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## **Working Paper 18**

International Human Rights Assistance

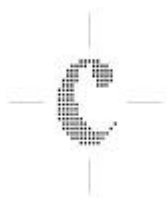
A Review of Donor Activities and Lessons Learned

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# Preface

In April 2002, the Conflict Research Unit (CRU) of the Netherlands Institute of International Relations 'Clingendael' started with a new project analyzing the impact of international democracy assistance on post-conflict societies. This project, entitled *Democratic Transition in Post-Conflict Societies. Building Local Institutions*, is a collaborative research effort of participating research institutes in Central America, Africa and South Asia and the CRU. In order to obtain a wide variety of experiences and focus on different socio-political settings, case studies include Cambodia, El Salvador, Guatemala, Rwanda, Ethiopia, Uganda, Mozambique and Sierra Leone. The analyses are conducted by local research teams with the aim of capturing 'insider' views on the international community's influence on the process of democratization in the respective post-conflict societies. The main question addressed is how international democracy assistance can have a positive and more sustainable impact on the process of democratization by strengthening electoral, human rights and media organizations in post-conflict societies.

Apart from the eight case studies that will result in country reports, the CRU project team has asked three experts to write a short background paper on the focus areas of the Democratic Transition project: elections, human rights and media. These review papers aim to brief a wider audience on the latest experiences in these fields. This particular paper on human rights assistance has been written by William O'Neill. The paper addresses the main aspects in the field of human rights assistance as well as some of the lessons learned in recent post-conflict contexts.

This important research project would have been impossible without the generous grant and personal commitment from the Division of Communication and Research (DCO) of the Netherlands Ministry of Foreign Affairs. The Conflict Research Unit gratefully acknowledges this support.

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June 2003  
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## Executive Summary

Severe and systematic human rights violations fuel most modern conflicts. From Bosnia to East Timor, from Burundi to Colombia, from Kosovo to the Ivory Coast, from Sri Lanka to Sierra Leone, torture, illegal arrests, unfair trials, banning otherwise legal organizations, prohibiting meetings and rallies, corruption, and pervasive discrimination based on race, ethnicity and religion have spawned violent conflict, requiring some form of international assistance. Responding to these violations of civil, political, economic, social and cultural rights, the international community has supported a broad range of human rights programmes either through a local representative office of the United Nations High Commissioner for Human Rights (UNHCHR), the specialized human rights unit in a multi-dimensional peace operation, or via international and domestic governmental and non-governmental organizations (NGOs), that are promoting and monitoring human rights. International human rights activities in most post-conflict countries typically include, among others, verification and monitoring of human rights violations, de-mining programmes, assisting the return of refugees and internally displaced persons (IDPs), capacity-building of crucial rule of law institutions and strengthening domestic human rights ‘watchdogs’, including various civil society organizations and e.g. the Ombudsperson’s office.

The ultimate success of international human rights assistance largely depends on whether such assistance, in the form of a full-blown peace operation or direct international aid programs, is able to identify key local human rights institutions and individuals and offer them appropriate advice and support. In this connection, six institutions that are instrumental for guaranteeing the rule of law and have received substantial international post-conflict assistance are highlighted in this paper: the constitution, the judicial system, the police, prison administration, special tribunals and truth commissions, and civil society. Firstly, the development or reform of an appropriation constitution has been supported in those cases where the original domestic legal texts largely excluded certain minority groups and did not adhere to international human rights standards. Secondly, the international community has supported programmes aiming at strengthening or developing from scratch an independent, effective and trustworthy judiciary. Thirdly, human rights training has helped reform and professionalize the domestic police service and make it more aware of its rights and responsibilities, especially in difficult post-conflict circumstances with high crime rates, corruption and lack of popular trust. Fourthly, the international community has initiated prison reform programmes to improve not only physical prison conditions but also the judicial status of prisoners. Fifth, the international community has supported the establishment of truth commissions and war-crime tribunals in order to provide a platform for recounting people’s memories about the war and punishing past human rights abuses respectively. Finally, assistance has been provided for supporting local human rights organizations in their role as human rights monitors and promoters.

A number of lessons can be drawn from experiences with international human rights assistance in post-conflict countries like Rwanda, Bosnia, Haiti and Kosovo. Apart from the ‘common’ conclusions that human rights assistance has sometimes fallen short because of a lack of money and coordination, other lessons include the usefulness of ‘on-the-job’ and joint training programmes for judicial, police

and prison officials, the negative effects of overemphasis on high-profile judicial reform issues -at the expenses of material needs of lower courts-, the lack of international attention for the issue of donor dependency and long-term sustainability of human rights NGOs, and the value of sustained international monitoring in the form of an in-country UNHCHR office. More specifically, the paper highlights international efforts in Kosovo and Haiti, where the provision of human rights assistance encountered a number of problems. In Kosovo, the 'security gap' and changed political situation were both underestimated and misunderstood. The subsequent human rights bias had negative consequences for the credibility and effectiveness of the fragile judiciary. In the area of police reform, diverging international police traditions created confusion among the local population and the newly formed Kosovo Police Service (KPS). In Haiti, poor donor coordination, a strong donor-driven human rights agenda, and few local consultations initially exacerbated the lack of trust between the International Civilian Mission in Haiti (MICIVIH). Despite these problems, however, the international community played a crucial role in Kosovo and Haiti and its assistance not only helped improve the human rights situation directly but also enabled the establishment of domestic institutions instrumental in sustainably promoting and monitoring human rights.

# 1. Introduction

## 1.1. Background

There is one clear lesson that emerged from the myriad peace operations of the past 12 years and the hundreds of human rights aid packages distributed since: the international community cannot impose peace or dictate how ‘things must be done’. Without rooting respect for human rights and the capacity to prevent violations in local institutions, all the money spent and efforts expended will be wasted. Spreading the rule of law and deepening respect for human rights are now seen not only as the right thing to do, but also central to insuring international peace and security in the post-Cold War world. From operating on the periphery, human rights has gradually moved to centre stage in international relations.

This shift requires international donors and those involved on the ground to have a much clearer understanding of the human rights situation before, during and after the conflict. There is no room for romanticism or making allowances for poverty, underdevelopment or cultural practices inimical to fundamental international human rights standards. For example, although the Belgian colonizers traditionally favoured the minority Tutsis over the majority Hutus and thus engendered enormous frustrations and resentments among the Hutu, this in no way excuses or justifies the racist practices of Hutu extremists between 1962-94. However, it is important to know this earlier history of discrimination against the Hutu by the Belgian colonial administration and to analyze how in turn the laws and practices of the Hutu regimes systematically discriminated against and disenfranchised the Tutsis. Such knowledge is instrumental for designing appropriate programs that emphasize non-discrimination and inter-ethnic tolerance and attempt to bridge the divide between communities in post-genocide Rwanda.

