



Applied Knowledge Services
Governance · Social Development · Humanitarian · Conflict

Safety, Security and Justice

Topic Guide

About this Topic Guide

GSDRC Topic Guides aim to provide a clear, concise and objective report on findings from rigorous research on critical areas of development policy. Rather than provide policy guidance or recommendations, their purpose is to signpost policymakers and practitioners to the key debates and evidence on the topic of focus, to support informed decision-making. They are primarily designed to meet the needs of GSDRC's core audience of DFID governance, social development, humanitarian, and conflict advisers and address donor approaches and programming. However, they are also intended to be broadly useful to other bilateral agencies, multilateral agencies, partner country governments, consultants, and NGOs.

The thematic coverage in this Topic Guide is not exhaustive. This guide provides an overview of a number of thematic safety, security and justice components including: gender; legal pluralism; access to justice and legal empowerment; national security architectures; defence; disarmament, demobilisation and reintegration (DDR); and policing. It is designed to complement the existing GSDRC Topic Guide on *Justice*, which can be accessed at <http://www.gsdrc.org/go/topic-guides/justice>. To avoid duplication, a number of thematic issues are not covered in detail here, such as broader criminal-justice issues (including crime and policing and victim support), and access to justice and legal empowerment. Links to further coverage of these thematic issues in the GSDRC Topic Guide on *Justice* are provided at relevant points throughout this document.

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1 Safety, Security and Justice: What do we know?

Safety, security and justice are priorities for poor people and are associated with development outcomes, including the prevention of violent conflict, accountable and effective states, economic growth and service delivery. Security and justice programming aims to support development, as well as peace, stability and democratic governance, which donors see as beneficial to their own economic and security interests and reflective of their values.

The literature emphasises the need for programming to be people-centred (rooted in how citizens experience insecurity and injustice) and multi-layered. This is because, in fragile and conflict-affected contexts, the provision of safety, security and justice involves a range of providers acting at different levels, including state actors, local providers and networks, and non-state actors. The lines between these actors are blurred – they associate with each other in varied ways and have varying degrees of autonomy from the state.

While donor policies recognise the benefits of a multi-layered approach to security and justice, programmes have tended to emphasise idealised technical approaches based on state institutional capacity building. Such programmes have demonstrated limited results in improving citizens' safety, security and justice and in contributing to development goals.

Adopting a multi-layered approach has significant implications for security and justice programming. Key challenges identified in the literature include:

- **The political nature of security and justice:** The control of security and justice provision underpins the exercise of political power, and security and justice providers at different levels have competing interests. Addressing deficits in security provision, including discriminatory practices against women and human rights violations, is a political process, and might not be in the interests of domestic power-holders.
- **Local ownership:** There are dilemmas associated with choosing local counterparts and allowing local stakeholders to determine the outcome of assistance. Even when domestic elites seek security and justice reforms, the results of their partnership with donors might reflect donor preferences but not citizens' concerns. Local ownership is particularly problematic regarding gender issues: for example, governments' implementation of non-discriminatory laws and policies can be hindered by lack of political will or by prevailing social norms.
- **The risks associated with security and justice programming:** Concerns in donors' home countries that aid may support actors potentially involved in human rights violations can lead donors to be risk averse, limiting their ability to look beyond the state and work with a range of providers.
- **Coordination:** In complex environments it is challenging to combine diplomatic, security and developmental instruments across a range of security and justice sub-sectors. Coordination among multiple donors with differing views can also be challenging.
- **Design, monitoring and evaluation:** There are few proven or replicable models for programming in fragile and conflict-affected contexts. Interventions are often based on implicit and inaccurate theories or embedded in the skills, approaches and perspectives of individuals and organisations.
- **Data collection and evidence:** Gathering evidence and data is often difficult due to the

risk of violence, the lack of access to data sources, the risk of manipulation by those producing the data, and the need to ensure confidentiality and safety for citizens, particularly women and other vulnerable groups. Furthermore, it is often difficult to identify what should be evaluated because change in complex contexts is multi-directional and unpredictable.

Approaches for effective programming proposed in the literature include:

- **Contextual analysis:** A multi-layered and people-centred approach begins with an understanding of who actually provides safety, security and justice; what works; and what citizens are already using. It is important to develop an understanding of the local political context, taking account of the views of citizens (including women and vulnerable groups), the roles of different actors, local power dynamics and linkages. Gender and conflict analysis, as well as human rights assessments, are important tools.
- **Addressing social norms and power relations:** Gender discrimination and human rights violations are related to social norms, attitudes and beliefs, and power relations. These can be tackled at community level by engaging with individuals, groups and civil society organisations that can influence social change and hold governments to account.
- **Realistic, pragmatic and flexible approaches:** Pragmatic and gradual ‘best fit’ approaches are most likely to be sustainable. Donors might need to make concessions to ensure that initiatives are inclusive and domestically driven.
- **Balancing long-term goals and short-term results:** Change is a long-term, generational process in the contexts where security and justice programming takes place. Programmes can aim to achieve short-term results while encouraging gradual progress towards long-term goals.
- **Design, monitoring and evaluation:** Security and justice assistance often takes place in complex fragile and conflict-affected contexts. This makes robust design, monitoring and evaluation processes all the more important. Empirical evidence and up-to-date analysis underpin accurate and valid theories of change and encourage rigorous monitoring and evaluation activities. Approaches to collecting data and evidence include building domestic research capacity (among communities and state providers) and directing greater resources towards collection and analysis at a domestic level.

Key policy documents

- DFID’s Explanatory Note on Security and Access to Justice for the Poor (see DFID, 2007)
- DFID’s Rule of Law policy approach (see DFID, 2013b)
- The OECD-DAC’s Enhancing the Delivery of Justice and Security (see OECD-DAC, 2007a)
- The OECD-DAC Handbook for Security System Reform: Supporting Security and Justice (see OECD-DAC, 2007b)
- The UN Security Sector Reform Integrated Technical Guidance Notes (see UN, 2012).
- The World Bank World Development Report 2011: Conflict, Security and Development (see WB, 2011)

1.1 Evidence guide: How strong is the empirical evidence that approaches used in safety, security and justice programming have had an impact (whether positive, neutral, or negative) on the achievement of security and justice objectives?

	Focusing on technical capacity building (see section 4.3)	Strengthening local ownership (see section 4.4)	Using gender-aware strategies (see section 4.5)	Engaging with pluralistic legal systems (see section 4.6)	Promoting human rights (see section 4.7)	Sector-wide approaches and coordination (see section 4.8)	Using theories of change (see section 4.9)
Positive impact		[LIMITED] Multi-country (4)	[MEDIUM] Multi-country (5)	[LIMITED] Sierra Leone (7)	[LIMITED] Malawi (12)		
Neutral impact	[MEDIUM] Multi-country (1) Multi-country (2) Multi-country (3)		[LIMITED] Multi-country (6)	[LIMITED] Afghanistan (8); Liberia (9); Multi-country (10)	[LIMITED] Afghanistan (8)	[LIMITED] DRC, Timor-Leste (13); Jamaica (14)	[LIMITED] Multi-country (15); Liberia (7)
Negative impact				[LIMITED] South Sudan (11)			

This evidence guide is not based on a comprehensive systematic review, but is an overview of evidence referenced in this topic guide. Numbers in parentheses refer to the sources identified on the following page.

Key to evidence base

- [STRONG]** Mix of methods; multiple contexts; significant number of relevant studies or literature reviews
- [MEDIUM]** Mix of methods; multiple contexts; some relevant studies or reviews
- [LIMITED]** Limited methods; isolated context; few relevant studies

References cited in the evidence table above

1. [P&E; OBS] AusAID (2012). *Building on local strengths: Evaluation of Australian law and justice assistance*: p. 48 – ‘the effectiveness of the Australian law and justice assistance examined in this evaluation has been patchy, producing islands of success without necessarily delivering significant overall change to the quality of justice services’
2. [P&E; OBS] EC (2011) *Thematic evaluation of the European Commission support to justice and security sector reform* – finds the overall impact on people’s safety, security and justice has been hard to measure, given its focus on building institutional capacity.
3. [P&E; OBS] World Bank (2012) *The World Bank: New directions in justice reform* – finds that results of the World Bank’s justice assistance have been uneven due to approaches that focused on technical issues such as training and equipment, with a lack of political analysis leading to unrealistic reform agendas.
4. [S; OR] Nathan (2007). *No ownership, no commitment*. Birmingham: GFN-SSR, University of Birmingham, p.4
– ‘The principle has been validated both by the presence of local ownership, leading to positive security reforms, and by its absence, leading to dysfunctional outcomes and little or no sustained reform, in a variety of places, including Bosnia and Herzegovina, Guatemala, East Timor, Kosovo, Bougainville, Sierra Leone, Liberia, Ethiopia and Afghanistan.’
5. [S; OR] DFID (2012a) *A theory of change for tackling violence against women and girls* – contains a number of boxed case studies demonstrating that community-based approaches to tackling social norms can have a positive impact on tackling gender discrimination and VAWG.
6. [P&E; OBS] AusAID (2012). *Building on local strengths: Evaluation of Australian law and justice assistance* p. 35
– finds that gender mainstreaming has been weak in practice, treated as a one-off formal design requirement rather than an active tool, and has been applied inconsistently.
7. [P&E; OBS] Hanson-Alp, R. (2010). Civil society’s role in Sierra Leone’s security sector reform process: Experiences from Conciliation Resources’ West Africa programme. In P. Jackson & P. Albrecht (Eds.) *Security sector reform in Sierra Leone 1997-2007* Geneva: DCAF.
See box 2 in [section 3.4](#) of this Topic Guide, which describes how a range of actors, including traditional authorities, have been involved in national security decision-making through the PROSECs and DISECs, which is seen as having benefitted both citizens and security actors.
8. [P&E; OBS] Nielsen, M.L. (2011). From practice to policy and back: Emerging lessons from working with community-based justice mechanisms in Helmand, Afghanistan. In P. Albrecht, H. M. Kyed, D. Isser & E. Harper (Eds.), *Perspectives on involving non-state and customary actors in justice and security reform*. Rome: IDLO/DIIS.
See box 4 in [section 4.6](#) of this Topic Guide: a key lesson is that addressing human rights deficiencies is a process of social and cultural change.

Key to research descriptors

[P&E]	Primary and Empirical	[S]	Secondary
[EXP]	Experimental	[SR]	Systematic Review
[OBS]	Observational	[OR]	Other Review

Research descriptors based on DFID (2013a) *Assessing the strength of evidence*

9. [S; OR] OECD-DAC (2012) *Evaluating peacebuilding activities in settings of conflict and fragility: Improving learning for results*, p. 81-82
– demonstrates how the evaluation of a theory of change, underpinned by up-to-date conflict analysis, leads to more accurate and valid theories.
10. [P&E; OBS] UNDP (2012) *Informal justice systems: Charting a course for human rights-based engagement*
– analysis of programming with informal justice systems in Bangladesh, Ecuador, Malawi, Niger, Papua New Guinea and Uganda reveals a number of interventions that contribute to greater respect and protection for human rights. Supplementing formal justice providers’ knowledge is a prerequisite for engagement with informal providers.
11. [P&E; OBS] Leonardi et al. (2010). *Local justice in southern Sudan*. Washington D.C.: USIP / Rift Valley Institute – for more information on this issue see box 1 in [section 3.2](#) of this Topic Guide, which describes how the codification of customary law does not change social norms, and may reduce opportunities for women to redefine norms.
12. [S; OR] OECD-DAC (2007b). *Handbook on security system reform*. Paris: OECD. p. 179
– previous human rights abuses by the Malawi Police Service provided an entry point for encouraging the service leadership to commit to better internal inspection and accountability procedures, and a greater respect for human rights.
13. [S; OR] Born, H. (2009) Security sector reform in challenging environments: Insights from comparative analysis. In H. Born & A. Schnabel (Eds.) *Security sector reform in challenging environments*. Geneva: DCAF – experiences from the Democratic Republic of Congo and Timor-Leste show that international assistance is less effective when not guided by an overarching concept of security and justice provision, where communication is ineffective, and where donors have diverging views of the role and reform of security and justice actors.
14. [P&E; OBS] Stone et al. (2005) *Supporting security, justice and development: Lessons for a new era*. NY: Vera Institute of Justice, p.10 – see box 5 in [section 4.8](#), which describes how tension among security and justice providers needs to be managed as part of donor assistance.
15. [P&E; OBS] CARE (2012) *Defining theories of change*. London: Care / International Alert – describes how theories of change can contribute to monitoring and evaluating programmes.

