended to do. The new approach is designed to overcome concerns regarding the choice of appropriate indicators and the tendency to confuse indicators with objectives. Notably, recent models take the military's Civil-Military Co-operation (CIMIC) approach as the basis of their measurement criteria. Founded on indicators developed by the military, measurement criteria are developed for identified functional areas (for example, political, rule of law, human rights and good governance). Civilian and military SSR actors can then work towards goals and outputs based on both a comparable perspective and appropriate analytical inputs. UNDP has developed an M&E system for its Support to Security Sector Development (3SD) programme, which uses indicators in support of impact assessments similar to the CIMIC approach (UNDP, 2008).

OECD is also developing its response to the lack of an agreed M&E procedure for SSR. OECD-DAC has requested Saferworld, working in co-operation with DAC member states, to undertake a programme to develop a framework for monitoring and evaluating SSR programmes against agreed OECD-DAC policy and guidelines. The briefing document for this research notes that:

...practice and thinking in this area is at best divergent, at worst significantly lacking [and that] while the task of monitoring and evaluating SSR interventions may not be significantly different from that in related fields, the lessons and methods of humanitarian aid, conflict prevention and development do not appear to have been consciously analysed and taken up (Saferworld, 2007: 1).

Thus, the lack of appropriate strategic planning and programme design, the lack of involvement of local actors in the design and implementation of the programme, and the unreliability of the evaluation of SSR programmes remain problems to overcome. Therefore, whilst accepting that the concept of SSR has been closely analysed at the theoretical level, it is posited that putting theory into practice and then proving its worth continues to be challenging.

A Way Forward

Every SSR scenario is unique; what performs well in one setting may not work in another. It could be argued, therefore, that strategic planning is wasteful and each SSR intervention should be designed *in situ* and be prepared to adapt as required. This approach, however, would be a naïve and wasteful way to undertake SSR programmes, even though there are illustrations that, to a greater or lesser degree, this is how it has been done in the past.

Nevertheless, in recent years there have been attempts to regularise the approach to security reform or, at least, quantify how activities in the field could be structured. Despite this, sadly in many instances, IGO and donor community attempts to set strategy and then apply it in the field have been largely unfocused.

There is an urgent need for the fundamentals of SSR intervention to be agreed across the international community. The lack of consistency in ordering SSR mandates, whether by the UN, NATO or on a bilateral basis, has led to an absence of clarity, efficiency and effectiveness on the ground. It is imperative that more positive and inclusive action be taken to reach a common understanding of SSR and its implementation. Moller (2008) suggests that there must be a move from the theoretical to the practical. Little research, he contends, is undertaken on what actually works in security reform. The differences in priorities at the local level and in the minds of international planners, he believes, are stark. Local imperatives have been ignored or judged to be inconsequential.

In addition, SSR programmes have often been designed and implemented in isolation from other international initiatives and the resultant domain similarity has led to rivalry and competition. There were also strains at the lower level of interpersonal engagement. However it must be acknowledged that, within any human interaction, this impediment to progress can seldom be eradicated. It is only by the careful selection of staff and by effective line management that the influence of negative interpersonal relationships can be combated.

When examining the relationship between the international community implementers of SSR and their local partners other strains can be observed. Recent SSR experience has shown that assurances of support from local leadership are not enough. Local actors must have an early and active role in the design of the SSR concept and mapping the methodology to be employed on the ground. Wherever possible recipient state civil servants and military officers should be part of both the scoping and implementation teams. If this expertise is deficient in the local community, capacity building by appointing suitable local candidates in 'shadow roles' to international experts should be undertaken as a firm objective of a SSR programme. It is essential, however, that these 'shadows' be returned to government posts, for an agreed period of time, as soon as the SSR programme is completed.

It has been noted that there is a lack of M&E procedures, which could adequately measure the impact of a programme. To date, the most useful performance frameworks supporting development and humanitarian interventions have either existed solely at practitioner level, or have been developed retrospectively as an assessment tool to measure programme effect. Measuring the performance of an SSR programme is central to the evaluation of its sustainability and, as such, requires a balanced approach in order to maintain sight of the wider strategic perspectives. More research is necessary to develop a credible M&E system that is flexible enough to cater for the complexities of holistic SSR programmes.

The above suggestions can, with effort, be achieved but intra- and inter-organisational rivalry and competition are more difficult obstacles to surmount. It is proposed, however, that there are ways of overcoming these problems that might have the supplementary advantage of adding robustness to the whole SSR process. It is advocated that the method of planning and

executing an SSR programme should be undertaken in two distinct but interlinked phases. The first phase should be scoping and planning where the suitability and acceptability of the programme is explored and the methodology for implementation designed. The second should be implementation, which takes the design and puts it into practice. It is suggested that a more systematic and considered approach, than heretofore undertaken, to the design and implementation of a SSR intervention is developed in order to reduce the negative impact of confusion, competition and rivalry on the execution of the programme. Figure 6 below illustrates the factors that impact on the development of a successful SSR programme:

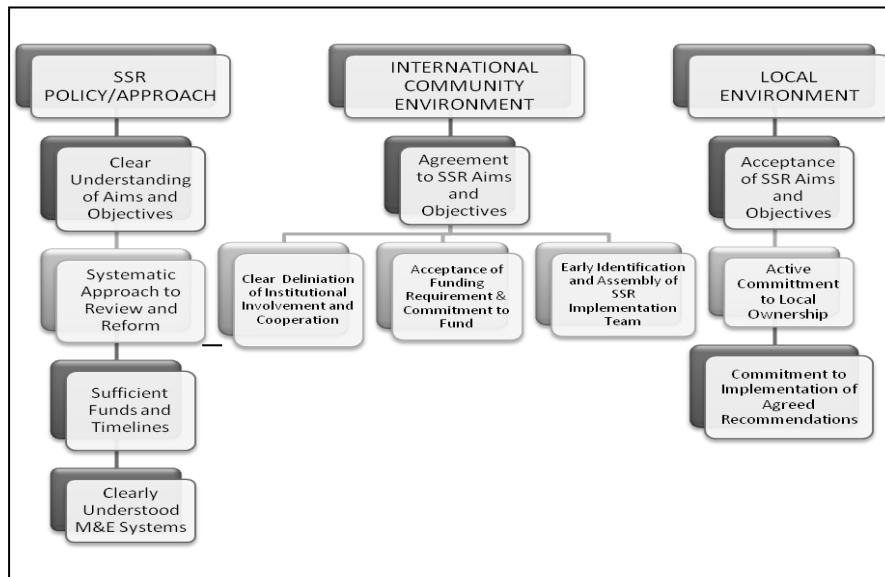


Figure 6: SSG/SSR Co-operation

It is mooted that a private body rather than an IGO or Government Department could undertake the scoping and detailed planning for a SSR mission. It is further suggested that this body comes from the academic community where expertise in the myriad of disciplines of a holistic SSR programme can be found. These skills already exist in a number of Universities and some principle NGOs and can, no doubt, be found or fostered in others. It is proposed, therefore, that a private body rather than an IGO or Government Department undertake the scoping and detailed planning for a SSR mission. In the absence of an agreed delineation of the security sector, the planning body should make recommendations to the both the international supporting body and the recipient state as to what functional areas should fall within the intended SSR programme.

It is at this point that funding can be attracted from the donor community, as it will be possible to judge the scope of the SSR programme and the merits of its aims and objectives. The planning phase should pay close attention to local requirements and ideally should incorporate local expertise into the planning structure. The Scoping and Planning Report should be co-signed by the President or Prime Minister of the recipient state indicating full endorsement and acceptance of the programme and its methodology. However, the overarching argument for removing the scoping and planning phase from the jurisdiction of

IGOs is that it greatly reduces the climate for inter- and intra-organisational rivalry and increases the breadth of expertise that can be brought to bear in the vital planning stages.

It is for consideration that SSR field programmes be initiated by an IGO (perhaps to be known as the Initiating Authority), which is able to attract and account for donor funding. The Initiating Authority should, in consultation with the recipient nation, co-opt local expertise as part of the mission management team. Having agreed the feasibility and methodology for the SSR programme the Initiating Authority should appoint an Implementing Team. The Implementing Team should not come from the Initiating Authority or an IGO but from a suitable third source. Martin and Sayigh believe that those best to undertake SSR activities are technical experts:

The systems and processes involved in [SSR] are very complex, and as such unsuitable for amateur involvement...The type of people who are needed for such large scale projects are not general practitioners, they are the consultants who work with similar sized organisations, both government and business...In some senses developing security institutions after conflict has much in common with private sector management consultancy... This is a highly technical activity, and the same level of technical expertise is required in security sector development (2008: 3).

The private sector is well aware of the financial costs of internal and external competition and rivalry and devotes funds for research into ways of reducing its effect (CEDR, 2009). In addition, the private sector (including academia) is less risk adverse than the public sector and IGOs. Ashdown (2007: 45-6) observes that IGOs, particularly the UN, avoid risk in peacemaking and peacekeeping. There is also a tendency for IGOs to interfere in the day-to-day running of field operations, which, in turn, leads to micro-management within the mission. It is suggested therefore that the private sector may have attributes lacking in IGOs that can be applied to the furtherance of successful SSR implementation.

Conclusion

Sergio Vieira de Mello, the UN High Commissioner for Human Rights in 2002-3, urged the end of 'dysfunctional definitions of security' (2003: 3). Vieira de Mello believed that inter- and intra-state stability were founded on the tenets of human security and that respect for human rights was essential to the promotion of the rule of law, the creation of a stable society and the regulation of state behaviour (Power, 2008). Security Sector Reform seeks to advance these goals but can only do so if all those involved in its implementation are working together and have clearly defined and measurable aims and objectives.

Although the international community shares a common desire to ensure democratic civilian oversight of an efficient security sector in post-conflict or transitional states, confusion, competition and rivalry between the actors, at all levels, has served to undermine such interventions. Security Sector Reform activities remain disordered and often contradictory. It is manifest that confusion, rivalry and competition are not confined just to the security field; they exist in all human activity and, perhaps, this explains why their impact have not been analysed in any depth. It might be considered that theorists and practitioners accept that the

confusion and competition nexus, being universal in human interactions, and should be regarded as unavoidable aggravations.

It is, however, proposed that ignoring the problem is counterproductive. By acknowledging that the confusion, rivalry and competition exist and by seeking measures to counteract their affect, the environment for applying SSR can be greatly improved. This Chapter has pointed to the presence of inter- and intra-organisational competition and inter-personal animosity, which has the effect of diluting efforts towards the attaining of SSR objectives. It has shown that international espousal of local ownership tends to be desultory in application, routinely being placed below the agendas of international organisations. Finally, it has acknowledged that implementing IGOs have yet to find a reliable way of measuring SSR programme outcomes and impact to the satisfaction of both the donor and local communities. It is mooted that greater involvement by the private sector in the planning and execution of SSR programmes would assist in countering these tendencies. As Ashdown (2008: n.p.) has commented, '[the] lesson is not to never to do it again, the lesson is to learn to do it better'.

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7

Security Sector Reform, Local Ownership and Community Engagement: Incorporating Community Safety Structures into Security Sector Reform Programmes¹

Dr Eleanor Gordon

Abstract: Local ownership is widely considered to be one of the core principles of successful Security Sector Reform (SSR) programmes. Nonetheless, there remains a gap between policy and practice. This Chapter examines reasons for this gap, including concerns regarding limited capacity and lack of expertise, time and cost constraints, the allure of quantifiable results and quick wins, and the need to ensure that other principles inherent to SSR are not disregarded. In analysing what is meant by local ownership, this Chapter will also argue that, in practice, the concept is narrowly interpreted both in terms of how SSR programmes are controlled and the extent to which those at the level of the community are actively engaged. This is despite policy guidance underscoring the importance of SSR programmes being inclusive and local ownership being meaningful. It will be argued that without ensuring meaningful and inclusive local ownership of SSR programmes, state security and justice sector institutions will not be accountable or responsive to the needs of the people and will, therefore, lack public trust and confidence. The relationship between the state and its people will be weak and people will feel divorced from the decisions that affect their

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security and their futures. All this will leave the state vulnerable to renewed outbreaks of conflict. This Chapter will propose that the requisite public confidence and trust in state security and justice sector institutions, and ultimately, the state itself, can be promoted by incorporating community safety structures into SSR programmes.

Introduction

It is widely agreed that local ownership is one of the fundamental principles of successful Security Sector Reform (SSR) programmes (Baker, 2010; Donais, 2008 and 2009; OECD, 2007; UN, 2008; Nathan, 2007; Oosterveld and Galand, 2012; Mobekk, 2010; Caparini, 2010; Sedra, 2010a). Nonetheless, there is a gap between policy and practice, which this Chapter will investigate in respect of SSR programmes in post-conflict environments. Reasons for the reluctance to promote local ownership will be analysed, particularly in light of general acceptance that lack of local ownership will result in institutions and processes that do not enjoy popular support and are, thus, likely to be unsustainable. Reasons that will be analysed include concerns regarding limited capacity and lack of expertise; time and cost constraints; the allure of quantifiable results and quick wins; and an awareness that other principles inherent to SSR may be jeopardised if local actors do not agree with them, such as the need for security institutions to be affordable, accountable, and representative of and responsive to the needs of the people. It will also be argued that the principle of local ownership is also not adhered due to lack of clarity concerning who the locals are and what ownership constitutes: clarity would help avoid disguising buy-in as ownership and viewing locals as a homogenous whole. As such, this Chapter will seek clarity on who is local and what is owned, concluding that the concept of local ownership is narrowly interpreted, both in terms of the extent to which SSR programmes are controlled and the extent to which those at the level of the community are actively engaged. This is despite policy guidance underscoring the importance of SSR programmes being inclusive and local ownership being meaningful.

The Chapter closes by emphasising the vital importance of ensuring that civil society and the wider public comprise the ‘local’ that should ‘own’ the process of SSR, by being actively engaged from inception through design and implementation. Without ensuring meaningful and inclusive local ownership of SSR programmes, the resultant limited public confidence and trust in state security and justice sector institutions will leave the state vulnerable to renewed outbreaks of conflict. It will be suggested that the requisite public confidence and trust in state security and justice sector institutions, and ultimately, the state itself, can be promoted through incorporating community safety structures into SSR programmes.

This Chapter draws from literature that addresses building security and justice in post-conflict environments, specifically with respect to local ownership and community engagement in SSR. In order to explore the disjuncture between policy and practice with respect to local ownership and SSR, the Chapter also draws from the author’s experience in building security

and justice in post-conflict environments, while working for the United Nations (UN) and other organisations.

Security Sector Reform and Local Ownership

It is generally agreed that security is a prerequisite of sustainable peace, development and human rights (UN, 2008; OECD, 2007 and 2009). The importance to sustainable peace, development and human rights of effective and accountable security sector institutions is widely recognised (for example, UN, 2008; OECD, 2007). In the absence of functioning security institutions, stability, the rule of law, security and human rights are threatened. This adversely impacts the prospects for peace and, of course, wider regional stability and international security. The results of failures to build such institutions have been shown in peace operations in Haiti, Liberia and Timor-Leste (UN, 2008). Consequently, the reform or (re)construction of security and justice sector institutions in post-conflict environments is an increasingly significant feature of peacebuilding and recovery efforts (UN, 2013 and 2008; Sedra, 2010b).

The principle of local ownership is widely considered to be the main prerequisite of successful SSR (Baker, 2010; Donais, 2008 and 2009; OECD, 2007; UN, 2008; Nathan, 2007; Oosterveld and Galand, 2012; Mobekk, 2010; Caparini, 2010; Sedra, 2010a). Local ownership is instrumental to SSR success not least because security sector institutions, processes and policy must respond to local needs. If the institutions, processes and policies that are developed through SSR programmes do not respond to local needs, it follows that efforts to improve security and the rule of law will be compromised. If local security needs are largely unmet, it can also be assumed that trust and confidence in the state and its security institutions will be limited (see, for example, Jaye, 2006, UN, 2013 and Gordon, Sharma, Forbes and Cave, 2011). If the new or reformed security structures are at odds with local customs, traditions and practices, it is highly unlikely that they will remain intact and functioning after the departure of the international community (Scheye and Peake, 2005; Nathan, 2007). The likely results are that institutions will be rejected (see Smith-Höhn, 2010 for example). This occurred in Timor-Leste where judicial reform was undertaken with little consideration of local views, which resulted in the reformed formal court system remaining under-utilised as courts formerly run by Indonesians were distrusted (Oosterveld and Galand, 2012; Stromseth, Wippman and Brooke, 2006). More recently, the National Security Strategy (NSS) developed in Kosovo in 2009-2010 was ‘quietly dropped from view by the Kosovo authorities and never implemented’ (Blease and Qehaja, 2013: 16) because, rather than providing advice and building the capacity of the national authorities to develop the NSS, the International Civilian Office (ICO) had undermined local ownership by drafting it. This left Kosovo ‘without a realistic or realisable security strategy for some four years’ (Blease and Qehaja, 2013: 16) and without a solid basis for further reform. More broadly, an approach that marginalises the engagement of local actors is likely to result in their ‘resentment, resistance and inertia’ (Nathan, 2007: 3). This would compromise the peacebuilding process, increasing local actor frustration and dependence (Narten, 2009), which can lead to increased spoiler activity and, as a consequence, further dependency. A vicious circle can ensue

whereby external actors become increasingly reluctant to promote local ownership – and, in the case of post-conflict Kosovo before its declaration of independence, for instance, reluctant to transfer competencies – due to increased dependency and destabilising spoiler activity or, rather, perceptions about capacity and legitimacy (Narten, 2009).

However, while local ownership is part of the ‘contemporary commonsense’ of SSR (Donais, 2009: 119), it is also widely observed that there is a significant gap between policy and practice (Donais, 2009; Mobekk, 2010; Nathan, 2007; Oosterveld and Galand, 2012; Scheye, 2008; Sedra, 2010b), with external actors frequently imposing ‘their models and programmes on local actors’ (Nathan, 2007: 7). It has also been argued that among reform principles it is overlooked more than any other (Scheye, 2008; Oosterveld and Galand, 2012). In order to examine why such a gap exists, it is necessary to analyse the perceived risks associated with local ownership and unpick the variously perceived meaning of the terms ‘local’ and ‘ownership’, or as Mobekk (2010) and Martin and Wilson ask ‘Which Locals? Ownership of What?’ (Martin and Wilson, 2008: 83).

Gap Between Policy and Practice

Reluctance to fully promote local ownership of SSR programmes can be because of perceived and actual limitations in terms of institutional and human capacity in post-conflict environments (see Sedra, 2010a; DCAF, 2009). Governments in post-conflict environments may lack the authority or credibility required to solicit public support for reform, if, for instance, they are widely perceived as having committed wartime atrocities (see Sedra, 2010a and 2010b). It is also widely perceived that the expertise required to develop, manage, implement and evaluate SSR programmes comes from the experience of having been engaged in SSR programmes before (which generally automatically excludes members of host nations), rather than that gained from experience in and knowledge of the country, including the conflict it has suffered (see Bendix and Stanley, 2008). This could perhaps be better understood if the success rate of SSR programmes was less questionable (see Nathan, 2007; Sedra, 2010b; Zyke, 2011; Jackson, 2011, for instance).

As Hänggi has highlighted, given most SSR programmes in post-conflict environments are developed and funded by donor states or multilateral organisations, which also provide the funding, expertise and clout to push through reforms, ‘the natural tendency is for external actors to promote their own reform models’ (Hänggi, 2009: 345), particularly models from their own countries (Nathan 2007). Accountability of donors and intergovernmental organisations to external governments rather than recipient countries (or host nations), and concern about their own security and strategic concerns rather than those of recipient countries (Heupel, 2012; Nathan, 2007; Donais, 2009; Patrick 2011; Oosterveld and Galand, 2012; Bendix and Stanley, 2008) also inhibit efforts to enhance local ownership.

There are also cost and time constraints, not least associated with donor funding cycles which demand outputs in short time-frames (Nathan, 2007; OECD, 2009; Oosterveld and Galand, 2012). Such constraints lend themselves to using existing models, rather than creating context-specific models as an outcome of widespread consultation (DCAF, 2009; Heupel,

2012). Programmes that are seen to respond to developments quickly and implement change rapidly are also often seen as more effective and efficient, and the value of quick wins ‘so that people can see and experience progress’ is significant (Stabilisation Unit, 2010: 11). Limiting broader local engagement might also be seen to avoid further problematising efforts to promote co-ordination and coherence among actors. The need for programmes to have a high degree of detail before securing funding also restricts the extent to which those programmes can be flexible and responsive to the local context (Nathan, 2007).

There is also a need to quickly establish security, without which SSR programmes cannot be implemented and the peace process may be undermined (Sedra, 2010a). Consequently, the focus can often be on ensuring the structures and processes are in place to assume responsibility for security and rule of law functions. This can often lead to an almost exclusive focus on technical assistance and training and equipping security institutions and so by-pass efforts to ensure comprehensive local engagement and ownership. As Jackson (2011) has argued, technocratic approaches to SSR may be understandable in places such as Afghanistan where immediate security concerns warranted swift action, but the risks for the longer term are heightened as a result. Such approaches can help build state institutions that lack legitimacy with the public and help protect and consolidate power for political elites, as has been seen in Timor-Leste (Jackson, 2011) and fore-warned about Arab-revolution countries (IISA, 2012), for instance.

Similarly, the value placed upon quantifiable outputs (such as the number of police officers recruited or judges trained), which tend to dominate monitoring and evaluation processes, feed into a process which marginalises the relevance of the views and experiences of individuals (see OECD, 2009; Sedra, 2010a, for example). Consequently, such processes rarely capture the extent to which security and justice may have improved, and further undermine the extent to which SSR programmes can be seen to be genuinely locally owned. It is therefore apparent, as outlined by OECD (2009), that donor agencies can make a number of strategic shifts in the way that programmes are developed, delivered, monitored and evaluated, if local ownership and, thus, SSR success and sustainability is to improve.

However, it is not just the international community that needs to see quantifiable results and swift action, of course. Local communities may also feel more reassured by the expeditious creation of embryonic security structures rather than lengthy and widespread consultation of their security concerns and needs. Indeed, there have often been complaints about the delays which accompany the implementation of planned reforms. UNMIK, for example, was widely criticised and lost a lot of legitimacy because of the perceived slow pace of progress (see Lemay-Hébert, 2009, for example). Local communities and governments may also judge progress based upon quantifiable outputs rather than less tangible – and, therefore, it is often assumed, less credible or, at least, less objective – indicators, even if their own experience of security may be at odds with statistical data.

Additionally, while it is often assumed that local ownership is a principle often disregarded by external actors due to their own perceptions about the ease with which it can be facilitated or the ramifications of pursuing it, it can also be local actors who advocate for increased

control by external or international actors (see Krogstad, 2013). This is particularly the case where there is limited trust and confidence in political leaders, for instance, or where people may fear the consequences of greater ownership, particularly where security conditions remain of concern. For instance, political leaders may want increased external control in order to relinquish responsibility for difficult decisions, have reforms pushed through that are unpopular with the electorate, or sustain donor support and to ‘keep domestic rivals weak’ as was the case in Sierra Leone (Krogstad, 2013: 10).

Conversely, local actors may also resist reform or lack the political will to engage in reform efforts. This is especially the case with SSR, which can significantly curtail the power of dominant and elite groups in society (see Heupel, 2012; Gordon, 2011; Berg, 2012). There is therefore a recognised risk that local actors can hijack or thwart SSR processes for their own agendas and undermine a fragile peace (Hänggi, 2009), which can limit the extent to which local ownership is promoted by external actors. Local actors may also disagree with some of the core principles of SSR, outside local ownership, such as the need for security structures to be affordable, publically accountable, responsive to the needs of the people, and representative of them. As Donais (2009) asks, what if local norms and cultures promote principles dissimilar to Western liberal ideas of security governance? For instance, what if women or other marginalised groups risk being further marginalised or victimised by a process led by those in male-dominated political and security structures? This can lend itself to limiting the level and type of local engagement.

As Bakr (2011) has highlighted with respect to SSR in countries in the Arab region, for instance, there are often cultural and political constraints, including prevailing gender stereotypes and discrimination, which contribute to viewing women as lacking the necessary attributes and skills to work in the security sector. Gender stereotypes and discrimination also contribute to the prevalence of gender-based violence which afflicts women and girls and which is rarely prioritised by security sector institutions. Lack of representation in the security sector and the prevalence of gender-based violence demand the active engagement of women and the mainstreaming of gender issues in reform processes (Bakr, 2011). This, however, may be unlikely if reform processes are led by those in male-dominated political and security structures.

There can also be limited acceptance that former enemy combatants can work together in the same security institutions, or that those who only have experience in guerrilla forces or non-state armed groups rather than in state security institutions are able to develop the skill-set required for integration in the state security structure. This can potentially threaten the peace process, as was the case in Nepal, for instance. Here there was lack of agreement on the integration of some of the former Maoist People’s Liberation Army (PLA) combatants into state security agencies, despite integration being an element of the Comprehensive Peace Accord. As a result, many former PLA combatants spent many years in cantonment camps (see ICG, 2011).