Furthermore, the importance of the gender issue in post-conflict human rights work has become evident. Women and children suffer severely and disproportionately in all modern wars. Recent studies show that civilians comprise 90% of the casualties in modern wars and that civilians increasingly are intentionally targeted and are not the victims of ‘collateral damage’.<sup>1</sup> Moreover, most refugees and internally displaced persons are women and children in their care.<sup>2</sup> Thus promoting prominent roles for women and identifying women’s needs has become central to human rights programming in post-conflict situations. This has been reflected in recent UN peacekeeping operations in Kosovo and East Timor with the installation of a special Gender Advisor to the Special Representative of the Secretary-General (SRSG) who insures that women are fully represented in all aspects of the peace operation and that local women’s views and priorities are included at the earliest stages of program planning. Former SRSG in East Timor and currently the United Nations High Commissioner for Human Rights (UNHCHR), Sergio Vieira de Mello, has stated that initially he was

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<sup>1</sup> See e.g. the recent annual surveys by the International Committee of the Red Cross at <http://www.icrc.org/>

<sup>2</sup> Cohen and Deng (1998).

dubious about the need for such an office but now realizes that it was absolutely essential to the mission's work.

## 1.2. Definitions

No one can ignore the effects of gross violations of economic, social and cultural rights as a cause of modern conflicts. Huge disparities in wealth, often the result of discrimination, corruption and absence of the rule of law, engender frustration, envy and often violence. Both Mary Robinson, the former UNHCHR and Sergio de Mello, have emphasized how civil and political rights as well as economic, social and cultural rights are mutually reinforcing and that it is impossible to ignore one 'basket' of rights at the expense of the other. Yet, human rights assistance has focused mainly on civil and political rights, including among others the freedoms of association, assembly, expression and the absolute ban on torture.<sup>3</sup> The types of people recruited for international human rights operations, their mandates and budgets have reinforced this tendency. Those who work in human rights operations on the ground, however, recognize how untenable it is to work only on civil and political rights amid such desperate poverty, high rates of illiteracy, abysmal public health and miserable shelter.

A more holistic approach, encompassing all rights, has led Secretary-General Kofi Annan to mandate all UN departments and agencies to 'mainstream' human rights into their work.<sup>4</sup> Thus the UN Development Program (UNDP), the World Food Program (WFP), the World Health Organization (WHO), the UN's Children's Fund (UNICEF) and others must integrate human rights principles, guidelines, measures and assessments into all their work. This provides a potentially huge lever for human rights assistance in post-conflict zones. This does not mean that human rights assistance should ignore civil and political rights. Rather, the possibility of working in partnership with UN Habitat to monitor housing discrimination or with UNICEF on assuring equal access to infant vaccinations fills an important gap in promoting and protecting human rights and can reinforce work on classic civil and political rights. Moreover, these UN agencies have greater experience in the type of local capacity-building exercises which is the key to insuring that local institutions can assume primary responsibility for upholding human rights as soon as possible.

While this paper will focus on examining and analyzing international assistance for civil and political rights, the unity of all rights and the need to collaborate with other partners who have much to offer in the sphere of economic, social and cultural rights should always be remembered and exploited. Informing people of their rights to food, shelter, clean water, schooling and health care and then increasing their capacity to analyze their own situation, using their civil and political rights to mobilize support, litigate in court and demand that government agencies fulfil their responsibilities is the most effective way to build sustainable support for all human rights.

## 1.3. Post- conflict Conditions

Each conflict is different and thus each post-conflict situation will present different challenges. However, certain problems are common in most cases:

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<sup>3</sup> For the most authoritative definition of civil and political rights, see *International Covenant on Civil and Political Rights*; for that of economic, social and cultural rights see *International Covenant on Economic, Social and Cultural Rights*. Both are available at <http://www.unhchr.ch/>



- The judiciary is largely dysfunctional: legal personnel has either left the country or is completely discredited in the eyes of the public;
- The army and police lack credibility and trust: rather than observing human rights police officers and soldiers have in many cases been the principal violators. In other cases, they have either fled or are completely rejected by the population;
- Prisons are hell-holes; in many post-conflict environments, prisons are overcrowded, unhealthy places where brutality has reigned and people have languished for years without charge or trial;
- Indigenous civil society is in tatters; having borne the brunt of repression for years civil society organizations are terrified, lack resources of all kinds, including their leaders who have either been killed or forced into exile;
- Corruption is rife; organized crime controls much of what is left of the economy, trafficking in humans, drugs, natural resources and other contraband;
- Land-mines pose a continuing danger; inhibiting freedom of movement and economic activity land-mines remain an immediate threat to the civilian population especially in rural areas where prime farmland is often specifically targeted.

One final common feature in post-conflict situations is the multiplicity of international actors with human rights issues in their mandates. In case their activities are coordinated, this is a positive feature as human rights work is too important to be left solely to human rights specialists. Military peacekeepers, international civilian police (in UN parlance ‘CIVPOL’), political affairs officers, humanitarian workers, election observers and development specialists should be aware of human rights issues, be willing to share information on human rights situations, and by their work and conduct, be ready to promote human rights values with their colleagues and counterparts in the host society.

Addressing above-mentioned conditions, international donors have applied two distinct strategies in human rights assistance. In some cases the international community has created international peace operations that have significant human rights components, sometimes in the form of a local field operation from the UN High Commissioner for Human Rights (UNHCHR). In other cases, donors have provided direct assistance to the national bodies, governmental and non-governmental, charged with guaranteeing human rights observance and promotion. Regardless of the assistance strategy, the principal activities have included:

- Investigating and verifying past and present human rights violations. This also comprises confirming and reporting on violations and working to prevent future abuse;
- Capacity-building initiatives with local governmental agencies, especially strengthening the judiciary, police, prisons and the ombudsperson’s office;
- Strengthening the capacity of local non-governmental organizations (NGOs) and intensive public outreach and information campaigns to spread awareness of human rights and the duties of citizens to help improve the performance of government institutions;
- Assisting in the return of refugees and internally displaced persons (IDPs) by helping to assess whether it is safe for them to return home;

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<sup>4</sup> From: *Strengthening of the United Nations: An Agenda for Further Change*. A/57/387 (9 Sept. 2002).

- Documenting and denouncing practices like using child soldiers and trafficking in children and women for sexual exploitation. This typically includes providing assistance and support for the reintegration of child soldiers and trafficked persons in their home communities;
- De-mining programs;
- Assessing and verifying programs to disarm, demobilize and rehabilitate (DDR) former combatants and to destroy weapons.