2 Concepts and debates

2.1 What are safety, security and justice?

The importance of **personal safety** for citizens is linked to the need to establish **human security**, a people-centred notion of security, which recognises that ‘all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential’ (UNGA, 2005, p. 31).

Security and **justice** are partially overlapping concepts, which are often understood differently by different stakeholders, including citizens, representatives of civil society, national governments and donors (GFN-SSR, 2010).

DFID (2007) provides the following definition:

Security and justice ... refer to values and goals (e.g. freedom, fairness, personal safety) as well as to the various institutions established to deliver them (e.g. defence forces, police, courts). An environment where the rule of law is respected and security bodies are under the control of civilian authorities will help people feel safe and secure and encourage them to claim their rights as citizens. Conversely, where there is no effective and accountable national security structure, violence can permeate society and injustice can prevail. (DFID, 2007, p. 10)

Safety, security and justice are linked as part of the **rule of law**, which may be seen as an overarching principle to guide security and justice programming (van Veen and Derks, 2012). The rule of law contributes to a number of outcomes, including personal safety and security, justice, equality and peaceful conflict management (DFID, 2013b). Safety, security and justice are incorporated in the World Justice Project’s (WJP) definition of the rule of law:

- ‘The government and its officials and agents as well as individuals and private entities are accountable under the law.’
- ‘The laws are clear, publicised, stable, and just, are applied evenly, and protect fundamental rights, including the security of persons and property.’
- ‘The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient.’
- ‘Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve’ (Agrast et al, 2013, p. 3).

2.2 The terminology used in donor programming

There are many different terms used by donors to describe efforts to support the provision of safety, security and justice for citizens. Common terms include **security sector reform and security system reform (SSR)**, which are used by a number of donors and international institutions, including the UN and the OECD-DAC.

For the UN (2008, p. 6), SSR entails ‘the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law’.

For the OECD-DAC, SSR has the following overarching objectives:¹

- '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 delivery' (2007b, p. 21).

Other terms commonly used include security and justice sector reform/justice and security sector reform, and security and justice development/justice and security development (ISSAT, 2012). There exists a debate amongst practitioners and within the literature regarding the relative merits of each term. However, despite the terminology, and the debates that exist surround the relative merits of each,² their aims and objectives are arguably synonymous with those provided above.

Stabilisation is a concept related to SSR, but is not the same. In countries emerging from violent conflict, stabilisation aims to help establish and sustain legitimate government and often involves a degree of military coercion to reduce or prevent violence (SU, 2008). Stabilisation can help create the conditions necessary for the provision of safety, security and justice in situations where the rule of law is eroded, where armed groups, criminal networks proliferate, and where there are weak or absent governments and competing forms of authority. In these contexts, the urgent priorities are often establishing law and order, and performing security tasks to address internal security needs and the basic functioning of the criminal justice system (SU, 2009).

2.3 The multi-layered reality of safety, security and justice provision

In fragile and conflict-affected contexts, a range of actors provide safety, security and justice. They act at different levels, many are associated with each other, and they have varying degrees of autonomy from the state. Consequently, the systems and structures by which safety, security, and justice are provided are multi-layered and highly complex (Baker and Scheye, 2007). SU (forthcoming, p. 4) distinguishes between three layers of provision:³

- **State:** Core state agencies such as the national police, military and border guards.
- **Local:** Local providers and networks with constitutional and legal authority to provide safety, security and justice.
- **Non-state:** Actors who have no legal authority to provide safety, security and justice but do so nevertheless.

¹ The OECD-DAC emphasise that the term 'SSR' refers to a broad range of security and justice institutions and should not be seen as implying that justice is subordinate to security. See OECD-DAC (2007b, p. 5).

² See van Veen and Derks (2012) for further coverage on this debate.

³ Concepts of 'state' and 'non-state' are contentious and the lines between different layers of provision are blurred. Section 3.2 on legal pluralism discusses this further. See Albrecht and Kyed (2011) for a discussion of terminology and definitions.

2.4 The importance of safety, security and justice

Priorities for citizens

A number of studies, notably the World Bank's *Voices of the Poor* report (Narayan et al., 2000),⁴ show that safety, security and justice are major concerns for citizens. Safety and security represent many things, including a stable income, consistent housing, clothing, and food supplies as part of the predictability of daily life, protection from crime, and psychological security. There is a sense amongst poor people that insecurity and instability affect them more than the well off, whether through crime and violence, conflict, or through unresponsive, corrupt and abusive security actors such as the police. Poor people live in insecure areas, have the most insecure assets and rights, have fewer resources to protect themselves, and suffer the most from crime (Narayan et al., 2000; Ismail & Hendrickson, 2009). The recent *A Million Voices* report, on findings from the post-2015 development agenda consultation process, highlights security and justice as key elements missing from the Millennium Development Goals (MDGs) (UNDG, 2013).

Women, men, girls and boys often have different safety, security and justice perceptions, experiences and needs that require targeted responses. For example, insecurity and injustice contribute to gender-based discrimination and social exclusion as a result of women's inadequate property rights, unequal access to assets, and discriminatory social norms and power structures (Narayan et al., 2000; DFID, 2007).

Contributions to development outcomes

There is a growing body of evidence demonstrating that shortfalls in safety, security and justice contribute to both poverty and underdevelopment (Ismail and Hendrickson, 2009). Conversely, the presence of safety, security and justice can contribute to development outcomes including virtuous cycles of security and development, 'with high levels of security leading to development and development further promoting security' (Stewart, 2004, pp. 278-279). However, while evidence suggests that safety, security and justice are associated with development, establishing direct causality is complex (Cox, 2008; Roseveare, 2013).

Safety, security and justice are seen as **moral rights and intrinsic to development** (OECD-DAC, 2007a; AusAID, 2012). Amartya Sen's theory of 'development as freedom' includes protective security, political freedom, economic facilities, social opportunities, and transparency guarantees as elements of freedom, each of which contribute to individual and collective agency (Roseveare, 2013). Reviews of the impacts of access to justice or legal empowerment programmes make a strong case that insecurity and injustice are part of poverty, increasing the vulnerability of communities and reinforcing local power structures (Cox, 2008). Stewart (2004, p.266) notes that insecurity has an impact on human well-being through 'entitlement failures': conflict impacts upon individual or household command over resources, and extreme human suffering results when this falls below what is needed for subsistence.

The prevention of violent conflict and post-conflict reconstruction: Twenty-two of the 34 countries furthest from attaining the MDGs are in or emerging from conflict, which suggests that conflict and instability are barriers to development (DFID, 2010a). The *World Development Report 2011* highlights that strengthening legitimate institutions and governance to provide security, justice, and jobs is crucial in breaking cycles of violence (WB, 2011). Econometric evidence on violence and development suggests that 'the correlations between insecurity and underdevelopment are much stronger than correlations between peace and development'

⁴ The Voices of the Poor project was a survey of poor people in 23 low and middle-income countries conducted over a period of years.

(Denney, 2013, p. 3) and ‘goods’ perceived as entrenching peace, such as good governance, accountability and strong state-society relations, ‘are not linked to stronger development outcomes in the same way that the absence of violence is’ (p. 4).

Effective and accountable states: Accountability in safety, security and justice provision is related to protection from human rights abuses, the ability for citizens to seek redress and hold providers accountable, and to the responsiveness and accessibility of provision itself (OECD-DAC, 2007a). Security and justice institutions can be abused by elites protecting their vested interests and preventing transparent and accountable governance. Security and justice institutions that are democratically controlled, alongside an independent judiciary that can check the power of the legislature and executive, including security institutions, contributes to establishing the rule of law. The equitable provision of safety, security and justice to all citizens is important for legitimacy and effectiveness (DFID, 2007). It helps build the confidence needed to overcome societal mistrust in violence-affected countries. Creating trust and providing services in local communities contributes to ‘virtuous cycles’ of institutional transformation and national developmental progress (WB, 2011).

Economic growth and private sector development: Much of the research on the relationship between security and justice and development has been on the economic costs of crime and violence (Cox, 2008; Denney, 2013). According to Cox, the literature robustly explains the causal links between crime and development, demonstrating how crime diverts financial, physical, social and human capital from households and businesses.

Violent conflict contributes to insecurity and can affect economic growth. In a review of the 25 countries most affected by conflict from 1960 to 1995, Stewart (2004, p.264) finds that insecurity, represented by the presence of conflict, affects economic behaviour by:

- Reducing economic growth, with conflict-affected economies growing 1-2 per cent slower on average than peacetime economies
- Lowering exports, resulting from falls in production and a shift towards domestic markets
- Lowering consumption per head
- Increasing the share of government expenditure to the military and lowering the share of social expenditure.

Violent conflict can also destroy infrastructure and assets, undermine investment and can contribute to unemployment. It increases the costs of doing business, reducing the incentives for international or local investment in physical or human capital (DFID, 2007; Garrasi et al., 2009).

Econometric studies suggest that causal links between justice and economic growth are bi-directional, complex and poorly understood – economic growth may drive the development of justice systems rather than the other way around (Cox, 2008).⁵ Roseveare (2013) finds that studies of the relationship between the rule of law and economic growth demonstrate a positive correlation, but links between the protection of property rights and investment and growth are contested: some studies claim that property rights incentivise investment and productivity, whilst others suggest that a link depends on the type of property and the available markets for land, credit and other outputs.

⁵ Econometric studies on the impact of law and justice on economic performance are based on country case studies on the impact of legal uncertainty on businesses, and on cross-country data sets testing the relationship between legal institutions’ performance and national GDP (Cox, 2008).

Service delivery: A lack of safety, security and justice impedes the provision of, or people's access to, other services such as education, health, water, sanitation and electricity (OECD-DAC, 2007a).

Donor countries' national interests

Donor countries' national security and other foreign policy interests affect the provision of security and justice assistance. For example, the European Union's engagement in addressing regional conflicts, state failure and transnational crime is motivated by self-defence (EU, 2003). The UK Government's Building Stability Overseas strategy stresses the importance of peaceful development, stability and security across the globe for the UK's prosperity and national security (HMG, 2011a, p. 2). Conflict and instability, unaccountable and ineffective governments, human rights violations, and poor socio-economic development in other countries can affect the UK's security through the spread of refugee flows, terrorist activity, and organised crime (HMG, 2011a). Furthermore, it is in the UK's national interest to support and advance British values, which include the rule of law, free speech, tolerance and human rights (HMG, 2010).

3 Thematic components of safety, security and justice

3.1 Gender

What is gender?

The term 'gender' is often used interchangeably with 'women'. However, gender refers to women and men, and the relations between them (UN OSAGI, 2001). Gender sensitivity 'does not simply mean including women and girls into existing processes but also reassessing any given process with a view to understanding how it affects and is affected by existing gender roles and norms'. This entails considering how 'activities impact on and are influenced by women, men, girls, and boys' (SW, 2013, p. 2).

Why is a gender perspective important?

Applying a gender perspective can lead to a broadening of the issues that are considered relevant to safety, security and justice. This is because the safety, security and justice needs, interests and priorities of women, men, girls and boys are different in any given context, and the differences are more pronounced in fragile and conflict-affected environments due to high levels of insecurity (Mobekk, 2010). These differences reflect the fact that women are often more vulnerable to instances of sexual violence, gang violence, robbery, abduction, and honour killings, amongst other forms of insecurity (Bastick & Whitman, 2013, p. 4).

Women often have less access to justice than men. They face discriminatory societal norms, inadequate rights promotion and/or enforcement, and a lack of funds to seek justice or protection services. Incidents of insecurity and injustice, such as domestic violence, are likely to occur in private, and unequal power relations mean that men frequently mediate women's access to security and justice providers (Douglas, 2007; Roseveare, 2013).

According to Douglas (2007), key areas in which women are marginalised from the justice process include family law, property and inheritance, and gender-based violence (GBV). In family law, legal discrepancies that prevent women from entering and leaving marriages and inheriting property, questions of paternity, and unequal child custody rights are particularly harmful. Discrimination against women in family law and property law reinforce each other, and can reduce women's economic and physical security. For example, women may not be able to escape domestic violence. This can reduce the health and welfare of the household as a whole (Douglas, 2007, pp. 12-13).