Similarly, there can be lack of acceptance of the need for oversight and civilian control of security institutions. For instance, generating agreement to the principle of democratic control

of the armed forces in Nepal was problematic, not least because of concerns about political interference, and lack of civilian experience and expertise in defence matters (see ICG, 2011; Saubhagya, 2009). Likewise, in Guinea-Bissau, senior military officers were opposed to SSR and democratic control of the armed forces, which undermined efforts to reform the security sector and build sustainable peace (IRIN, 2013; ICG, 2012).

The concept of developing affordable security institutions is also often problematic, particularly because it generally entails downsizing or right-sizing (ISSR, 2006; Hänggi, 2009). In Kosovo, for example, it was difficult for many Kosovo Albanians to accept that those who had fought to liberate Kosovo in the Kosovo Liberation Army (KLA) would not have a place in the future army of an independent Kosovo. For instance, oftentimes, at least in the beginning of the process to establish the subsequent Kosovo Protection Corps (KPC) and, later, the Kosovo Security Force (KSF), the symbolic importance of security structures outweighed issues of affordability and capability (see Qehaja, 2009; KIPRED, 2007; SSR, 2006). Compounding these sensitivities was the perceived need on the part of the international community to clearly divorce the KSF from the KPC and, particularly, its KLA heritage, not least to distance future security structures from associations with terrorism and to increase the likelihood of ethnic minority Kosovo Serbs applying to join the institution.

These examples suggest that operationalising full and immediate local ownership of SSR can undermine other SSR principles and the extent to which the security structure will ultimately be responsive to the needs of the state and its people. It is, as such, necessary to recognise that it can take time to build awareness of some of the fundamental principles inherent to SSR. Operationalising full and immediate local ownership of SSR can also potentially disrupt a fragile peace, particularly where seismic power shifts continue, such as post-conflict Kosovo when its future status remained unresolved or Nepal which experienced persistent political deadlock.

As argued by Narten (2009) and others (such as Donais, 2009), effective interventions and sustainable peace are not predicated upon immediate and full local ownership, but the risks of delaying full ownership by local actors need to be attended to. It is also necessary to acknowledge that the West does not have exclusive understanding of how peace can be built (see Cubitt, 2013; Liden, Mac Ginty and Richmond, 2009). Consequently, while issues concerning affordability, good governance, demographic representation, and the protection of the rights of minority and marginalised groups are critical to the development of a democratic security sector, issues of less strategic importance should not delay the transfer of decision-making authority to local actors. This is even if decisions reached on these and other matters are different to those that would have been reached by external actors: for results are irrelevant if they are not sustainable (Nathan, 2007; OECD, 2009).

In addition to remaining attentive to risks associated with minimal or delayed local ownership and flexible regarding the perceived skills required to drive the reform process, part of the answer lies in viewing SSR as a long-term process - one that is instrumental to its outcome and sustainability (see Nathan, 2007; Sedra, 2010a; Keane and Downes, 2012). Indeed, if SSR is to be effective it is argued that the way in which it is done (the process), including the

extent to which local actors across society drive the process, should be considered as important as the institutions that are constructed or reformed (Nathan, 2007; Panarelli, 2010). The process is one that involves partnership, dialogue and mutual respect between external and internal actors (see Sedra, 2010a; Nathan, 2007; Brahim, 2007; UN, 2012, for instance). This should entail enhancing mutual capacity and will. It should also involve mentoring and providing advice in order that the political and organisational change challenges are addressed (OECD, 2009). The process should also ensure that those whose voices are often ignored and whose security is often threatened are able to inform decisions about future secure structures, policies and priorities. There is also a need to recognise that the post-conflict environment poses a problem for local ownership, not least in terms of shifting power relations, unresolved grievances, heightened tension and animosity between groups, and weak, corrupt or otherwise illegitimate state structures. This is compounded by a conceptual ambiguity regarding the concept of local ownership (simply put, exactly who does what and when) and flawed assumptions that ‘locals’ are a homogenous whole with shared interests and that ‘local ownership’ is something that is given (by external actors to passive recipients) rather than taken.

What is required is clarification of what is meant by local ownership and the provision of more guidance in terms of how it can be effectively operationalised – recognising the nuances of who should be involved in what and to what extent, and how these change over time and place (see Mobekk, 2010). In order to begin to respond to these needs, the next section of this Chapter will reflect upon who is local and what is owned, before considering how SSR programmes can be more genuinely locally-owned.

Defining and Operationalising Local Ownership

Despite the prominence of the principle of local ownership, it remains unclear specifically who the locals are (Mobekk, 2010; Scheye and Peake, 2005; Krogstad, 2013; Donais, 2009; Nathan, 2007; Scheye, 2008). Nonetheless, it is widely understood that SSR processes should be inclusive, people-centred and context-specific (UN, 2008; OECD, 2007). It might, therefore, be assumed that the locals do not just encompass political elites or representatives at the level of the state. In fact, the UN Secretary-General (UNSG), in his report on the role of the UN in supporting SSR, said ‘security sector reform can succeed only if it is a nationally led and inclusive process in which national and local authorities, parliaments and civil society, including traditional leaders, women’s groups and others, are actively engaged’ (UN, 2008: 11). In a more recent report to the Security Council, the UNSG urged Member States to ‘apply a holistic, participatory and transparent approach to security sector reform, based on an inclusive dialogue process among and between authorities at various levels, from all branches of government and security sector institutions, national human rights institutions, civil society, especially women’s groups and child protection advocates, and other non-State actors, while continuing to reflect and reinforce the host Government’s primary role’ (UN, 2013: 21).

Indeed, exclusive focus on political elites and state-level authorities can undermine the extent to which SSR programmes are locally owned (given power is rarely willingly relinquished)

and, ultimately, successful and sustainable (Oosterveld and Galand, 2012; Scheye, 2008; Samuels, 2010). This is particularly the case in many places where SSR programmes are being implemented, where governments may not be broadly representative of the people they represent (Martin and Wilson, 2008). Prioritising local ownership at the level of the state can disadvantage people at the community level, particularly the vulnerable and marginalised. State-level actors may, for instance, support SSR programmes ‘not out of a commitment to improved security governance, but rather as a means of enhancing their capacity to suppress dissent or to undermine political opponents’ (Donais, 2009: 120-121). Consequently, pursuit of SSR programmes that are owned by national authorities may also, paradoxically, compromise the extent to which ownership and control is divested to the community level (Oosterveld and Galand, 2012; Hendrickson, 2010) and ultimately the extent to which security and justice at the community level are enhanced (Donais, 2009).

Choosing from a broad scope of prospective local owners can also help identify more committed and more effective drivers of the reform process. This is particularly so in post-conflict environments where political elites or authorities may be discredited or lack genuine commitment to promote reform and governance of the security sector - not least because SSR can limit the power of elites in society (see Heupel, 2012; Oosterveld and Galand, 2012; Narten, 2009; Krogstad, 2013; Donais, 2009, for instance). Moreover, without representation from a broad cross-section of society throughout the SSR process, it is not likely that future security structures will be able to respond to the security needs and concerns of that broad cross-section. Consequently, security institutions will be unlikely to be able to solicit the public support and trust that is key to an effective security sector. The legitimacy and accountability of these institutions will also suffer. This will, ultimately, hinder efforts to promote security and justice and, as a result, sustainable peace.

However, efforts to promote local ownership by external actors are often focussed on the security and political elite (Mobekk, 2010; Baker, 2010; Heupel, 2012; Caparini, 2010; Benedix and Stanley, 2008). Local ownership ‘often ignores ownership by the general population and overlooks countrywide diversity’ (Baker, 2010: 213). Moreover, as Mobekk argues, in practice local ownership is often reduced ‘to consultation with the political and security sector leadership’ (Mobekk, 2010: 231). Representatives of civil society tend to be engaged in a much more sporadic, less encompassing and less meaningful way, often constituting little more than initial consultation and infrequent dialogue (Capairini, 2010).

As an example, the Kosovo Internal Security Sector Review (ISSR, 2006), conducted in 2005 by the British Security Sector Development Advisory Team (SSDAT) at the request of the UN Special Representative of the Secretary-General (SRSG), constituted an impressive effort to ensure future SSR in Kosovo was developed on the basis of the security needs and concerns as articulated by people at the community level (OECD, 2007). However, there were questions raised, particularly regarding the extent of that consultation (see Saferworld and Forum for Civic Initiatives, 2007). Moreover, the formal SSR process from inception prioritised the voices of lead external actors. After a time, these lead external actors were joined by like-minded (Sedra, 2010a), central-level local actors from the political and security arena who could be relied upon to deliver the vision as originally articulated by lead external

actors, or, to put it another way, who would take ‘ownership of “our” ideas’ (Surke, 2007: 1292). Voices at the community level featured much less prominently in discussions or decision-making forums in Kosovo (Jackson, 2011). Similarly, in Timor-Leste, Iraq and Somalia, for example, while the international community engaged local elites, the majority of the population were marginalised from SSR processes (Jackson, 2010 and 2011).

This is not uncommon in security-related areas of peacebuilding, particularly defence reform, which can be insular (DCAF, 2008) and reserved for those who are perceived to have the requisite expertise, as mentioned earlier. There is also often a misguided concern that transparency can compromise operational security and, thus, the operational effectiveness of the armed forces and so information should be shared only on a ‘need to know’ basis (see Gordon, 2010a). As Donais has said ‘labelling an issue as a “national security concern” has long served as a convenient excuse for keeping it out of the public domain’ (Donais, 2008: 284). More broadly, non-state local actors are considered to be only ‘marginally relevant to the core concerns of SSR’ and are generally perceived to be ‘unwieldy as a constituency’ (Donais, 2009: 123). It can, therefore, be concluded that the returns of bringing non-state actors to the table are not worth the investment, given perceptions of their relevance and significance, and the difficulties in engaging them in the process.

However, limiting the engagement in decisions in SSR to external actors and amenable, local security and political elites can have serious consequences for the capability of security sector institutions. As Caparini argues, excluding civil society from SSR undermines the principle of democratic governance as well as the long-term goals of creating ‘legitimate, responsive and publicly accountable security systems’ (Caparini, 2010: 244). Empowering civil society to potentially challenge the state and its institutions is not destabilising, as might be feared: as Cubitt argues, it can constitute a ‘counterbalance to government excess [which] is a central tenet of democracy, and democracy is considered fundamental for the sustainability of peaceful societies’ (Cubitt, 2013: 91). Efforts to promote co-ordination and coherence and reach consensus among actors may be more problematic with the engagement of civil society and the wider general public in SSR processes, particularly given that locals are not a homogenous whole and do not share the same security and justice needs (Donais, 2009; Mobekk, 2010; UN, 2008; Ebo, 2007). However, building democratic institutions is exactly about constructing systems and processes that enable disparate voices to be heard rather than limiting them (see Cubitt, 2013; Nathan, 2007). It is precisely because society is heterogeneous that voices representing various groups across society need to be heard in any peacebuilding process if it is to stand a chance of success. The complexity of SSR cannot be resolved by ignoring disparate voices: the exact opposite must occur if SSR is to be successful. Mechanisms need to be created to enable the incorporation of the voices of different local actors in the SSR process (see Nathan 2007; Benedix and Stanley, 2008). Compromising sustainability and the democratic process in favour of apparent quick-wins and neat solutions is either short-sighted or imperialistic in intent, unnecessarily and paradoxically prolonging the presence of external actors (see Cubitt, 2013; Nathan, 2007; Narten, 2009).

Actively engaging civil society and people at the community level in SSR can also alleviate some of the concerns regarding the threat of spoilers if local ownership is broadened beyond ‘a narrow set of like-minded elites’ (Sedra, 2010a: 8). Spoilers that threaten a fragile peace are less likely to be successful where civil society is robust, and where people feel as if they are contributing to decisions about their future. Where there is dialogue there will be less alienation, less frustration and, therefore, less potential for spoilers to exploit (see Narten, 2009). It may also be important to facilitate the engagement of potential or perceived spoilers, not least so that they can voice concerns or opposition in open, legitimate forums (see Nathan, 2007) and so pose less of a threat to the reform and broader peace processes. Disregarding the principle of local ownership based upon fear of empowering potential spoilers of the peace process is counter-productive and, as Narten (2009) advocates, supporting the development of a robust civil society and its ownership of reform processes can help alleviate some of these potential risks. Limiting local engagement to like-minded elite groups also risks overlooking ‘important forms of local influence’ (Krogstad, 2013: 6) and therefore opportunities to help build a sustainable peace.

While it is vital to actively engage civil society and people at the community level in SSR, it must not be assumed that people within demographic groups at the community level always share the same interests and needs. While, clearly, the interests of political and security elite groups are not always aligned to the interests of groups at the community level, people within demographic groups at the community level can have disparate needs and concerns. Particularly when considering security and justice needs, it is important to distinguish between those who may be dominant and those who may be marginalised within a community or demographic group (Mobekk, 2010). Consequently, it is insufficient to actively engage specific civil society organisations or specific representatives of certain communities without considering the extent to which they represent their communities and the power dynamics within those communities. This is particularly necessary in order that the specific security needs and concerns of the most vulnerable and marginalised members of society are not overlooked, including the needs and concerns of women, children, disabled people, the displaced, the elderly, the terminally ill or infirm, ethnic and religious minorities, lower castes, the homeless and the poor. It is important to remember that the vulnerable in post-conflict environments are often those who suffer the greatest threat of violence, injustice and human rights violations (see UN, 2004, for instance). It is, therefore, imperative, that those who may most require the services provided by security sector institutions have their security needs considered in any reform process. In order to do so, their active involvement in SSR processes is needed and their voices must be heard.

It is also important to engage civil society and people at the community level throughout the SSR process, rather than just at the beginning or once key decisions have been reached, for instance. This is because security concerns and needs change over time and because decisions at various points in the design and implementation stages can have a significant and long-lasting impact on people’s security. While local ownership can never be simply translated as possession, given the initiative and funding for programmes generally comes from external actors (Krogstad, 2013; Scheye, 2008; Nathan, 2007; Donais, 2008), it should mean more

than occasional consultation or ‘buy-in’ (Mobekk, 2010). It should mean that SSR programmes are ‘designed, managed and implemented by local actors rather than external actors’ (Nathan, 2007: 4) and that those local actors include ‘all relevant stakeholders’ (DCAF/ISSAT, 2012: 7). The nature of the involvement will, to some extent, depend upon the specific stakeholder and, of course, the particular context (see Mobekk, 2010). However, the needs and concerns of all stakeholders should be able to find expression in the process and inform reform decisions, with the result that SSR outcomes are broadly owned by local actors across society (see Narten, 2009). The outcomes will not be locally owned unless decisions – regarding security threats, structures, policies, priorities, processes, and so on – throughout the SSR process have been determined by local actors and informed by all key stakeholders. So, while local ownership can be considered to be evolutionary (Mobekk, 2010), changing over time and in different contexts, and rarely considered in ‘binary, either/or terms’ (Donais, 2008: 4), inclusive, active engagement by local actors throughout the SSR process is required if there is to be local ownership of the SSR outcomes. Without this, the outcomes will not be sustainable as there will be little commitment to the security sector institutions and, without broad local community engagement in the process, little public trust and confidence in these institutions. Without the requisite political will and public support any achievements made during the SSR process will be undermined and prospects for a sustainable peace will, ultimately, be threatened. In sum, ownership should constitute ownership of the processes and the outcomes: it should comprise active engagement in the SSR process from inception through design and implementation, where active engagement means participation in decision-making processes, and it should result in security and justice sector institutions which are accountable to and responsive to the needs of the people.

Such inclusive, active engagement in the SSR process can proceed alongside efforts to build capacity, to reach consensus between groups with competing interests, and to reconcile local norms and values with international human rights, rule of law and democratic norms and values, upon which SSR is predicated (see Donais, 2008; Jackson, 2011; Sedra, 2010a). The process of negotiation and building capacity and awareness should not be restricted to security and political elites. ‘Civic empowerment’ (DCAF/ISSAT, 2012) should be a key aim of SSR, to enable full and active engagement of communities in the SSR process, and also to address Security Sector Governance (SSG) requirements and build the capacity of effective civil society oversight of the security sector.

Community Engagement

In order to operationalise substantive, inclusive local ownership of SSR programmes, it is argued that a bottom-up approach to SSR be implemented alongside the predominantly top-down, state-centric approach that has dominated SSR to date (Baker and Scheye, 2007; Caparini, 2010; Jackson, 2011). It is suggested that public trust and confidence in state security and justice sector institutions, and ultimately, the state itself, can be promoted in many ways, including through incorporating community safety structures into SSR programmes. These structures should be incorporated into SSR programmes from the

inception and design stages, in order that decisions about security structures, mandates and policies are informed by the security needs of people at the community level.

Incorporating such structures into SSR programmes can highlight the fact that the security needs as articulated at the community level are sometimes quite different to the security needs identified by central-level and external actors. For example, after the immediate aftermath of conflict in Kosovo and Nepal, concerns about socio-economic hardships tended to overshadow more publicly-prominent concerns about territorial security and public safety, at least among majority populations (Gordon, 2010b; Gordon, Sharma, Forbes and Cave, 2011; Bennett, 2011; ISSR, 2006; DCAF, 2009). Taking measures to ensure SSR processes are informed by the needs and concerns of people at the community level can, of course, help increase the likelihood that these needs and concerns will be attended to and, thus, contribute to the peacebuilding process. Such structures can also help develop consensus on security issues. If these structures are incorporated into SSR processes, they can also help build relationships between groups as well as between the state and its people, and thus contribute to reconciliation and peacebuilding at the community level and beyond.

Such structures exist in many post-conflict countries (Bastick and Whitman, 2013; van Tongeren, 2013). They are sometimes referred to as district or provincial security committees, community safety councils, local security forums or citizen security councils, for example (Bastick and Whitman, 2013). Examples can be found in the local security committees established by women's community support organisations in Haiti (Bastick and Whitman, 2013); Local Security Councils in Columbia and Guatemala (Barnes and Albrecht 2008); and the community-based approaches to building safety and security developed in the Balkans by Saferworld and its partners the Balkan Youth Institute (BUY), the Centre for Security Studies – Bosnia-Herzegovina (CSS), CIVIL and the Forum for Civic Initiatives (FIQ) (Sokolová and Smith, 2006) and since extended to other conflict-affected and conflict-vulnerable environments including Nepal, South Sudan and Kenya (Donnelly, Nikolla, Poudel and Chakraborty, 2013).

However, while there are some examples of community safety structures that engage local communities in decisions about their own security, these structures are rarely integrated into formal SSR processes, at least not at the early stages of SSR when key decisions are made about security priorities and subsequent capability requirements. Developing or supporting community safety structures are also rarely prioritised either by host governments or the international community, which tend to view security issues as a matter for discussion among security professionals, experts and elites, primarily at the level of the state. Efforts to solicit opinions on security matters from people at the community level are generally infrequent and sporadic, as has been mentioned. They are rarely developed into structures and processes which put people at the community level at the heart of SSR, which would ensure that they can be actively engaged in SSR processes and inform decisions about their own security (see Nathan, 2007).

It is argued that where they do not exist in conflict-affected environments – or exist in embryonic, piecemeal or fractured form – development of community safety structures and

direct engagement in SSR processes should be supported. Where possible, their development in the early stages of SSR should be supported so that decisions about security priorities and future structures and processes are informed by the views of those at the community level. Support of their early development could, in fact, be viewed as one of the first fundamental steps in the SSR process and certainly one that paves the way towards substantive and inclusive local ownership and, thus, towards successful SSR. It can also be a means to promote wider engagement in and, thus, a commitment to peacebuilding processes. Parallels can be drawn with local peace committees (LPCs) and the value they can have in peacebuilding efforts, especially if they are incorporated in to so-called infrastructures for peace (I4P) (see van Tongeren, 2013). It is suggested that early development of community safety structures should include development of the necessary legislative framework and decisions about how community safety structures may be connected to state-level Ministries and other bodies. This is required for oversight, budgetary and co-ordination purposes, and to enable integration with SSR processes. It is also to ensure community-level initiatives receive the support and information they need, and to enable state-level policy to be informed by community-level security concerns and priorities. In Kosovo, for instance, early and expeditious development of the legislative and structural framework for the community safety architecture, including the definition of central-level management and oversight responsibilities, could have tied into predominantly state-level negotiations regarding future security institutions. This could have created an effective mechanism for the public to inform and, in turn, be informed about decisions reached in the development of the broader security sector, including the creation of new state-level security institutions. While early formalisation of the relationship between community safety structures and state-level bodies is recommended, in many places the formalisation may be revisited, of course, as decisions about the security sector are taken and institutions are constructed or reformed.

However, there are risks and limitations to consider in respect of supporting the establishment and/or integration of community safety structures into formal SSR processes. Outside issues of funding, co-ordination, public awareness and political will, chief among these is to recognise that community safety structures frequently reflect and reinforce the power relations of the wider society. They can, therefore, marginalise or exclude those groups that may be more vulnerable to security threats or injustices (see Gordon, Sharma, Forbes and Cave, 2011; Jackson, 2011 and 2010; KCSS, 2010). Such risks and limitations need to be taken into account in order to ensure that the security concerns and needs of the most vulnerable are attended to, particularly because vulnerable groups (including women) are often marginalised in SSR processes (see Salahub and Nerland, 2010). It is also important to avoid imposing a template of community safety structures onto places without due regard for the context, to avoid undermining efforts to promote security and wasting valuable resources (Blease and Qehaja, 2013): as much as possible the development of such structures should be driven by local communities with the support and engagement of others where required. There are also risks of incorporating community safety structures into formal SSR processes associated with undermining the very value of such structures by institutionalising and co-opting them under state-level control, where the power of bottom-up, community-based

approaches are usurped and serve merely to add legitimacy to top-down, state-centric dynamics (Gordon, 2010b).

Conclusion

This Chapter has argued that supporting and engaging community safety structures from the planning and design stages of SSR, throughout implementation and thereafter – while remaining attentive to the limitations and challenges involved – can help to create a security sector that is responsive to the needs of the people and one that enjoys their trust and confidence. It can also help generate a robust civil society and a citizenry that is knowledgeable about security matters and can influence decisions about their own security. This could enhance security sector responsiveness and accountability as well as build domestic capacity to enable the successful and timely departure of an international presence. It can build relationships between the state and its people which are so often overlooked in SSR and state building endeavours (Jackson, 2010 and 2011; Andersen, 2012). In so doing, it can help build state legitimacy and resilience. SSR programmes are, therefore, more likely to be context-specific, people-centred and locally owned – as intended – and, therefore, more likely to be successful. As a result, the prospects of building a sustainable peace are likely to be considerably higher.

Engaging people at the community level in such processes can be costly, take time and carry risks. SSR and wider peacebuilding processes should be seen, however, as complex and long-term processes, and as processes which are instrumental to SSR outcomes. It is argued that if SSR and wider peacebuilding efforts are to be successful it is vitally important to ensure civil society and the wider public comprise the ‘local’ that should ‘own’ the processes and outcomes of SSR. Continued focus on top-down approaches and a narrow interpretation of who should be actively engaged in SSR processes does not, as appears to be widely considered, build state resilience, avoid the risks associated with multi-actor co-ordination, or expedite the reform process. Rather, state resilience, an effective security sector, and a sustainable peace are all, in large part, built upon the extent to which people can influence decisions that will shape their security and their futures.

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8

The Role of Community Based Dispute Resolution in Justice Sector Reform: The Example of Helmand Province, Afghanistan

Fraser Hirst

Abstract: In March 2008 the author of this Chapter was appointed Senior Justice Adviser of the Provincial Reconstruction Team (PRT) in Helmand Province in Afghanistan, tasked with the responsibility of: conducting a thorough assessment of the formal and community based justice systems in the province; designing a justice support programme for the province which took account of the issues relating to community based justice mechanisms in the province, and; implementing the first phase of the justice support programme. This Chapter explores issues relating to incorporating initiatives to support community based dispute resolution systems within justice sector reform programmes with specific reference to the work carried out in Helmand Province in Afghanistan in 2008/2009. It is contended that the lessons learned in Helmand Province have wider implications and relevance which could inform programmes in other locations including: the greater need for a practical focus and innovative approaches on what will work and provide a practical benefit at the community level; the need to take a holistic approach to justice issues which takes account of all components of the justice system and the linkages between them; the need to consider and take account of justice mechanisms at a community level; the need for programmes to be informed, driven and owned by the people they are designed to benefit; the need for thorough preparation and research; and the need for the programmes to be underpinned by incorporating human rights and gender issues as a cross-cutting issue in every aspect and at every stage of the programme.