## 2. International Human Rights Assistance

### 2.1. Donor objectives

Human rights protection depends fundamentally on the existence of the rule of law, comprising not only a legal basis in the form of a constitution, but also an effective and independent judiciary, police and penal system guaranteeing these basic rights and sanctioning violations thereof. A country that does not have a functioning justice system, that inspires the trust of the entire population, offers scant protection for human rights. In virtually every modern conflict -Kosovo, Guatemala, Haiti, Liberia, Cambodia, Angola, Democratic Republic of the Congo (DRC)- to name just a few, the legal system was and was seen to be biased, corrupt, and therefore illegitimate. Grievances, real and imagined, could not be resolved peacefully through the courts so they were addressed through violence. Re-establishing, or more accurately in most cases, establishing for the first time, the rule of law is a quintessential pre-requisite for building a modicum of trust in war-torn societies. However, this is a complex and extremely challenging endeavour, fraught with complications and pitfalls. Fortunately, the international community has offered various kinds of programmes in order to assist post-conflict countries with this difficult task. Establishing and/or strengthening the rule of law is the overriding objective of international human rights assistance. However, by targeting specific human rights actors, the international community tries to achieve a number of other, more specific goals as well in post-conflict countries. These include creating respect for and implementation of the constitution, ascertaining the independence and effective functioning of the judiciary and police, developing mechanisms to address and/or punish past human rights violations and create local structures for human rights monitoring.

### 2.2. Donor Activities

Firstly, assistance has been given in order to develop an appropriate constitution that adheres to international human rights standards and is respected by all local (governmental) institutions. Secondly, human rights programmes have aimed at the creation of a judiciary that is independent, well-run, decently equipped, has the trust of the population and can dispense justice based on merits instead of influence or intimidation. Thirdly, human rights training has helped reform and professionalize the police. Fourthly, assistance has supported prison administrations in order to raise their awareness and special responsibilities in the field of human rights and making them more accountable for their actions. In addition, the international community has supported the establishment of truth commissions and war-crime tribunals in order to provide a platform for recounting people's memories about the war and punishing past human rights abuses respectively. Finally, assistance has been provided for supporting local human rights organizations in their role as human rights monitors and promoters.

### 2.2.1. *Constitutional Reform*

Many observers frequently believe that constitutional and legal reform means merely writing a new constitution, reforming laws and modernizing administrative codes. While these are often a necessary part of a constitutional reform effort, they are never sufficient or even the most important element in creating the rule of law. The reality in most post-conflict situations is that constitutions and laws are often fine on paper; they provide for all kinds of guarantees and proclaim that human rights shall be rigorously observed. The problem is that the constitution and laws were and are flagrantly violated and the offenders enjoy complete impunity. A Haitian proverb captures the difference between wonderful laws and awful reality: 'Laws are made of paper, bayonets are made of steel'.

While comprehensive legal reform requires much more than revising codes, this can be an important element of change and a useful training opportunity for local jurists. For example, in Bosnia and Kosovo housing laws blatantly discriminated against various ethnic groups. International experts, working with local colleagues, drafted new property laws and procedures for adjudicating claims, especially the contentious issue of evictions from illegally occupied apartments. The Human Rights Division of the Organization for Security and Cooperation in Europe (OSCE) in Bosnia employs several local lawyers who handle all issues relating to property disputes, which is the principal human rights issue in Bosnia-Herzegovina. In addition, the OSCE human rights team has worked closely with the new police forces in the Federation and Republica Srpska in training sessions that address the new property laws and other issues connected with evictions. In Kosovo and East Timor, international legal experts have collaborated with local lawyers to draft new penal codes and codes of criminal procedure to insure that they comply with international human rights standards. Minority rights experts have run workshops to share their knowledge on how legislation protecting minority rights in Western Europe could be adapted to local conditions in the Balkans, Africa and Asia.

With the growth of internet access, local legal professionals can now more easily consult foreign constitutions and conduct comparative analyses of constitutional protections for human rights. Donors have found that providing computers and internet access has transformed what had been a cumbersome process of gathering relevant materials and bringing in expensive consultants into a more effective and locally supported process for revising and/or modernizing constitutions and laws.

### 2.2.2. *Judicial System Reform*

In many post-conflict societies, the main domestic judicial actors -judges, prosecutors, bar associations, law faculties, court reporters and clerks- are in dire straits. For example, in Rwanda the international community found a judiciary that had been devastated. Most judges and prosecutors had fled the country since they were Hutus and feared retribution. Those fleeing also took official vehicles, computers, printers, phones, copiers, law books, court files, even office furniture with them. Court buildings looked like a plague of heavily armed locusts had swept through, scouring the grounds for anything valuable and leaving broken windows and ripped out electric sockets in their wake. Similar scenes awaited the international community in Kosovo, East Timor, Sierra Leone, Haiti, Cambodia and the DRC. In such circumstances, the international community has supported the judicial system in several ways:

- Procuring equipment, vehicles, computers and other physical hardware necessary for a judicial system to operate;

- Participating in the design and delivery of training programs for legal professionals and court administrators in the country itself or arranging for a limited number of local jurists to attend expert seminars and degree courses outside the country;
- Strengthening the management and administrative capacities in order to make the judicial system more responsive, transparent and less receptive to bribery, extortion and corruption;
- Working closely with local community groups to insure that their perspective is included in legal reform projects;
- Reporting on the functioning of the judiciary to identify strengths and weaknesses, including taking an independent stance when needed;
- Trying to coordinate donors to optimize assistance and minimize duplication and waste of efforts.

Firstly, and most surprisingly considering the critical nature of appropriate infrastructure, the material needs of the judiciary are often overlooked or underestimated. Such needs not only include pens and paper, but also appropriate housing for court hearings and sufficient vehicles for judges or prosecutors to visit prisons, examine crime scenes and conduct investigations. In the case of Haiti, for example, there was little donor interest for repairing infrastructural ‘hardware’, some of them saying ‘we don’t do bricks and mortar’. Fortunately, there were other donors who did and Haiti’s basic courthouses were refurbished in many parts of the country. This seemingly superficial gesture was important since it raised the status of the judiciary in the eyes of the population -they saw that the international community was repairing courts and police stations- and raised morale among the court personnel. However, when supporting such equipment and hardware, it remains important to understand the conditions under which local judicial staff has to operate and what the causes of the problems are that plague the administration of justice. In some cases, the international community has favoured the installation of fancy, case-tracking computerized systems in places where electricity was extremely erratic and computer expertise rare. Needless to say, such systems finally proved unsustainable. Alternatively, in Haiti and Rwanda, judges, court clerks and prosecutors were charging people to fill out forms or issue judgments while they were not legally authorized to do so. Upon closer inspection it turned out that the officials were buying the paper, forms and other supplies with their own money because the Ministry of Justice was not supplying their needs. This practice generated great scorn for the justice system from the population who viewed it as just another example of corruption and venality.

In addition to providing the hardware, the software of the system also needs help. Human rights training is often a large component of international assistance, with not only programmes for judges, prosecutors, prison administrators, prison guards and police officials, but also curriculum development for bar associations and law schools. Sometimes experts are seconded to work inside the Ministry of Justice, the police, prisons and prosecutor’s office. Offering their expertise on a daily basis in a work setting this provides a type of ‘on-the-job training’ and mentoring. France e.g. sent two officials from the French Ministry of Justice to work inside the Haitian Ministry of Justice to provide expertise in case management, administration and personnel issues. In Rwanda, the Dutch, Belgian, German and Canadian governments have sent officials to work in the Rwandese Ministry of Justice on a wide range of issues, including general management, administration, drafting legislation and managing information systems. In other cases, local judicial staff have been invited by the international

community to attend training programs, diploma courses and expert seminars in the region or even donor countries.