Violence against Women and Girls (VAWG)

Addressing violence against women and girls (VAWG) is a crucial element of security and justice programming. Many forms of VAWG are not recognised as crimes, or are seen as a private matter by security and justice providers such as the police or the judiciary (Mobekk, 2010, p. 289).

There are particular challenges related to preventing and responding to VAWG in fragile and conflict-affected environments. Denney and Domingo (2013) note that VAWG can increase post-conflict through the availability of weapons, men's reaction to loss of power, high levels of youth unemployment, and the legacy of conflict-related violence. The destruction of infrastructure makes many women and girls more vulnerable and increases the difficulty of providing services

to survivors of VAWG. The displacement of communities and loss of social networks can contribute to an increase in tolerance of VAWG (Barnes, 2007).

Legal pluralism adds further complexity, because discriminatory practices exist at all levels of security and justice provision. In many contexts, criminal cases are primarily handled by non-state actors. Such actors are often governed by discriminatory norms and may not be receptive to women's concerns or may even abuse their rights (Mobekk, 2010), but state institutions may also exhibit high levels of tolerance for VAWG. Donor support that focuses on state institutions is unlikely to have much impact for women who live in areas with limited state presence (Denney & Domingo, 2013; DFID, 2012a).

Gender-based violence (GBV)

Gender-based violence (GBV)⁶ is a form of violence related to gender differences and inequalities. It affects women, girls, men and boys, one example being rape, and is linked to issues of power and gender identity. Women and girls are often the majority victims. But some forms of GBV, such as gun-related violence, affect men and boys more than women and girls and males may face greater barriers in reporting it and seeking justice. The active involvement of women and men is important in preventing GBV (Valasek, 2008; OECD-DAC, 2009).

What contribution can a gender perspective make to programming?

A gender perspective can help to ensure that the safety, security and justice needs of women and girls are given equal weight to those of men and boys (OECD-DAC, 2009). This contributes to a number of further programmatic outcomes:

- **Local ownership:** Women's organisations can help connect policy makers with the concerns of women and girls, and help ensure that security and justice provision is locally designed, managed and implemented (Valasek, 2008, p. 6).
- **Service delivery:** Women are under-represented in security and justice institutions (Douglas 2007). Greater female participation is necessary to create more representative institutions which, if they are more responsive to a range of safety, security and justice needs, increase trust and legitimacy (Mobekk, 2010).
- **Operational benefits:** Women's participation in security and justice provision can help make services more accessible to other women. For example, survivors of VAWG may feel more comfortable dealing with female police investigators, lawyers and judges (Douglas, 2007).
- **Oversight and accountability:** Ensuring that oversight bodies (including parliaments, the executive and the judiciary) are representative increases their responsiveness to different needs and increases legitimacy and trust in state institutions (Luciak, 2008). Women's organisations can also play important roles in monitoring, oversight and holding providers to account (Barnes & Albrecht, 2008).

See the GSDRC *Justice Topic Guide* for more coverage of gender and justice issues, including:

- Access to justice for women and other socially excluded groups (p.20-21)
- Gender-based violence (p.20)
- Women and property rights (p.22)
- Gender, juveniles and transitional justice (p.24)

⁶ Some donors tend to focus on 'women, peace and security' and VAWG. However, there are arguments in favour of shifting the focus towards a broader 'gender, peace and security' approach, which includes issues such as violence against men and boys in efforts to prevent GBV. See SW (2013) for further coverage of this debate.

3.2 Legal pluralism

What is legal pluralism?

Roseveare (2013) defines legal pluralism as ‘the existence of multiple sources of law (both state and non-state) within the same geographical area. Although the rule of law is often represented as law being made and administered by the state, a growing body of literature suggests that the provision of a range of different legal and quasi-legal security and justice mechanisms creates choices for individuals, communities, and even the state itself’ (p. 39). The UN (2011a, p. 67-68) identifies three broad types of legal pluralism:

- **Non-state legal orders:**⁷ These exist in every country in parallel with the state system. They are not formally recognised or state-sanctioned. For example, conflict resolution mechanisms include informal village *jirgas* (councils) in Afghanistan and Pakistan and forums run by street committees in Brazil.
- **Formal legal pluralism:** In many countries in the Middle East, South Asia and South-East Asia, for example, family and some property matters are governed by different laws for different religious or ethnic communities. In some African countries, women married under the customary, religious, civil or common law system are subject to different state-recognised laws on inheritance and property rights.
- **Quasi-state legal orders or state incorporation of non-state legal orders:** For example, many African states have incorporated customary chiefs or local power-holders as the lowest tier of decentralised state legal systems. Alternative dispute resolution mechanisms are increasingly used to provide services where formal state capacity is weak or overburdened.

Linkages between state and non-state actors

Legal pluralism produces hybrid or mixed legal environments where state, local and non-state actors are linked and the lines between them are blurred (Roseveare, 2013). Security and justice actors can be viewed as ‘lying along a spectrum between the state and the purely informal’, where legitimacy is determined by factors including the degree of authority granted by the state (Zurstrassen 2011, p. 117). In most contexts, there will be certain functional linkages, where state law provides for official forms of collaboration (including appeal procedures, referrals, division of labour, advice, and assistance). Where this is not the case, they may exist various forms of unofficial collaboration. Linkages may also be negative, with competition over jurisdiction stretching to opposition or hostility. Apart from functional linkages, there are often instances of overlaps of norms, rules and procedures, which are based on interaction and coexistence over time (UNDP, 2012). It is common for state actors such as the police, judges and magistrates to collaborate with non-state actors by sharing intelligence about crime; sharing equipment and training; conducting joint patrols and operations; and delegating police work to non-state actors (Baker, 2010).

⁷ ‘Legal orders’ are the systems used by states, religious or ethno-linguistic communities, and other groupings such as villages, neighbourhoods, and families for resolving problems, conflicts or grievances (UN, 2011a, p. 66).

The importance of non-state provision in fragile and conflict-affected contexts

In fragile states, non-state actors are the main providers of safety, security and justice (OECD-DAC, 2007a, p. 6). This may be because:

- **State provision is unreliable:** Fragile and conflict-affected states lack the financial, human and physical capital to deliver effective and accountable safety, security and justice (Baker & Scheye, 2007).
- **State provision is ineffective:** The settlement of cases can take a long time due to bureaucratic procedures and the necessity of hard evidence (UNDP, 2012).
- **State provision is inaccessible:** State providers might not speak the local language, are often located far from communities, and can be expensive (Derks, 2012). Evidence from Bangladesh, Ecuador, Malawi, Niger, Papua New Guinea and Uganda demonstrates that even when people are located close to state courts and the police, various forms of non-state and informal provision are still the preferred option (UNDP, 2012).
- **Inappropriate outcomes:** States actors such as the police, prosecutors and state courts may be seen as overly retributive, whilst people may prefer restorative justice applied by non-state actors (UNDP, 2012).
- **Lack of trust in state providers:** State institutions in fragile and conflict-affected states are often captured by political and criminal interests or discriminate against segments of society (Desai et al., 2011). They may be seen as illegitimate in some contexts due the history of state-citizen relations. Non-state providers are seen as more legitimate because they are part of local communities and serve their interests (UNDP, 2012).

Religion and legal pluralism

Religious officials or leaders often settle disputes in settings of varying formality. However, there are few examples of religious courts on matters affecting normal citizens outside of Islam. In many countries, Muslims rely on *shari'a* courts to settle various questions, particularly those of family law and inheritance. The application of Islamic law and its relation to the state varies. Many secular states with large Muslim communities employ formal legal pluralism, whereby state law incorporates tenets of Islam to govern matters of family law and personal status. In some cases, links between religious leaders are unofficial but deeply embedded. Other countries permit the legal recognition of settlements reached by religious bodies or officials. Some states offer a choice between civil or religious marriage and family law regimes. These are all distinct from countries that explicitly adhere to Islam, where *shari'a*-based penal laws are in force (UNDP, 2012, pp. 58-59).

The codification of customary law

Codification has been seen as a means of standardising and modifying customary law while remedying human rights deficiencies (Chopra & Isser, 2011). Advocates of codification argue that it could increase the external recognition and legitimacy of customary practice, but others have highlighted the need for flexibility and development in local and non-state provision (Baker, 2010, p. 611). However, evidence suggests that codification is expensive and does not lead to better outcomes, especially for women and vulnerable groups (see box 1 below).

Box 1: Codification in South Sudan

South Sudan's experience demonstrates that codification is likely to reinforce the power of the local elite. Even 'self-statement', when communities record customary law themselves, does not enhance women's voices. Prohibiting discrimination in customary law can produce a law that looks good on paper, but that is unlikely to be enforced or to change social norms. Moreover, the flexibility of customary law provides space for contestation and adaptation, including by women; codification reduces women's opportunities to redefine norms.

Source: Chopra and Isser (2011, p. 30-32)

3.3 Access to justice and legal empowerment

What is legal empowerment?

Legal empowerment is a key 'demand-side' response to addressing deficits in the rule of law. It entails extending legal provisions to the poor, and encouraging them to be more proactive in claiming their rights (Roseveare, 2013). Legal empowerment initiatives enable citizens in actively using the law and shaping it to their needs. Interventions include the provision of legal aid and community paralegals,⁸ capacity building and awareness-raising for both citizens and providers (UN, 2011a).

According to Maru (2010, pp. 84-85), five key principles define legal empowerment:

- **Concrete solutions to instances of injustice:** Legal empowerment seeks to solve people's daily problems of injustice, including intra-community disputes and rights abuses that arise from traditional authorities, state institutions and private firms.
- **A combination of litigation and high-level advocacy with more flexible, grassroots tools:** Including community education, organising, local advocacy, and mediation along with the use of litigation and high-level advocacy.
- **A pragmatic approach to plural legal systems:** Engaging with a range of providers, building linkages between them and advocating for their evolution.
- **Empowerment:** Cultivating the agency and power of the people.
- **A balance between rights and responsibilities:** Ensuring self-sufficiency by supporting community and self-help organisations and by advocating for the fulfilment of citizen obligations.

See the GSDRC *Justice Topic Guide* for more coverage of access to justice and legal empowerment issues, including:

- Access to justice, including legal and judicial reform (p. 14)
- Legal empowerment (p. 14)
- Women and property rights (p. 22)
- Access to justice for women and other socially excluded groups (p. 20-21)
- Reforming state justice institutions in fragile and conflict-affected states (p. 32)

⁸ Paralegals are 'community activists who not only have a substantial training in legal principles, but also familiarity with local community norms and practices and an ability to offer advice and advocacy services that go beyond narrow legal advice' (CLEP, 2008, p. 92).

The importance of access to justice and property rights

Ensuring access to justice and establishing the rule of law through institutional reform and the removal of legal and administrative barriers are central to legal empowerment. Laws are ineffective if citizens cannot use the justice system to realise their rights, or if the institutions enforcing the law are ineffective, corrupt or captured by elites (CLEP, 2008).

Property rights are a key pillar of legal empowerment. Family law, inheritance law and property rights, including dispute resolution, are key issues in extending access to justice to citizens, particularly for women. Property rights have an economic role in that they contribute to the protection of economic assets and secure livelihoods. They also help to establish clear ties of rights, responsibility and recognition within a community. Vulnerable groups and women suffer the most from a lack of property rights. In many contexts, the state does not provide adequate protection of property rights to the poor, who are subject to arbitrary evictions without compensation, and powerlessness in disputes over assets with powerful actors (CLEP, 2008).

The role of legal empowerment in improving accountability

Legal empowerment can contribute to increasing accountability through a combination of advocacy, mediation, education, organising and litigation to make dysfunctional legal systems work for citizens. Local authorities and service providers can be held to account through social accountability measures that involve the participation of citizens in monitoring and advocacy (Maru, 2010). The accountability of providers to women and vulnerable groups, including women, can be improved. Experience from Papua New Guinea shows that rights awareness raising activities involving village courts and village leaders, as well as youth and women, enabled the latter to better understand and claim their rights. As a result, women have been accepted as village court officials and play an active role in monitoring decisions (UN 2011a).