Introduction

This Chapter provides an overview of the status and problems within the community based dispute resolution systems in Helmand¹; an analysis of the issues relating to whether support to community based dispute resolution systems should have been included in the justice sector reform programmes for the province; a summary of the initiatives to support the community based dispute resolution systems in Helmand included in the initial justice reform programme in 2008; and, finally, a brief analysis of the situation and recommendations as to the way forward.

Situation (2008/2009)

Helmand Province

Helmand Province is one of the largest provinces in Afghanistan with an area of over 20,000 square miles. It has a population of around 1.4 million people. During the period from 2008 to 2009 Helmand was the biggest opium producing province in Afghanistan, the province was insecure. There was a strong Taliban presence in the province and significant portions of the province were under Taliban control or influence.

Formal Justice System

The formal justice institutions in the province² had no presence outside the urban centres of Lashkar Gah and Gereshk. As at 2008/2009 the formal justice system was extremely weak with very limited capacity. In Helmand, only approximately 5 criminal cases per week were being lodged with the court and the proportion of those cases handled by the court in Gereshk amounted to just two to three cases per month³. During the 5 years period prior to 2008 the average number of convictions per year for all the courts in the province amounted to 21.

The Judiciary, the Office of the Chief Prosecutor and the Ministry of Justice departments expressed an inability to deploy staff to districts outside Lashkar Gah and Gereshk due to security concerns⁴. In addition there was a shortage of qualified judges and prosecutors in the province and there was no formal justice sector infrastructure in the districts. The formal justice system was simply not accessible for the majority of Helmandis. The public

¹ This Chapter focuses on the situation at the time when the initial justice reform programme for Helmand Province was designed and when the first stage of its implementation took place in 2008/2009.

² These are the provincial justice institutions which report to the Supreme Court, Attorney General's Office and Ministry of Justice in Kabul, which notionally, provide oversight and links to national level justice programmes. These comprise the formal courts, the Office of the Chief Prosecutor for the province, and the various Ministry of Justice components including the Huquq (Civil Rights) Department, the Kazai Dowlat (Land Registry Court), the Juvenile Justice Administration Department and the Prison Service.

³ Information received from the judiciary indicated that approximately 160 criminal cases had been handled by the Gereshk Court over the last five years prior to 2008.

⁴ In 2007 the Judge for Garmsir was murdered, and in 2008 the Judge for Gereshk was murdered and the Judge for Nad-e-Ali survived an assassination attempt.

perception of most Helmandis who held opinions on the formal justice system was that the system was corrupt, expensive, slow, biased (a perception that decisions were made in favour of the party who paid the most money to the court), and unfair, there was a lack of public understanding of the system and a lack of trust in the system.

The absence of a formal justice system in the districts had led to problems relating to the processing of persons arrested by the Afghan National Security Forces (ANSF). Identified problems included:

- (i) No clear or transparent system in place for the processing of detainees in the districts;
- (ii) Detainees held for excessive periods without their cases being reviewed;
- (iii) Prisoners detained in the absence of any evidence to suggest they are guilty of an offence;
- (iv) Prolonged imprisonment of persons for extremely minor offences⁵;
- (v) Ad hoc transfer of cases to the provincial capital in Lashkar Gah for processing in the formal justice system;
- (vi) Transfer of prisoners to Lashkar Gah with no record or details of any evidence against the prisoners - this resulted in the release of prisoners in Lashkar Gah and/or dismissal of their cases by the courts; and
- (vii) Public perceptions of impropriety and corrupt practices by the ANSF, as well as disillusionment with the formal justice system resulting from the lack of successful convictions and lack of transparency of the process.

For non-criminal disputes, access to the formal justice system for people in the districts was through Lashkar Gah or Gereshk: for the majority of Helmandis this was not a feasible option.

Community Based Dispute Resolution Systems

Most justice/dispute resolution in Helmand (approximately 99%) was dispensed outside the formal justice system. Justice in the districts comprised Taleban justice systems, traditional customary law mechanisms, resolution of cases by the Afghan National Army (ANA), the Afghan National Police (ANP) and other security agencies and militias, and justice dispensed by district officials. There were a number of positive aspects to the (non-Taleban) community based dispute resolution systems, which have been used to resolve conflicts and disputes for hundreds of years and have a high level of acceptance and legitimacy.

⁵ In Musa Qala a prisoner was imprisoned in June 2008 for the purported offence of selling unleavened bread at leavened bread prices.

(i) *Taleban justice systems*: Taleban justice systems were prevalent in all Taleban controlled/influenced areas. In some districts there were permanent Taliban court centres. In addition, there were numerous roaming Taleban ‘judges’ who visited affected communities dispensing ‘justice’. Through their control of the justice systems, the Taleban gained a level of control, influence and support which tended to undermine the links between communities and the government. In many areas, people had little option but to use the Taleban to solve their disputes due to direct intimidation of community elders and community members. In some areas, however, it appears that people still had an element of choice as to whether they took their disputes to the Taleban or used other local alternatives. For example, in the Taleban controlled areas of Garmsir, communities had little choice but to use the Taleban due to intimidation, whereas in Nad-e-Ali and Gereshk there appeared to be a slightly greater degree of choice.

(ii) Reasons for choosing the Taleban system included:

- (a) Lack of effective alternatives;
- (b) Expectation of receiving a more favourable result;
- (c) Swifter and more effective enforcement of decisions;
- (d) Faster decision making process;
- (e) Accessibility;
- (f) Intimidation.

There were also some perceptions that the strict and harsh punishments of Taleban justice mechanisms act as a deterrent and are effective in reducing criminality and improving security.

- (a) Perceived weaknesses in the Taleban system included:
- (b) Public resentment of the constant intimidation and requests for money received from the Taleban;
- (c) Loss of public support by threatening and killing tribal and religious elders who are engaged in solving community disputes;
- (d) Corruption and tribal discrimination;
- (e) Taleban justices not perceived as fair and unbiased - popular perception that they treat Taleban sympathisers more favourably than other persons;
- (f) Lack of sufficient investigative infrastructure and information on which to make fair and informed decisions, resulting in mistakes and miscarriages of justice;
- (g) Lack of facilities for the imprisonment of accused persons, resulting in a high proportion of executions which may not always be perceived as appropriate in the circumstances of the case;

(h) Public resentment of the fact that the Taleban justices take orders and direction on particular cases from Pakistan⁶

(i) Lack of respect for human rights in relation to the procedures adopted and remedies, and discrimination towards vulnerable groups, minorities, women and children.

(iv) *Community and religious elders*: The traditional customary law dispute resolution systems are based on a combination of community traditions, customs and religious beliefs, and involve senior community and religious elders in the decision-making process. The systems have developed over hundreds of years and have a high degree of acceptance and legitimacy in the communities which they serve. In resolving disputes, the overriding aim is to reduce conflict and promote community peace and harmony. These dispute resolution systems are present throughout the province, although they have been severely weakened over the last 30 years by the policies of successive government regimes and the insurgency. The systems deal with both criminal and non-criminal (involving land, water, tribal, family disputes etc.) cases. The religious elders in particular pay attention to Islamic teachings and law when reaching their decisions.

(v) Strengths of the community and religious elders include:

- (a) Perceived as playing a positive role in promoting and maintaining peace in the communities;
- (b) Community elders are usually knowledgeable about and make decisions in accordance with the customs and traditions of the communities;
- (c) Most of the religious elders are viewed as learned with a deep knowledge of Shari'a and Islamic legal principles;
- (d) Community and religious elders are generally highly trusted and respected within the communities, which gives greater legitimacy and acceptance to their decisions;
- (e) Accessibility.

(vi) Weaknesses of the traditional customary law system:

- (a) Not considered to be appropriate for dealing with the most serious criminal cases or for dealing with categories of offences such as drug and terrorism cases;
- (b) Taleban intimidation (as well as intimidation from other influential local leaders and commanders) and killing of community and religious leaders has undermined the role and influence of the elders;

⁶ In Garmsir the Taleban Justice Commission reports to the Taleban High Command in Quetta in Pakistan which issues orders relating to executions and hudud punishments. In Gereshk the Taleban Justice Commissions include foreign Taleban judges.

- (c) Difficulties in enforcing decisions, particularly in Taleban controlled areas;
 - (d) Inconsistencies/arbitrary decision making;
 - (e) Concern about alleged instances of human rights violations and discrimination against vulnerable groups, women and children;
 - (f) Lack of support and perceptions of interference by Government officials and the security forces;
 - (g) Lack of monitoring, oversight or appeal mechanisms;
 - (h) Lack of any clearly defined relationship with the formal justice sector which could further undermine the rights of vulnerable groups and the disenfranchised;
 - (i) Lack of adherence to international fair trial standards;
 - (j) Lack of codified procedures and lack of written decisions contributing to perceptions of unfairness, inconsistencies and arbitrariness;
 - (k) Some traditional remedies are discriminatory and in clear breach of international human rights standards;
 - (l) Issues of community harmony and reconciliation can take priority over individual rights leading to a lack of respect for individual human rights;
 - (m) Lack of respect for women's rights, lack of involvement of women in the decision making process and lack of access to the justice mechanisms for women;
 - (n) Perceptions of discrimination on tribal and ethnic lines.
- (vii) Afghan National Army (ANA), Afghan National Police (ANP), other security agencies, militia groups, and district officials: These agencies and groups were involved in dispute resolution throughout the province.

Formal/informal Justice System Linkages

The distinction between the formal and informal justice system and their principles can be somewhat blurred at times. For example, the former Judge for Gereshk, who was murdered in August 2008, used to request the attendance of family members and community elders to represent all parties appearing before the court. The elders and family members were instructed to try to resolve the dispute and the judge then endorsed the agreement reached; in the absence of an agreement the judge would decide the appropriate sentence himself. Further, the former Chief Judge of Helmand, Judge Afghani, who was replaced in June 2008, issued four orders for *Qasas* executions (beheadings etc.) over a five year period based upon his interpretation of Shari'a law and evidence principles.

In the districts where there was no judge and no prosecutor the links between the formal and informal justice systems were effectively non-existent. The formal justice system was of very limited relevance to the people in such districts, and the only entry point to the formal system

was the transfer of selected prisoners to Lashkar Gah who have been arrested by the ANSF in the district

Major Issues/Concerns Over the State of Community Based Dispute Resolution Systems

Major issues and concerns over the state of community based dispute resolution systems included:

- (i) The level of influence and control gained by the Taleban as a result of their control of the justice systems;
- (ii) The eroding of the power, influence and effectiveness of the community and religious elders who were the only alternative to the Taleban for the resolution of community level disputes in the districts of Helmand;
- (iii) The lack of any link between the government and the district communities in relation to the resolution of disputes - including the lack of any clear link to the formal justice systems, and the lack of government support to the community and religious elders;
- (iv) The lack of linkages between the communities in the districts and the justice and human rights support institutions such as the Huquq Department of the Ministry of Justice, the Afghanistan Independent Human Rights Commission (AIHRC), the Women and Children Justice Group, legal aid providers etc.;
- (v) Inconsistent and arbitrary decision making, alleged human rights violations and discriminatory practices against vulnerable groups including women and children - this is coupled with a lack of knowledge by community elders and community members of basic justice, legal and rights issues relevant to their communities.

Should Support for Community Based Dispute Resolution Systems be Included in a Justice Reform Programme?

The formal justice system effectively had no presence or reach outside the provincial capital and it was not respected, trusted or understood by the general population for whom the formal justice system had no relevance. In the absence of a presence of the formal justice system outside the provincial capital the Taliban justice systems were thriving from which the Taliban were increasing their power, influence and control. From an anti-terrorism viewpoint a laissez-faire attitude to community engagement and the traditional customary community justice mechanisms simply allowed the Taliban to spread their control of the justice systems and led to the perpetuation of extremism and radicalisation.

The only way for a justice reform programme to reach out to the general population on a short term basis, in the absence of a presence of the formal justice system in the districts, was by including initiatives which include community engagement and support for the traditional community structures. It had been argued by organisations such as the Afghanistan Independent Human Rights Commission that engagement with the community based dispute resolution mechanisms was inappropriate given the level of human rights abuses and

discrimination within the systems. However, the fact remains that such mechanisms do exist, they have existed for hundreds of years and they are likely to continue to exist for the foreseeable future. By ignoring the human rights abuses, they will not simply go away. It would appear that the best way to address such issues of concern is through direct engagement and support.

Does support by the international community of community based dispute resolution mechanisms smack of interference and give the inference of supporting non-human rights compliant systems? Whilst there is clearly a risk in terms of public perceptions, the fact remains that the only way to address such ongoing human rights concerns is through engagement.

Could engagement and interference in the community based dispute resolution systems make matters worse? The simple answer to this question is yes. A lack of any or adequate research and preparation can lead to ill-advised interventions. Given the region is multi-tribal and multi-ethnic, there is a risk of undermining community relations and inadvertently discriminating on tribal or ethnic grounds. The input of large sums of money into community systems could also introduce factions and corruption.

It has also been argued that, given the limited availability of funding, any support for the community systems will necessarily reduce the financial support for the formal sector and that given the comparative weakness of the formal system any reduction in funding cannot be justified. However, it would appear clear that in order for a formal justice reform programme to be effective consideration must be given to community linkages and it would simply be artificial to look at the formal system in isolation. Another factor is that support for the traditional customary sector is traditionally much cheaper as it does not involve any large scale infrastructure projects or inputs of large funding into the communities.

Does support for community based dispute resolution systems undermine the power, influence, integrity and role of the formal justice system? If a programme promotes linkages and constructive co-operation between community based dispute resolution systems and the formal justice system this will necessarily increase the outreach of the formal justice system and will tend to promote greater understanding and acceptance of the role of the formal justice system at a community level, thereby strengthening its position.

For a justice programme to be effective it is contended that a holistic approach must be adopted which addresses weaknesses in all justice mechanisms at all levels. Any effective justice programme must also strive for ownership, participation and acceptability and such objectives can only be met through including an element of community engagement. A justice programme must take account of the realities at the ground level in order for it to maintain relevance. Additionally, support for the community systems is essential to address Taliban influence at a community level. It is important that the human rights dimension and issues relating to discrimination, gender issues and vulnerable groups are addressed in any prospective programme as a cross-cutting issue and the only way to do so effectively is through including programmes which engage with the local community mechanisms.

Support Initiatives Introduced in Helmand in 2008/2009

The overall aim of the initiatives which were introduced was to address the issues and problems listed above. The initiatives were based on the premise that the formal justice system is the most appropriate forum for handling serious criminal cases and that more minor criminal matters and other non-criminal community disputes are most appropriately dealt with through the community and religious elders at the community level, thereby achieving solutions which are acceptable within the communities and promote positive community relations. The initiatives involved the establishment at the district level of Prisoner Review Shuras⁷ (detainee review/processing mechanism) and Councils of Elders/Justice Sub-committees of the District Community Councils (community justice support mechanism).

Prisoner Review Shuras

Prisoner review shuras were local-level Afghan led detainee review and processing mechanisms. Prisoner review shuras were established in Musa Qala, Sangin, Nad-e-Ali and Garmsir. Each prisoner review shura had its agreed terms of reference which provide full details of the constitution of the shura and the procedures which it followed. The aim of the shura was to:

- (i) Prevent excessive detention in the districts;
- (ii) Ensure the timely release of prisoners against whom there is no evidence;
- (iii) Ensure that the most serious cases are transferred to the provincial capital in Lashkar Gah for processing in the formal justice system;
- (iv) Provide a link to the informal justice systems for resolution of more minor disputes;
- (v) Ensure that evidential issues and concerns are addressed at the district level, thereby improving the chances of successful prosecutions in the most serious cases;
- (vi) Provide an open and transparent procedure for the processing of detainees.

The shuras proved reasonably successful; they were locally led, they included senior community representatives (one of the members of the Justice Sub-committee of the District Community Council) and appeared to have the acceptance and support of the communities. The role of the Council member, who is a senior community elder from the district, was to represent the interests of members of the community, to ensure that the agreed procedures were followed, to ensure that the shura was conducted in a fair and transparent manner and to provide a degree of public oversight and accountability.

⁷ Shura is the name given to one of the types of traditional tribunal meeting.

Councils of Elders/Justice Sub-committees of the Community Council

Councils of Elders were established in Gereshk and Sangin in September and October 2008 respectively. The councils were community justice support mechanisms which were comprised of representative groups of senior tribal elders representing all the major tribes and sub-districts of a district.

This initiative was subsequently incorporated within the district roll-out of the Afghanistan Social Outreach Programme (ASOP), an Afghan led programme which was co-ordinated at a national level in close co-operation with senior representatives from the office of the Provincial Governor and an Afghan implementation partner. Under the ASOP programme a group of the most senior community elders was appointed to form a council of community representatives. Each community council had three sub-committees dealing with the areas of justice, security and social and economic development - these had been identified as three key areas for community support and development. The Nad-e-Ali and Garmsir Justice Sub-Committees were established in February and March 2009, respectively. In April 2009 a Justice Sub-Committee was established in Gereshk which subsumed the role and function of the Council of Elders for the district. The community councillors received some basic training and, in addition, attended a four-day workshop during which they worked to develop a community plan which included plans of activities for the various sub-committees.

The overall vision of the Justice Committees was: to promote peace in the communities; to strengthen links between the government and the communities; to promote respect for the rights of all members of the communities; and to improve access to justice. The roles of the Justice Committees (as identified by the Nad-e-Ali and Garmsir Committees) were:

- (i) Solve disputes;
- (ii) Provide encouragement and support to the existing (non-Taleban) community and religious elders who currently solve disputes in the communities;
- (iii) Promote respect for basic rights in the communities to include providing advice and information to communities on basic justice, legal and rights issues;
- (iv) Ensure a key link between the communities, the government and justice sector support providers;
- (v) Participate in the prisoner review shura with a view to providing community oversight and accountability in the detainee review process.

In Gareshk, the Justice Committee, in addition to the above roles, adopted an oversight and accountability role in relation to the formal security and justice institutions. The Committee members visited the prison and police detention facilities to review the records to ensure that the correct procedures had been followed; in addition, they interviewed prisoners and followed up identified issues of concern.

Solving Disputes

Details of the activities, procedures and guiding principles of the Committees were included in the Committee plans. The Committees dealt with minor criminal cases and some non-criminal disputes. As the Committees comprised the most senior community elders in the district, their decisions had a higher degree of legitimacy and acceptance. The Committees recorded all decisions in writing in an attempt to obtain greater transparency and consistency. The Committees were also keen to ensure full respect for the rights of all parties and to avoid discriminatory practices. The Committees had no power to order imprisonment or physical punishments and their decisions were based on restorative justice and conflict prevention principles.

Support for Community and Religious Elders

The Committees took the view that if the community and religious elders were seen to be fair and effective, there would be greater public confidence in their abilities to solve community disputes and more people would turn to them when they have a problem. The Committees tried to strengthen the work of the elders by: providing an opportunity for referral of the more complicated disputes; providing assistance with enforcement of decisions by liaising with State institutions; following up (at the district centre or provincial level) specific issues of concern raised by community and religious elders; providing information on basic legal and rights issues; actively encouraging the work of the elders to include community outreach programmes to encourage members of communities to use the community and religious elders; and working closely with the Security Sub-Committee⁸ of the community council to address issues of Taliban intimidation and community insecurity.

Promoting Respect for Basic Rights

Members of the Justice Committees were trained on basic justice, legal and rights issues. Local facilitators were used including the Huquq Department of the Ministry of Justice, Kazai Dowlat (Land Registry Court), AIHRC, defence lawyers, the Women and Children Justice Group (which became the Independent Commission on Women and Child Rights) and senior religious scholars. The Committees arranged a series of shuras in the communities to disseminate the relevant messages. This was reinforced by holding large district legal education shuras organised through the Huquq Department - shuras took place in Gereshk and Garmsir for 250 and 300 community elders respectively.

⁸ Details of the community security plans developed by the community councils are not included in this report.

Ensuring a Key Link Between Communities, Government and Justice Sector Support Providers

The Justice Committees formed and maintained close working links with:

- (i) Communities;
- (ii) Community and religious elders;
- (iii) District Governor;
- (iv) ANP, ANA and the National Directorate of Security (NDS);
- (v) Judges, prosecutors and lawyers;
- (vi) Huquq Department, Kazai Dowlat, AIHRC, the Women and Children Justice Group, religious scholars.

The aim was to encourage all of the above parties to work together with the Committees to address justice issues in a co-ordinated manner, thereby improving the overall effectiveness of the justice system.

Huquq Department, AIHRC, Women and Children Justice Group, Defence Lawyers

(i) ***Huquq Department:*** The Helmand Provincial Reconstruction Team (PRT) provided support to enable the Huquq Department to hold a series of legal education shuras in the districts. Co-facilitators included the Kazai Dowlat, AIHRC, the Provincial Governor's Legal Adviser and the Women and Children Justice Group. The aim of the shuras was to provide information on the role of the formal justice institutions, give details on basic legal and rights issues and give advice on the handling of common community disputes. The shuras provided a link between the communities, and the informal and the formal justice institutions.

(ii) ***Afghanistan Independent Human Rights Commission (AIHRC):*** AIHRC established a presence in Helmand in May 2008 and opened an office in March 2009. AIHRC agreed a 12 month plan of activities for Helmand in August 2008 which included provision of support to the Justice Committees in the districts.

(iii) ***Women and Children Justice Group (which became the Independent Commission on Women and Child Rights):*** This Group was established in August 2008 to provide practical support activities in the area of women and children's justice. Women from around the district received training from UNIFEM and the AIHRC. The aim was to develop and support a civil society organisation with networks across the province to work to support, protect and promote women and child rights at all levels (there was previously no civil society organisation working in this area in the province) - the entry point at the district level was through the Justice Committees.

(iv) ***Defence Lawyers:*** International Legal Foundation - Afghanistan established an office in Helmand in September 2008. Prior to that date there had been no defence lawyers in the

province. The lawyers indicated an intention to work closely with other justice support institutions and were involved in the training and outreach programmes.

Land and Tribal Dispute Commission

This Commission was established in May 2008; its purpose was to address some of the most serious land and tribal dispute issues in the province. The Commission was chaired by the Provincial Governor. The Commission was a basic conflict resolution mechanism which performs an extremely important function.

Human Rights Issues

The Justice Committees aimed to promote improved respect for human rights through all aspects of their work. Concerns as to human rights violations in the communities were addressed through the Justice Committees' outreach programmes and were reinforced by the large scale legal education shuras. The work of the Prisoner Review Shuras also emphasised respect for rights and attempted to reduce the incidence of illegal and excessive pre-trial detention.

Gender Issues

Women and Children justice issues were addressed through the training provided to the Justice Committees and the subsequent outreach programmes in the communities. As previously stated the Justice Committees provided a link for the implementation of activities and support services to be provided through the Women and Children Justice Group. In addition, in Gereshk, where a sub-group of the Women and Children Justice Group was established in December 2008, there were initially 2 female members on the Justice Committee⁹ who were active in specifically identifying and dealing with disputes involving women.

Conclusion

The informal justice systems dealt with approximately 99% of all dispute resolution in Helmand. It was essential that emphasis was placed on constructively addressing the problems and concerns identified in the community based justice systems (as listed above, with particular emphasis on human rights, gender and discrimination issues), with a view to strengthening links between the government and the communities, providing linkages between the formal and community based justice systems, and addressing the issues relating to the level of influence and control gained by the Taleban arising from their control of the community based justice systems.

⁹ The total number of members of the Gareshk Justice Committee is 9.

The initiatives in support of the community based justice systems were Afghan led and owned and relied on the strong commitment and support of key stakeholders such as the Provincial Governor, district officials and community and religious elders.

The initiatives and activities were based on the premise that the formal justice system is the most appropriate forum for handling serious criminal cases and that more minor criminal matters and other non-criminal community disputes are most appropriately dealt with through the community and religious elders at the community level, thereby achieving solutions which are acceptable within the communities and promote community peace and harmony. This approach would appear entirely reasonable given the situation with the lack of capacity, presence and acceptance of the formal justice system in the districts. Further, the activities aimed to strengthen the outreach and relevance of the formal system in the districts and improve links between the government and the communities.

The initiatives sought to build upon and strengthen the existing non-Taleban community justice systems which are known and accepted within the communities. The aim was to give practical support to help communities help themselves to resolve internal disputes and take responsibility for addressing justice and criminality issues in the community.

The activities sought to promote full co-operation between the communities, community elders, government, the formal justice system and justice support providers to ensure a co-ordinated joined-up approach to address the district justice problems.

The establishment of prisoner review shuras and Justice Committees in the districts were extremely positive and practical developments which took the first steps to providing real benefits at a local level.

It was essential and a core cross-cutting component of the programme that the activities actively addressed human rights and gender concerns at all levels.

The implementation of the initiatives and activities set out in this Chapter represented a significant achievement and positive practical step forward and provided the foundations for the development of future support to the community based justice sector in Helmand. It must, however, be recognised that the problems within the justice sector were immense, the initiatives set out above have to be viewed as an essential component of a larger holistic programme which includes full support for the formal justice sector, and that it was obvious that the process of providing long term positive and practical justice related benefits for Helmandis will be an extremely long haul.