Thirdly, the management and administrative capacities of courts are often extremely weak. Together with economic realities in most post-conflict contexts, this generates conditions ripe for chicanery. In many cases, discipline is lax and judges show up late or not at all for court. This happens mostly because they have another job or two in order to support their families who cannot survive on the judge's salary alone. As a rule, judges and prosecutors' salaries are very low, even when compared to the drivers and interpreters used by international donor agencies. This makes them extremely vulnerable for persons trying to extort and/or bribe them in exchange for positive verdicts. Moreover, such corruption inhibits the growth of the rule of law and respect for human rights. As a corollary, nepotism reigns and people are appointed because of their connections and not because of their achievements. Accountability and transparency are mere buzzwords that everyone agrees to, but that few actually implement. So far, donor assistance addressing this particular problem has been rather limited. Because tax collection and other revenue sources are usually derisory in post-conflict settings, international donors might consider offering budgetary support to ensure that judicial officials receive a reasonable government salary. Although certainly not easy, it is an investment that should more than pay for itself in the long run.

In addition, the involvement and participation of local stakeholders in the formulation and implementation of legal reform projects is crucial for increasing acceptance. This also includes creating a solid working relationship with justice officials, from the Minister of Justice down to the lowest level trial judge or court clerk. Judges, prosecutors, lawyers, court clerks, notaries, bailiffs, all segments of the personnel of the state's legal system will not only be crucial interlocutors towards the local population, but are also instrumental in observing trials, monitoring pre-trial procedures to ensure adherence to international and national guarantees on limits to pre-trial detention, access to counsel and speedy trials. Establishing good working relationships with such actors has proven to be integral to effective human rights assistance.

Fourthly, donors have tried to develop sound methods to monitor the performance of the justice system. Noting and addressing problems, such as interference or intimidation from outsiders, attempting to influence a jurist's behaviour or the outcome of a case, is essential. It is best if locals do this. However, as this was not always possible, international have stepped in several times. Any threats, attacks or other violence directed at anyone working in the legal system should be thoroughly investigated and reported. For example, when a prosecutor was beaten up and suspended for failing to follow a local politician's order to arrest people, the UN human rights mission in Rwanda investigated the case and issued a public statement calling for an official inquiry. The prosecutor was deeply grateful to the mission and felt that his case would have been ignored without the mission's intervention.

Finally, donors have attempted to coordinate their human rights assistance. Results have been mixed, however. In Cambodia and Guatemala, the local UNHCHR missions have convened meetings of donors and government representatives so that everyone knows what everyone else is doing. This helped to minimize duplication or waste of efforts and on some occasions even ensured that key problems were not overlooked. Another country where this had positive results concerns Rwanda. The mission in Rwanda proposed a first meeting of donors on 7 December 1995 at the offices of the United States Agency for International Development (USAID) in order to address concerns about coordination and communications. At the time, donors agreed to meet monthly, with the mission

maintaining this regular forum to present its findings and recommendations on the various legal assistance projects. This helped establish some form of division of labour. The Belgians and Dutch gave priority attention to providing managerial and administrative support to the Ministry of Justice, while the United States (US) and the United Kingdom (UK) focused on providing training to judges and prosecutors. The Canadians, in turn, offered help in drafting and translating legislation since their experience with a bilingual judiciary was relevant to Rwanda. UNDP and UNICEF agreed to help in the crucial area of juvenile justice due to the many children implicated in the genocide. Regular follow-up meetings occurred where progress was charted, obstacles identified and deadlines established. It is important to note here that the Rwandan Minister of Justice not only chaired these donor coordination meetings, but also set the agenda and most importantly, defined the priorities for the donors to address.

### 2.2.3. *Police Reform*

The police and prison administration are, in addition to the judiciary, key elements in building sustainable human rights protection. A common feature in most war-torn societies is that the police, rather than serving and protecting the population, have engaged in torture, rape, murder, extortion and repression. Police uniforms for years struck fear in the hearts of the citizens of El Salvador, Liberia, Burundi, Kosovo and East Timor. Overcoming this heavy legacy of total distrust towards the police, and changing police traditions that see the population as the ‘enemy’ instead of a partner in preventing crime and enhancing security, is one of the biggest human rights challenges for the international community and host states alike. Support in this area typically includes:

- Creation of a new professional police force, including the establishment of police academies;
- Human rights and management training of local police officers, preferably ‘on-the-job’;
- Training in community policing;
- Police performance monitoring by international human rights observers;
- Strengthening local human rights monitoring organizations.

In many places the old police force has been abolished and a new police corps formed from scratch. This has proven to be a demanding, difficult and time-consuming exercise. Brand new or newly reformed law enforcement agencies must face organized crime, smuggling, drug and people-trafficking, simmering ethnic, religious and racial tensions, returning refugees and the internally displaced, all with limited budgets, expertise, internal management and inspection capacities plus an environment where the population justifiably mistrusts them. One of the most pressing challenges to police reform in post-conflict settings is the sharp increase in crime rates just as a new police force is trying to cope and do things the right way. Sometimes the population does not understand and actually pines for the old days when an oppressive police force at least insured some type of ‘order’. There has even been a backlash against human rights in a few places like South Africa and El Salvador where the new police was for some time seen as ‘coddling’ criminals.

Another key aspect concerns the recruitment and selecting process of new police officers. International human rights assistance programs have helped in assessing the qualifications of local police officers and new police recruits to ensure their personal integrity, aptitude, and adherence to human rights standards and principles. Developing procedures to address internal grievances in the

police service and establish how the public can file complaints about police misbehaviour is another important element in developing a professional police. Impunity for misconduct cannot be tolerated, especially in view of the often fragile public confidence in the new police force. Otherwise, the new police will look exactly like the old police and the effort will be doomed from the start. In total, the process of (re-)building a local police service takes time and sustained effort. Recruiting, selecting, and training police officers who will operate in a drastically new way, one that reflects a new attitude towards the public, requires deep change and cannot be done overnight. In spite of the broad range of practical difficulties, the development of a new or the professionalization of a reformed police force is a key requirement for effectively addressing human rights issues in post-conflict situations and is therefore increasingly receiving a lot of international attention.

The second area of assistance covered under the police reform umbrella is the training of new and restructured police forces. Such assistance may include establishing new police academies, developing new curricula, and teaching local police officers how to train their own colleagues ('train the trainers'). Yet, police training means much more than merely organizing and teaching a series of classes. Training should foremost be practical and not theoretical or academic. Case studies, small group work and role-playing should therefore be emphasized. Preferable, however, is 'mentoring' and 'on-the-job training'. This training method is not only an extremely effective and efficient way to reinforce classroom training, but also enables immediate feedback to both the police trainee and the trainers back at the police academy. In general, all police training must emphasize to the new or reformed police service that their job is to serve and protect the entire population. Workshops covering topics like conflict resolution, mediation, human rights and the ethical dimension of public service have been the cornerstone of training of police personnel, new or experienced.