3.4 National security architectures

National management and decision-making structures

National security architectures include management, decision-making and oversight structures and institutions, as well as national policies, strategies and plans. Many institutions and agencies contribute to national security management,⁹ so co-ordination of decision-making is important (Bearne et al., 2005). Overarching decision-making structures, such as National Security Councils, can cover policy, legislative, structural and oversight issues, and might co-ordinate or implement policy, or assess and advise (Bearne et al., 2005).

National security policy and strategies

Processes of developing national security policies and strategies provide opportunities for a country to instigate long-term institutional and systemic change. For example, such processes can encourage non-discriminatory and accountable law enforcement, the prioritisation of citizens' needs, and definitions of security actors' long-term roles. They offer valuable entry points for security and justice assistance because they articulate national security priorities and the capacities required to meet them (UN, 2012, p. 118).

⁹These include the executive; national security advisory bodies; legislative/parliamentary committees; ministries of defence, internal affairs, and foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget officers, financial audit and planning units); and civil society organisations (civilian review boards and public complaints commissions) (OECD-DAC, 2007b).

The importance of oversight

According to Born et al. (2003), parliamentary involvement in security decision-making is essential for ensuring public support and legitimacy. For example, parliaments can review draft laws, providing consent or suggesting changes, and influence budgets.

Civil society bodies, including NGOs, women's organisations and research institutes, can also contribute to oversight. They can give feedback on policy development and implementation and promote public awareness and debate of security issues (Born et al., 2003).

Box 2: National security architecture in Sierra Leone

The following personal accounts highlight some of Sierra Leone's successes and challenges in preparing for and responding to the 2007 parliamentary and presidential elections, and in ensuring the inclusion of citizens' perspectives in decision-making.

The role of security cooperation in the 2007 elections

Source: Conteh (2010)

Sierra Leone's National Security Council (NSC) is the country's highest national security forum. It is chaired by the president and its membership includes key departmental ministers and heads of the primary security institutions, including the Office of National Security (ONS), the police, and the armed forces.

The ONS coordinates security activities. It translates NSC policy into missions and tasks, chairs the Joint Intelligence Committee (JIC) and the NSC Coordinating Group (NSCCG), and conducts security assessments based on intelligence reports.

Whilst the establishment of these coordination mechanisms in a post-conflict context is considered a major achievement, securing political buy-in for the ONS has proved difficult. However, the peaceful conclusion of the 2007 parliamentary and presidential elections has been seen as a success for ONS' coordinating role. In the build-up to elections, the ONS identified potential threats. The NSCCG identified and recommended specific actions to the NSC, and these were continually updated as the election approached.

Civil society input in national security decision-making

Source: Hanson-Alp (2010)

Sierra Leone's 2005 security sector review explicitly recognised the value of civil society involvement. Provincial and district security committees (PROSECs and DISECs) enable civil society involvement in Sierra Leone's security decision-making processes. PROSECs provide the government with early warning of security threats. The committees at both levels include ONS representatives, civil servants, civil society representatives, and traditional authorities.

Sierra Leone's citizens, distrustful of state security institutions, have tended to view PROSECs and DISECs as secretive. Security personnel have been reluctant to engage with civil society, and the selection of the committees' civil society members has often been based on existing personal relationships. However, the sharing of information has benefitted both citizens and security institutions, which both groups have come to recognise.

Security decision-making in fragile and conflict-affected contexts

Comparative research in Nigeria, Sri Lanka and Uganda identifies characteristics of security architectures and decision-making in fragile and conflict-affected states (CSDG, 2008; Hendrickson, 2008):

- **Security decision-making processes are inherently political:** Control of the national security decision-making process is often elitist, personalised, male-dominated and secretive. Nepotism, patronage and corruption tend to exclude segments of the population (CSDG, 2008, p. 16).
- **Citizens have little influence:** Recurrent crises hinder the channels and organised interest groups through which citizens might influence policy processes. Citizens' security demands are based on narrow, often communal, interests, which may increase state autonomy in security decision-making (Hendrickson, 2008).
- **Multiple sources of authority are involved:** Given the multi-layered reality of security and justice provision, there are likely to be multiple sources of security and justice authority, and demands for provision are likely to be locally orientated (Hendrickson, 2008).
- **Limited capabilities:** Deficits in regulative, technical and administrative capacities undermine governmental decision-making (Hendrickson, 2008).

The practical realities of limited political will and capacity

Secretive cultures of security decision-making hinder inclusive consultations and strategic processes (UN, 2012). In addition, decision-making is often reactive, focusing on near-term security, rather than anticipating political problems and human vulnerabilities that give rise to insecurity. Consequently, coordinating structures may be weak or marginalised (Bearne et al, 2005; CSDG, 2008).

3.5 Defence

What is the defence sector and why is it important?

The armed forces constitute the most powerful security institution and can influence reform in other areas. Their primary function is to underpin the domestic and foreign policies of a state with force or the threat of force. As such, they are central to the protection of a state's sovereignty (OECD-DAC, 2007b; Chuter, 2011). They can also be a source of insecurity, human rights violations, repression, can capture a disproportionate share of economic resources, and can be used for the protection of sectional interests (OECD-DAC, 2007b). The significance of the armed forces means that an effective, efficient, accountable and affordable defence sector is essential for sustainable peace and development (UN, 2011b).

The defence sector includes:

'the armed forces (army, navy, air force; paramilitary and reserve units); defence intelligence; the relevant ministry for defence and offices within the executive branch charged with managing and monitoring the security forces (such as national security councils and the auditor general); the legislature; military justice mechanisms and civilian mechanisms of control, such as military ombudspersons and inspector generals; and civil society. Non-statutory forces are also particularly important in post-conflict environments, where there may be a need to demobilise and/or integrate non-state armed groups.'

(Hendricks and Hutton, 2008, p. 1)

Defence reform

Defence reform can involve restructuring or building new defence capabilities under demanding political, social and economic conditions (DCAF, 2009). Often, in contexts where security and justice assistance takes place, the armed forces may have dominated the political process, or may have been aligned to particular political, ethnic or religious groups. An objective for reform is ensuring that the armed forces play a correct and useful role in the political process, being involved in certain technical and strategic aspects of policy-making and implementation, but not involved in fundamental decisions about how countries are run (Chuter, 2011). Other non-state armed factions may also exist, and defence reform in such contexts is underlined by the need to develop an integrated, representative and non-partisan force as part of broader statebuilding and peacebuilding efforts (Hendricks & Hutton, 2008).

Key issues for defence reform include (OECD-DAC, 2007b, p. 124; DCAF, 2009, p. 3):

- Developing democratic control over defence policy and the armed forces, including a constitutional and legal framework and civilian oversight and management
- Strengthening the process for reviewing security threats and developing the capacity to respond to them
- Delineating clear roles and responsibilities with the police for internal security
- Introducing integrated approaches to policy development, military expenditure, human resource planning, and management of military assets
- Promoting reform in the training and the career development of military personnel, and career transition and resettlement plans for those leaving the armed forces
- Encouraging public debate and citizens' engagement with defence reform issues
- Encouraging cooperation with non-state actors
- Promoting ethnic, social and gender balances and equal opportunity policies
- Promoting respect for human rights and international humanitarian law in the armed forces
- Strengthening regional arrangements for military co-operation, confidence building, arms control and disarmament.

The UN's Defence Reform Policy (UN, 2011b) suggests that institutional reforms should be based on an initial review of the defence sector. This often draws on a national security policy or strategic defence review. Typical defence reform activities include (UN, 2011b, p. 24):

- Structural reforms of existing institutions, such as rightsizing the armed forces in line with budgetary considerations and defence needs, and/or creating or restructuring a parliamentary defence committee
- Functional and/or human capacity reforms, such as developing civilian oversight capacities at ministerial and/or parliamentary level
- Physical or infrastructure reforms
- Asset reforms involving, for example, equipment, weaponry and vehicles, including the development of new technology
- Legislation, policy and doctrinal reforms
- Training and capacity building in human rights and gender issues.

3.6 Disarmament, Demobilisation and Reintegration (DDR)

What is DDR?

DDR typically involves dismantling the command structures of armed groups and reducing the size of fighting forces and the number of weapons in circulation. Ex-combatants are either assisted to return to civilian life, with reintegration packages including cash or non-monetary benefits such as vocational training or counselling, or merged into new national security forces (Muggah, 2010; de Vries & van Veen, 2010).¹⁰

Contextual knowledge and community-based approaches

DDR programmes are often criticised for adopting top-down approaches and for considering quantitative outputs, such as the number of weapons collected and surrendered, as the only benchmarks of success (Bryden, 2012). However, there is increasing recognition that DDR programmes will only address the root causes of wider insecurity if they are based on a deep contextual knowledge and seek to address the long-term security and development needs of citizens and communities, including marginalised segments of society.

For Bryden (2012) this includes analysis of whether reintegration is genuine and militias have actually disbanded. It also involves monitoring local factors, such as the nature of employment opportunities and the impacts of DDR processes on community security. Lack of local analysis may create unrealistic expectations and contribute to further insecurity. In Afghanistan, for example, the lack of viable jobs for returning ex-combatants was not considered in reintegration processes, resulting in disillusionment (Bryden, 2012).

Some authors advocate community representation in the design and implementation of reintegration activities to ensure that local dynamics are addressed. For example, female ex-combatants can face particular stigma because of having transgressed accepted gender roles or experienced sexual violence (Myrtilinen, 2012).

The evolution of DDR

Since the 1990s, the narrowly technical focus of DDR approaches has expanded to emphasise peace, reconstruction and development (Muggah, 2010). This 'Second Generation DDR', or 'Interim Stabilisation', is increasingly undertaken in volatile environments in the absence of an inclusive peace agreement. It recognises the importance of on-going analysis of local political dynamics and emerging security threats. Its scope has broadened to include regional considerations, such as cross-border arms flows, and the regulation of weapons held by civilians. It also seeks to address longer-term issues in returnees' communities, such as the lack of employment opportunities (UN, 2010b).

¹⁰ For a complete definition see the UN's *Operational Guide to the Integrated Disarmament, Demobilisation and Integrated Standards* (2010a).

Box 3: Post-conflict trajectories and gender considerations in Aceh and East Timor

Research on DDR processes in Aceh and East Timor provides insights on common paths taken by ex-combatants and the impact of DDR on communities. As well as integration into security institutions and successful integration into post-conflict societies, ex-combatants can enter into illegal practices or slide into socioeconomic marginality:

- Preference in joining security institutions as part of DDR schemes is given to male ex-combatants.
- Well-connected veterans have become involved in post-conflict reconstruction and development efforts – either through involvement in politics or through establishing themselves as logistics and transport contractors.
- Some former insurgents have used wartime contacts to engage in theft, extortion and smuggling.
- Non-combatant veterans and supporters of fighting forces who have not been integrated into security institutions or the post-conflict economy have become socioeconomically marginalised. They lack education, political influence and understanding of the DDR process. This category tends to include women.

Source: Myrtilinen (2012).

Links between DDR and SSR

According to McFate (2010), DDR and SSR processes are connected. They both aim to enable countries emerging from conflict to provide for their own security and uphold the rule of law. However, a lack of coordination between donors and international agencies, along with stove-piped approaches, present obstacles to ensuring that DDR and SSR are mutually reinforcing (UN, 2009). Nevertheless, there are a number of ways in which they are linked as part of post-conflict statebuilding that enhances security and the rule of law (UN, 2009, pp. 2-3):

See the GSDRC *Justice Topic Guide* for coverage of the links between DDR and Transitional Justice (p.43)

- They engage security actors, including the military and ex-combatants as well as groups responsible for their management and oversight.
- Decisions related to DDR contribute to defining the size and composition of a country's security sector.
- SSR may lead to rightsizing and the consequent need for reintegration.
- Considering them together situates DDR within a broader national vision for the security sector, which enhances the legitimacy and sustainability of DDR.

De Vries and van Veen (2010), however, question the feasibility of linking DDR with SSR programming. They suggest a pragmatic approach: establish links where possible but accept that deep synergies may not be possible. They argue that an effective link requires political agreement on a long-term process to guide the role, size and composition of security forces, based on analysis of a country's security threats and needs. In post-conflict situations, these conditions are absent.

3.7 Policing

What is policing?