The programme described in Helmand was designed following extensive research and took account of detailed inputs, advice and expert opinion at the local level, especially in relation to the community, cultural, tribal and religious dynamics of each area. The programme was obviously designed to address the specific issues of concern of the province and to take into account of the existing community based dispute resolution mechanisms across the province – there were numerous significant regional variations amongst the different tribes and geographical areas within the province. The strength, tradition and long-standing acceptance of the community based dispute resolution systems constituted an extremely positive feature

on which this particular programme was able to build. It would, however, appear that there are significant features of the programme which could inform programmes in other locations including: the need for a practical focus and innovative approaches on what will work and provide a practical benefit at the community level; the need to take a holistic approach to justice issues which takes account of all components of the justice system and the linkages between them; the need to consider and take account of justice mechanisms at a community level; the need for programmes to be informed, driven and owned by the people they are designed to benefit; the need for thorough preparation and research; and the need for the programmes to be underpinned by incorporating human rights and gender issues as a cross-cutting issue in every aspect and at every stage of the programme.

9

The Effects of International Criminal Justice From a Domestic Justice Perspective

John Cubbon¹

Abstract: This Chapter considers the types of effects of international interventions in criminal justice related to armed conflict. It identifies these types of effects by comparing them with those of “ordinary” criminal justice. While this comparative approach identifies some similarities, it will also show that the international interventions have some distinctive effects, since they address crimes arising from an armed conflict and they are part of an evolving process driven by the international community. The Chapter concludes with some essentially optimistic reflections on the impact of international criminal justice, including crime prevention and contributing to the promotion of peace and reconciliation. The Chapter also identifies several factors related to fairness, objectivity and publicity or scrutiny that will tend, in the long run, to lead international criminal justice to develop positively.

Introduction

When someone is found guilty at trial and sentenced, we often think about the likely effects in personal terms. We may ask ourselves how the convicted person will react to the punishment and how the victims will feel. The judge when deciding on the sentence will only ask himself what the likely effects will be to the extent that the law permits. For example, in certain circumstances the judge may consider the impact of alternatives to imprisonment. Legislators when formulating criminal law provisions are not

¹ The views expressed herein are those of the author alone and do not necessarily reflect the views of the International Tribunal or the United Nations in general. The author wishes to thank Brian Cubbon, Rob Cubbon, Kirsten Joppe and Catherine Marchi-Uhel for their comments on earlier drafts.

subject to the same legal constraints. There may be agreement that certain actions should be criminalised, but questions will remain as to how precisely this agreement should be implemented. Political pressures and availability of resources will be influential, but so will the likely impact of the possible measures in achieving policy objectives such as preventing crime, reforming criminals, protecting society and so on. In major decisions on how to address crimes related to armed conflict—for example, what type of judicial organisation should be established—a similar process of considering options according to their likely effects will take place. The first question to be answered is how effective a particular measure will be in leading to prosecutions and convictions; then other questions about the impact of the process may be considered.

Likely effects may also be taken account of in answering the much bigger question of how to justify a criminal justice system. Some believe that the wrongness of the acts with which a criminal justice system is concerned is sufficient for its justification; but others feel that a demonstration of beneficial effects is also required. Similar sentiments exist in relation to the justification for international interventions in criminal proceedings for war crimes and crimes against humanity.

In short, the effects of criminal proceedings matter in decisions both on criminal policy and in giving a justification for the entire structure of criminal justice. This Chapter will identify the types of effects of international interventions in criminal justice related to armed conflict by comparing them with those of ‘ordinary’ criminal justice. Some similarities will emerge, but it will also be evident that the international interventions have some distinctive effects, since they address crimes arising from an armed conflict and they are part of an evolving process driven by the international community. The purpose of this Chapter is to illuminate the basic categories of effects by a comparative approach. This will lead finally to some essentially optimistic reflections on the impact of international criminal justice.

General X and Mr. Y

Consider these two scenarios:

General X is a prominent figure in an armed conflict that has left many thousands dead. An international criminal court convicts him of war crimes and crimes against humanity committed during a notorious atrocity. He is sentenced to 30 years imprisonment. His trial, conviction and sentence are extensively reported around the world. In the country affected politicians and the media condemn the outcome: those on General X’s side because he was found guilty and those on the other side because of what they see as the leniency of the sentence.

Mr. Y is a habitual offender with a string of convictions for crimes against property. He broke into a flat in Birmingham and stole some jewellery. He is given a sentence of twelve months imprisonment. The proceedings receive no coverage in the media. The owners of the flat feel a degree of relief and satisfaction as a result of his conviction and sentence. His ability to commit more crimes will be restricted for the short time

that he will spend in prison, but everyone knows that on his release he will continue as before.

The international criminal court before which General X appears could be the International Criminal Tribunal for the former Yugoslavia ('ICTY'), the International Criminal Tribunal for Rwanda ('ICTR') or the International Criminal Court ('ICC'). The United Nations Security Council established the ICTY and ICTR in 1993 and 1994 respectively (United Nations, 1993; United Nations, 1994). On 1 July 2002 the Rome Statute of the ICC (United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court, 1998) entered into force. Pursuant to Article 13(b) of the Rome Statute, the Security Council has the power to refer to the Prosecutor of the ICC a situation in which one or more crimes within its jurisdiction appear to have been committed. This substantially reduces the need for the Security Council to establish *ad hoc* international criminal courts, such as the ICTY and the ICTR.

International criminal courts have the obvious and crucial advantage of Olympian detachment, but they also have corresponding potential drawbacks arising from their remoteness from the people and the area affected by the armed conflict. This may give rise to logistical difficulties, reduced opportunities for institution-building and hostile attitudes towards the courts. Partly with these in mind, the international community has made a major contribution to the creation of so-called 'internationalised criminal courts', which, unlike the international criminal courts, have been located in states where armed conflicts have taken place and which consist of local as well as international judges. These courts have been established in Kosovo (UNMIK, 2000; European Union, 2008), East Timor (UNTAET, 2000), Sierra Leone (Special Court for Sierra Leone: 2002), Bosnia and Herzegovina (Bosnia and Herzegovina, 2002) and Cambodia (Extraordinary Chambers in the Courts of Cambodia: 2003). Proceedings before the three international criminal courts and the various internationalised criminal courts will be referred to as 'international criminal justice'.

The totality of actions by the criminal justice system resulting from Mr. Y's burglary will affect principally Mr. Y and the owners of the jewellery. The victims and perhaps their immediate family and friends may feel a particular resentment towards Mr. Y. When the crime has gone through the judicial process, their resentment may at least be reduced by the knowledge that Mr. Y is undergoing punishment and unilateral actions they may wish to take against him are themselves punishable. Reactions to the judicial process are variable. The victims may feel that the sentence was inadequate and that they were not shown respect. Mr. Y may consider that the court has treated him harshly and he may protest his innocence and even claim to have been framed by the police. After he leaves prison, the impact of the entire process will be very slight.

The proceedings against General X may have ramifications lasting a number of years at several levels both where the armed conflict took place and beyond. There were incomparably more victims of General X's crime. Many people in addition to the victims and their families—in particular, communities on both sides—as well as the General and his friends and family will have strong emotional reactions to the trial. Because of the gravity of

the crimes and the sheer number of deaths, many of the relatives and friends of those killed will be inclined to feel resentment and perhaps even a desire to take revenge. There will be a significant number of others on the same side in the armed conflict who share these sentiments. There is also solidarity on the other side. General X may be seen as a military hero or the avenger of some earlier atrocity. All these factors can contribute to an escalation in violence and disregard for international humanitarian law.

Distinctive Features of International Criminal Justice

Domestic courts as well as international and internationalised criminal courts are bound in varying ways to act in conformity within international human rights standards; but it is worth reflecting that the ultimate justification for international criminal justice is that it is preferable to the justice that would be available domestically. States that are subject to international criminal justice frequently have judicial systems which have been devastated by the armed conflict and which have always fallen far short of international human rights standards. International and internationalised criminal courts offer the promise of a higher quality of justice in this regard. One element of this that is of particular importance is the independence and impartiality of the judiciary. During an armed conflict and its immediate aftermath emotions among those affected are raw. Judges in the affected domestic jurisdictions have difficulty in maintaining, or appearing to maintain, independence and impartiality. They may be subject to pressures and even intimidation in highly sensitive cases. Judges from outside are better able to be objective. In international criminal justice a more objective version of events can be presented than is often prevalent among the parties to the conflict. International and internationalised criminal courts have enabled witnesses and victims of notorious incidents to give their testimony. In many instances the mass of evidence coalesces in a judgement delivered by a panel of judges, all or most of whom do not come from the states where the armed conflict took place.² The participation of international prosecutors has similar benefits. Because they are from states that have not participated in the armed conflict, they are better able to attain objectivity and to be seen to do so. Decisions of domestic prosecutors on who to prosecute tend to be coloured by association with a particular faction. Proceedings before international and internationalised criminal courts are usually more widely publicised than ‘ordinary’ domestic proceedings. This is not just because of media interest, but also because the courts themselves often have a policy of making their proceedings accessible to a greater extent than is the norm. While the populations subject to international criminal justice may regard it as remote, it has, whatever its faults, the potential to expose these populations to practices that conform to international standards to a greater extent than those that they are used to.

² The Extraordinary Chambers of the Courts of Cambodia are unusual in not having panels with a majority of international judges.

In the year ending in September 2012 there were 30,682 convictions for burglary in England and Wales (Ministry of Justice, 2013: 15), making Mr. Y's crime appear, as it were, a drop in the ocean. On the other hand, the actions of the authorities in response to his burglary form part of an edifice of criminal justice which, whatever its imperfections, contributes to the security which we take for granted and which distinguishes the rule of law from anarchy. It is not just the mechanical operation of the criminal justice system—the police, the courts, the prisons and so on—that preserves the rule of law, but attitudes throughout society that have evolved over generations. This emerges from attempts to imagine the state of affairs that would obtain if somehow an all-powerful Big Brother were to abolish the institutions of domestic criminal justice overnight: despite their removal people could be expected to continue in many ways to adhere to the law. There is a widespread inclination to co-operate with the criminal justice system for reasons of culture, normative beliefs, habit and ultimately sanctions for failure to do so and there is a widespread belief that the domestic criminal justice system mostly treats people like Mr. Y fairly.

International criminal justice is separate from this edifice and less well-entrenched. It is assigned often to deal with a specific armed conflict. It is all too easy to imagine its overnight disappearance. Its operation is not supported by the combination of factors that lead populations to accept a domestic criminal justice system. It may not enjoy support from large sections of the population that are subject to it (e.g. Clark, 2008: 337–339). This is partly because it is seen as an alien imposition and partly because of the partisanship arising from armed conflict. As a result there will often be a lack of support for its operations on the ground. These factors will act as a brake on the ability of an international criminal court to create a sense of security. Although internationalised criminal courts are geographically closer to the crimes over which they have jurisdiction, they are in some respects separate from the local criminal justice system. In these ways they resemble international criminal courts. In addition, attitudes to them in the populations they serve often reflect divisions during the armed conflict (e.g. Ivanišević, 2008: 33–34; Perriello and Wierda, 2006: 30–31).

Prevention

The most obvious benefit of criminal proceedings is the prevention of further crime. This can usefully be categorised according to the persons prevented and the process by which prevention takes place. Prevention of the perpetrator from re-offending is commonly called 'special prevention' and it includes incapacitation—the prevention of the perpetrator from re-offending by physical restrictions—and reform or rehabilitation. 'General prevention' is a term commonly given to the prevention of persons other than the perpetrator from offending.

Setting aside incapacitation, prevention takes effect in two principal forms: by deterring, that is influencing the conduct of an offender or potential offender through fear of negative consequences; and by causing people to internalise the moral position underlying the criminal law with the result that they act consistently with it. A range of views have been expressed on the effectiveness of international criminal justice in deterring crime (e.g. Akhavan, 1998: 750–751; Snyder and Vinjamuri, 2004: 24; Kim and Sikkink, 2010). This Chapter does not attempt to review the mass of relevant empirical evidence from the highly varied post-

conflict settings but will categorise the types of deterrence by drawing comparisons with domestic criminal law environments.

The processing of Mr. Y, considered on its own, is likely to have minimal preventive effects, unless it has some special unusual characteristic.³ The actions of the police force, the court system and the prison service in Mr. Y's case can deter owing to the possibility of similar actions being taken against other people who act similarly to Mr. Y. People are made aware of this possibility not so much as by reports of individual cases such as that of Mr. Y, as because of the existence of the edifice of criminal justice in England and Wales described earlier. Deterrence will only operate within the jurisdiction of England and Wales where for reasons of legislation, practice, culture and so on the police, courts and prisons can be expected to act similarly. It is only the treatment of a relatively small number of crimes that receive any attention at all outside the jurisdiction. Insofar as such attention has any deterrent effect, it will relate mainly to England and Wales. The awareness of someone in Iceland of highly-publicised proceedings in London for a drug-related offence would act, if all, as a deterrent on that person principally if he or she were to come to the United Kingdom.

The nature of the preventive effect of General X's case may be different. The proceedings in his case may not be part of an established preventive edifice of criminal justice in the way that Mr. Y's is. On the other hand, they will receive a fair amount of attention and thereby may have preventive effects of their own. In theory, the processing of General X may deter others within the jurisdiction of the court, provided that there is still an armed conflict. If there is no armed conflict, the precondition for the commission of war crimes and crimes against humanity will largely be absent. There is a mass of evidence that many perpetrators of such crimes would under ordinary circumstances be law-abiding citizens (e.g. Smeulers, 2008: 234, 240, 263–264; Tallgren, 2002: 571, 573–574).

General X's case also differs from Mr. Y's in that it has an inherent potential for deterrence beyond the jurisdiction of the international criminal court (Meron, 1993: 123, 134; Akhavan, 1998: 795, 796. See also Kim and Sikkink, 2010: 956–957). This is because the driving force behind the establishment and functioning of such courts is the international community and not domestic authorities. The international community has frequently intervened so as to make crimes committed *before* its intervention subject to the jurisdiction of an international criminal court—for example in former Yugoslavia (United Nations, 1993: para. 2), Rwanda (United Nations, 1994: para. 1), Darfur (United Nations, 2005: para. 1) and Libya (United Nations, 2011: para. 4). The power of the UN Security Council to refer to the Prosecutor of the ICC a situation in which one or more crimes within its jurisdiction appears to have been committed now makes it legally possible for war crimes and crimes against humanity in any armed conflict to be subject to judicial process. Those within the jurisdiction of an

³ Perhaps Mr. Y has a nephew who has just started on the slippery slope to criminality. He happens to follow closely the proceedings against his uncle and is profoundly affected by them. He is then motivated to turn his life around and does so. One only has to describe such scenarios to be aware of their rarity.

international criminal court may be protected by the government of the state in which they are resident—they may even be part of that government. There may also be political factors that will prevent the international community from intervening. However, governments can always change and there have been examples of international involvement in criminal justice being enhanced as a result.⁴ In this context, the conviction of someone by an international criminal court is a further demonstration of the effectiveness of international justice which is globally driven and has the capacity to advance further by expanding its jurisdiction and increasing the effectiveness of its operations. As such, it has potential preventive effects in any armed conflict. Internationalised criminal courts for similar reasons have the capacity to deter outside their jurisdictions. However, because they are more associated with particular domestic jurisdictions, they may not be viewed as driven by the international community to the same extent.

The contribution of cases such as that of General X to the internalisation of the moral norms underlying international criminal law has a global aspect which is not present in ‘ordinary’ crimes handled in domestic jurisdictions. The moral position underlying the criminal law on burglary has broad acceptance and is reinforced in England and Wales through thousands of convictions in the courts every year, but it is already very well-established. Reforms of the criminal law that go beyond prevalent moral attitudes may affect the attitudes of the general public. For example, the identification of, and higher penalties for, ‘hate-crimes’ may lead to significant numbers of people attaching a greater opprobrium to such crimes. Processes such as this take place very largely within the jurisdiction in which the law is applicable.

The establishment of the ICTY, the ICTR and the ICC has been recognised as leading to the prevention of criminal behaviour through changing attitudes (Akhavan, 1998: 747–749; Meron, 1993: 123), but it would be exceedingly difficult to measure the global role of proceedings before international criminal courts in inducing the internalisation of the norms underlying war crimes and crimes against humanity so as to prevent the commission of such crimes. However, a few *a priori* observations can be made. Trials for crimes against humanity and war-crimes, whether in domestic or international courts, often receive international attention and by their nature tend to make an impression on members of the public. They may thereby lead to the internalisation of the moral norms underlying them. The international nature of judgements of international courts and their conformity with international law also give them an authority.

In special prevention the focus is on the impact of the conviction and punishment of the individual perpetrator. Incapacitation is the most extreme form. For Mr. Y it is a term of imprisonment in which his capacity to commit crimes is restricted. In view of his past history this may have genuine preventive effects. Debates rumble on over how best to reduce Mr.

⁴ For example, changes of regime in Croatia and Serbia led to enhanced cooperation with the ICTY. Cf. Snyder and Vinjamuri, 2004: 24.

Y's tendency to re-offend—longer prison sentences, changes in prison regime, alternatives to imprisonment, enhanced crime prevention measures and so on.

If the armed conflict in which General X has participated is continuing at the time of his arrest, the sentence of imprisonment imposed on him may well have a real preventive effect. However, the perpetrators of atrocities are frequently prosecuted by the time that the armed conflict in which they have participated is long finished. For reasons that have been given an armed conflict in many instances is a precondition for the commission of crimes that are the subject of international criminal justice. If General X lives to be released from prison, the armed conflict may well have ended and if it is still continuing in some form it is unlikely that he will return to a position of power. If by the time of his release he feels sincere remorse and is no longer disposed to commit war crimes or crimes against humanity, his rehabilitation will be unlikely to be a necessary factor in preventing him from re-offending. Irrespective of his inclinations, he will in all probability not have the opportunity to commit crimes like those for which he has been convicted.

Promotion of Peace and Reconciliation

An ostensible reason for intervention by the international community in criminal justice is frequently its potential contribution to the promotion of peace and reconciliation.⁵

International criminal justice handles crimes of particular significance for armed conflict—war crimes and crimes against humanity. Insofar as it prevents further such crimes, it will tend to reduce armed conflict and promote peace. As with 'ordinary' criminal proceedings, international criminal justice may also do something to lessen the bitterness of the victims and others who react negatively to the crimes. The effect of Mr. Y's conviction and sentence on his victims is, of course, unrelated to any armed conflict. This is not so with General X. The resentment of the many relatives of those killed and the many others strongly identifying with them is essentially bound up with it and is most naturally expressed in acts of hostility towards General X and those on his side. General X's conviction and punishment may lead to some reduction in the intensity of these sentiments and to that extent they may promote peace and reconciliation (cf. Altman and Wellman, 2004: 66).

There is a further effect of the proceedings against General X, namely the individuation of guilt. The victims of a war crime or a crime against humanity and, more broadly, those on their side in the armed conflict tend to attribute responsibility to The Enemy, which is frequently nameless and faceless. The profound emotional reaction to the crime deepens the hostility and the desire to take revenge. The theory is that international criminal justice establishes objectively that particular individuals are responsible and not the group to which they belong which the other side regards as The Enemy. Through this process of

⁵ See, e.g. United Nations, 1993: preambular paragraphs 4, 6, 11; United Nations, 1994: para. 1; United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, 1998: preambular paragraph 3.

individuation, the animosity towards The Enemy felt by those who identify with the victims can be diminished (E.g. International Criminal Tribunal for the former Yugoslavia, 1994: 16; Akhavan, 1995: 766). Their indiscriminate reactions may be undermined and thereby hostility may be diminished to the extent that responsibility is attributed to particular individuals.

In armed conflict propaganda becomes more intense, information may be harder to obtain and, above all, feelings are inflamed. All these distort perceptions. Most obviously, this occurs in the ascription of responsibility for criminal acts for which individuation of guilt is a corrective. Moreover, apart from the allocation of responsibility for particular incidents, some individuals may have an overall narrative for the conflict and the background to it that is incorrect in ways that would undermine peace and reconciliation. For example, there may be exaggerated views of the numbers killed in particular incidents or stages of the conflict, or a simplistic, one-sided view of the factors that caused it or affected its course. The more objective account that emerges from international criminal justice can counteract these misperceptions.

It is important to stress that international criminal justice can only play a limited role in the promotion of peace and reconciliation. Internationalised and international criminal courts are often envisaged as temporary measures until domestic systems are capable of taking over; and the ICC, which is a permanent institution, is nevertheless ‘complementary to national jurisdictions’ (United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court, 1998: Art. 1). A number of people operating within organised structures are typically responsible for the atrocities that occur in modern warfare. Not all of them will be prosecuted and convicted (Clark, 2008: 336). There will also be atrocities for which no-one is ever prosecuted, just as there are acts of burglary that are unsolved. Moreover, hostility to the enemy in general is inflamed not only by violations of international law but also by pain and suffering that have been lawfully inflicted. The individuation of responsibility through the conviction of perpetrators of serious violations of international humanitarian law can never eradicate resentment towards the other side, and it would be unrealistic to expect this. Again there are sharply differing views on the effectiveness of criminal proceedings related to armed conflict in the promotion of peace and justice. For example, Snyder and Vinjamuri (2004: 11–15) argue that in some circumstances attempts to put perpetrators of atrocities on trial are likely to increase the risk of violent conflict and further abuses and therefore hinder the institutionalisation of the rule of law; on the other hand, in studies such as Kim and Sikkink’s (2010: 955–956) quantitative analysis points in the other direction.

In summary, international criminal justice can contribute to the promotion of peace and reconciliation through the types of effects it shares with ordinary domestic criminal justice—namely, prevention and the effect on victims and public opinion of seeing justice being done—and by generating a more objective understanding of responsibility for the crimes concerned and, beyond that, of matters related to the armed conflict (cf. Clark, 2008: 332).

Blazing a Trail for International Law

International criminal justice is a component of international law and the international system. Both have the potential to expand their role over armed conflict and, more generally, over international relations. The mere fact of the functioning of an international or internationalised criminal court demonstrates that international criminal justice is a reality.

The processing of Mr. Y by the criminal justice system does not exemplify a new way of thinking—in fact, there is unlikely to be anything innovative about the proceedings. Even if they are affected by a recent change in the law, the significance of his case can be expected to be almost non-existent, because it will only be publicly recorded in statistics that will cover hundreds of others like it. The position with General X is quite different. His case is highly visible and it is one of a relatively small number. Above all, the proceedings are novel in that they are being conducted before an international criminal court.

The establishment of the ICTY gave rise to a string of initiatives by the international community in post-conflict justice: the creation of the ICTR and the ICC and internationalised courts in Kosovo, East Timor, Sierra Leone, Cambodia, and Bosnia and Herzegovina (e.g. Snyder and Vinjamuri, 2004: 39). These developments led to a greater emphasis on criminal proceedings for war crimes in international decision-making (e.g. Meron, 1997:7). The large body of jurisprudence developed by the ICTY and the ICTR has introduced clarity into whole swathes of law; and the status of these two courts as international courts has given this jurisprudence authority in domestic jurisdictions as well as at the ICC and the internationalised criminal courts. There has certainly been a trend of expansion of international criminal law norms and their enforcement, with the earlier developments acting as encouragement for the later ones, though it can be interpreted in different ways.⁶

The contribution of international criminal justice to the strengthening of international law and institutions both in the criminal field and beyond is among the least predictable of its effects depending as it does on the much broader context of future armed conflict and international relations, but it is no less significant for that.

Concluding Reflections

Recidivism and crime rates are valid indicators of the main elements of the impact of many of the domestic initiatives taken to address the criminality exemplified by Mr. Y. These indicators have much less validity in the evaluation of international criminal justice. Its effects are multifarious and, in many instances, long-term and intangible. Unlike those of

⁶ Generally this has been viewed favourably but Snyder and Vinjamuri (2004: 40) contend that rather than taking the place of sovereignty and strengthening human rights and accountability, international criminal justice has moved towards recognising the rights of states, especially powerful ones, to exercise control over its terms.

policies directed at Mr. Y, they extend beyond the jurisdiction to prevention and internalisation on a global scale; they can encourage peace and reconciliation; and they may also push forward the international component of international criminal law.

Evidence abounds of short-term deficiencies of international criminal justice—for example, its failure to prevent atrocities (e.g. Snyder and Vinjamuri, 2004: 20, 24–25) and its rejection by some affected populations (Clark, 2008: 337–339). These outcomes are disappointing but not surprising and should not blind one to the longer-term and less tangible possible impacts. If large-scale war crimes or crimes against humanity are committed within the jurisdiction of an international or internationalised criminal court after it has been established, it is easy to identify them; it is much harder to show that the existence of such a court has prevented any such crimes from being committed. International criminal justice is only one mechanism among others that can promote peace and reconciliation. It may be appropriate to supplement it with other measures of transitional justice—truth commissions, reparations programmes and institutional reforms—to say nothing of other types of initiative. International criminal justice should therefore not be expected to produce miracles. After all, no-one expects the Mr.Ys of this world to disappear as a result of the latest policy initiative that is directed at them.