Thirdly, supporting local initiatives to develop community outreach programs to make local police agencies and individual officers more responsive to the needs of the public is essential. Such work can include bringing together local police officials and members of the media, human rights groups, and other representatives of civil society. Such intense interaction with the community, commonly called 'community policing', has proved successful in many post-conflict settings. Another crucial element of this area of assistance is fostering assurance that the police are publicly accountable, e.g. to an active, impartial, effective, and independent media. Local police agencies will require extensive training in how to work with independent media and come to view them as valuable allies rather than adversaries.

Fourthly, as with the judiciary, human rights assistance providers have in many cases set up mechanisms to monitor the performance of the local police. Merely noting the defects of the local police, however, is not enough to change the behaviour or attitudes that cause the problems. Active monitoring which notes faults but also identifies solutions to problems is much more effective and should be the preferred approach. One of the lessons learned in this particular field is that monitoring should not be seen as an end in itself but rather as a means to diagnose weaknesses, identify steps to address the weakness and then assess whether the cure has been effective. Police performance monitoring normally has been part of the local office of the UNHCHR, the human rights section of a peace operation and of UN CIVPOL.

Fifthly, and apart from international monitoring, donors have established and/or strengthened local 'watch-dog' mechanisms for observing police performance like the ombudsperson's office, internal inspection units and national (human rights) NGOs. The best approach to monitoring the police or law enforcement officials emphasizes the systematic evaluation of the police as an



institution. This includes focusing on the effectiveness of the police command structure, its ability to conduct internal investigations, its relations with judicial authorities and its relations with the population it is supposed to protect and serve. This allows those providing international assistance to understand the functioning of the police. Moreover it enhances a sustainable capacity to identify problems and propose solutions so that the police behave professionally and respectfully as regards human rights while effectively fighting crime and providing security to the population.

In addition, there are two considerations that have and should inform all (future) police reform activities. Firstly, efforts to reform the police, prisons and judiciary must proceed in tandem as much as possible. All actors in these fields are interdependent and mutually reinforcing. The problem typically has been that police reforms outpace those in the judiciary. In Kosovo, East Timor, Haiti, Rwanda, Cambodia and Guatemala, joint training involving the police, the judiciary, prosecutors' offices and the penal authorities has helped to improve coordination among these core components in the rule of law sector. In Cambodia, CIVPOL officers designed a training program that followed the accused throughout the criminal justice process as a way to train the various state actors –including police, court clerks, judges, prosecutors, prison guards, defence lawyers and administrators- to reinforce their joint and shared responsibility for the rule of law. Secondly, donors should insist that all police training, monitoring and assessment be based on the international standards governing police practices as set forth in the *UN Code of Conduct for Law Enforcement Officials*, the *UN Basic Principles on the Use of Force and Firearms*, and the *UN Standard Minimum Rules on the Treatment of Prisoners*.<sup>5</sup> In addition, assistance providers should also become familiar with relevant provisions in domestic law governing police practice. Donors should be aware of who has the power to arrest; whether written arrest warrants are necessary in all cases and/or if there are exceptions; and in which cases searches are legal. The law on pre-trial detention is also crucial. Most domestic legal codes specify strict limits on the time a person can remain in pre-trial detention. If the person arrested is not brought before a judge for charge or trial within this specified period, the person should usually be released or a judge must rule that an extended detention is legal. Furthermore, the detainee's lawyer and family should have regular access and if the detainee needs medical care, then adequate provisions to deliver such care should be assured. All these provisions need to be respected, not only by domestic authorities but also by donors designing police reform programs.

Finally, it is important to realize that police work in post-conflict situations would challenge even well-established and experienced police forces. Therefore, donor agencies must be realistic about the huge difficulties present and adjust their support and expectations accordingly.

#### 2.2.4. Improving Prison Administration

A fourth area of international human rights assistance, that has often been overlooked, is the penitentiary system. As with the judiciary and the police, the prisons were often rightly seen as torture chambers or black holes from which ethnic or religious minorities, political opponents or other 'undesirables' never emerged alive. Lack of food, overcrowding, prevalence of contagious diseases, unclean water, and a host of other abominations characterized most prisons in places like Cambodia, Rwanda, Haiti, DRC, Guatemala and many other post-conflict countries. In other places, prisoners were kept in secret or unofficial detention centres where detainees were held *incommunicado*, making it relatively 'easy' for prison and other security staff to torture and mistreat them. Prison conditions

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<sup>5</sup> Available at <http://www.unhchr.ch/>

and how detainees are treated are often important barometers of a state's commitment to human rights and the rule of law. As the leading organization on penal reform in post-conflict settings has stated:

'Ultimately, the legitimacy of any peace operation depends on its ability to create positive change in the lives of persons affected by violent conflict. Foremost is the establishment of basic guarantees for human security (...). Corrections is that component of the criminal justice system which has the greatest impact on the freedoms, liberties and rights of individuals. It can play an essential role in re-establishing the basic conditions for human security as part of an overall strategy by:

- providing qualified personnel to manage and/or assist correctional systems on an interim basis;
- providing technical assistance in support of prison reform efforts;
- supporting initiatives that establish or reform the legal and policy infrastructures of the overall criminal justice system; and training local prison staff.'<sup>6</sup>

Despite the obvious importance of penal support, donors are often loath to commit scarce money to rebuild prisons or even train prison guards when there are so many other obvious and more appealing pressing priorities. Prisons are often seen as the stepchild of law enforcement and judicial reform; donors shy away and it is distinctly unglamorous. The failure to pay attention to reforming prison administrations and guaranteeing minimally humane detention conditions, however, has provided a serious threat to improving security and has in many cases perpetuated gross human rights violations. The international community must address the rule of law triad of the legal system, the police and prisons, or risk failure in the entire enterprise.

In general, the international community has adopted a similar approach to prison issues as described above regarding the police. Apart from promoting the improvement of the material, physical and psychological conditions (through specialized organizations such as the International Committee of the Red Cross (ICRC), Doctors of the World, Doctors without Borders and the World Food Program (WFP)), donors have developed and delivered training on human rights for prison guards and administrators, provided resources for penal reform, monitored and reported on penal conditions and tried to involve relevant community groups. Below, the key areas of monitoring and training will be highlighted.

Monitoring prisons usually involves two broad categories of issues: prison conditions/treatment of prisoners and the judicial status of prisoners. The ICRC is the pre-eminent authority on prison conditions, including sufficient space, light, access to mail, family, clean water, health care, food, recreation, rehabilitation, job-training and counselling.<sup>7</sup> The judicial status of prisoners relates to their reason for being detained, charges against them, date of next hearing or trial, date of release if already convicted, access to counsel and family. Where possible, the ICRC and human rights officers have divided the work relating to prisons along these two lines. ICRC focuses primarily but not exclusively on prison conditions and the physical status of prisoners while the human rights field mission

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<sup>6</sup> *Practical Guidelines for the Establishment of Correctional Services within United Nations Peace Operations*, International Corrections and Prisons Association (ICPA), p.2. This report is available at <http://www.icpa.ca/>

<sup>7</sup> See <http://www.icrc.org/> for more information about how the ICRC does its work and implements its mandate. It is also the 'guardian' of international humanitarian law, including the four Geneva Conventions and its two Protocols.

concentrates first and foremost on the legal status of prisoners. This arrangement has worked particularly well in Rwanda and Haiti.