SU (forthcoming) distinguishes between police, policing and policing actors:

- **'Police:** the civil institution of a state, responsible for the prevention and detection of crime, and the provision of safety and security.'
- **'Policing:** the activities carried out by policing actors in order to maintain law and order and provide safety and security.'
- **'Policing actors:** the range of state, local and non-state providers in fragile and conflict-affected states who carry out policing.' (SU, forthcoming, p. 4)

The police are often the key security and justice institution that citizens interact with, the main point of entry into the criminal justice system, and the state agency primarily responsible for upholding the rule of law, protecting and promoting human rights, and maintaining public order (SU, forthcoming).

See the GSDRC *Justice Topic Guide* for further coverage on policing, including:

- Crime and policing (p.10)
- Victim support (p.11)
- Community-based policing (p.11)
- Police reform (p.12)

In fragile and conflict-affected states, the national police service under the civilian command and control of the Ministry of Interior is often just one actor providing policing to communities. For example, Baker (2008) states that in a number of African countries, non-state forms of policing undertake key policing roles such as crime prevention and intervention, investigation and resolution, and punishment.

Community-based policing

Donor-led policing programmes often use the language of 'community policing' or 'community-based policing' (SU, forthcoming). These approaches can be implemented by governments or local communities. They often share a focus on partnership, community consent, accountability, and proactive and problem-solving approaches to crime. However, these concepts are ambiguous. They are used to headline a variety of programmes, including zero-tolerance policing, intelligence-led policing, and improving responsiveness to local priorities (Denney & Jenkins, 2013).

Community-based approaches are popular due to perceptions that they can build on community initiatives and foster local ownership. However, evidence as to whether such approaches are achieving their objectives is contested. Risks associated with the programmes include the reinforcement of existing inequalities and power imbalances (Denney & Jenkins, 2013). While evidence from a review of community-based policing in South Africa suggests that such approaches can help increase public confidence in the police, there is no evidence that such approaches can reduce crime (Pelser, 2000).

The potential risks of community-based policing suggest more pragmatic approaches to policing assistance (SU, forthcoming). Hills (2008) draws on evidence from Nigeria to suggest that reform is an iterative and gradual process: Nigeria adopted the language and organisational features of community-based policing in 2005, yet its police force remains politicised, under-resourced, inadequately trained, corrupt and exploitative. There is no evidence to suggest that political leaders insincerely implemented reforms. Rather, the reforms were based on domestic realities and an understanding of the restrictive political environment. Even these flawed reforms have improved public attitudes to the police.

4 Challenges and approaches

4.1 Strength of evidence

The evidence base for security and justice programming is generally weak, and much of the literature is normative, presenting recommendations with little empirical evidence about what works. There is little in the way of rigorous evaluation on the effects of institutional reform programmes on security and justice provision (Roseveare, 2013, p. 43).

Security and justice programming is highly context specific and there are few proven approaches or models (OECD-DAC, 2007a; Woodrow, 2013). In many cases interventions are based on implicit theories or are embedded in the skills, approaches, capacities, preferences and perspectives of individuals and organisations (Woodrow, 2013). In law and justice, 'donor investments have been driven as much by theory as by evidence' (AusAID, 2012, p. 13). Roseveare (2013) notes that while the available evidence is useful for understanding the different dimensions of the rule of law, it is less well suited to demonstrating the efficacy of particular donor interventions (p. 8). In general, there is not a 'clear sense of what should be done, how it should be done, by whom, in what order, or how success may be determined' (Desai et al., 2011, p. 243).

4.2 General principles for effective programming

There is consensus that security and justice programming should be people-centred and multi-layered. A **people-centred** approach is rooted in how citizens (the 'end users') experience safety, security and justice (Denney & Domingo, 2013); it is 'locally owned and based upon democratic norms and human rights principles and the rule of law... [and] a broad assessment of the range of security and justice needs of the people and the state' (OECD-DAC, 2007b, p. 21). International policies also recommend a **multi-layered** approach (OECD-DAC, 2007a; 2007b; see also section 2.2), which involves supporting each of the levels of security and justice provision: the state as a provider and regulator, non-state actors as providers, and citizens as recipients to increase their voice and accountability (OECD-DAC, 2007a). There is also recognition that bringing about safe, secure and fair environments for citizens depends on a broad range of factors beyond the criminal justice system, including issues in education, urban development and land tenure (van Veen & Derks, 2012).

The political nature of security and justice assistance

The control of security and justice provision underpins the exercise of political power (OECD-DAC, 2007b). Security and justice providers at different levels of the multi-layered system have differing interests, with competition over power and resources (Albrecht & Kyed, 2010). Addressing deficits in security and justice provision requires local political will, but this may be lacking at local or national levels if it is not in the interest of local actors or there is a contradiction between donor aspirations and local political realities (OECD, 2010; Galletti & Wodzicki, 2011).

Local context analysis

There is a need for local analysis and a valid evidence base that takes account of citizens' perspectives (including women and vulnerable groups), the roles of different actors, local power dynamics and linkages (Albrecht & Kyed, 2010).

Programmes should be designed with an inception phase that allows donors to develop their understanding of the local owners and political context (OECD-DAC, 2007b). As part of this, gender and conflict analysis are important tools for programme design – they facilitate an understanding of the issues to be addressed and help reduce the risk of doing harm through, for example, upsetting local power balances (DFID, 2012a; OECD-DAC, 2012).

Realism, pragmatism and flexibility

It is important to identify goals that are specific, realistic, achievable and pragmatic, without being overly ambitious (OECD-DAC, 2007b). Discrete and focused activities can be effective if they are considered as part of larger programmes and contribute to wider policy objectives. The focus should be on gradual approaches to reform, establishing linkages where possible, rather than addressing all sectors at once (Schnabel, 2009; de Vries and van Veen, 2010).

SU (forthcoming) calls for assistance to focus on pragmatic ‘best fit’ solutions rooted in political realities rather than ‘perfect’ reforms. According to Hansen and Wiharta (2007), this may involve trade-offs for donors, for example making concessions with regards to locally driven initiatives. This may challenge what donors consider as best practice, but may be more practical and affordable under local conditions.

Balancing long-term goals and short-term results

The World Bank’s *World Development Report 2011* notes that it has taken a generation for the 20 fastest reforming countries in the 20th century to achieve basic governance transformations in areas such as corruption, military involvement in politics and the rule of law (WB, 2011). Therefore, to expect change in fragile and conflict-affected states in short time frames is unrealistic.

A number of policy documents argue for balancing long-term objectives with short-term results. SU (forthcoming) argues in favour of setting longer-term strategic objectives but designing short-term measures to enable gradual progress towards the longer-term goals within typically short-term project cycles.

Implications for design, monitoring and evaluation

The points above underline the importance of robust design, monitoring and evaluation of security and justice assistance. This is particularly important in fragile and conflict-affected contexts because of their complexity and the consequent difficulties in collecting data and in the attribution of results (OECD-DAC, 2012). Accurate and valid theories of change are based upon empirical evidence, local knowledge and up-to-date analysis, and can help identify local actors and gaps in provision, and potential linkages with other efforts (CARE, 2012; Stein & Valters, 2012). Furthermore, an explicitly articulated design process based upon valid theories of change encourages rigorous monitoring and evaluation activities (Corlazzoli & White, 2013b).

4.3 The pitfalls of overly technical and idealised approaches

Whilst the importance of a people-centred and multi-layered approach is widely recognised in policy, in practice donor programmes have often emphasised technical approaches that focus on strengthening state security and justice institutional capacities (OECD-DAC, 2007a; Bryden, 2012). Support to non-state actors has been ad hoc or treated as an entry point for statebuilding based on normative and idealised western templates of how security and justice should be delivered (OECD-DAC, 2007a; Desai et al., 2011). As such, resources have been directed towards implementing ‘perfect’ reforms of state institutions, which have proved inappropriate in fragile and conflict-affected states (SU, forthcoming).

It is often difficult to evaluate the contribution that programmes make to security, justice and development outcomes. Schnabel (2012, p. 64), for example, argues that ‘activities are rarely explicitly geared towards meeting specific development objectives’ and that as a result their contributions to development objectives are assumed and their precise extent remains generally unknown. Furthermore, programmes that are primarily based on institutional assessments of state capacity and institutional capacity building have difficulties demonstrating how interventions improve the security and justice of citizens (SU, forthcoming).

Several donor reviews highlight the problems with approaches that are not politically nuanced and locally-rooted. In a review of its law and justice programming, AusAID (2012, p. 48) admits that a focus on institutional arrangements and capacity building has produced ‘islands of success’ without necessarily delivering change to the quality of justice services. A review of the European Commission’s support to security and justice found that the overall impact on people’s safety, security and justice has been difficult to measure because of its focus on building institutional capacity within state security and justice bodies (EC, 2011). A World Bank review of its justice assistance finds that, despite some successes in improving access to justice, the overall outcomes have been uneven due to approaches that focused on technical issues such as training and equipment, a lack of political analysis leading to unrealistic reform agendas, project designs insufficiently focused on the needs of citizens, and an absence of rigorous evaluation (WB, 2012).

Academic debates suggest that differences between policy and practice contribute to the ineffectiveness of security and justice programming and the inability to articulate the contribution to development. In a review of academic debate on the future of security and justice programming, Sedra (2011) concludes that there is widespread agreement amongst practitioners and academics on the need for following the principles espoused in policy documents such as OECD-DAC’s *Handbook for Security Sector Reform*.

There is, however, evidence to suggest that donors accept that changes are required in their approaches to programming. The World Bank and European Commission both recognise the need to improve the design, monitoring and evaluation of programmes, and to adopt flexible and strategic approaches that respond to the needs of the poor and that reflect local realities (WB, 2012; EC, 2011).

4.4 Local ownership

Local ownership requires donor support for domestic initiatives, not vice versa. Initiatives that are not driven by domestic actors are unlikely to reflect local needs or dynamics, to be implemented properly, or to be sustained (Nathan, 2007, p. 4). A ‘minimalist’ approach to local ownership aims only to involve national-level political elites, because they possess the capacity and legitimacy to implement reforms, while a ‘maximalist’ approach is more inclusive, recognising civil society and citizens as key stakeholders (Donais, 2008, p. 9). In practice, a minimalist approach is often taken (Mobekk, 2011).

Local ownership is possible at each of the layers of provision (state, non-state and local) and is deeply political and contested (Scheye, 2008). Owners may include national and local governments, security leadership and actors, non-state actors, political classes, economic elites, civil society, and non-organised and non-represented people. Within each of these categories, there are ‘insiders’ and ‘outsiders’ – those who have access to political and economic influence and those who do not (Mobekk, 2011, pp. 233–234).

Challenges

Enhancing local ownership is particularly challenging in fragile and conflict-affected states where institutions are weak, capacities are limited and representative government is absent (OECD-DAC, 2007b).

Which locals? There are dilemmas involved with choosing local counterparts, and those who wield local power and authority may not be supportive of security and justice reforms or may act as spoilers. In many cases, donors work with accessible local elites or western-educated counterparts, which may produce results that match donor preferences, but do not truly represent local concerns (Martin & Wilson, 2008; Hansen & Wiharta, 2007).

Ownership of what? In programmes that pursue idealised versions of security and justice provision, the debate on local ownership is often reduced to influencing externally generated activities or buying into externally imposed architectures (Martin & Wilson, 2008), but true local ownership entails accepting local solutions that may not conform to western values of governance or international human rights norms (Hansen & Wiharta, 2007).

Funding and project cycle limitations: Building inclusive local ownership is a long-term process, but tight programme timelines and budget cycles often mean that local ownership is seen as a luxury (OECD-DAC, 2007b).

Approaches

Understand the local actors and the political context: Local ownership may not be readily identifiable or coherent at the point at which donors decide to engage. Programmes should be designed with local ownership in mind, with an inception phase that allows donors to develop their understanding of the political context and identify local drivers of reform (OECD-DAC, 2007b).

Local ownership should be defined broadly: Achieving local ownership begins with consultation and participation, and true local ownership may follow if a variety of local actors feel that their views are being heard and reflected (OECD-DAC, 2007b). This should include engagement with civil society and non-state actors, some of whom might be difficult to identify or might not operate in ways that donors feel comfortable with (Scheye, 2008). There is often a need for specific efforts to target women to ensure that they are engaged in security and justice processes (Nathan, 2008).

Trade-offs: According to Hansen and Wiharta (2007), implementing the principle of local ownership involves trade-offs and concessions. Locally driven initiatives may take longer than those that are implemented without thorough consultation. Locally proposed solutions may challenge international human rights norms, but may be more suited to local conditions and more affordable.