The long-term, less tangible effects of international criminal justice should be borne in mind when addressing such thorny issues as whether to prosecute potential peacemakers, whether to respect an amnesty that has ushered in peace or whether to give the ICC jurisdiction over a particular situation with the likelihood that fear of prosecution will lead to the prolongation of armed conflict. International decision-makers, like the rest of humanity, are inclined to give more weight to short-term advantage than longer-term detriment. The prospect of securing peace is particularly enticing. On the other hand, failing to prosecute someone reasonably suspected of having committed war crimes or crimes against humanity may on retrospect be a lost opportunity for reinforcing the institution of international criminal justice.

A high degree of unpredictability attaches not only to where and when armed conflict will break out and what form it will take, but also to how the international community will respond and what role, if any, international criminal justice will play. One should, therefore, be cautious in making any extrapolations from recent developments to the future. However, there are several factors that will tend in the long run to lead international criminal justice to develop positively. First, there is the almost universal acceptance that international and internationalised criminal courts should meet minimum standards of international human rights law. Second, judges who are not from the areas affected by the armed conflict can take decisions with a level of objectivity that is immensely difficult for local judges to achieve, especially in its immediate aftermath. As a consequence, international and internationalised criminal courts represent the best prospect for objectively describing and assigning responsibility for events that evoke the most powerful emotions. Third, ever since the establishment of the ICTY, a worldwide community of academics, non-governmental organisations and intergovernmental organisations with a human rights mandate has written in detail about international criminal justice. Its further evolution will take place in this context. The political framework will doubtless be of primary importance, but the scrutiny,

analysis and debate to which every initiative is subject can never be completely ignored. These factors can be summarised as fairness, objectivity and publicity. Here one final comparison with Mr. Y can be made. The process of justice that he and thousands others like him receive in England and Wales and in many other jurisdictions has after decades of evolution come to be regarded as mostly acceptable because of the same three fundamental qualities.

One can conclude that international criminal justice will enhance the prevention of crimes related to armed conflicts and promote peace and reconciliation without believing there to be any historical law of progress in operation. To draw this conclusion is nevertheless to make a large value-judgement on the basis of large and never fully verifiable generalisations. However, such value-judgements are unavoidable in any rational decision on the acceptability of a major development that is directed at peace and justice.

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10

Baseline Conflict Assessment: Northern Uganda (2009)

Matthew Waterfield

Abstract: This Chapter provides a baseline conflict assessment of Northern Uganda in 2009. Originally drafted in 2009, the main objective of this conflict assessment was to inform the planning of the 3-year three-year (2008-2010) USAID Stability, Peace and Reconciliation in Northern Uganda (SPRING) programme. This Chapter shows how a conflict assessment can be conducted and highlights how critically important it is that conflict recovery programmes are designed based on an explicit articulation of the understanding of the specific context of the conflict. This conflict assessment provides an overview of the conflict and undertakes structural and stakeholder analyses, whereby the causes of the conflict and the interests and means of all stakeholders are analysed. The Chapter also highlights the importance of continually reviewing the assessment for accuracy and ensuring the assessment informs each part of the programme cycle. Such a process can form the basis of an assessment of implications for programmes as well as ways in which programmes can best fulfil their aims and overarching objectives and positively contribute to the peacebuilding process.

Introduction

This Chapter provides a baseline conflict assessment of Northern Uganda in 2009. Originally drafted in 2009, the main objective of this conflict assessment was to inform the planning of the 3-year three-year (2008-2010) USAID Stability, Peace and Reconciliation in Northern Uganda (SPRING) programme. It is critically important that conflict recovery programmes are designed based on an explicit articulation of the understanding of the specific context of the conflict. SPRING was focused on the mitigation of the causes and consequences of the Lord's Resistance Army (LRA) conflict in northern Uganda, which represented one of the key challenges to addressing conflict in Uganda. An accurate, in-depth and constantly-updated assessment of the LRA conflict would be a key

tool to guide interventions under SPRING and provide information on the evolution of the conflict.

The original findings of this assessment provided the basis for the geographic assessment and annual work plans for SPRING. The analysis of the causes and consequences of the conflict informed the identification of the conflict-related needs and the geographical areas and sectors where SPRING could have the maximum positive impact. This assessment was also to be used as a basis for quarterly updates on the conflict assessment and analysis of specific topics. Similarly, the aim of this conflict monitoring was to allow SPRING to adapt and respond to the changing political and social dynamics of the conflict.

This assessment is based largely on a desk review of available literature. It has also been reviewed for accuracy and completeness during a geographic assessment in Uganda.

Assessment

Scope

The SPRING programme is limited to the LRA-affected areas and therefore this assessment is also limited to this geographical region. At the time of writing, this geographical area consisted of the following six districts: Gulu, Amuru, Kitgum, Pader, Lira and Oyam. It is recognised, however, that there are a number of additional districts which have also been affected directly by the LRA in the Teso and West Nile sub-regions, including Soroti and Adjumani.

This assessment considers how the conflict in the LRA-affected areas is linked to national and regional dimensions. In line with the scope of the SPRING programme, the assessment does not look in detail at other conflicts within Uganda or the wider region. Other conflicts are directly linked to the LRA conflict and *vice versa* but this analysis is beyond the scope of this assessment. Similarly, activities to address the causes and consequence of these conflicts are also beyond the scope of the SPRING programme.

Various terms have been used to describe the conflict in the north, including the Acholi conflict, the northern conflict or the LRA conflict. Each term carries with it a host of political and, in some cases, misleading connotations. For the purposes of this assessment and in fact for the SPRING programme, the term '*the LRA conflict*' and '*LRA affected areas*' will be used for ease of reference. The use of this term should not be construed as implying a lack of responsibility for the conflict by non-LRA actors.

Background

Violent conflict is often represented in simplified terms as being between groups that have different identities, distinguished along clear dividing lines such as religion, ethnicity or nationality. This over-simplification hides the multiplicity of identities that an individual has and the complexity of group identities (see Sen, 2006). A brief examination of the history of Uganda and how various aspects of identity have evolved will provide for a more nuanced

framework to understand the LRA conflict. This will also be the starting point to understand how identity is being further transformed by the conflict.

Ethnicity

The ethnographic structure of Uganda is made up of a number of generic groupings namely:

- the Ma'di-Moru community to the far north-west;
- the Luo/Nilotic communities to the north and north-west;
- the Luo/Nilo-Hamitic communities in the central and northern region;
- the Nilo-Hamitic communities to the north-east;
- the Bantu communities in the central, southern and western regions.

The rapid and far-reaching social and political changes brought about during the colonial period (1894-1962) transformed the pattern of inter- and intra-community relations across Uganda. The colonial authorities are widely perceived to have favoured the Buganda (members of the Bantu community) in the economic and political spheres in Uganda. Whilst the Acholi (members of Luo/Nilotic communities) perceived that the colonial authorities largely excluded the Acholi from the political and economic spheres. The Acholi initially resisted the colonial authorities and later the colonial authorities came to heavily rely on them in the military sphere, including during World War II. The borders of the original British protectorate did not include northern Uganda and the north was only gradually incorporated into the borders of present day Uganda during the colonial period. These borders were externally imposed by the colonial authorities and, as in much of Africa, the borders dissected traditional tribal boundaries. The Acholi community is now split between northern Uganda and southern Sudan. There is in fact some debate as to whether the Acholi community was a distinct entity with a unified identity prior to the colonial period, or whether the colonial authorities are responsible for the labelling and consequent formation of the Acholi as a distinct grouping (see Green, 2007). The introduction of the hierarchical administrative structures in the Acholi areas undermined their traditional leadership structures which, unlike most other communities in Uganda, were significantly decentralised (see Caritas Gulu Archdiocese, 2006). This decentralised structure reflects the great importance placed on the clan structures within Acholi culture.

The pattern of differential relationships between the colonial authorities and the various ethnic communities of Uganda can be considered to be having shaped how ethnic identity impacts the social and political life of modern day Uganda. The origins of the Acholi predilection for participation in the political life through the military arena, and the well-recognised north-south divide, can both be traced back to colonial origins. Since the formation of Uganda as an entity up to the present day a strong national Ugandan identity has not emerged that could effectively contain the conflict between communities, which has plagued the modern history of the country.

Religion

The introduction of Islam and various denominations of Christianity into Uganda accompanied the arrival of various waves of migration to Uganda. The concentration of the British imperial interests in the south to a large extent explains the present geographical pattern of Christianity throughout Uganda. The majority of people in the north are catholic, whereas the majority of the people in the south are protestant. Immediately after independence, religion was a central dividing platform in the Ugandan political arena, and religion still plays an important role in Ugandan politics today, although more implicitly. Yet religion cannot be cited as specific cause of modern day conflicts in Uganda, including the LRA conflict. Therefore religion cannot be considered to have been a key dividing factor in the LRA conflict; in fact it has acted as a unifying aspect of identity amongst the Acholi. In the context of the broader north-south divide religion does play a role in the formation of opposing identities between the north and the south which underlies the LRA conflict. Conversely religious peace initiatives have been some of the most successful in seeking peaceful solutions to the LRA conflict, due to the impartial and credible reputation of religious leaders.

Politics

Politics in Uganda centres around tribal divisions. How the Acholi people have been included and excluded from the national polity is key to understanding the LRA conflict. The key points in the evolution of the Ugandan post-colonial political environment relevant to the LRA conflict are summarised below to provide further substance to the contextual background of the conflict:

- The first post-independence government (1962-70) was initially formed between the Bugandan King, as President, and the northerner Milton Obote (member of Langi community), as Prime Minister. During this period the constitution is changed and the Bugandan monarchical authority over Uganda is abolished in favour of a republic.
- In 1971 Major General Idi Amin from the northern region of Western Nile, deposes Obote in a coup d'état. One of the first actions of Amin was to purge the military of Acholi and Langi and thousands of them were murdered and tortured. The period of Amin rule until 1979 is characterised by widespread human rights abuses, mismanagement of the economy and military actions against Tanzania.
- In 1979 Amin is toppled by an alliance of Ugandan opposition groups and the Tanzanian forces. Following a number of short-term presidencies, including that of President Okello (member of Acholi community), Obote is reinstated as President in 1980 in an election, which is contested by Museveni of the Uganda Patriotic Movement (UPM). Armed opposition groups including Museveni's National Resistance Movement (NRM) continues until Obote II is toppled and Museveni assumes the position of President in 1986.

Politics in Uganda remains dominated by ethnic community interests. If the voting patterns in elections are mapped, a close approximation can be made to the social tribal geography of Uganda. Each change in power since independence has taken place through military rather than democratic means. The periods of political hegemony and violence associated with changes or maintenance of political power are one of the major sources of tension and conflict between various ethnic groups in Uganda.

Overview of the Conflict

This analysis of the political, ethnic, religious and clan identities provides the contextual background to examine how the LRA conflict evolved over time. The LRA conflict has been classified into five distinct phases¹, as follows:

1. Ugandan People's Democratic Army (UPDA) March 1986 – July 1988;
2. Alice Lakwena Late 1986 – End of 1987;
3. Severino Likoya January 1988 – August 1989;
4. Early Kony Late 1987 – February 1994;
5. Later Kony / LRA March 1994 – 2006.

The first phase was characterised by the former military forces taking up arms as the UPDA, leading a popular resistance by the Acholi people immediately following the rise to power of Museveni. The subsequent movements led by Alice Lakwena and Sererino Likoya continued to pool popular Acholi resistance to the government of Museveni and the perceived southern and western hegemony. Alice Lakwena led her movement from Acholiland as far as Jinga with the aim of toppling the Museveni government, before she was defeated and fled to Kenya. It was during this time that the resistance took on an increasingly spiritual dimension under the leadership of Alice Lakwena. Joseph Kony further developed this unique concoction of spiritual and political drivers of the resistance, as a mixture of traditional and Christian beliefs with the ultimate aim to topple the government.

The most recent phase of the conflict, the later Kony period, is characterised by the LRA changing tactics and increasingly targeting the civilian population, especially the Acholi population. This involved the adoption of increasingly depraved tactics and committing widespread atrocities against the Acholi people. This meant instead of commanding support, the LRA increasingly demanded support from the Acholi people through fear. Kony utilised a complex array of induction and indoctrination rituals to convert abducted persons into willing participants in the insurgency. The ideology propagated within the LRA was a unique but not clearly articulated agenda, to remove Museveni from power, administration according to the Ten Commandments and a re-assertion of the Acholi identity in Uganda. The abuse of fellow

¹ For a more detailed account on the background and phases of the conflict see Garsony (1997).

Acholi people by the LRA is justified by the LRA in this latter phase of the conflict, as the LRA being the true Acholi and actions against fellow Acholi as a necessary means to reassert the Acholi identity. This change in the trajectory of the conflict is critical as it is at this point that the driving forces for the conflict became the conflict dynamic itself rather the original stated purposes of the resistance.

This period was also characterised by the Ugandan People's Defence Forces (UPDF) clamping down on the Acholi people. The UPDF with the endorsement of the central government adopted a policy of 'protected villages' whereby Acholi citizens were encouraged and often coerced into displaced camps, where the UPDF could supposedly provide protection to the civilians. This was then used by the UPDF as a springboard to undertake hostile operations against all persons outside the 'protected villages' on the basis of suspicion of membership or collusion with the LRA. Therefore, for much of the conflict the Acholi were victims of the hostilities from both parties to the conflict.

The removal of support for the LRA by the Government of Sudan in Khartoum and the partial military successes of the UPDF under operation Iron Fist led to serious defeats and a weakening of the LRA. The LRA was able to launch a counter-offensive including incursions as far south as Teso, but it is clear that Operation Iron Fist significantly weakened the LRA. The complete or partial loss of support and sanctuary for the LRA by Sudan, including Sudan permitting the projection of Operation Iron Fist into South Sudan, had a considerable impact on the LRA capabilities. The LRA eventually pulled back and regrouped in Garamba Park in the Democratic Republic of Congo.

It can be argued that this re-balancing of the military capabilities of the LRA and the UPDF in favour of the latter is the main reason that the LRA has agreed to the latest rounds of negotiation. The LRA and UPDF signed a cessation of hostilities agreement in 2006 and since then there have been a number of defections of LRA officers and soldiers. In December 2007 the number two commanding officer in the LRA, Vincent Otti, was murdered, apparently on the direct orders of Kony. These latest events further indicate that the LRA is being weakened through reported splits within the organisation and defections. There have been a number of delays in the peace process but the fact that both parties continue to participate in the process is a significant step. These developments in the conflict over the last couple of years represent a significant evolution in the conflict. The developments during this period can be considered to be significant enough to mark a new sixth phase in the conflict, the outcome of which is yet to be determined. A number of points could be taken as the turning point for phase six of the conflict; for the purposes of this assessment this is taken as the cessation of hostilities agreement signed in 2006. The issuance of the arrest warrants for the senior LRA leaders by the International Criminal Court in 2002 could equally be taken as a turning point in the conflict. Irrespective of the exact date of the transition to the latest phase of the conflict this is the greatest opportunity for a resolution of the conflict since its inception.

Structural Analysis

The historical overview of the conflict illustrates the complex nature of the LRA conflict which provides a useful starting point to analyse the underlying structural causes of the conflict. The origins of the lack of economic development in the north of Uganda can be traced back to the colonial period. Despite the prominence of the Acholi in the Obote administrations the benefits of economic development did not reach Acholiland as it did other areas of Uganda (Gersony, 1997). The economic potential of Acholiland prior to the conflict was considerable, particularly in the agriculture sector, with favourable environmental factors, including fertile soils and large herds of cattle. One of the opportunity costs of the conflict is this real possibility for the agricultural sector to productively employ the majority of the Acholi population. Whereas the present reality is that Acholiland as with much of the northern Uganda is characterised by widespread poverty with rates of poverty significantly higher than the rest of the country. The present dire economic situation in Acholiland is a direct impact of the conflict; linked to the patterns of forced displacement, decimation of cattle herds, low levels of agricultural productivity, high dependency on aid as well as the direct impacts through loss of life, injuries and abductions. The weight of evidence indicates that the economic underdevelopment of Acholiland has been massively exacerbated by the conflict but in contradiction to some beliefs widely held in the north; it has not been the underlying structural cause of the conflict.

The majority of research indicates that one of the central underlying causes of the LRA conflict has been the lack of a unifying Ugandan identity (Civil Society Organization for Peace in Northern Uganda, 2004). It has also been a major cause for a number of other conflicts that have taken place in Uganda. Apart from an involvement in the civilian administration of the Obote government, Acholi political participation at the national level has been dominated by military involvement in a number of administrations. The purging of the Acholi from the military by Amin, which involved murdering and torturing large numbers of Acholi soldiers, followed by the initial mistreatment of the former Acholi military by the NRM, have had far reaching impacts on Acholi perceptions of their ability to actively participate in the national polity. The onset of the LRA conflict was triggered by a series of factors which threatened the Acholi people. The removal of the Acholi from the military structures due to the political environment of the rise to power of Museveni meant the Acholi perceived themselves to be particularly vulnerable to the NRA forces. The initial excesses of the NRA against the Acholi were linked to motives of revenge for the previous Luwero atrocities of the Acholi soldiers. This provided the spark that triggered the resistance by newly formed Acholi forces, namely the UPDA and then later the forces garnered by Alice Lakwena. Conversely the atrocities conducted in Luwero largely by Acholi military have also laid an indelible imprint on the psyche of other Ugandans, particularly the Luwero and Bugandan people, with respect to perceptions of the Acholi.

This history indicates that the lack of political engagement of the Acholi at the central level and the broader issue of a lack of a national Ugandan identity, are the main structural causes of the LRA conflict and its predecessor conflicts. These structural causes of the LRA conflict

are also directly relevant for the majority of conflicts that have taken place in Uganda since independence. The reason that the LRA conflict has been the most prevalent and longest running conflict in Uganda can be argued to be due to a greater level of alienation of the Acholi within Ugandan society. This was exacerbated following the ousting of the Acholi from the military, which is normally their main means of political participation. President Museveni has attempted to address this issue by reforming the UPDF over the years to include greater representation of all ethnic groups of Uganda, including the Acholi. The inclusion of other ethnic groups in the military forces has been limited to the lower ranks and private soldier levels, with minimal almost non-existent participation in the higher ranks. Therefore the structural causes of the conflict, namely political disenfranchisement of the Acholi and the lack of a unifying Ugandan national identity have not been addressed and remain significant challenges.

As mentioned in the introduction, the conflict has now evolved to have a life of its own. What started as a means for the Acholi to resist political alienation and security threats from a vociferous NRA has transformed into an LRA that targets its own support network namely the Acholi people themselves. This new tactic undermined the popular support for the LRA previously given by the Acholi. The original structural causes of the conflict were soon superseded by other factors which became the driving forces of the conflict. As Kony adopted more ruthless tactics and turned against the Acholi people and commanded support for the LRA through fear rather than political support in the mid-1990s, external factors came into play which further fuelled the conflict. The support for the Sudan People's Liberation Army (SPLA) by Uganda and other international players together with reasons directly related to the conflict in South Sudan, led to the Government of Sudan commencing support for the LRA. Conversely, since 2001 it is the improvement in relations between Uganda and Sudan together with their respective cessation of support for the LRA and SPLA that contributed significantly to the advancement of the peace processes in both South Sudan and Uganda. Therefore, a critical challenge to the ongoing peace process will be, can and will the underlying causes of the conflict, namely the political disenfranchisement of the Acholi, be addressed when the LRA no longer represents the Acholi people.

The accurate assessment of the structural causes and their differentiation from the consequences of the conflict is important to understand the conflict and to plan interventions aimed at mitigating the causes and consequences. The influence of external factors has greatly influenced the conflict and the present international and regional environment favours peace. SPRING will need to closely monitor these external factors but the main focus of the intervention will be on the internal causes and consequences of the conflict. The table below highlights the main internal causes and consequence of the conflict:

CAUSES	Political Disenfranchisement of Acholi ethnic group	
	Lack of a Ugandan national identity	
	Conflict Dynamic	
CONSEQUENCES	POLITICAL ADMINISTRATIVE	Weak administration and poor delivery of services
		Poor rule of law
	HUMANITARIAN	High rates of mortality and morbidity
		Food insecurity
		Displacement
	ECONOMIC	Poverty
		Loss of livestock impacting on livelihood
		Reduced levels of productivity (for example: limited access to land, poor education and destruction to infrastructure) and access to markets

Stakeholder Analysis

The dynamic nature of conflict whereby relationships between different stakeholders are continuously changing has a direct impact on the course of the conflict. The majority of stakeholders may have an interest in peace, but if a particular actor has the capacity and interest to continue to spoil the peace and propagate a continuation of the conflict, the interests of the majority will be of no consequence. Therefore it is critical to understand the interests of all of the key actors and how these are changing. This understanding will shape how the programme interacts with each stakeholder, ensuring the programme activities contribute to the maintenance of interests in peace and simultaneously influencing those actors with an interest in continued conflict to develop alternative interests in peace. The baseline stakeholder analysis for the LRA conflict is presented in the table below. The

classification of the actor groups that are analysed is at a very broad brush level and hides a substantial diversity within each group. This analysis has been and will continue to be refined during the geographic assessment and throughout the project as part of the regular conflict reporting.

ACTOR	Interests and Ideology	Capacity and Technology	Changes Over Time	Relationships
1. Government	<ul style="list-style-type: none"> ■ Apparent political will to cease conflict and ‘modernise’ the north 	<ul style="list-style-type: none"> ■ Increased administrative reach in north ■ Military control of territory of Uganda 	<ul style="list-style-type: none"> ■ Cyclic move between peaceful and military methods to solve the conflict 	<ul style="list-style-type: none"> ■ Poor relations between majority of northerners and Government of Uganda (GoU) ■ Supported by west, especially US and UK ■ Historically poor relations with DRC and Sudan
2. UPDF	<ul style="list-style-type: none"> ■ Under control of central government but some indications a number of high ranking officers have an interest in continuation of conflict ■ Economic interests in Acholiland given to officers as reward for military success ■ Primacy of military during conflict (including need for high spending on defines), <i>Ghost soldiers</i> and hazard pay are potential sources of interest in lack of fully implemented peace ■ Performing all security functions including role of police 	<ul style="list-style-type: none"> ■ Military supremacy over LRA who are largely removed from Uganda ■ Except for Resident District Commissioner (RDC) exercise de facto central government administrative authority in Acholiland 	<ul style="list-style-type: none"> ■ Membership increasingly representative of Uganda especially at lower ranks, including Acholi. ■ In defensive position no significant operations in north at present. ■ Decreasing role in policing in LRA affected areas as Police are re-established 	<ul style="list-style-type: none"> ■ Under authority of central government ■ Mixed relations with northerners ■ Supported by US
3. LRA	<ul style="list-style-type: none"> ■ Operate on ideology of fear to demand 	<ul style="list-style-type: none"> ■ Force largely intact with several 	<ul style="list-style-type: none"> ■ Reduced capability 	<ul style="list-style-type: none"> ■ Mixed relations with Acholi but increasingly

ACTOR	Interests and Ideology	Capacity and Technology	Changes Over Time	Relationships
	<p>support</p> <ul style="list-style-type: none"> Continued economic benefits from conflict Four senior officers avoidance of ICC arrest is a priority Apparent interest in continuance of peace process. 	<p>thousand fighters predominantly abducted children</p> <ul style="list-style-type: none"> Capability reduced through defections, reduced support and removal of sanctuary by Sudan. 	<ul style="list-style-type: none"> Signs of fictionalisation within LRA between those interested in peace (with strong links to Diaspora and negotiation team) and those interested in continued conflict or alternative way out Change in base from Sudan to DRC and now some in CAR 	<p>lacks support from majority of Acholi in north</p> <ul style="list-style-type: none"> Apparent slightly improved relations with GoU as meeting in Juba Poor relations with people of other non-Acholi affected sub-regions: Langi, Teso and West Nile sub-regions
Acholi	<ul style="list-style-type: none"> Majority are now in favour of an end to the conflict. Stated interest in reconciliation and forgiveness for LRA 	<ul style="list-style-type: none"> Traditional, religious and governmental capacity to implement reconciliation Fertile land for agriculture Resources available Economic potential 	<ul style="list-style-type: none"> Some are returning from displaced camps Attempts to encourage loss of dependency culture 	<ul style="list-style-type: none"> Divided society Varied relations with other stakeholders depending on individual, family, and clan.
Langi	<ul style="list-style-type: none"> Security from LRA and other incursions 		<ul style="list-style-type: none"> Conflict with Acholi presently is not active Conflict with Karamajong is active 	<ul style="list-style-type: none"> Historically poor relations with Acholi and Karamajong Good relations with Teso
Teso	<ul style="list-style-type: none"> Security from LRA and other incursions 		<ul style="list-style-type: none"> Conflict with Karamajong is active 	<ul style="list-style-type: none"> Relations with Acholi negatively impacted by LRA incursions
Karamajong	<ul style="list-style-type: none"> Maintain and protect livelihoods based on cattle 	<ul style="list-style-type: none"> Heavily armed population with capability to undertake raids 		<ul style="list-style-type: none"> Historically poor relations with neighbouring districts and neighbours in Sudan and Kenya
West Nile (N.B. Adjumani)	<ul style="list-style-type: none"> Security from LRA incursions 			
Civil Society	<ul style="list-style-type: none"> Peaceful solution 	<ul style="list-style-type: none"> Represented as observer in 	<ul style="list-style-type: none"> Role in peace building sector 	<ul style="list-style-type: none"> Some groups are unique as have

ACTOR	Interests and Ideology	Capacity and Technology	Changes Over Time	Relationships
(including the religious organisations)	to LRA conflict	Juba process <ul style="list-style-type: none"> ■ Represent Acholi people as key provider of services ■ Influence government 	is growing	relations with both GoU and LRA
Business Groups	<ul style="list-style-type: none"> ■ Heterogeneous group: <ol style="list-style-type: none"> 1. Some groups have economic interest in maintenance of status quo, with some links to GoU and UPDF 2. Other groups have interest in continued peace as associated with economic growth 	<ul style="list-style-type: none"> ■ Provision of employment and investment ■ Limited political power 	<ul style="list-style-type: none"> ■ Increased security has encouraged investment and business activity more generally. 	<ul style="list-style-type: none"> ■ Some interests related to GoU and UPDF
International Community in north	<ul style="list-style-type: none"> ■ Focus on humanitarian sector. The provision of life saving support and promote return. ■ Advocacy on behalf of citizens 	<ul style="list-style-type: none"> ■ Significant provider of resources to Acholiland 	<ul style="list-style-type: none"> ■ Shift from provision of support in camps to return sites 	<ul style="list-style-type: none"> ■ Work in an uneasy partnership with GoU ■ Perceived bias against provision of resources outside Acholiland

Local Capacity

The local capacity in a stabilisation context is the local ability to address the drivers of the conflict. The apparent political will for peace expressed by the government, if sincere, is a major asset in favour of a peaceful resolution to the conflict. The religious and traditional leaders have played a critical role as mediators and advocates for a peaceful resolution of the conflict, as described in detail in previous sections. A number of renowned individuals and other civil society actors have also undertaken substantial work towards peace. The geographical assessment will provide for a more detailed assessment of the local capacities to contribute to peace, including the geographical scope of the work of the relevant stakeholders. The role of SPRING will be to identify these capacities for peace and to design and implement innovative means of supporting these and thereby contribute to stabilisation of the LRA conflict.