More specifically, independent observers should have the authority to visit all prisons and centres of detention. The key monitoring principles are the right to visit every place, official or unofficial, where anyone is being detained; the right to make these visits without prior approval from the government or prior notice from the observers; and the possibility of speaking in private with any detainee/prisoner. Once inside the prison, the observers must have the right to visit every part of the prison. In other words, there must not be any corner, cell or area that is declared ‘off-limits’. Also, the observers must be able to speak with any prisoner that they wish in conditions that insure that prison officials cannot hear what is being said in the interview (confidentiality). Finally, prison authorities must guarantee that there will be no reprisals against any prisoner interviewed by the observers or against any prison guard or officer who agrees to provide information to the observers. When observers have documented their findings they normally inform the appropriate government officials of any documented cases of torture or mistreatment and insist that the victims receive medical treatment immediately. In addition, the government will be asked to investigate and punish those responsible for the reported human rights violations.

As regards training, the international community has financed programmes to teach prison guards and administrators about international human rights law and standards governing the treatment of prisoners. This particularly involves highlighting and explaining the provisions of the *Convention against Torture*; the *UN Standard Minimum Rules on the Treatment of Prisoners*; and the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*. Detention of women and juveniles requires special measures and has therefore lead to intensive training courses on such standards as the *UN Rules for the Protection of Juveniles Deprived of their Liberty*.<sup>8</sup> Other training activities include ‘on-the-job training’ of prison authorities in order to establish and maintain an accurate register of detainees, comprising the name of every detainee, the date of arrival at the place of detention, the legal status of the detainee and the date of the next court appearance.

#### 2.2.5. *Special Tribunals and Truth Commissions*

One of the most difficult dilemmas facing those providing international human rights assistance is how to balance investigating, prosecuting and punishing past human rights violations with the need to rebuild a shattered judiciary that simultaneously must handle current crimes and other judicial matters, including property disputes, commercial litigation, juvenile justice, inheritance questions, family matters, etcetera. By definition, in post-conflict societies everything needs immediate attention, yet there is simply neither the time nor the resources to tackle all these problems at once. In such cases, the international community has responded in two different ways: by establishing and supporting war-crime tribunals and by financing truth commissions.

In the case of war-crime tribunals, the judicial system is asked to deal with some of the most complex and technically demanding legal issues of all: genocide, crimes against humanity, war crimes, rape and torture. Not only is the nature of the charges difficult, but a decimated judiciary in any post-conflict country has literally thousands of such cases on its docket. Such a huge, complex caseload would overwhelm the most sophisticated and well-resourced judiciaries in the world. Therefore, it is no surprise that the legal systems of Rwanda, Sierra Leone, Haiti, El Salvador, Angola and Cambodia

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<sup>8</sup> The various legal texts can be found at: <http://www.icpa.ca/un/index.html>

were paralyzed by the prospect of having to handle such an extraordinary number of such challenging cases. Rwanda to this day has over 100,000 prisoners in detention -in prisons built to hold a maximum of 12,000 persons- awaiting trial for genocide and charges related to the mass killings of nine years ago. In 1998, the local UN human rights mission calculated that at the then current rate of trials it would take Rwanda over 200 years to discharge the caseload. Apart from a total lack of physical resources, there is also another, less material aspect. In post-conflict contexts, a shattered judiciary is often vulnerable to exacting 'victors justice', which will only prolong hatreds and increase the likelihood of further conflict. E.g. in Kosovo, instances of bias against Serbs and other minorities among the Albanian judiciary surfaced immediately after the NATO intervention in June 1999 and have continued ever since. US Army lawyers and their British colleagues reported cases of racist statements made in open court about Serbs. In one case an Albanian judge was heard saying about a Serb: 'He has an accent like the one who killed my family, so let's convict him'. When pressed, some Albanian judges have admitted that they decide cases differently, even apply different sections of the penal code, in cases involving Serbs.<sup>9</sup>

Considering the difficult circumstances, the simple but unsatisfying answer is that in most post-conflict situations it will be impossible to try everyone responsible for committing grave human rights violations. States have therefore adopted various responses to this unpleasant truth. In some countries, *international* criminal tribunals have been established. This has been the case for the International Criminal Tribunal for the Former Republic of Yugoslavia (based in the Hague), that has been established by the UN Security Council and covers events in Kosovo and Macedonia. The International Criminal Tribunal for Rwanda (in Arusha) was installed using a similar approach. In other countries -such as Sierra Leone, East Timor, Kosovo, and most recently Cambodia- special tribunals have been established that are a *mixture* of local 'jurisdiction' and international supervision. Finally, there are tribunals that operate on a purely *national* basis, e.g. in Haiti, Guatemala, Burundi and the DRC. In general, the mixed tribunals and national prosecutions are much cheaper than the international ones. They also have the advantage of having a greater and lasting impact on the administration of justice in the host state. The new International Criminal Court (ICC), whose temporal jurisdiction started on July 1, 2002, can be seen as the latest instrument of the international community to address the gravest human rights violations.

The second major assistance approach for responding to past human rights violations concerns the financing and establishment of truth commissions. In the past decade, truth commissions have become widely popular. These are typically non-judicial bodies whose main purpose is to gather testimony, interview victims, witnesses and relatives of human rights violations and allow them to tell their stories. Statements of victims are taken down, sometimes in public hearings that have been broadcast nationally, and preserved forever. In some instances, truth commissions published a report. Some of these reports named names, i.e. they identified those accused of committing the human rights violation.<sup>10</sup> However, in many cases this created controversy, because some see it as a violation of due process. They argue that by naming names the accused have little or no opportunity to defend themselves and challenge the evidence. Nevertheless, truth commissions have become a powerful and widespread tool for dealing with the past. The chance for someone to tell his/her story and be heard with dignity and respect has become an important part of any possible process of coming to terms with

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<sup>9</sup> O'Neill (2002).

<sup>10</sup> See Hayner (2001) for a comprehensive analysis of truth commissions.

the violent past. Similar to tribunals, truth commissions have included only national members in some instances, purely international in others, while others have been mixed with both national and international commissioners. Countries that have created truth commissions include South Africa, Haiti, El Salvador, Sierra Leone, East Timor, Peru, Chile, Argentina and Uganda. The South African commission was the most well-known, had the most resources and could thus have a huge impact in the post-apartheid era. Its most important innovation was providing an amnesty to those who appeared in public before the commission and admitted to their crimes.