Tools and guidance

The following resources include practical guidance of how local ownership can be built into the design and implementation of security and justice programming:

- The OECD-DAC Handbook for Security System Reform - Section 4: Designing Support Programmes for SSR Processes (see OECD-DAC, 2007b)
- No Ownership, No Commitment: A Guide to Local Ownership of Security Sector Reform (see Nathan, 2007)
- The UN Security Sector Reform Integrated Technical Guidance Notes – Section 2: National Ownership of Security Sector Reform (see UN, 2012).

4.5 Gender-informed security and justice programming

Strategies for integrating a gender perspective into security and justice interventions include **gender mainstreaming**, in which the impact of all policies and programmes on women, men, girls and boys are considered at every stage of the programming cycle (Valasek, 2008); **gender balancing**, or ensuring equal representation of men and women in institutions and oversight bodies (Valasek, 2008); and **gender-specific interventions** such as training and capacity building, creating gender units within the police, and raising awareness of women's rights with security and justice institutions. Recent literature and guidance on gender and VAWG places an increased emphasis on **community-based approaches** involving working at the local level to find practical solutions to issues such as discriminatory social norms, rather than following templates (Denney and Domingo, 2013; DFID, 2012b).

An evaluation of AusAID law and justice assistance found that gender mainstreaming has been weak in practice; it is often treated as a one-off formal design requirement rather than an active tool and has been applied inconsistently. This suggests that gender-specific initiatives require much more prominence in programming (AusAID, 2012, p. 35).

Challenges

Political will and resources: DFID (2012a) argues that the state has the primary responsibility for preventing VAWG; national governments are ultimately responsible for implementing the laws, policies and services that exist. However, implementation is hindered due to a lack of political will at the local and national levels.

Social norms and discrimination: Social norms that support male dominance, condone VAWG and support impunity, or prohibit women's representation in security and justice agencies present significant challenges (OECD-DAC, 2009; DFID, 2012a). Sustained reductions in VAWG will only occur through significant social change, including in male-female power relations, social norms and discriminatory practices (DFID, 2012a).

Inadequate prevention and response services: The protection of women from VAWG and the ability to respond effectively is hampered by the inadequate provision of services, not only in security and justice, but also in education, health and social welfare. Protection and support for women, including women at risk of violence, continue to be under-resourced (DFID, 2012a).

Insufficient civil society capacity: Women's organisations, especially those that work on tackling VAWG, can initiate, propel and sustain change, but civil society is over-burdened and insufficiently resourced to undertake prevention efforts (OECD-DAC, 2009; DFID, 2012a).

Approaches

Context and gender assessments: Gender assessments are an important tool for designing, implementing and monitoring programmes (Valasek, 2008). The analysis of disaggregated data on the different safety, security and justice threats and needs of women and men and its incorporation into planning enables interventions to address a broader range of gender-specific risks (Onslow et al., 2010). It helps to ensure that gender equality principles are systematically integrated at all stages of programming, and addresses how the construction of gender identities shapes perceptions of security and justice providers. This should contribute towards the provision of safety, security and justice that is non-discriminatory, reflective of diversity and accountable to citizens (UNDP, 2007a).

Tackle social norms at the community level: Working at a community level involves engaging with groups and organisations that can influence social change, such as traditional leaders and civil society, and particularly women's organisations (DFID, 2012b).

Holistic and multi-sectoral approaches: Interventions targeted only at one level of society or only focused on one intervention achieve limited results. A holistic approach, including coordinated interventions operating a multiple societal levels, across sectors (economic, education, health, justice, security and social welfare) is more likely to have an impact on VAWG (DFID, 2012a).

Supporting the state to meet its obligations: Donors can influence national programming and build institutional capacity through policy dialogue, sector reviews and consultative forums. Donors can also work with civil society organisations to enable them to hold their governments to account (DFID, 2012b).

Tools and guidance

Normative frameworks for gender, security and justice:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (see Douglas, 2007)
- Declaration on the Elimination of Violence Against Women (DEVAW) (see Douglas, 2007)
- United Nations Security Council Resolutions on Women, Peace and Security (UNSCRs 1325, 1820, 1888, 1889, 1960, 2106 and 2122)

UK Government Policy Initiatives:

- The UK National Action Plan on Resolution 1325 (see HMG, 2012)
- Preventing Sexual Violence Initiative (PSVI) (see Hague, 2012)

Policy tools and guidance:

- The OECD-DAC Handbook on Security System Reform. Section 9: Integrating Gender Awareness and Equality (see OECD-DAC, 2009)
- DFID How to notes on Violence Against Women and Girls: A series of three guidance notes including:
A Theory of Change (see DFID, 2012a);
A Practical Guide on Community Programming (see DFID, 2012b);
Guidance on Monitoring and Evaluation for Programming (see DFID, 2012c)
- The UN Security Sector Reform Integrated Technical Guidance Notes – Section 3: Gender-Responsive Security Sector Reform (see UN, 2012)

The DCAF Gender and SSR Toolkit (DCAF) includes individual sector-based tools that are relevant to other parts of this guide:

- Security Sector Reform and Gender (See Valasek, 2008)
- Justice Reform and Gender (see Quast, 2008)
- Police Reform and Gender (see Denham, 2008)
- Defence Reform and Gender (see Hendricks & Hutton, 2008)
- Parliamentary Oversight of the Security Sector and Gender (see Luciak, 2008)
- National Security Policy-Making and Gender (see Albrecht & Barnes, 2008)
- Civil Society Oversight of the Security Sector and Gender (see Barnes & Albrecht, 2008)

4.6 Working with legal pluralism

Donors find it difficult to work across multiple layers of security and justice provision, assessing the complex power relationships and understanding the political risks at all levels (Albrecht & Kyed, 2010; OECD, 2010), but engagement across all of these levels and particularly with non-state actors is important (Baker, 2010). Addressing this challenge requires a degree of compromise; support for state, local and non-state actors must be linked; and improvements in local service delivery and efforts to improve state functioning occur in conjunction with each other (Derks, 2012).

A common perception is that non-state actors are human rights violators, are involved in corrupt practices or have criminal connections. However, state actors can also violate human rights, and the provision of security and justice at all levels can be discriminatory against women (Albrecht & Kyed, 2011; Denney & Domingo, 2013). The UNDP (2012, p.97) state that a lack of human rights compliance by non-state actors is no reason in itself for donors not to work with them, any more than it is a reason not to work with a failing state justice system. A key consideration is whether engaging with non-state actors will strengthen the overall protection of human rights, as part of a gradual process of change. Experience suggests that non-state actors are amenable to change and can improve their practice with regards to protecting the rights of women and vulnerable groups (Scheye, 2009).

Challenges

Competing interests: Security and justice providers at different levels have differing interests, with competition over power and resources (Albrecht & Kyed, 2010). Recipient governments can interpret donor security and justice assistance as foreign intervention in domestic matters, and may particularly oppose support for non-state actors. Donor support for non-state actors may risk duplication of efforts or intensifying power struggles (Derks, 2012).

‘Doing more harm’: It is important to avoid short-term interventions that create dependency or risk damaging functioning systems without ensuring that something better replaces them (UNDP, 2012). Support to non-state actors risks overwhelming small-scale actors with funding and reporting requirements. Donors often prefer to support large-scale initiatives, which can be counter-productive if applied to small-scale organisations (Derks, 2012).

State-to-state engagement: Donors are most often mandated to work through state bodies, which inhibits their ability to look beyond state security and justice provision (Isser, 2009).

Donor risk aversion: An increased focus on value for money in donors’ home countries means that they might not be willing to support a range of providers because it is perceived as risky behaviour or too experimental (Albrecht & Kyed, 2011).

Approaches

Political dialogue: Donors can facilitate change through political negotiation with recipient governments and other actors. This requires not treating state and non-state actors as discrete categories, and focusing on ways of better linking the variety of security and justice providers at all levels (Albrecht & Kyed, 2010).

Local analysis and knowledge management: Addressing the risks and challenges in upsetting local power balances requires investments in local analysis including an examination of the political economy at the micro-level (Albrecht & Kyed, 2010).

Addressing concerns in donors’ home countries: It is important to establish a communication strategy in donors’ home countries to raise the awareness of the advantages of a multi-layered approach (Albrecht & Kyed, 2010).

Box 4: Lessons from working with community-based justice mechanisms in Helmand, Afghanistan

The legal systems in Afghanistan include: codified national law, *shari'a* law, tribal codes and customary practices. Dispute resolution occurs through a myriad of relationships that link state, local and non-state actors.

Beginning with a pilot project in 2008, the UK-led Provincial Reconstruction Team (PRT) adopted a 'one system, two sector' approach. This was based on the principle that providing ways for the community to engage with the state on justice issues can help build trust and enhance the legitimacy of the government. The Afghan Social Outreach Programme (ASOP) established Community Councils in all districts. As part of this, Justice Sub-Committees were created to assist with cases that community elders had been unable to resolve at the community level. The Prisoner Review Shuras (PRS), which included security agency and local community representatives, were established to compensate for the absence of district prosecutors, and their purpose was to ensure that arrests and detentions are based on evidence and that pre-trial detentions did not extend beyond legal limits.

Key lessons learned

Acknowledge that justice is local: The aim should be to identify what works, what does not work, and why. Engagement with community leaders on basic legal principles can improve the quality of processes and access to them, particularly for women.

Build accountability into interventions from the outset: Donors should build on power structures that match community needs but avoid supporting emerging power-holders whom the community does not support. Monitoring and evaluation mechanisms should be put in place to prevent the misappropriation of resources by community members.

Encourage linkages: Linkages that exist between state and community-based justice actors help build legitimacy of both state and non-state actors. Understanding these existing linkages is central to identifying how they may be enhanced.

Use local attitudes as a starting point for human rights protection: Improving respect for human rights is a process of cultural change and should be founded on the moral codes and cultural practices of the community in question. Discussing rights with community leaders requires language that resonates and an approach that situates these rights in the local context.

Harness the potential of women: Community-based justice can work for women and they can influence community-based justice actors. It is possible to work directly with women, but it must be done at their own pace to avoid the risk of retribution or ostracism.

Adapted from Nielsen (2011)

Tools and guidance

- The g7+ New Deal for Engagement in Fragile States (New Deal) (see IPDS, n.d.)
- The State's Legitimacy in Fragile Situations: Unpacking Complexity (see OECD, 2010)
- Supporting Statebuilding in Situations of Conflict and Fragility: Policy Guidance (see OECD-DAC, 2011)
- DFID Briefing: Non-state Justice and Security Systems (see DFID, 2004)
- DFID Practice Paper: Building Peaceful States and Societies (see DFID, 2010a)
- Customary Justice: From Program Design to Impact Evaluation (International Development Law Organisation) (see Harper, 2011)
- Informal Justice Systems: Charting a course for human rights-based engagement (see UNDP, 2012)

4.7 Human rights

Security and justice programming often takes place in challenging environments characterised by transitional and unstable political leadership, corruption, on-going violence, and attempts to implement open-ended or non-inclusive peace agreements (Schnabel, 2009). Donors will often be working with countries, institutions or actors where concerns about adherence to human rights norms exist (HMG, 2011b) and where human rights violations have been or are being committed by security and justice actors (Gilletti & Wodzicki, 2011).

Safety, security and justice are the areas in which citizens' rights are most at risk of being violated (HMG, 2011b). A state's obligations to human rights norms entails maintaining an effective and accountable security sector to prevent other actors from violating the rights of citizens. Citizens, particularly victims of human rights abuses, are unlikely to trust public institutions that retain or hire individuals responsible for violations or serious crimes under international law. This impairs an institution's ability effectively deliver its mandate (OHCHR, 2006). Donor engagement with security and justice providers should ensure that they 'respect human rights and are not themselves a threat to citizens' (Nathan, 2008, p. 31).

Challenges

Political will and vested interests: Convincing those in power to undertake reforms to protect human rights is challenging, and it may not be in their interests to do so, especially when the very same actors may be responsible for human rights violations (Galletti & Wodzicki, 2011). As such, there may be a contradiction between donor aspirations and the political realities in many fragile and conflict-affected states (OECD, 2010).