There have been over recent years some improvements in the reach and legitimacy of the government. The recently launched Peace, Recovery and Development Plan (PRDP) for Northern Uganda (2007-2010) aims to address the developmental and stabilisation needs of

the north. The successful implementation of this initiative would have both a major stabilising impact on the areas impacted by the LRA conflict and contribute to addressing the political disenfranchisement of the Acholi. Therefore a successful PRDP would also contribute to addressing the structural causes of the conflict related to political disenfranchisement. The commitment of the government to the funding and full implementation of the PRDP is similarly yet to be proven.

Future Projection of the Conflict

Trend Assessment

The preceding analysis indicates that the conflict is undergoing a significant shift, but it is extremely difficult to predict what will be the final outcome of this shift. Despite these difficulties it is useful to attempt to lay out some of the possible routes the conflict will take in order to inform the planning and risk management mechanisms for a stabilisation programme such as SPRING. It is fairly clear that the conflict has moved into a phase six, as described earlier, but what is the nature and implications of phase six is the key forecasting challenge.

There is a discernible trend of the interests of various stakeholders shifting from conflict to peace, such as the majority of the Acholi population, the government and some factions of the LRA. This presents an opportunity for peace with greater potential for success than any other previous opportunity throughout the history of the conflict. The progress in the peace process, including the signing of various elements of the peace agreement in 2007 and particularly in recent weeks in 2008, is further testimony that this point in time is an opportunity for peace. It is widely believed that the peace agreement will be signed in the near future and that the main challenges will come during the pre-implementation and implementation phases. Conversely in the past there have been attempts at peaceful negotiation and it is equally possible that the present phase represents a lull in the conflict that could equally lead to a resumption of the conflict in the future. It is a common military tactic to use negotiations as a time to re-supply, regroup forces and generally prepare military capabilities prior to a fresh wave of violent conflict.

Scenarios

The literature on the LRA conflict has put forward various scenarios for the future of the conflict, including the DFID conflict assessments, Gersony (1997) and Dolan (2006). The nature of the scenarios put forward is obviously dictated by the status of the conflict at the given point of time at which the forecast of the scenarios is made. The scenarios detailed below are similarly constrained by the information available at this present time, at which point the negotiations are underway and scheduled to be completed with a few weeks.

Scenario	Features	Benchmarks / Indicators
1. Peace agreement signed and implemented as part of a more extensive process of regional and national reconciliation	<ul style="list-style-type: none"> ■ Continued improved security ■ National process of long-term reconciliation and national development undertaken ■ Structural causes of the conflict and the consequences are adequately mitigated 	<ul style="list-style-type: none"> ■ PRDP takes hold as an effective mechanism for inclusion of north ■ Northern population perceives the central government to have given renewed priority to the north ■ Enhanced political space provided for political opposition especially from northern constituents
2. Peace agreement signed but not implemented. LRA does not re-emerge as a credible force. Future resistance by Acholi people does not manifest as violent conflict.	<ul style="list-style-type: none"> ■ Recovery programme and other provisions of peace agreement implemented in Uganda. ■ LRA is further weakened through defections and an increasing regional isolation ■ Perhaps a regional military effort is undertaken to deactivate the remnants of the LRA ■ Consequences are sufficiently mitigated to defer any large scale violent conflict in Acholiland 	<ul style="list-style-type: none"> ■ Agreement signed by both parties at a credible level of authority ■ LRA moves in response to loss of succour ■ Political interests of Acholi not adequately represented at central level
3. Peace agreement finalised and implemented but with limited or non-existent follow-up processes. Continued disenchantment of Acholi leads to the formation of a new insurgency	<ul style="list-style-type: none"> ■ Continued improved security ■ Lack of an adequate economic recovery programme perceived to be a GoU tactic for continued exclusion of the north 	<ul style="list-style-type: none"> ■ Agreement signed by both parties at a credible level of authority ■ Implementation timetable generally adhered to
4. Delays in peace process result in a breakdown of the process and resumption of periodic conflict	<ul style="list-style-type: none"> ■ Recovery programme interrupted. ■ Incursions by LRA commence in neighbouring countries and in Uganda ■ Perhaps a regional military effort is undertaken to combat the LRA 	<ul style="list-style-type: none"> ■ Deterioration in security conditions ■ Returns process halted and perhaps reversed

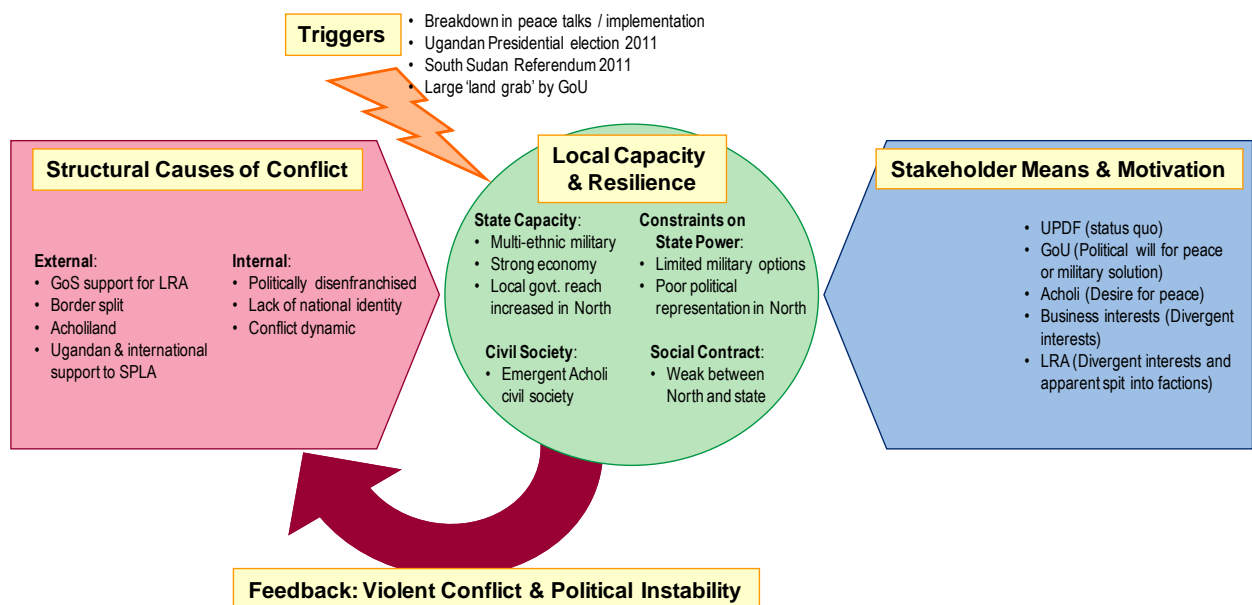
The nature of a peace process means that it is fragile and vulnerable to triggers that can lead to a resumption in conflict. It is therefore also important to identify these potential triggers and monitor their impacts. Such triggers have the potential to lead to temporary or more sustained resumption of conflict. This potential is illustrated in some of the scenarios cited

above. The potential triggers for a return to conflict in this particular context include the following:

- A referendum on the future and possible independence for southern Sudan is planned to take place in 2011. This has the potential to undermine the present agreement between Sudan and Uganda to not support insurgencies in the respective countries. The resumption of full-scale support for the LRA by Sudan would then be a possible outcome.
- The next presidential election in Uganda is scheduled to take place in 2011. The possibility of lower levels of support for Museveni and the political instability this may cause.
- A continued stalling or permanent pull out from the talks by either party. If the peace agreement is signed as predicted, the trigger could equally be stalling or renegeing by either party during the pre-implementation and implementation phases of the process.
- Large scale acquisition of land for national agro-business ventures by the Government of Uganda (GoU) as part of the initiative of *modernising* the north. This could trigger the Acholi to respond with violence.

Overview of the Conflict

The analysis of the structural causes, stakeholders, capacities for peace and triggers can be graphically presented as follows:



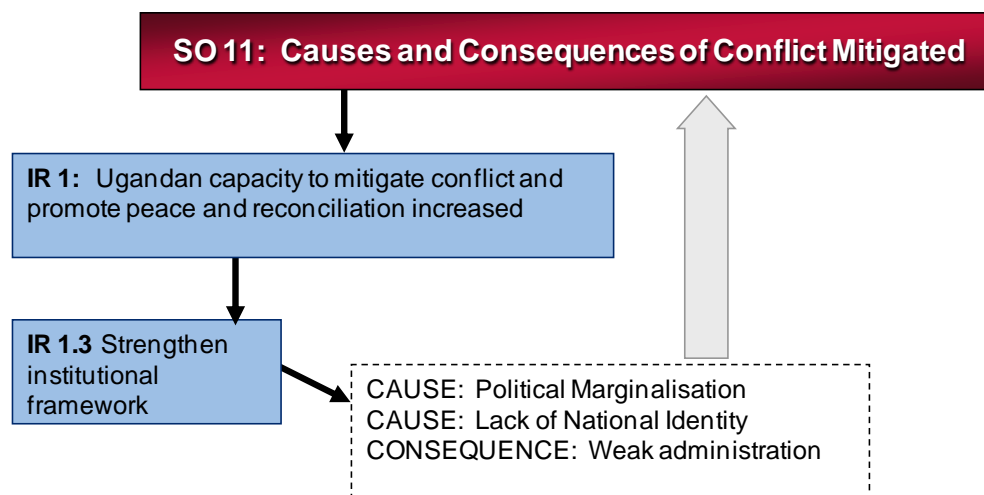
Implications for the Programme

This conflict analysis has far-reaching implications for SPRING that need to be carefully considered at each phase of the programme including assessment, planning, implementation

and evaluation. Furthermore this assessment will be continually updated so that the programme can respond in a dynamic fashion to the changes in the conflict. The geographic elements of this conflict assessment and the stabilisation needs will be examined in detail in the geographic assessment. The main implications for SPRING of this macro level conflict assessment are as follows:

Strategic Goals

The strategic objective of SPRING is to mitigate the causes and consequences of the conflict in Uganda. This assessment provides the analytical framework to identify the specific causes and consequences of the LRA conflict. All activities undertaken under each intermediate result will be grounded as to what specific causes and consequences this activity aims to contribute towards mitigating. This conflict framework will be the lens through which all activities under SPRING will be seen. This is the basis for the assessment of needs and impact within the geographic assessment. The indicators of these needs identified during the assessment are directly linked to specific causes and consequences. How each intermediate result and their related activities impacts on specific causes and consequences of the conflict will also be the basis for the planning of activities and the mechanism for evaluating the impacts. To illustrate this approach an example for one of the intermediate results is depicted below:



Conflict Needs

The needs to be addressed by a stabilisation programme such as SPRING are the causes and the consequences of the conflict that may lead to a resurgence or triggering of renewed conflict. This assessment and the preliminary findings of the geographic assessment indicates that the major needs to be addressed at the macro level are, therefore, as follows:

- Exclusion of Acholi from national polity and society;
- Acholi intra-community conflict;

- Potential for renewed inter-community conflict between the Langi and Acholi;
- Ongoing conflict between Karamajong and their neighbours.

Ugandan Process

This assessment confirms what has been highlighted by much of the literature on peace building and the northern Uganda conflict, in particular; that the ownership of the peace process by Uganda will be critical to the success of the process. The dependency culture that has developed in the north further underlines the need for external support to be tailored in a way that contributes to the sustainability of the local capacities for peace. Evaluations of previous programmes also highlight the importance of this central tenet to supporting the peace process.

The immediate peace settlement of a conflict is often concluded with an agreement. There is a spectrum of approaches to such settlements which depend on the specific conditions of a conflict and the nature of the political agreement reached. This spectrum ranges from agreements that favour and privilege the ex-combatants to those that are community-based and do not favour the ex-combatant more than other community members. Up until now the process of resolving the LRA conflict has focused on a community-based approach. At the time of writing, the ongoing negotiations in Juba will entail a decision on where the future peace process rests along this spectrum. Whatever decisions are reached it is important that external support, including SPRING, reflects this nationally-decided approach.

Conflict Monitoring

The dynamic nature of conflict means SPRING will need to continually review this assessment and the findings of the geographic assessment. The conflict monitoring system which will be put in place aims to serve this purpose. The findings of these periodic assessments will then inform the ongoing review of activities and plans. This will be the mechanism that will permit SPRING to proactively respond to the conflict and therefore the stabilisation needs.

Conclusion

This conflict assessment of Northern Uganda in 2009 has highlighted how critically important it is that conflict recovery programmes are designed based on an explicit articulation of the understanding of the specific context of the conflict. This conflict assessment has provided an overview of the conflict, and an historical background. It has also undertaken structural and stakeholder analyses, whereby the causes of the conflict and the interests and means of all stakeholders are analysed. This Chapter also highlights the importance of continually reviewing the assessment for accuracy and ensuring the assessment informs each part of the programme cycle. Such a process can form the basis of an assessment of implications for programmes as well as ways in which programmes can best fulfil their aims and overarching objectives and positively contribute to the peacebuilding process.

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11

Re-thinking Post-conflict State Building: Developing Better Governance and Fighting Corruption – Have We Got it Right?

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Abstract: This Chapter examines issues surrounding developing better governance and fighting corruption in post-conflict state building endeavours. By drawing from professional experience as well as literature on state building, notably Paul Collier’s thesis on the need for a long-term developmental approach to building peace, this Chapter underscores the importance of addressing governance and corruption issues if post-conflict state building efforts are to be successful. With specific reference to state building efforts in Bosnia and Herzegovina, Kosovo, Iraq, Afghanistan and South Sudan, the Chapter highlights the extent to which these efforts have been undermined by a weak governance and anti-corruption agenda. The Chapter also examines the reasons why efforts to promote governance and fight corruption have been less than successful, referring, in particular, to weaknesses in donor co-ordination, prioritisation and sequencing. In conclusion, a number of recommendations are proposed that would enable governance and corruption to be addressed more comprehensively after conflict and, thus, better contribute to rebuilding post-conflict states.

Synopsis

This Chapter examines the issues surrounding developing better governance and fighting corruption within the state building agenda for fragile and post-conflict states.

In a paper on ‘Concepts and Dilemmas of State Building in Fragile Situations’ the Organisation for Economic Co-operation and Development (OECD) defines state building as the ‘purposeful action to develop the capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual demands between state

and societal groups. Legitimacy will be a principal outcome of the effectiveness of such a process over time, although legitimacy may also be embedded in historical identities and institutions’ (OECD, 2008: 14). They argue: ‘A focus on governance structures that address inequities and inequalities and promote accountability is likely over time to promote resilience’ (OECD, 2008: 23).

Regrettably, when one examines the multi-dimensional missions that have taken place since the 1990s it can be seen that state building theory and practice appear to have diverged considerably as time has flowed on past the signing of peace accords or the establishment of interim administrations. Drawing on my own developmental as well as fragile state experience, I propose to highlight some of the issues surrounding the state building efforts of 5 multi-dimensional missions – those of Bosnia and Herzegovina, Kosovo, Iraq, Afghanistan and South Sudan – to seek lessons of experience. To varying degrees, all of these have had limited success.

In asking what has gone wrong in each of these situations to leave us where we are today, key aspects of the thesis of Professor Sir Paul Collier (2009) will be examined. Collier (2009: n.p.) suggests that the traditional approach with a rush to elections ‘defies reality’ and proposes a long term developmental view; a ‘Post-conflict Compact’ between the UN Security Council, donors and the new post-conflict government, to provide an ‘inclusion agenda’ to be worked toward over-time; and, for sustainable jobs, basic services and clean government to be central to a long term development strategy.

Collier sees elections as producing winners and losers (not an inclusive society) and as an ‘exit strategy’ for peace keepers. The extent of the importance of elections as a determinant of the success or failure of state building within the five multi-dimensional missions considered in this Chapter may not be that significant. It is, however, suggested that lack of effective prioritising and sequencing of the elements of state building have perhaps been of equal if not greater significance.

Focusing then on the building of ‘clean government’ it is argued that the approach to building it will be critical but fraught with obstacles. For example, the debates over the nature/definition of governance and corruption; the different lenses through which donors see the issues; and, the lack of donor co-ordination and aid harmonisation in the fields of governance and corruption, are critical factors – along with prioritisation and sequencing – that mitigate against success at winning ‘clean government’. It is further argued that governance issues should be a priority concern and addressed more explicitly rather than implicitly subsumed in other interventions. As a corollary, much greater emphasis is required on measures both to reduce corruption and the possibilities for corruption.

Introduction: the Need to Re-Think State Building

When we look at fragile and post-conflict states, leadership ‘of the state, by the state, for the state’, is not something that we expect to be evidenced. Weakened and corrupt governments fail to provide basic services; insurgent governance structures may exist; the legitimacy of leaders is often questioned and trust eroded; the voice of the people in influencing policy and

strategy is ignored; decision making lacks transparency; and, actors at different levels cannot be held to account. International actors that intervene to stop the fighting, build and keep the peace, and commence state building then build new systems, procedures and structures. Parallel financial systems are installed to eliminate the opportunity for corruption, yet the level of aid is often so great that the temptation to public (and often aid) officials to exploit the fact for personal gain becomes even greater. Procurement and contracting is often taken out of the hands of the post-conflict government with the view to stop corruption but then accusations are made by government that their sovereignty is undermined. And, as if that is not enough, interim governments may be formed and artificial governance constructs of the external parties established, such as the Office of the High Representative in Bosnia and Herzegovina, the UN Interim Administration Mission in Kosovo (UNMIK) and the Coalition Provisional Authority in Iraq.

Levels of Achievement in State Building

With this complexity of ground truth and a multiplicity of approaches to getting things right, it is perhaps not surprising that the success of new governance structures in post-conflict states and the ability of the international community to guide their development and support them has been more than a little limited. Indeed, some might argue that following the installation of new governments, multi-dimensional missions and the international community more generally have largely failed at sustainable state building. For example:

- (i) With respect Bosnia and Herzegovina (BiH), David Chandler (2006: 17-38) wrote in the *International Journal of Peace Studies* in 2006 ‘There is a consensus about Dayton – that is repeated so often it is virtually a mantra of international officials – that the 1995 peace agreement was a treaty “designed to end a war, not to build a state”’. In 2008, a paper by Divjak and Pugh (2008: 373) in *International Peacekeeping* stated ‘[the] governance of BiH through so-called shared domestic/international sovereignty has led critics to denounce the ‘liberal peace’ in BiH as a travesty of state building because the process has not been anchored to any political roots, and in fact has been depoliticised’. This year (2014) people on the streets of Sarajevo and Tuzla have been protesting and rioting. Reportedly this is the result of high unemployment but more fundamentally it is the inevitable result, suggests Steven Meyer (2014: n.p.)¹, of a ‘broken political system’.
- (ii) In Kosovo, ever since the formation of the UN Mission (UNMIK) parallel governance structures have existed, predominantly in northern Kosovo. These are in the areas of:
 - (a) Courts (where there is duplicative litigation and no legal certainty);

¹ This chapter is taken from an *article that was originally published by the Serbian daily Politika, 16 February 2014. Interestingly in the web article Meyer talks of the riots as “the result of ‘widespread desperation’ brought on by economic and financial conditions and the inability and unwillingness of the leadership to chart a way forward” whilst the term used in Politika is ‘pervasive despair’ (Meyer, 2014: n.p.).*

- (b) Security (resulting in major discrimination);
- (c) Property rights (ultimately, potentially leading to loss of property for private individuals);
- (d) Access to education (two school systems and different curricula); and
- (e) Access to health care (with provision of care highly politicised).

These have existed largely with the de facto authority of the Serbian Government (OSCE, 2007). Some of these have been dismantled. For example, the parallel police structures in Northern Kosovo ended in July 2013. Some remain in existence, for example those of the courts. Also, despite the fact that it now recognises the legitimacy of existing Kosovo institutions, Serbia still refuses to recognise the Republic of Kosovo (the government of which was formed in 2008) as an independent, sovereign state. In summary, there is no unified state.

- (iii) In Iraq, Dodge (2006: 187) asserts ‘the US invasion in March 2003 marked the second time in Iraq’s 85 year history that foreign intervention, justified in the name of state building, has failed to deliver on the promise of creating stable, sustainable and democratic governing institutions’ and Bouillon (2012: 287) reinforces this assertion saying “As the repressive State fell away – as the ‘curtain of control’ was lifted – the issue was no longer state failure: it was state collapse”. Whilst Azeez (2010: 79-80) offers the explanation that there was/is a confusion between state and nation building (and in the eyes of the UN at least, even peace building) and that the ‘reconstruction process in Iraq involved activities tailored towards reconstructing the “state”, rather than the “nation”, which inadvertently left many of the initial sources of conflict (such as ethnic strife, religious and sectarian insecurities, claims to the oil rich city of Kirkuk, war and authoritarianism) in place’. Personally, I suggest that it could not have been otherwise: there was no proper strategy ready and implementable when the ‘shock and awe’ bombing stopped; the transition from the Office for Reconstruction and Humanitarian Assistance (ORHA) to the Coalition Provisional Authority (CPA)² was far from smooth and proceeded with considerable acrimony; the CPA was barely up and running before it was dismantled; and the manner in which the Sunni Government was replaced by a Shia one in 2004 was inevitably to lead to severe consequences.
- (iv) In Afghanistan post 2001, it is suggested by Astri Suhrke (2013: 271-286) that the state building agenda that was followed ‘contained an inherent contradiction’. She argues that whilst the aim was:

² The ORHA was the predecessor organisation to the CPA and was led by Lt Gen Jay Garner. Garner refused to undertake de-Baathification and Paul Bremmer was chosen by President Bush to lead the CPA and ensure de-Baathification proceeded.

... to build an Afghan-owned, liberal new order... the principal instruments were heavy and intrusive, external assistance [and that this created] three sets of tensions that seriously eroded the state building project. First, the massive aid-and-war economy [meant that] easier money discouraged the government from generating local capacity and slowed the development of a sustainable Afghan-owned order. This feature in turn collided with aspirations for a democratic polity... Second, the dependence on external financial, military, and technocratic resources produced tension between what we can call 'ownership' and 'control'. International actors wanted a measure of control over their programmes and the reform agenda; national actors pressed for the same, in the name of the internationally sanctioned language of 'local ownership'. The tension, inherent in most aid projects, was magnified in Afghanistan by the large international presence and the high stakes involved... Third, tension stemmed from the conflicting imperatives of simultaneously waging war and building peace. Local militias were armed, and local alliances were made that undermined good governance and the establishment of a monopoly of force. Both principles are central to state building.