Alternatively in Haiti, the UN/OAS-sponsored International Civilian Mission ('MICIVIH') first gathered information on the truth commissions in El Salvador, Chile, Argentina and Uganda before presenting a plan to the Haitians charged with establishing a similar body. Issues like the time period to be covered, the composition of the commission, whether to include names of the accused in the report, and budget requirements were briefed and discussed. MICIVIH actually loaned several of its international staff members to help the commission train its investigators and analysts. In addition, the mission helped secure international donor funding for the commission and opened its own case files to the commission after insuring that promises of confidentiality would be observed. Similar information-sharing and fund-raising efforts have occurred elsewhere.

Other initiatives to address past human rights violations include building memorials to the victims and various compensation or 'reparations' plans. In places like Rwanda and Cambodia, several monuments have been erected to those killed, tortured or raped during the 1994 genocide and the 1975-1979 Khmer Rouge period respectively. Providing monetary 'reparations', while it can never bring back the beloved one who was killed, is another human rights instrument which provides a concrete sign of the state's responsibility for the violation and to the victim or the victim's family thereafter.

Underlying the creation of tribunals and truth commissions, there are two important issues that may complicate the effectiveness of these human rights instruments. Firstly, the relationship between truth commissions and legal proceedings is quite complex and has created strong obstacles in some cases. Important questions of overlapping jurisdiction, use of testimony, immunities and amnesties, witness protection and contamination of evidence have emerged as particularly vexing problems. Some countries have rejected the idea of a truth commission. The government in Rwanda, for example, has noted that truth commissions are often created to shed light on a murky past. The Rwandan government claims that everyone knows who was responsible for the 1994 genocide and that therefore there is no need for a Rwandan truth commission. Rather, they argue, criminal prosecutions are the order of the day. Secondly, another crucial issue overhanging the entire question of facing past human rights violations is amnesty. Much has been written, mostly by international lawyers, on the question to what extent amnesties are permissible under international law. For our purposes, the UN's recent position in a memorandum to SRSGs stationed around the world provides the essential information. The UN instructs its SRSGs that amnesties are permissible as long as they do not cover genocide, crimes against humanity and/or war crimes. Lesser offences may be forgiven as part of the negotiations in a peace process or in its aftermath, the implementation of an agreement. The most striking application of the UN's position was at Lomé in 1998 when the UN's chief negotiator in the Sierra Leone peace talks refused to endorse that part of the agreement between the government and the rebels that called for an amnesty covering war crimes and crimes against humanity. The outbreak of hostilities and the horrific crimes committed only a few months later unfortunately reinforced the soundness of the UN's position.

### 2.2.6. Assistance to Civil Society Organizations

Finally, there is another crucial leg to the rule of law which has been overlooked many times. This concerns the vital role of civil society, especially non-governmental organizations (NGOs), grass-roots community groups and women's and children's organizations. Without their support and understanding, the legal system, police and prisons will not function properly. As was indicated above, building the rule of law requires much more than technical fixes to the laws or court administration and are not only a question of how police and prison guards should be trained. The concerned public must be consulted, involved and listened to in all these endeavours. Without popular support, cooperation and participation, efforts to build national institutions that protect and promote human rights will collapse as soon as the international community leaves. In order to strengthen domestic non-governmental human rights organizations, international assistance has normally included human rights training, support for awareness-raising activities, and direct financial assistance for institutional capacity-building.

As with the police, judges, prison wardens and prosecutors, international assistance have typically made training local human rights advocates a priority. The core of such training activities is usually formed by workshops on basic international and national human rights laws, techniques of monitoring -including how to interview, write reports and how to visit a prison-, negotiation, mediation, conflict resolution, and lobbying with local officials. 'Train the trainer' seminars are another component of human rights training in order to guarantee that local partners can deliver as much of the training as soon as possible. Human rights missions in Kosovo, East Timor, Rwanda, Bosnia, Haiti and Guatemala have all included such specialized training sessions for local community leaders, journalists, teachers, farmers, women, children and health care professionals.

The second major component of civil society assistance deals with raising people's awareness on human rights issues. Here, the international community has supported a broad range of radio talk-shows, plays, artistic contests, drawings and other 'unconventional' human rights related activities. The advantage of these initiatives is that they are more adapted to the needs of the host society. In Rwanda e.g. most people are illiterate and do not understand French. There, radio in particular has established a core connection with civil society in places where both communications and transport are difficult. Also in other post-conflict contexts, call-in shows, roundtable debates and radio plays on human rights have effectively assisted the effort to instil human rights in all sections of societies. Most importantly, these initiatives draw on local talent and are relatively cheap, thus increasing the likelihood that they can be sustained once international assistance declines as it inevitably does. In spite of these locally-adapted civil society initiatives, it has to be realized, however, that sensitive cultural issues can complicate human rights work. The tension between respecting local practices and beliefs and the requirement to uphold international standards as embodied in binding international legal texts can present acute dilemmas to assistance providers. The question of female genital mutilation in Sierra Leone, for example, frequently stymied human rights workers. The same issue also arose in the horn of Africa and parts of the Middle East. The best strategy employed so far has seen local leaders, especially women and religious elders who oppose the practice, take the forefront while internationals stay in the background to provide advice and support. In Sierra Leone, it finally was a Muslim imam who led a campaign in his region to educate everyone on the public health dangers of the practice, its complete absence in religious texts and the need to move into the modern

era. Such an approach inevitably is preferable to foreigners preaching about the need to abolish 'old-fashioned and evil' practices.

Finally, the international community has provided direct financial support to emerging and existing prominent human rights NGOs. As international human rights assistance will only last for a limited time, it is crucial that leaving behind strong, vibrant and effective NGOs and other types of civil society groups be a priority. Paying for overhead, logistical and other operating costs while advising NGO managers on income diversification strategies, donors have in some cases not only helped domestic human rights organizations to survive, but to strengthen their institutional capacities as well. However, it is fair to say that this has not always worked. Due to the nature of their activities and lack of attention to sustainability issues, many human rights NGOs in post-conflict societies remain highly dependent on donor assistance and will likely remain so for a long time. A key test for assessing whether a human rights program has succeeded in a post-conflict situation would be to ask whether non-governmental institutions charged with promoting, monitoring and protecting human rights are stronger now than before international assistance started.

## 3. Country Experiences

### 3.1. Kosovo

#### 3.1.1. Post-conflict Context

While the systematic repression and ethnic cleansing by the Milosevic regime ended with the arrival of NATO forces and the UN administration in 1999, Kosovo continued to be battered by human rights abuses. Now it was the turn of Albanian extremists to wreak horror on Serbs, Roma, Slavic Muslims, Turks and even Albanians who did not share their extreme radical agenda which basically called for an ‘ethnically pure’ Albanian state. Between 1999-2000, killings, disappearances, setting houses on fire, torture in secret police stations, ominous warnings sent to anyone deemed too ‘friendly’ to Serbs or other ethnic minorities were everyday occurrences. The police and judiciary, previously key arms of the Serb regime’s repression, had to be built from scratch in an atmosphere of intense ethnic polarization. The role of regional criminal networks also exacerbated the human rights challenges. Trafficking in women soon became a huge problem, as was the drug trade and smuggling in general; these activities attacked the very notion of the rule of law and respect for human rights.