Practical and moral challenges: Donors face dilemmas when considering the need to work with non-state armed groups. Their inclusion in security and justice related initiatives after peace-agreements, such as integration into state security institutions, presents practical and moral challenges, particularly with regards to their human rights record, and their potential to 'spoil' security and justice initiatives (Schnabel, 2009).

Non-state armed actors: The presence of non-state armed actors,¹¹ including rebel groups, militias and criminal networks, poses particular human rights dilemmas and can disturb and undermine peace- and state-building processes, which risks the return of violent conflict. Donor support to strengthen state security and justice institutions can challenge the political and economic agendas of non-state armed groups by strengthening or reconstructing state structures and institutions (Hofmann & Schneckener, 2011).

Approaches

Local attitudes and power relations: Albrecht and Kyed (2011) argue that human rights challenges are more related to local attitudes and power relations than to the types of institutions involved. Social norms dictate gender roles and social status, and belief systems drive human rights violations at all levels of security and justice provision. The promotion of human rights begins by understanding the 'continuous process of political contestation and social change through which power relations are mediated... The relations of power that underpin

¹¹ Non-state armed actors are 'distinctive organisations that are (i) willing and capable to use violence for pursuing their objectives and (ii) not integrated into formalised state institutions such as regular armies, presidential guards, police, or special forces. They, therefore, (iii) possess a certain degree of autonomy with regard to politics, military operations, resources, and infrastructure. They may, however, be supported or instrumentalised by state actors either secretly or openly, as happens often with militias, paramilitaries, mercenaries, or private military companies.' (Hofmann & Schneckener 2011, p. 604)

inequalities, including those between providers and users, should be the aim of programming' (p. 21). As part of this approach, they list the following as key steps:

- **Identify local agents of change** and work towards human rights objectives that can be realistically obtained.
- **Empowerment strategies** can help facilitate spaces for constructive dialogue where disadvantaged groups and women can be heard and supported to question local practices and cultural norms. Empowerment initiatives can also increase rights awareness amongst vulnerable groups.
- **Support existing social movements** and non-government organisations that advocate for human rights.

Human rights assessments: Galletti and Wodzicki (2011, p. 296) stress the importance of assessing the human rights situation to identify 'constraints that people face in claiming their rights; the specific groups that are most affected; the extent causes and perpetrators of rights violations; the policies that discriminate against individuals or groups; the state's obligations and breaches of these obligations; and the strategies required to implement policies to respect, protect and fulfill human rights obligations' (p. 290).

Organisational culture and leadership: Human rights violations within state security agencies can be addressed by supporting changes in the organisational culture, to one where leaders prevent, identify, halt and punish violations. Developing explicit guidelines on permitted behaviour, ending impunity, and encouraging the adoption of a zero-tolerance policy can all contribute. Armed forces often see their participation in international peace support operations as beneficial. This can create an entry point for supporting the adoption of international human rights and humanitarian law standards (OECD-DAC, 2007b, p. 134). Previous human rights abuses can also provide an entry point for encouraging commitment amongst leaders. In the Malawi Police Service, overnight deaths in custody of 16 prisoners detained in a police station contributed to improved internal inspection and accountability procedures, as well as recruitment and training with a greater service orientation (p. 179).

Vetting and personnel reform: In post-conflict or transitional contexts, vetting is often an important element of broader security and justice institution reform, DDR, and transitional justice efforts. Vetting processes assess the integrity of individuals to determine suitability for public employment and to exclude those responsible for serious human rights violations, including perpetrators of GBV (OHCHR, 2006). Human rights assessments can help determine how to conduct negotiations on issues of vetting and can help establish benchmarks for the individual screening of those undergoing a vetting process (UN, 2012).

Enhancing accountability and oversight: Parliamentary committees, or expert committees reporting to parliament, are often mandated to investigate abuses and to audit the legality of security agency actions. The judiciary is mandated to judge whether the actions of security institutions and actors conform to the constitution and relevant legislation, and whether they infringe the human rights of citizens. Courts can bring legal action against security or justice actors, or can be used by individuals or groups to challenge the legality of security related actions or policy (UNDP, 2008). Ombudsmen or human rights commissions have a mandate to protect and promote human rights according to national legislation and international human rights treaties. They do this by investigating complaints from individuals and groups, monitoring the general human rights situation in a country, educating the public and government, and developing and improving national legislation (UNDP, 2007b).

Supporting CSOs: CSOs have a potentially important role to play in strengthening oversight to address human rights abuses. They can monitor the activities of state institutions on the basis of their adherence to the law and respect for human rights. They have a role in presenting evidence

to parliament. They may bring cases to court or provide assistance to individuals to bring their own cases. They may also help publicise the existence of the ombudsman or work jointly with the ombudsman's staff in monitoring the human rights situation (UNDP, 2008).

Accountability mechanisms for local and non-state actors: Supporting the state to enhance its existing relationships with non-state providers, in order to better regulate and monitor their performance, is a means of improving accountability and addressing human rights deficits. The state has an obligation to establish performance standards and mechanisms, which can provide a basis for exchanging information, auditing, and providing training to non-state actors to address weaknesses in human rights protection (Scheye, 2009). The UNDP (2012, pp. 173-176) outlines the following accountability mechanisms for informal justice providers:

- **Recording case outcomes:** Documenting outcomes provides disputing parties with greater legal certainty and strengthens enforcement mechanisms. However, this could in some circumstances distort the flexible nature of informal justice.
- **Systems of referral, appeal and enforcement:** Recording can also facilitate the registration or approval of settlements in formal state courts or by appeal.
- **Systems of inspection, monitoring and support:** Recording can facilitate monitoring by external parties, including members of the public or official inspectors. External monitoring may be unwelcome in some cases, unless it is developed in careful dialogue with providers and users, and undertaken by persons familiar with the local context and culture.
- **Linkages to paralegals and legal aid providers:** Not all informal providers will allow paralegals to act as representatives in proceedings. Where paralegals cannot act as representatives, they can advise individuals involved in those proceedings.

Tools and guidance

The UK Government and the UN have both published practical guidance on human rights assessments – setting out the human rights and international humanitarian risks to be considered prior to donor engagement along with examples of measures to mitigate risks.

- HMG Overseas Security and Justice Assistance: Human Rights Guidance (see HMG, 2011b)
- The Human Rights Due Diligence Policy on UN support to non-UN security forces (HRDDP) (see UN, 2011c)

Guidance on accountability mechanisms for state security agencies:

- Monitoring and Investigating the Security Sector: Recommendations for Ombudsman Institutions to Promote and Protect Human Rights for Public Security (see UNDP, 2007b)

Guidance on vetting:

- OHCHR Rule of Law Tools for Post-Conflict States. Vetting: an operational framework (see OHCHR, 2006)

Guidance on human rights based engagement with local and non-state actors:

- Informal Justice Systems: Charting a course for human rights-based engagement (see UNDP, 2012)

Norm diffusion amongst non-state armed groups: Hofmann and Schneckener (2011) outline a series of ‘constructivist approaches’, which emphasise the role of dialogue and persuasion as a process of norm diffusion. These approaches are useful because armed actors are often concerned with their public image, moral authority, and legitimacy. They break this down into the following processes:

- **Socialisation:** involving non-state armed actors in security and justice processes and institutions may, over time, increase the chances of them accepting norms and rules.
- **Naming and shaming:** social pressure and public campaigns against certain practices of non-state armed actors may harm their legitimacy within and outside their constituencies.
- **Reconciliation and transitional justice:** which present frameworks for armed actors to accept basic norms and critically reflect upon their public-image and their actions.

See the GSDRC *Justice Topic Guide* for coverage of transitional justice issues.

4.8 Sector-wide approaches and the coordination of assistance

A ‘whole of government’ or ‘comprehensive’ approach combines political, security and development interventions (DFID, 2010b, p. 2). They require donors to ensure cross-fertilisation of expertise and experience across relevant departments and that the right mix of expertise exists on the ground (OECD-DAC, 2007b). In contrast, ‘sector-wide approaches’, implemented jointly by multiple donors, combine ‘a broad range of diplomatic, legal, social, economic, security and political instruments’ and entail working across a number of security and justice sub-sectors, such as policing, courts and prisons, or the military and intelligence services (OECD-DAC, 2007b, p. 67).

See the GSDRC *Justice Topic Guide* for further coverage of sector-wide approaches, including case studies.

Born (2009) argues that donor coordination is important. Experiences from the Democratic Republic of Congo and Timor-Leste show that international assistance is less effective when not guided by an overarching concept of security and justice provision, where communication is ineffective, and where donors have diverging views of the role and reform of security and justice actors (Born, 2009).

Challenges

A lack of political support: There is often a mismatch between external expectations of a sector-wide approach and local realities. Even when external coordination exists, recipient governments may not be prepared to implement long-term plans (Schnabel, 2009). In Cambodia, for example, lack of local political support for an ambitious Australian-led sector-wide reform strategy led to abandonment of planned activities and a shift to a narrower focus in select areas where the political space to work existed (AusAID, 2012).

Box 5: Tension amongst security providers in Jamaica

Experience from UK-led security and justice assistance in Jamaica highlights that tension can be common in many contexts, not just fragile and conflict-affected situations. Here, the Jamaican Defence Force considered itself superior to the Jamaican Constabulary Force, who they considered as corrupt, undisciplined and ineffective. This affected coordination, as each organisation had its own intelligence system; mistrust meant they rarely shared information.

A key lesson from this case study is that it is important to understand and manage tension. Close collaboration between practitioners working with different security providers could help to facilitate more effective collaboration.

Source: Stone et al. (2005, p. 10)

Differing interests across sub-sectors: Sector-wide coordination led by partner governments can take time to develop and suffer from setbacks. In Jamaica, for example, differing interests amongst the military and the police and a lack of coordination among justice institutions prevented coordination (Stone et al., 2005).

A lack of coordination within donor country departments: Donor countries often find it difficult to apply whole-of-government approaches. The UK Government's experience shows that difficulties arise from the different mandates and priorities of departments, and communication problems including the use of different terminology (DFID, 2010b).

Approaches

Politically realistic and pragmatic approaches: Elements of security and justice programming which focus on a particular sub-sector can be effective if they are considered as part of larger programmes and contribute to wider policy objectives. The focus should be on a gradual approach to reform, without the need to address all sectors at once (Schnabel, 2009).

Tactical linkages: According to SU (forthcoming, p. 19), strategic partnerships such as sector-wide coordination committees have limited effectiveness. It is important to understand how individual programmes fit into the bigger picture and then to identify and develop tactical partnerships to address the specific safety, security and justice problems. International coordination is also a key aspect – other donors may be supporting programmes in other security and justice areas that could be mutually reinforcing.

Tools and guidance

Sector-wide working:

- The OECD-DAC Handbook on Security System Reform. The Handbook covers ways in which to link individual sector reforms into a broader system, including guidance on sequencing and entry points for sector-wide working (see OECD-DAC, 2007b)

Guidance to assist with developing 'whole of government' approaches:

- DFID Briefing on Working Effectively in Conflict-affected and Fragile Situations – Briefing Paper C: Links between Politics, Security and Development (see DFID, 2010b)
- OECD-DAC Guidelines on Whole of Government Approaches to Fragile States (see OECD-DAC, 2006)

4.9 Using theories of change

Theories of Change (ToCs) are important to programming in fragile and conflict-affected contexts because of the political dynamics and risks involved in bringing about change. There are few proven approaches or models to security and justice programming, and in many cases interventions are based on implicit theories, or are embedded in the skills, approaches, capacities, preferences and perspectives of individuals and organisations. ToCs provide a testable hypothesis, can help make theories explicit, and articulate assumptions about how change can occur and the impacts that certain actions will have (Woodrow 2013).

Experience from Uganda, Nepal and the Democratic Republic of Congo shows that ToCs can help address key programming challenges by identifying appropriate actors to work with, identifying gaps between local and national level changes, highlighting ineffective activities, and identifying synergies and linkages with other efforts (CARE, 2012).

ToCs are also important for monitoring and evaluation processes. They can provide feedback on whether programmes are on track to achieve desired changes, and whether the context is evolving as anticipated. ToCs are also useful for monitoring assumptions to help determine if the right factors and dynamics were considered in the initial design, if unforeseen changes have occurred in the environment, or if there are gaps in the strategy to bring about change (Corlazzoli & White, 2013a).