- (v) Despite these contradictions and despite the fact the 2001 Bonn Agreement has been seen by some as the root cause of the Afghanistan conflict³, some small but significant progress has been made when measured against the milestones of the Bonn Agreement⁴. Two Loya Jirgas have been held, a new Constitution has been compiled and adopted, and Presidential elections have been held (now twice). Furthermore, women have not only been allowed to vote but have voted in their masses. It can be argued, therefore, that foundations for a new democratic polity have been laid. The evidence to support good progress in state (as opposed to nation) building is not so readily available, however. Security Sector Reform has, it is claimed, been frustrated by lack of Strategic Direction (Dennys and Hamilton-Baillie, 2012); the creation of a new civil service has been hampered by the duality of a de-facto, civil service of foreign experts as well as by cronyism / politicisation of appointments in the de-jure civil service; the establishment of regional / sub-regional offices of national ministries has been severely constrained by fighting and insecurity, particularly in rural areas; and, there have been significant shortfalls in the provision of basic services, including healthcare, education, electricity, roads, water and security, again particularly in rural

³ Julian Borger in his Global Security Blog, 20th June 2011, describes it as '... a victors peace attended by Washington's Afghan allies, who carved up the post-war status quo between them. The Taliban, and many of the Pashtun tribes associated with the movement, were not invited and have been excluded from power ever since'.

⁴ 'Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions', December 2001

areas⁵. In the health sector alone, it is noteworthy that according to a recent BBC television news report (broadcast on 05 March 2014), half of all children in the country (and an even greater proportion in Helmand) are suffering from malnutrition.

- (vi) In South Sudan it is argued ‘orthodox state building... more or less failed... The challenges presented by this new, complicated, post-conflict country demand innovative approaches to building state capability which go beyond importing “best practice” solutions while feigning “client ownership”’ (Larson, Ajak and Pritchett, 2013: 1)⁶. Furthermore Pantuliano⁷ (2014: n.p.) alleges that ‘the international community – the many regional and international players who have been supporting the transition in South Sudan – shoulders some of the responsibility’ and that these players have partaken in an engagement that ‘has too often followed textbook prescriptions’. Such conclusions⁸ have been reached as the new government in Juba is said to ‘struggle to reconcile its former rebel roots with its newfound responsibilities to lead a democratic and developing country’ (Haken and Taft, 2013: n.p.). Allegations over Dinka domination of the new SPLM government, an alleged coup by the opposition said to be allied to the Khartoum government, and continuing border disputes and ethnic / tribal tensions, have now led to some 740,000 persons displaced in South Sudan, over 120,000 displaced in neighbouring Kenya, Ethiopia, Sudan and Uganda, and 1000s injured and killed, since the New Year. This combination of issues and ‘not least that of political egos... still have the potential to lead to a full blown civil war’, according to the Guardian’s Africa Correspondent⁹. [n.b. ‘Sudan and South Sudan account for one third of the 125, 000 personnel the UN currently has deployed globally. The two countries also account for around one third of the annual peacekeeping budget of almost \$8 billion’ (Ladsous, 2014: 4)].

Principles for Rebuilding a Broken Nation

But what really has gone wrong? Why, in all these situations has there been such relapse after a peace treaty has been signed or relative peace installed by an interim administration? Paul

⁵ See ‘Corruption in Afghanistan: Recent Patterns and Trends’, UN Office on Drugs and Crime (UNDOC), December 2012 which found that ‘*the delivery of public services remains severely affected by bribery*’.

⁶ This is a study prepared within the UNU-WIDER project ‘ReCom–Foreign Aid: Research and Communication’, directed by Tony Addison and Finn Tarp.

⁷ Sara Pantuliano is the Head of the Humanitarian Policy Group at the Overseas Development Institute. Prior to joining ODI, she led UNDP Sudan’s Peace Building Unit.

⁸ It is suggested that some of the criticism that has been levelled at donors and donor intervention in Sudan may well stem from those who do not wish to see changes from the status quo and thus their ability to benefit from the proceeds of corruption. Any accusation by government that ‘donor actions undermine government’s sovereignty’ must be weighed, therefore, against the donor community’s requirement to ensure that their money is spent properly and with positive impact. All donors are, after all, answerable to their national governments.

⁹ *The Guardian* reporter, David Smith stated, Monday January 20th 2014, ‘A battle of political egos has degenerated into an ethnic conflict that has killed many thousands of people’.

Collier in his talk 'New Rules for Re-building a Broken Nation' (2009) suggests that the conventional approach 'defies reality'. He defines the conventional approach as being underpinned by three principles:

- (i) Politics matters;
- (ii) Provide peace keepers but only for a short time; and
- (iii) For the exit strategy, hold an election.

Collier argues that an election produces 'winners and losers' and not an 'inclusion agenda'; and that an exit strategy must be based on 'economic recovery'. In the place of the conventional approach, therefore, Collier advances an approach with two complimentary elements:

- (i) An 'inclusion agenda' that recognises the interdependence of the Security Council, donors and the new post-conflict government, and the agreement of all parties on a 'Post-conflict Compact'. In this, the Security Council commits to the provision of security over the long term (say 10 years) in order that there is the 'reassurance that produces private investment'; the post-conflict government gets on with economic reform and doesn't 'fuss about the political constitution'; and donors, accordingly, support this process.
- (ii) Focus 'on a few critical things', namely jobs, basic services (particularly health) and clean government, since it should be recognised that 'the capacity to implement change is limited' (Collier, 2009: n.p.)

Collier's arguments severely challenge conventional thinking. Traditionally when donor governments and recently warring parties gather around the conference table to sign a peace deal, or an interim administration is installed to maintain peace and assist development, all parties wish to move forward as quickly as possible. International actors wish in some way to bequeath a democracy since the very word democracy has connotations of success that an electorate at home will view positively. Each of the one-time warring factions meanwhile seek power. National development is wanted but it is the ability to hold the power that will ultimately determine the development path that seems to be the factor that is deemed crucial. What then if tradition is stood on its head?

Most western governments are elected for a relatively short term in office (usually 3-4 years). Committing to a long term programme (maybe of 10 years) could be difficult for a donor government's electorate to accept and may jeopardise the chance of the government being re-elected. But even if the gamble is taken and at the outset, donor governments agree with the Security Council that they will support a long-term approach, would the factions that are competing for power following the newly agreed peace be content to accept that they'll have to wait for a number of years (possibly as many as 10) before they can take control of their country's destiny? Would they be willing to sign the type of Compact that Collier is suggesting? Would the people they wish to govern accept that it will be such a long time before a democratic government is elected? All these are imponderables that will, it is

suggested, depend on context and robust appraisal as catalysts to fragility emerge in a country. Speculation here is not, therefore, deemed appropriate. However, it is suggested that it may be useful to examine some of the basic principles that underpin Collier's proposals.

Elections: has the Installation of Democratic Government Been Rushed?

Speed at the Price of Addressing the Risks?

The history of first elections following a 'peace' is various in the 5 referenced states. The shortest time between an effective peace and elections is 10 months for Bosnia and Herzegovina, whilst the longest time is some 48 months for Afghanistan (and possibly South Sudan if the current forecast date is adhered to). These figures lead to the question: when judged against the fragility of peace in the five countries and the apparent lack of an effective and sustainable state, do these figures imply that elections have been called prematurely in any one of the states?

My own experience suggests that only in one instant, that of Iraq, were elections definitely called prematurely and that was because of the political call made by President George Bush which resulted in the CPA closing prematurely and the withdrawal of all necessary security. However, it is suggested that prioritisation and sequencing of effort has been an issue in the case of all five multi-dimensional missions and it is possible that the holding of elections has influenced prioritisation and sequencing, and thus contributed to the lack of success in state building. More importantly it is suggested, the approach to winning better governance and building the state in these five multi-dimensional mission examples has been undermined by lack of focus on corruption. This experience is in line with the finding of Doig and Tisne (2009: 374)¹⁰ who argue that the corruption agenda has traditionally been 'diluted or downplayed'¹¹. In their review of various post-war reconstruction settings (including but not confined to Bosnia, Kosovo and Afghanistan) they state that 'the speed of engagement and the spectrum of donor involvement, and the disbursement of such a level of funding, would often appear not to be driven by a coherent and integrated country-specific design and delivery framework' (Doig and Tisne, 2009: 379-380) and that 'failure to address corruption in favour of what are considered more pressing reform issues may well cause problems for the future' (Doig and Tisne, 2009: 384).

¹⁰ Their study covered reconstruction efforts in Bosnia-Herzegovina, Kosovo, Afghanistan, Mozambique, East Timor, Palestine and Lebanon.

¹¹ In part, it has been because of limited resources, as well as prioritisation and sequencing. However, it is suggested too that whilst it may be recognised that public sector reform and culture change may require a long term change programme, commitment to that long term (which could in-fact be well in excess of the 10 years that Collier references) is not something that either protagonists or peace makers have ever appeared to want.

Whilst very much supporting these findings of Doig and Tisne, it is further argued that there will be a profound effect upon development progress and retaining stability, in the event that adequate resources are not devoted to reforming and developing the public service (governance and public administration institutions); and that the risks are considerable if the state's administrative structures and personnel are not in a position to support a new parliament. Particularly:

- (i) If peacekeepers exit too soon, those involved in any aspect of technical assistance may subsequently be asked to work in a less secure environment or, as in the case of Iraq, they may simply have to exit the country before the job is done;
- (ii) Time is of the essence. Better governance and anti-corruption activities need to be commenced as soon as possible after a peace agreement has been signed or an interim administration established, since if they are not, systems, procedures and personnel will quickly become embedded, and difficult to adjust, amend or dismiss; and
- (iii) The opportunity cost of not delivering 'clean government' in a timely and sustainable manner is not just greater fragility or violence. It is what comes before the fragility and violence, and what catalyses it, for example:
 - (a) The public service being manned by staff who have no wish to serve the public but only serve themselves;
 - (b) The households who cannot gain property rights without paying extortionate fees or are simply barred because the land is demanded by a corrupt politician;
 - (c) The individual who cannot get a job because he/she is denied a work permit, or by firms only employing an individual if they are aligned to a particular political, ethnic or religious group; and
 - (d) The businesses that are no longer competitive because of political manipulation, inappropriate regulation, or constraints on factor inputs, trade, and so on.

The list goes on.

The Different Approaches to Winning Effective and Efficient Government: To what Extent did they Win Clean Government?

My experience is that these risks have been variously addressed through the 5 referenced multi-dimensional programmes but in no instance can it be claimed that clean government has been achieved.

- (i) In Bosnia, soon after the Dayton Accord was signed, there was a bewildering array of efforts. For example, the World Bank established Programme Management Units (PMUs) in each of the BiH Federation's principal ministries but the focus was more on delivering

services than obtaining better governance. The Office of the High Representative¹² established an anti-fraud unit (AFU), and dismissed numerous officials or prevented them from holding office due to corrupt practice, whilst the AFU itself discovered that some \$1.0bn had gone missing from public funds and went in search for it. The International Force (IFOR) went after war criminals and some highly corrupt persons. The various EC programmes were slow to take-off. Their main programme addressing governance was that of Community Assistance for Reconstruction, Development and Stabilisation (CARDS) in the period 2001-2006. This focused upon the creation of ‘durable state level institutions’ but an independent review in 2008 reported that the EUs work had ‘been challenging with success varying considerably between sectors’. The report found ‘Limited, or non-existent, counterpart administrative capacity’ and that ‘Many state level institutions lack(ed) local ownership which threaten(ed) sustainability’. Worse still, 13 years after the signing of the Dayton Accord it was found that key state level, ‘institutions (were) donor inspired and (had) yet to acquire sufficient acceptance throughout the national administration. Today – as at the time of the signing of the Dayton Peace Accord¹³ - we find *Freedom House* reporting ‘[graft] and misconduct remain widespread’ and that little progress has been made in combatting corruption with ‘[existing] anticorruption legislation (being) unevenly and unreliably implemented (and) a key anticorruption government body created in 2009 (still) non-operational as the government drags its feet on appointments and resource allocation’ (Jelisić, 2012: 128). More generally, collaboration between donors to draw together their multi- and bi-lateral state building related programmes, to overcome the divergent efforts of the two entities has been an allusive goal.

- (ii) In Kosovo, UNMIK had a three-fold mission (i) to establish a functioning interim civil administration; (ii) to promote the establishment of substantial autonomy and self-government; and, (iii) to facilitate a political process to determine Kosovo’s future international status (Security Council Resolution 1244). UNMIK’s approach to building the public service involved gradual devolvement of powers to domestic authorities. Accordingly, Pillar II¹⁴ was initially given over-arching responsibility for Civil Administration though by 1999 a ‘Joint Interim Administrative Structure’ was in place to re-establish and deliver central and municipal services. UNMIK worked from the start to

¹² War correspondent Chris Hedges reported ‘As much as a billion dollars has disappeared from public funds or been stolen from international aid projects through fraud carried out by the Muslim, Croatian and Serbian nationalist leaders ... according to an exhaustive investigation by an American-led antifraud unit’, in an Article entitled ‘Leaders in Bosnia are said to steal up to \$1 billion’, *New York Times*, August 17 1999. The Report – said to be of some 4000 pages and not released to the public – was undertaken by the OHR’s Anti-fraud Unit.

¹³ Just after the signing of the Dayton Accord, the Bosnian Serb Prime Minister stated ‘*It seems that nothing can be done in this country without corruption and bribery*’.

¹⁴ UNMIK had four Pillars. The UN took responsibility for Humanitarian Assistance (Pillar I) and Civil Administration (Pillar II), whilst the OSCE took responsibility for Democratisation and Institution Building (Pillar III), and the EU for Economy and Infrastructure (Pillar IV).

ensure that services were properly manned and regulated, and with clear systems and procedures. In many ways it accomplished its goals but it has never achieved particularly good governance and there are still unacceptable levels of corruption that affect the public service. According to UN Office on Drugs and Crime (UNODC, 2011: 8-9) people perceive ‘widespread corruption in the public sector’ and ‘rank corruption the most important problem facing them today after unemployment’. It is suggested that effective state building has not only been undermined by the continuing ethnic tensions and a duality of governance systems, but, because the legitimacy of UNMIK is widely questioned. The riots of 2004 that resulted in some 4,000 Serbs being forced to leave their homes and many killed and injured were seen also as a backlash against UNMIK and its leadership¹⁵ and meandering debate over Kosovo’s future status.

- (iii) In Iraq little sustainable was accomplished by the CPA for reasons already mentioned. However, the attempts at installing better governance and anti-corruption measures were wide ranging and are worthy of some consideration (see Box 1 below), despite the fact that they were curtailed prematurely. The developments post the interim administration of the CPA are not considered in this Chapter since they have been attempted by the Iraq Government with the assistance of huge and diverse international aid that would require much more detailed consideration.
- (iv) In Afghanistan, the primary better governance focus was three-fold: on the spending ministries in Kabul; on standing up line ministry offices in the provincial centres; and, on efforts to build the governance structures of the Provincial Administrations. A range of supporting activities were also undertaken including, for example, in the British Sector, the holding of Shuras with village elders / tribal leaders (largely by British Military with Stabilisation Advisers in villages/townships used for Forward Operating Bases (FOBs) by the Military); the rolling out of an education programme; and the Military assisting skills transfer whilst managing infrastructure projects. In Helmand the British compiled the ‘Helmand Road Map’ (a sort of strategic plan for state building in the province) but this had limited success outside Lashkar Gar, the provincial centre, and was only really a British plan and was not a plan that the Americans fully bought into, despite the fact that they had considerably more money than the British to spend in the province. Indeed, the Provincial Administration was critically dependent upon American Money and expertise for its development.

¹⁵ Essentially, all executive, legislative, and judicial authority were vested in a single individual (the Special Representative of the UN Secretary General (SRSG)¹⁵, whose decisions couldn’t be challenged by the local population, and who couldn’t be removed from power by them; and whose actions were not always transparent. UNMIK regulations took precedence over national laws.

The Governance Reform and Anti-Corruption Programme of the Coalition Provisional Authority, Iraq

Corruption is a disease which is connected with many aspects of the government and in this society. It has become now a social phenomenon from the low rank and class to the higher rank in government ... and for that reason there is no remedy for that except privatisation, I think the government failed to defeat the corruption.

Ali Baban, Minister of Planning, Government of Iraq, 2006 - present

The CPA in Iraq constructed a governance plan shortly after it commenced operations on the 21st April 2003. The tasks were so huge that implementation of the plan was almost doomed to failure before it was started, especially when President Bush announced in November 2003 that the CPA's life would end at the end of June 2004, in order for elections to be held in January 2005.

The Governance Plan's budget was essentially in two parts: an allocation of some \$155m for USAID to contract the US based Research Triangle Institute and some \$730m earmarked for the CPA's own democracy building programme. The former was to improve basic public service provision and increase access, build civil society, and stand-up and empower local councils. The latter, was essentially to develop democratic government, with key areas including:

- Anti-corruption and government transparency
- Political party development
- Election administration
- Strengthening Iraqi Government administrations
- Civil society building
- Women's programmes, and
- Media infrastructure development

As part of the CPA's anti-corruption and government transparency strategy a Commission on Public Integrity was to be established (see CPA Order No 55) with the remit and statutory authority to:

- Investigate allegations of corruption against Iraqi government officials and forward cases meriting judicial action to the Central Criminal Court of Iraq (CCCI)
- Educate the Iraqi population about the dangers of corruption, and
- Revise Iraq's Code of Conduct for Public Servants

A judge was not appointed to head this Commission until June 2004, the last month of the

CPA's life. It is perhaps not surprising to find that the final Governance Report of the US-led CPA in Baghdad made little to no reference to progress in fighting corruption or building government transparency, but focused instead on restoring democratic rule, and addressing human rights and the needs of refugees and internally displaced persons (IDPs).

In the UK-led CPA Southern Sector in the same period, things were not too dissimilar. RTI's (formerly Research Triangle Institute) work was complemented by a lone Dutch expert contracted to the CPA. The most tangible outputs were those of RTI who assisted in some important slum upgrading and the construction of an abattoir. The huge security problems they faced meant that they were severely constrained in their governance operations and more generally.

Many might argue that the rush to establish a democratic government and withdraw the CPA from Iraq was a fundamental mistake. It certainly meant that plans to properly fight corruption and ensure good governance were never properly implemented.

Specific focus on anti-corruption has proven particularly difficult with Afghanistan regularly ranked at the very bottom of the Transparency International (TI) corruption perceptions index (175/175 in 2013), along with North Korea and Somalia. International efforts to eliminate the poppy and provide realistic agricultural alternatives have failed, with the result that corruption and insurgency are still fuelled by proceeds from the poppy harvest, and un and under employment, and low household incomes remain seriously problematic. A recent survey by the UN Office on Drugs and Crime (UNODC) has found that corruption is almost as important to people as insecurity and that 'the delivery of public services remains severely affected by bribery; that bribery has a major impact on the country's economy; (and that corruption) seems to be increasingly embedded in social practices, with patronage and bribery being an acceptable part of day-to-day life' (UNODC, 2012: 5).

- (v) State building in South Sudan post-independence in July 2011 has had little chance to proceed. My personal experience (shortly after the declaration of independence) was that the donor community with the assistance of a large international non-governmental (INGO) and national non-governmental organisation (NGO) community, had started well, with robust efforts to support the new government. Particularly a good start was made to achieve donor co-ordination and aid harmonisation with, for example, a multi-donor trust fund being launched for the health sector; this critically focusing on better governance in the sector and not just on health service provision. However, this experience was not without the frustration of uncovering significant corruption that threatened the process of implementing the proposed fund. Given that South Sudan ranks with Afghanistan as one of the World's most corrupt countries (173/175 in 2013 according to TI), the government's announcement of 'zero tolerance' in June 2013 and recent dismissal of ministers is welcome. However, it is contended that the corruption problem will remain and be difficult to address for some time, not just because instability will divert attention from the problem but because a Government representing a newly

independent nation, will be intent on asserting its sovereignty and not readily bend to the wish of the donor community that they assert themselves to get rid of corruption.

Given the time and size limitations of the paper presented at the SCID Symposium and this Chapter, it is not possible to provide an examination of all Collier's proposals (especially the goals of jobs and basic services) and thus focus now turns to Collier's suggested national goal of winning 'clean government'.

Winning 'Clean Government'

Collier (2009: n.p.) suggests that '[clean means follow their money'. He argues that post-conflict governments can't provide the necessary basic services and undertake the reconstruction and economic reform that is required without donor money being put into the government budget. But, if the international community put money in, there is a high likelihood of the money not just being wasted but being 'captured' by crooks, particularly by those 'at the heart of the political problem... (and so we inadvertently)... empower the people that are the problem' (Collier, 2009: n.p.). Collier (2009: n.p.) continues by highlighting the fact that this means a lot of technical assistance to provide the scrutiny and references Paddy Ashdown saying 'I realize what I needed was accountants without borders, to follow that money.'

It may be noted that Collier is not arguing for good governance nor even better governance but just one element of what we might conceive of as the governance package, namely transparent, money handling, systems and procedures to ensure that money flows to where it is required, and we can perhaps assume that he further means that this should be in an efficient and effective manner. In essence this is what may be readily summarised as sound public financial management and control.

Collier's suggested focus is not at first glance unreasonable. However, it appears some qualification is needed if only because post-conflict circumstances vary so widely. Firstly, it must be said that the aim of any technical assistance is to make itself unnecessary as quickly as possible. Bringing in experts with accounting / public financial management (PFM) expertise is one thing, bringing them in to manage government systems without a transfer of skills, is another. Also, when it comes to handling money, it is not just a transfer of skills that is always necessary, it is often necessary to influence a radical cultural change. And, if widespread corruption is suspected, this may well have to extend right from the top to close to – if not at – the bottom. The consequence is that in many instances there will be the need for not just basic accounting / PFM expertise but forensic accounting expertise, and people skilled in such work and willing to work in fragile states are not readily found (and when they are, their retention can be expensive).

Secondly, transferring skills and imbuing a new culture take time. The processes require counterparts, and a shared and agreed understanding between donors and the post-conflict government as to how the change process will take place. Often counterparts are not available or the ones that are on offer, are those that are corrupt and require removing from office. If they are not available, how willing will government be to transfer suitable staff to learn from

and work with the experts? Will there be any such staff anyway? Then, if staff are found to be corrupt, how willing will government be to have them removed from post? If a suspected corrupt person has good technical or managerial skills and cannot readily be replaced, is the issue to be brought to a head or is the response to be ‘well he/she is only corrupt to a degree and it doesn’t matter’? More difficult still, what if that suspected corrupt person has been appointed through patronage and the person that has appointed him/her is the ‘In-Charge’ in the Ministry or Government Agency? How far does one shake out corruption before the foundations of the organisation that is being assisted, also begin to shake?

Thirdly, money flows are most frequently from centre to periphery. The continuing flow is critical to support those providing front line services. It usually starts with a government’s treasury dispersing money to selected sub-levels of government (for example, to treasury departments at a provincial or county level), who then disburse to ministries and agencies (often down through further levels). There is plenty of scope for corruption along such paths. So where does the line get drawn for the provision of technical assistance? And particularly, how is corruption to be filtered out from such a web of inter-connected ministries, departments and agencies when there is only a limited supply of technical expertise (TA and local) to assist the process?

These are not the only questions relating to Collier’s suggestion that ‘clean government’ should be prioritised. Indeed, there are a much broader set of questions relating to how governance might be improved; how is stability to be maintained; and, in order to maintain stability, are Collier’s priorities the right ones? We recall that in all 5 multi-dimensional missions that are under consideration here, there has been a return to fragility. We shall now look briefly at some of these wider issues.

A Look at Corruption in the Broader Governance Context

Corruption Lies at the Core of Fragility

Given the variety of definitions of governance and corruption, and the number of donors and international financial institutions (IFIs) that get involved in peacebuilding and state building, it is perhaps not surprising that there is **neither** agreement on a common definition (Box 2a below presents a few of the many definitions that exist) **nor** agreement in translating these definitions into operational frameworks (Box 2b presents alternative dimensions). Donors and IFIs look at the definitions through different lenses and focus upon different elements of governance and corruption according to where their respective statutes enable, and priorities and expertise lie¹⁶. This is excellent, in that governance and corruption are firmly on the

¹⁶ For example, I found in undertaking a quick sampling of just five major agencies work (IBRD, IDA, AsDB, AfDB and UNDP) no fewer than 14 different sub-components of the governance agenda, viz: Public Sector Management, Accountability, Legal Framework, Transparency, Rule of Law, Combating Corruption, Legal and Judicial Reform, Participation, Predictability, Responsiveness, Consensus Orientation, Equity, Effectiveness and Efficiency, and Strategic Vision.

agenda. Regrettably, however, the cherry picking at such different sub-components neither enables good donor co-ordination nor good aid harmonisation

Governance and Corruption definitions

Corruption:

- Transparency International ~ ‘The abuse of public office for private gain’ – perhaps the most common definition.
- Professor Mustaq Khan (2012: n.p.) ~ ‘Corruption is behaviour which deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power or status’.