Box 6: The importance of analysing and evaluating ToCs – lessons from community-based dispute-resolution support in Liberia

A post-civil war programme in Liberia supported the development of Community Peace Councils (CPCs), a community-based mechanism for dispute resolution. The underlying theories of change were:

- Establishing a new community-level mechanism for handling a range of dispute types will contribute to keeping the peace and avoiding incidents that have the potential for escalating into serious violence.
- Creating inclusive structures for community problem solving can improve communication, respect, and productive interactions among subgroups in the community, and improve the access of disenfranchised groups to decision making.
- Creating a new leadership group infused with democratic concepts and provided with critical skills can foster more effective and responsive leadership.

The theories of change were analysed as part of a programme evaluation to see if they were appropriate and how they were playing out. As part of this, an updated conflict analysis was conducted and the programme was examined to determine whether it was having the effects predicted in the theory of change. This included examining the kinds of conflicts the CPCs handled, and whether those conflicts had potential for escalation to widespread violence.

The evaluation found that the CPCs were not handling the most serious and volatile disputes, which were related to land issues. While the CPCs were set up and trained well, they were excluded from handling land issues as communities were repopulated and leadership patterns re-established. The theory regarding alternative leadership patterns proved unfounded, as traditional leaders gained control over CPCs or used them to address issues that they did not want to deal with themselves. The evaluation recommended that the programme should expand the mandate and capability of the CPCs for handling land disputes by connecting them to land commissions and other government structures.

Key lessons

- The accuracy and validity of ToCs can determine the impact, effectiveness, relevance, efficiency and sustainability of activities in fragile and conflict-affected contexts.
- Accurate ToCs are based upon empirical evidence and up-to-date conflict analysis.
- The analysis and evaluation of a ToC can help bring about a more nuanced understanding of how change occurs in a particular context.

Source: OECD-DAC (2012, p. 81-82)

Challenges

Oversimplification: ToCs can encourage oversimplification of how an initiative will bring about change. In complex environments, the validity of a ToC depends on issues far removed from the scope and influence of a project. Furthermore, it is likely that ToCs will not be relevant or useful if underlying theories are vague, or if the sensitivity of issues being addressed makes it difficult to clearly articulate theories openly (Corlazzoli & White, 2013a).

Validating ToCs: Gathering evidence to validate or test ToCs is difficult and adequate time is sometimes required for results to be demonstrated, which may extend beyond the life of individual projects. It is often easier to gather evidence about activities undertaken than about the outcomes resulting from those activities (CARE, 2012).

Lack of communication: Programme designers often have implicit or explicit ToCs in mind that are not communicated to those responsible for implementation (Corlazzoli & White, 2013a).

Approaches

ToCs are a collaborative tool: ToCs should be seen as a collaborative tool involving a variety of partners, including beneficiaries, in order to better incorporate local knowledge and understand how change can be brought about (Stein & Valters, 2012).

ToCs must be used in conjunction with other tools and concepts: ToCs need to be tested using evidence, and if necessary alternative theories should be developed for explaining change (Corlazzoli & White, 2013a). ToCs should be critically reviewed, and an important element of this is the use of conflict analysis to underpin project design and ensure that theories are based on an understanding of the conflict context (CARE, 2012).

Periodic reviews: ToCs need to be reviewed periodically throughout project implementation. Monitoring and evaluation systems should capture evidence on the results (outcomes) as well as the actions undertaken. A clear data collection plan for ToC indicators is essential (Corlazzoli & White, 2013a).

Retrofitting: Corlazzoli and White (2013a) state that retrofitting ToCs at the implementation, monitoring and evaluation stages is frequent, but not best practice. The theories behind an intervention can be deduced when they are not explicitly stated at the design stage by:

- Reviewing documentation such as project proposals and then considering what needs to be known in order to develop a ToC.
- Collecting additional information beyond project documents through informant interviews and focus group discussions; a ToC can then be proposed and validated through further feedback from key stakeholders.

Tools and guidance

Practical guidance on ToCs produced for DFID under the Conflict, Crime and Violence Results Initiative include:

- Practical Approaches to Theories of Change in Conflict, Security and Justice Programmes – Part 1: What they are, different types, how to develop and use them (see Woodrow, 2013)
- Practical Approaches to Theories of Change in Conflict, Security and Justice Programmes – Part 2: Using Theories of Change in Monitoring and Evaluation (see Corlazzoli and White, 2013a)
- A Theory of Change for Tackling Violence against Women and Girls (DFID, 2012a)

4.10 Monitoring and evaluation (M&E)

Challenges

The following section draws substantially on OECD-DAC (2012, p. 32-33), which offers several challenges associated with the M&E of security and justice programming, particularly in fragile and conflict-affected contexts.

A lack of stakeholder participation: Experience shows that local actors' participation in monitoring or evaluation processes makes them more likely to contribute to the implementation of their findings. There is often a perception amongst local actors that monitoring and evaluation reflects the priorities and objectives of donors rather than of the needs of partner countries. Evaluation has tended to be led and managed by outsiders, with minimal contributions from citizens, civil society and governments. In such cases, local stakeholders become the objects of evaluations rather than key participants (OECD-DAC, 2007b, p. 242).

The risk of violence: Evaluators and the evaluated are often exposed to risks, with implications for the ability to collect material and data, recruit and retain local staff, meet interlocutors, publish findings, and disclose sources. The risk of harm may mean that information collected is biased, incomplete or censored (OECD-DAC, 2012).

Complex contexts and adapting programmes: It is difficult to identify what should be evaluated because change in complex contexts is multi-directional with high unpredictability and a general lack of information. Programmes often need to adapt to evolving environments, so implementation may differ from original plans and it can even be difficult to establish the activities that are actually being implemented (OECD-DAC, 2012).

Multiple actors: Many actors, from political, security or developmental backgrounds, seek to effect change. This adds further complexity and uncertainty (OECD-DAC, 2012).

Attribution: Attributing results (i.e. the causal link from interventions to outcomes) is difficult – contexts are fluid and complex, and change processes are often non-linear (OECD-DAC, 2012).

Data collection: Generating data in fragile and conflict-affected contexts is particularly challenging due to physical risks, restricted access to data sources and the risks of manipulation by those producing the data (SAS, 2013a). This is often compounded by weak statistical capabilities and the multiplicity of donors with incompatible data systems (OECD-DAC, 2012). Data collection in relation to VAWG is particularly difficult because survivors find it difficult to speak out and because of the need to ensure confidentiality and survivors' safety (DFID, 2012c).

Intangible results: Results in security and justice programming are often intangible, such as changes in trust, attitudes and behaviours, or transformations in cultural and social norms, and such changes may rarely be achieved within the scope of individual programmes (Corlazzoli & White, 2013c).

Competing indicators: Security and justice actors are often measured according to competing indicators formulated independently of one another by institutional leaders, ministries, multiple bilateral donors and international agencies. Those involved in front-line delivery can be resistant to indicators formulated externally that do not align with the local level ambitions and priorities. This may mean that indicators are not used effectively and that data is not collected accurately (Stone, 2011).

Approaches

Corlazzoli and White (2013b) argue that an explicit design process is essential for achieving desired outcomes and for developing rigorous M&E activities. Good design is based on (OECD-DAC, 2012; Corlazzoli & White, 2013b):

- **Explicit and up-to-date conflict and context analysis.** An understanding of changing dynamics contributes to flexibility, as the assumptions upon which programmes are based can be checked.
- **Conflict sensitivity** to ensure that the impacts of interventions on conflict dynamics, whether negative or positive, are taken into account. It also involves an analysis of the implications of conflict-affected contexts on programme design and implementation.
- **Not being too ambitious** and setting clear objectives that are specific, measurable, attainable, realistic and time-bound.
- **Clearly articulating the ToC** (see section 4.7)
- **Mainstreaming gender** (see sections 3.1 and 4.3)

Tools and guidance

Guidance and best practice for design, monitoring and evaluation in fragile and conflict affected contexts, including solutions to measurement challenges:

- Back to Basics: A Compilation of Best Practices in Design, Monitoring and Evaluation in Fragile and Conflict-affected Environments (see Corlazzoli and White, 2013b)
- Measuring the Un-Measurable: Solutions to Measurement Challenges in Fragile and Conflict-affected Environments (see Corlazzoli and White, 2013c)
- Evaluating Peacebuilding Activities in Settings of Conflict and Fragility: Improving Learning for Results (see OECD-DAC, 2012)
- DFID How to note: Results in Fragile and Conflict-Affected States and Situations (DFID, 2012d)
- DFID How to note: Measuring and Using Results in Security and Justice Programmes (DFID, 2010c)
- Guidance on Monitoring and Evaluation for Programming on Violence against Women and Girls (DFID 2012c)
- The OECD-DAC Handbook on Security System Reform. Section 8: Managing, monitoring, reviewing and evaluating SSR assistance programmes (see OECD-DAC, 2007b)

Measurement tools and guidance on data sources in fragile and conflict-affected states:

- Tools for measurement, monitoring and evaluation: Sources of conflict, crime and violence data (see SAS, 2013a)
- Tools for measurement, monitoring and evaluation: Making conflict, crime and violence data useable (see SAS, 2013b)

Guidance on active and participatory indicators:

- Problems of Power in the Design of Indicators of Safety and Justice in the Global South (see Stone, 2011)

Guidance on conflict sensitivity:

- Making the case for conflict sensitivity in security and justice sector reform programming (see Goldwyn, 2013)
- Monitoring and evaluating conflict sensitivity: Methodological challenges and practical solutions (see Goldwyn & Chigas, 2013)

Participatory monitoring and evaluation: Monitoring and evaluation that encourages learning and is not confrontational is an important way to overcome local stakeholder scepticism and negativity towards such processes. Demonstrating that the views of local actors can influence the design of donor programming can also lead to increased local ownership. A participatory process identifies core issues, produces agreement on those issues amongst local stakeholders, and finds evaluators that can work inclusively with local actors to set up frameworks for measuring results, proposing solutions to challenges, and promoting the implementation of recommendations (OECD-DAC, 2007b, p. 242).

Active and participatory indicators: Active indicators support local operational ambitions and involve local security and justice actors and civil society in their development. They describe outcomes in a common language understandable by those inside and outside institutions. They can be designed on the basis of participatory performance surveys or community scorecards, which ask citizens to rate the performance of security and justice providers. Such processes engage citizens in the process of data collection and in the control of standards embodied in the indicators (Stone, 2011).

Approaches to collecting data, especially in relation to VAWG, include providing more resources for local level data collection and analysis, and greater support for building the capacity of local groups, civil society organisations and local state service providers (DFID, 2012c).

4.11 Value for money (VfM)

The term 'value for money' (VfM) is 'generally used to describe an explicit commitment to ensuring the best results possible are obtained from the money spent. For the UK Government, the use of this term reflects a concern for more transparency and accountability in public spending, and for obtaining the maximum benefit from the resources available' (ITAD, 2010, p. 4).

Challenges

Approaches to VfM often include quantitative techniques, such as cost-benefit analysis or cost-effectiveness analysis, which can be useful when comparing the VfM of different interventions that share the same output, outcome or impact, and where benefits arising from interventions are quantifiably measurable. However, this is often difficult in security and justice programming because these conditions are not present (SAS, 2013c).

Approaches

Qualitative techniques may be more applicable to security and justice programming, where there may be multiple and non-quantifiable goals. Moreover, the attribution of stated outcomes to particular interventions can be difficult in fragile and conflict-affected contexts. As such, even when quantitative methods are applicable, qualitative methods are necessary to explain why security and justice interventions are VfM (SAS, 2013c).

Tools and guidance

Guidance on quantitative and qualitative approaches to VfM, and how these are entered into the business case format:

- Value for Money: In the Business Case (see SAS, 2013c)
- Measuring the Impact and Value for Money of Governance and Conflict Programmes (see ITAD, 2010)

Measuring and managing for results, and assessing VfM in fragile and conflict-affected contexts:

- DFID How to Note: Results in Fragile and Conflict-Affected States and Situations (see DFID, 2012d)

Information on the UK Independent Commission for Aid Impact's approach to VfM:

- ICAI's Approach to Effectiveness and Value for Money (see ICIA, 2011)

Guidance on appraising the VfM of in-country survey research projects:

- Tools for measurement, monitoring and evaluation: In-depth focus on surveys (see SAS, 2012)

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