Governance:

- International Bank for Reconstruction and Development (IBRD, 2007) ~ ‘the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services’.
- African Development Bank (AfDB, 2002: 2 cited in AfDB, 2008: 15) ~ ‘a process referring to the manner in which power is exercised in the management of the affairs of a nation, and its relations with other nations’.
- Kaufmann, Kraay and Zoido-Lobato’n (1999: 1/60) ~ ‘the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them’.

Notes.

- (i) Note the different emphases of these definitions. The AfDB emphasise ‘the way in which power is exercised’; the IBRD and Kaufman et al emphasise both the manner in which public officials and institutions ‘exercise authority’ and also how they acquire such authority, with Kaufman also emphasising citizen respect.
- (ii) It will be found that the exercise of political and administrative authority are common themes of a number of definitions; and, that the legitimacy of a public official’s or institution’s actions are issues of concern.

The Dimensions of Governance

- ‘Fundamental aspects of governance’ are: graft, rule of law, and government effectiveness. Other dimensions are: voice and accountability, political instability and violence, and regulatory burden. – Kaufmann, Kraay and Zoido-Lobaton (1999).
- Property rights and rule-based governance; the quality of budgetary & financial management; the efficiency of revenue mobilization; the efficiency of public expenditures; and transparency, accountability and corruption. – World Bank CPIA indicators.

Source: World Bank (2014)

There is no one easy answer as to where emphasis of effort ought to be placed in a post-conflict / fragile state context. However, a robust body of opinion has emerged over the last few years that poor governance and corruption in particular, are central causes of instability and must be addressed. For example, a recent report of the UN Department of Economic and Social Affairs (UNDESA, 2011: ix) robustly states that:

The root causes of intra state conflict are usually assumed to be poverty and economic inequality or clashes among different ethnic or religious groups. However, **the central cause of violent conflict¹⁷ is weak governance institutions characterised by a lack of predictable and sustainable systems and by leaders who use public office to benefit themselves and their affiliates.**

Furthermore UNDESA contend, ‘no progress can be made in promoting peace, development and protection of human rights unless appropriate governance and public administration institutions are established’ (UNDESA, 2011: ix). Consequently, whilst every post-conflict situation is different and no one size solution fits all a ‘common denominator (of any reform must be that) the public service must be seen to be fundamentally and positively different from (that of) the previous government’ (UNDESA, 2011: ix).

The OECD (2009: 9) ¹⁸ meanwhile suggests that ‘[corruption] lies at the core of fragility. Certain forms of corruption can fundamentally delegitimize the state’. They go on to propose that donors should place stress upon having:

- (i) Robust accountability mechanisms; and

¹⁷ The UNDESA report disaggregates this statement saying that the ‘*central causes of violent conflict*’ are: ineffective leadership, weak governance institutions, inappropriate human resources, lack of mechanisms to engage citizens in public policy-making decisions, and lack of or ineffective delivery of public services.

¹⁸ The Report suggests i.a. that political and economic governance are distinguished: ‘political’ essentially relating to such matters as democracy and human rights, and ‘economic’ pertaining to the efficient management of public resources.

- (ii) Structures ‘that address inequities and inequalities and promote accountability and transparency’ (OECD, 2008 cited in OECD, 2009: 11).

Addressing the Governance Reform Agenda

In viewing the governance reform agenda of fragile states, it is my personal experience that a lot of effort is devoted to addressing corruption¹⁹ in the police, military and legislature, and far less (certainly less than is required) into addressing corruption in the wider public service. Corruption in the public service can be wide ranging. It is not just in procurement and major contracts for public works that may be of concern. It is all public services that require treasury transfers from centre to periphery and any public service that involves the public in making payments – work permits, land transfers and customs being perhaps the most obvious. Health services are particularly at risk because they are characterised by all features: major contracts for hospitals and clinics, procurement on a large scale, staff payments to remote district health centres, and the public making payments for such things as drugs and hospital treatment. These public services are all at risk of corruption and often prone to systemic corruption²⁰, emanating from the very top of command (for example, ministers and permanent secretaries) and descending to the lowest tiers of staffing (drivers and cleaners); and of all types, from bribery and embezzlement to fraud, patronage and protectionism. And, of course, particularly in the health sector, there are also frequent opportunities for conflict of interest.

There are manifold concerns about addressing corruption during post-conflict state building but from the perspective of addressing the problem in an appropriate and timely manner, six stand out:

- (i) In addressing the problem in the public service (particularly in line / spending ministries) donors frequently take an indirect approach. Often it is addressed as part of a public financial management (PFM) package, where the emphasis is more on refining / re-engineering systems and procedures, and blocking the opportunities for

¹⁹ Corruption has been variously defined. The conventional definition offered by Transparency International is that it is the *‘abuse of entrusted power for private gain’*. A wider definition emanating from NORAD is that it is *‘the abuse of entrusted authority for illicit gain’*. The OECD explains that this covers the ‘systemic dimensions of corruption’ and they offer the following explanation of the terms used in the definition: *‘entrusted authority ~ the ability to take decisions through a position of legitimacy accepted by all parties, whether formal (‘power’) or informal (custom, or norm) // ‘Illicit’ ~ forbidden by law, rules or custom // ‘illicit gain’ refers to personal, family, clan or group benefit’*

²⁰ N.B. systemic corruption can manifest itself in different ways. The OECD (2009) states that: ‘The nature of systemic corruption can take multiple forms in fragile situations. It may be structurally linked to a dominant party or executive power, as in Zimbabwe or Cambodia. In other cases, corrupt networks are run by business or militia groups that have ‘captured’ the state and which dominate politics, as in Albania or Chad (DIIS, 2008). Where the state is absent or weak, organised crime may play an important role in economic, social and political activities, filling the gap left by the absent or weak state. Structures of organised crime may use corruption as a method to escape prosecution and to capture the state. Organised crime networks also act as enforcement institutions for corrupt deals, providing protection services’.

corruption, as opposed to addressing the human resource side and bringing to book the persons who have been exploiting the system throughout the period of fragility.

- (ii) Difficult questions about corruption are often not asked because not only will there be denial by the post-conflict government but there is the potential that the relationship between the international community and the post-conflict government could be strained to breaking point, and any negotiated peace could flounder²¹.
- (iii) There may be a case for some form of amnesty. For example, a leader may be a corrupt leader but he/she is one that can represent and lead a section of the community who are critical to bring on board in a government of national unity (this was certainly the case in Afghanistan). Or, a senior manager in a ministry who is alleged to be corrupt, may be irreplaceable for some period of time because other skilled personnel are not able to be recruited.
- (iv) The work of those addressing corruption in the public service is frequently not sufficiently joined-up with the work that goes toward obtaining prosecutions for criminality at a more political level, or indeed the work addressing corruption in the police, military and the legislature, which is frequently undertaken by expatriate police.
- (v) That work in support of good governance and overcoming corruption is not supported and indeed is often undermined by the fact that the donor community itself has a tarnished image, with corruption in the UN and EC systems particularly being cited as requiring reform.
- (vi) Perhaps somewhat surprisingly, there may be some benefits to corruption! Thus, Goodhand, 2008, argues that it can ‘facilitate the creation of a new political order (or the consolidation of an old one) and that the dividends of peace obtained through corruption may outweigh the costs of inefficiencies’. And Rood (2013: pp 75 - 78) suggests ‘Capture of aid benefits by local elites is not always a bad outcome, if it helps a transition to peace. But when you take that out, you have to be very clear how you are going to get out of that capture, how you can move away from that state capture’.

A recent analysis by OECD / DAC has highlighted major donor issues that both add to and support the above concerns. They find amongst other things:

- (i) ‘Dealing in a comprehensive way with anti-corruption as a cross-cutting issue is a challenge for most donor agencies’ (OECD, 2009: 15).

²¹ Experts may sometimes feel exposed if they start asking difficult questions, for example, about a new regime leaders’ support mechanisms or relatives. They may for example be told by their superiors to drop the line of enquiry or may even be removed from post and replaced by someone who is a little more circumspect and diplomatic.

- (ii) That a number of donors have two teams that invariably take two different conceptual approaches to anti-corruption: an anti-corruption team that sees that corruption has a ‘negative impact in all circumstances’ and a peace/state building team that ‘will more readily ignore certain forms of corruption in order to safeguard the state-building process’ and there ‘is no common agreement about the issue of corruption within the process of state-building’ (OECD, 2009: 13).
- (iii) That ‘policy guidance on anti-corruption in fragile states has mostly been characterised by a ‘business as usual’ approach, producing ad hoc responses and with little emphasis on identifying the context-specific risks of corruption’ (OECD, 2009: 13) (although 3 donors, USAID, World Bank and UNDP, evidently have begun developing joined-up guidance to anti-corruption in fragile / post-conflict states).
- (iv) ‘There is no agreement on the prioritisation and sequencing of anti-corruption in fragile states’ (OECD, 2009: 14).
- (v) There is ‘little focus upon, nor understanding of, the systemic nature of corruption in fragile situations’ (OECD, 2009: 14).
- (vi) ‘Sector programming in fragile states is designed to be conflict-, gender-, human rights- and environment-sensitive, but until now there has been no move for ‘corruption-sensitive’ approaches’ (OECD, 2009: 14).

Conclusions

This short analysis does not encompass all dimensions of the processes of developing better governance and fighting corruption, and neither does it fully address the state building proposals of Collier. Hopefully, however, it does provide a pathway to pursue in further research and a few conclusions to guide future governance and anti-corruption programme implementation, in the context of rebuilding fragile / post-conflict states, as follows:

- (i) Evidence drawn from the 5 multi-dimensional missions appraised here, shows clearly that sustainable state building has been undermined – in some cases critically – by a weak governance and anti-corruption agenda, particularly for the public service.
- (ii) Allowing systems, procedures and personnel to become embedded in the various departments, ministries and agencies of the public service whilst neither eliminating the opportunities for corruption nor removing personnel suspected of corruption, allows systemic corruption to develop (if it has not already done so) and negatively impacts the provision of public services. In turn, this leads to fragility.
- (iii) Collier’s argument that elections produce ‘winners and losers’ is not contestable. That elections cannot result in an inclusion agenda being delivered is debatable (although this is not a debate for here). His suggestion that prioritising elections negatively impacts state building, raises the question whether it has to? It is argued

that effectively prioritising and sequencing the state building agenda, placing emphasis upon addressing governance and corruption could well avoid the concern.

- (iv) The OECD/DAC (OECD, 2009) observation that sector programming in fragile states has not to-date taken a ‘corruption sensitive approach’ prompts the proposal that the tide should turn so that it does. Most importantly:
 - (a) Donors need to move away from having two different conceptual approaches to anti-corruption and to deal with the subject in a joined-up, comprehensive and cross-cutting manner;
 - (b) Prioritisation and sequencing of the elements of the state building agenda need to be agreed between donors and with government at the outset of the state building process; and
 - (c) There must be the goal to fully understand systemic corruption and the commitment to act firmly against it.
- (v) The international community must commit adequate resources to the governance agenda, and particularly to obtaining ‘clean government’ and fighting corruption. It should also be prepared to support the difficult and contentious conclusions of expert analysts, and secure them from backlash.
- (vi) Change initiatives to promote a culture of integrity and anti-corruption should not be lost sight of just because they are invariably very long term. Whilst the conventional state building model post-conflict does not include such initiatives, their foundations can be laid by articulating the necessary technical assistance requirements (for example for civic education in schools, places of higher education and in professional continuing education) to be implemented after the priorities of state building have been addressed.
- (vii) Whether, as Collier suggests, a ‘Post-conflict Compact’ to support an ‘inclusion agenda’ should be drawn up between the Security Council, donors and the post-conflict government cannot be decided on the basis of this analysis. However, inclusivity is essential and so too is a long term developmental view. Furthermore, if a Compact as Collier proposes cannot be agreed, then at least up-front agreement between government and donors on the necessary ‘clean government’ anti-corruption approach is considered essential.
- (viii) It must be remembered that for extreme wealth to be in the hands of a small, highly successful political class, corrupt practices would, in all probability, have been the primary means by which they had been obtained. Furthermore, corruption feeds corruption, and it is almost inevitable that the public service has been employed by politicians in order to facilitate such gains. As the OECD (2009: 10) clearly state: ‘corruption multiplies the inequalities among the population and political factions, thereby increasing the risks of instability and a return to conflict. This is particularly

so where large amounts of licit or illicit resources are made available' (for example, large aid flows / poppy).

- (ix) It should be recognised that the public service is not just to support a new government. It is to support with integrity, and without corruption and without the opportunities for corruption. And, that support has got to be at all levels.
- (x) In pursuing corrupt persons and addressing corrupt practices, the principle of pragmatism rather than zeal should be adopted. It should be remembered that in certain instances a level of corruption that ensures the peace is much more important than taking risk that has the potential to create further fragility. However, if this course of action is chosen, an exit strategy should be prepared to enable a robust governance agenda to be commenced / returned to as early as possible in the overall state building and economic reform programme.
- (xi) If the donor community is to be listened too and its wishes respected by aid recipient countries then greater attention must be paid to addressing corruption in its own organisations.

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Conclusion

Building Security and Justice after Conflict: Cross-Cutting Themes and Lessons Learnt

Dr Eleanor Gordon

The theme of building security and justice in post-conflict environments was chosen for the first SCID Symposium because it is at the heart of the SCID Course. The SCID Course examines the multiplicity of activities and actors involved in building security and justice after conflict, including those involved in establishing and maintaining security and the rule of law; Security Sector Reform (SSR); Disarmament, Demobilisation and Reintegration (DDR); transitional justice; mine action; controlling small arms and light weapons (SALW); as well as protecting and promoting human rights, including ensuring the security and access to justice of marginalised and vulnerable groups. These areas of activities are all interconnected to a, frequently significant, degree. More fundamentally, security and justice or, more specifically, the rule of law, are mutually reinforcing and also impact upon socio-economic development, human rights, and governance and the perceived legitimacy of the state.

It is generally assumed that security and the rule of law are essential preconditions to stability, sustainable peace and, frequently, long-term development. Security and the rule of law are also often considered to be of fundamental importance to the protection of human rights. Moreover, they are increasingly portrayed as instrumental to regional and global security, although recent analysis has questioned that the simple and direct correlation between conflict-affected or conflict-vulnerable environments and global risks, such as terrorism, piracy, trafficking and other forms of organised crime, and weapons proliferation (Patrick, 2011). Consequently, efforts to improve security and the rule of law have become a central feature of post-conflict and post-crisis recovery.

However, while the security, the rule of law and justice are generally considered to be prerequisites of a sustainable peace, these concepts are complex and contested, mean different things to different people and in different places, and are often, in this context, fundamental parts of interventionist logic and legitimising discourses. In essence, those who have the power to determine what constitutes security and justice and who or what threaten them, have the power to determine responses to those threats. As examined in the first Chapter by David Chuter, controlling a discourse can help control understanding and outcomes as well as help generate legitimacy and influence for those who control the discourse. Powerful or dominant discourses also often responds to the interests and views of those who control the discourse rather than the object of attention – as also discussed in the

second Chapter by Malcolm Russell with reference to the concepts of stabilisation and stability.

Nonetheless, building security and justice in post-conflict environments remains a priority and is widely considered to be instrumental to developing long-term peace. In most post-conflict societies, security and justice sector institutions are often weak, dysfunctional, corrupt or non-existent – suffering lack of capacity, confidence, trust and/or legitimacy. The immediate post-conflict environment is also often characterised by high levels of violence, including gender-based and conflict-related sexual violence, and revenge attacks; impunity; rampant corruption and organised crime; widespread exploitation and abuse of vulnerable groups, including children; pervasive human rights violations; a proliferation and easy-availability of small arms and light weapons; and the prevalence of mines, unexploded ordnance (UXO) and other explosive remnants of war (ERW). A weak or non-existent government, destroyed physical infrastructure and lack of resources, large numbers of internally displaced persons (IDPs), and a fractured civil society add to the challenges of restoring security and justice after conflict and also, of course, underscore the need to do so. Additionally, efforts to advance the rule of law and security may threaten the interests of powerful groups and potential spoilers. Efforts to disassociate criminal and political networks, fight organised crime, deal with war-time atrocities, and protect minorities can thus provoke hostile reactions. The direct impact of the conflict on individuals, including emotional trauma, loss and grievance, can also pose significant problems for those endeavouring to re-establish the rule of law and security. Belief in a system that can ultimately protect rights equally and fully is likely to be limited. Similarly, there is likely to be little hope that others will not resort to force before they turn to the rule of law.

There are a wide variety of challenges in building security and justice after conflict, with structural, political, economic, interpersonal and psychological dimensions. Not least among these are the political nature and financial cost of peacebuilding, as well as the impact on macro-level processes, such as peacebuilding, of the micro-level – such as rivalry or competition between colleagues, as examined in Tony Welch's Chapter. There are also challenges associated with the specific nature and type of intervention and the character and motivations of those who intervene, as indicated above and highlighted elsewhere in this book. Among these are the challenges of competing interests, understanding and, thus, approaches to enabling post-conflict recovery. This friction is often the most pronounced between the goals of security and justice actors. While it is generally agreed in principle that justice and the rule of law form the bedrock of security, and that perceived injustices are often drivers of conflict, in the field there is often a tension between pursuing what are often the longer-term goals of justice with the shorter-term goals of (often, short-term and narrowly-focussed) security, as John Cubbon addressed in his Chapter. For similar reasons, there are often tensions between the goals of establishing security and protecting human rights, sometimes as if the terms were mutually exclusive and the aims of the actors involved incongruous.

There are also challenges in building security and justice after conflict resulting from the way in which those who intervene after conflict address what needs to be done. As argued by

Whit Mason in his Symposium presentation¹, much thinking about efforts to build security and justice after conflict is very narrowly focussed, and rarely draws from a vast body of knowledge on how societies operate and the principles upon which they are based. This has obvious consequences for the success of peacebuilding efforts as well as identifying meaningful lessons and insights about post-conflict interventions. The types of people recruited, programmes implemented (often technical and top-down, for instance), monitoring and evaluation frameworks and budgetary processes applied, and accountability mechanisms set up also impact upon the extent to which peacebuilding efforts are likely to be successful – as some Chapters in this book have examined. The Chapters in this book contain many observations and lessons learnt which can help overcome some of these challenges and, as a result, enhance the ability to build security and justice and, thus, long term peace, after conflict.

The Chapters taken together give a good indication of the enormity and complexity of tasks that are undertaken in the security and justice sectors in the aftermath of conflict; from Security Sector Reform (SSR) to transitional justice to combating corruption, while concurrently endeavouring to establish and maintain basic security and the rule of law. Alongside the enormity of tasks is the plethora of actors engaged in building security and justice after conflict; from international organisations such as the UN and its various agencies and bodies to community-level organisations, for instance. The vast number and type of actors each have particular interests, perspectives and agendas and each may have a different understanding of the conflict and how peace should be built. The multiplicity of activities and actors generate the challenge of co-ordination and coherence of efforts that exists in many post-conflict environments and which has been a continuing theme within this book. Expanding PSO missions and organisational mandates (where areas of responsibility become blurred while objectives of different organisations can remain in tension), and an increasingly accepted belief in the interdependence of security, justice and development, have intensified these challenges.

There are many common themes and lessons learnt in building security and justice after conflict contained within the Chapters of this book. Chief among these is the need to determine precisely what we mean by security and justice and associated terms (such as stability, stabilisation and development) that are used to describe the work and aims of those engaged in building peace and justice after conflict. These terms need to be unpicked in order to be clear and open about what activities are being undertaken and with what aim and objective, and in order to enable fruitful and open discussion about how security and justice should be built. Too often, commonly-accepted terms remain vague and operate to justify a particular course of action without sufficient analytical rigour or accountability. Too often, anything deemed to be a security issue, for instance, is considered to be too sensitive or complex for non-experts to be engaged with. Consequently, efforts to build security and

¹ Available on the SCID Blog (www.uolscid.wordpress.com).

justice sector institutions after conflict infrequently include the participation of those at the community level. As a result, security and justice sector institutions are less likely to be representative of or responsive to the needs of those at the community level, often including the most vulnerable to security threats and those who have little access to justice. This has obvious repercussions for the ability to develop meaningful and lasting security and peace.

This theme of language and power was introduced in the opening Chapter of this book. In this Chapter, David Chuter describes how efforts to rebuild security and justice after conflict have often failed because lack of agreement on core conflict-related concepts (including security and development), which has resulted in confusion and lack of shared understanding of how conflict should be resolved and what peace should look like. This lack of agreement results, in large part, from the interests and motivations that inform discourse. It also arises from awareness that controlling a discourse can generate control over what are broadly regarded as appropriate responses to conflict and, thus, help determine likely outcomes. Some of the following Chapters also referred to the need to be attentive to the use of language and, if possible, aim to have a shared understanding of core concepts in order to have a shared approach.

Many Chapters also address the importance of local engagement in efforts to rebuild security and justice after conflict if these and broader peacebuilding efforts are to be successful. In a number of Chapters – Tony Welch (SSR), Fraser Hirst (community-based dispute resolution), Matthew Waterfield (conflict assessments) and Eleanor Gordon (SSR), among others - the importance of engaging with community-based approaches to building security and justice after conflict was underscored. The need to engage with those at the community-level was highlighted, if effective and sustainable solutions to conflict and insecurity are sought, while too often local engagement is reduced to consultation with state-level leaders. A related message was the need to be responsive to the context (and the changing context), which means being flexible, adaptable and reflective in approach. The importance of context-specificity and reflection is repeatedly emphasised in many Chapters as being crucial, in contrast to what often happens in the field with the application of pre-determined models and approaches. Matthew Waterfield, for instance, underlines the importance of integrating conflict analysis into programme design and regularly reviewing and updating that analysis, to enable programmes to be responsive to the context and the changing context (including conflict dynamics, causes and consequences), rather than, for example, applying template strategies and technical solutions to little effect.

Whit Mason argued, in his presentation at the Symposium, that we need to think more about how societies work and the principles upon which they are based, if peacebuilding efforts are to be more effective. This may lead us to the conclusion that the methods of intervention usually used aren't necessarily the most effective and, indeed, that 'outsiders can't supply what's needed to bring peace'. This links with the recurring theme of the Symposium and contained in other Chapters, of the exercise of power and the potential harm associated with external interventions in conflict and post-conflict environments. It also resonates with the comment made by Phil Wilkinson and echoed in subsequent Chapters that indigenous solutions are required for indigenous problems. Being attentive to the use of power and

control was first introduced in the two papers that opened the Symposium – Malcolm Russell (stabilisation) and Phil Wilkinson (holistic security). These papers also introduced many of the other recurring themes, including the value of holistic approaches to building peace and security; and the difficulties in co-ordination, particularly where national interests conflict with mutual endeavours.

Other Chapters on the value of international criminal justice (John Cubbon), policing (Chris Sharwood-Smith) and police reform (Mo Poole) draw attention to the complexity of the challenges of rebuilding security and justice after conflict, the need to draw lessons from outside the narrow field of international development, and the risk of solely focussing upon short-term goals in building peace. Some of the Chapters also refer to the need to mainstream gender and human rights issues across programmes (Fraser Hirst, Mo Poole and Eleanor Gordon), particularly if the dynamics of exclusion and structural inequalities, some of which may be conflict causal factors, are to be addressed, and if security and justice are to be strengthened for everyone. The final Chapter by Keith Sargent (governance and corruption) ties together many of the recurring themes of the previous Chapters, emphasising the importance of co-ordination and coherence of efforts, and of attending to long-term processes that might not have the appeal of apparent short-term solutions but without which sustainable peace is unlikely.

It is hoped that this Reader has contributed to the identification of challenges and weaknesses in current approaches to building security and justice after conflict, and ways in which they can be overcome, as well as to some of the successes and how they can be consolidated. Given the Reader contains the insights and observations of those with substantial and senior-level experience in the field, it is hoped that this will enable some of the recommendations to be translated into action and help improve the record of building security and justice after conflict. Ultimately, in the words of Matthew Waterfield in his Symposium presentation, it is hoped that some of the recommendations constitute the ‘innovative and creative ways’ that we should respond to the challenges of building security and justice after conflict, not least in order to improve the outcomes for those who are suffering from the effects of conflict, including injustices and insecurity. At the very least, it is hoped that this Reader provides the basis for further discussion and further research into ways in which to improve these outcomes.

Reference

Patrick, S. (2011) *Weak Links: Fragile States, Global Threats, and International Security*, New York: Oxford University Press.