Responding to these adverse conditions in early 1999, the Security Council approved Resolution 1244, which created the UN Interim Administration Mission in Kosovo (UNMIK). This resolution required that UNMIK should provide ‘transitional administration for the people of Kosovo’ and ‘oversee the development of provisional democratic and self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo’. In addition, UNMIK was also charged with ‘maintaining law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo’ and with ‘protecting and promoting human rights’.<sup>11</sup> Finally, UNMIK’s international civilian presence would also provide basic administrative services for as long as necessary. It was envisaged that the UN would transfer administrative responsibility to local institutions whenever these were ready to function.

#### 3.1.2. Problems with Providing Assistance

Despite the huge funds made available for UNMIK and the international commitment towards rebuilding Kosovo, there were a number of problems related to the provision of assistance. This was mainly the result of international donors seriously misreading the security situation in post-war Kosovo. While the Albanians had suffered enormously under Milosevic, the extremists among them suddenly became the perpetrators of gross human rights violations. Meanwhile, the Serbs, whose leaders had inflicted great harm, became just as suddenly the victims along with Roma, Turks and Slavic Muslims. The slowness in understanding the new dynamics of the human rights situation

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<sup>11</sup> UNSC Resolution 1244, adopted on 10 June 1999. See also: <http://www.unmikonline.org/>



resulted in a pro-Albanian bias in human rights assistance, that had a huge and negative impact on the major human rights challenges. This failure by the international community continues to reverberate in Kosovo today and is particularly visible in the areas of judicial, police and prison reform.

Firstly, UNMIK was not prepared to deal with the judicial vacuum. Trained personnel, sufficient equipment and an adequate international strategy were lacking. An ad hoc and reactive approach responding to the latest emergency became the international operating mode. On June 28, 1999 the acting SRSG, Bernard Kouchner, issued UNMIK's first regulation creating the Joint Advisory Council on Provisional Judicial Appointments (JAC/PJA) to identify and recommend candidates to be appointed as judges and prosecutors.<sup>12</sup> Working quickly, with little chance to vet candidates thoroughly, the JAC recommended 55 judges and prosecutors during July-October. However, three problems soon became clear. First, Kosovo Serbs found it difficult and dangerous to serve. Their freedom of movement was so circumscribed that they could hardly move without armed KFOR escort. Some Serbs felt intimidated by Serbian extremists who accused them of collaborating with the UN and the now Albanian-dominated judiciary. Although the Belgrade government made its unhappiness known, it made little difference. As a result, all seven Serb judges and prosecutors who had been recruited by the JAC soon resigned or fled. A virtually mono-ethnic Albanian judiciary emerged. This not only damaged the legal system's credibility, but also convinced minorities that they could not get a fair hearing. A second problem was that the Albanians chosen had not worked in the judiciary for at least ten years. Whether through boycott or expulsion, they had lost 10 years of professional growth and experience and some were simply poorly qualified to work in such a charged and stressful atmosphere. One experienced Kosovo Albanian lawyer with extensive international experience noted: 'Some good judges have been appointed, but they are people coming out of a totalitarian system. This is like a diver coming from the deep sea to the surface too quickly; he gulps oxygen but his brain doesn't function normally'. Thirdly, the complete absence of the basic materials and equipment made it difficult for everyone in the judicial sector, regardless of ethnicity. Cars, typewriters, case files, pens, paper, phones, copiers: everything was missing. Yet the UN had not anticipated this need and there was little in the budget to get the system started. The European Union moved at glacial speed and demanded observance of bureaucratic steps that might make sense in Brussels but had no place in a post-conflict situation like Kosovo. Neither UNMIK nor any international donor conducted a 'needs assessment' of the judiciary. Therefore, no one developed a strategy for legal reform, and this showed.

The second major area, where problems emerged, concerned the police. Here, the OSCE, UNMIK's pillar in charge of institution-building, had the responsibility for the creation of a new police force for Kosovo. It undertook the task with gusto, taking over the site of the former police academy in Vucitrn, a city just south of Mitrovica that suffered much destruction at the hands of Serb forces. Rehabilitation work began in July 1999 and the school welcomed its first class in early September. The OSCE recruited police trainers from its member-states to staff the school, several of whom had worked in Haiti before to help create the police training centre there. The problem started when the OSCE aggressively began to seek minority applicants. Recruiters visited minority enclaves and urged eligible candidates to apply. The selection criteria included a minimum age of 21, at least a secondary school education, resident of Kosovo, physically and mentally fit and no criminal history. The screening process was rigorous and comprised an oral interview, written exam, psychological test,

medical exam, physical agility test and a background investigation.<sup>13</sup> In a few cases, minority group members complained that they did not receive applications in time. In another case Albanian employees of UNMIK were suspected of dumping applications from minority members so that they were never considered. The OSCE took such accusations seriously and intensified its outreach efforts and security for minority applicants. However, some minority candidates, especially Serbs, faced pressure from extremists not to join the Kosovo Police School (KPS). The Serb hard-liners asserted that Serbs should not ‘collaborate’ with the UN or Albanians. Some minorities genuinely were afraid to travel and then live in Vucitrn, a town now almost completely Albanian. In several of the first few classes, only about one-half of the minorities, who were accepted in the KPS, actually appeared. In addition, the School had to conduct separate graduation ceremonies since it would be too dangerous for the Serbs, other minorities and their families to come to Pristina for the main ceremony. Likewise, it was dangerous for Albanian KPS to enter Serb enclaves. Even nowadays, KFOR troops provide armed escorts for Serbs to come for their training and to take them home at the end of the nine-week basic course. Another problem related to police reform were the confusing messages sent by some donors on appropriate policing tactics. Some international contributors promoted their own police traditions that are highly centralized and verge on the militaristic. Others emphasized local police control and tactics that are highly interactive with the population (‘community policing’). When the international community could not agree on what type of policing it wanted to create in Kosovo, this caused consternation among both the KPS trainees and the population. This was true not only at the police academy but also in the field mentoring stage when CIVPOL officials from over 50 countries sometimes magnified the confusion.

Finally, problems have surfaced in the area of prison administration. The major problem thus far has been prison escapes, especially from Mitrovica. The prison there is located in the northern, Serbian part of town. This is where Serb detainees are held, along with the US military base in Camp Bondsteel. In late August 2000, 14 Serb detainees escaped, the second largest escape within months. Many of these 14 had been indicted for war crimes. Their escape rocked UNMIK and caused deep concern among Albanians about the seriousness of the UN’s effort to mount an effective rule of law system. Serbs in the Mitrovica jail also went on several hunger strikes to protest their lengthy pre-indictment detention and what they perceived as bias in the judiciary.

Despite these problems, the international community’s human rights assistance through UNMIK’s is considered relatively successful and has made some huge impacts.

### 3.1.3. *Impact*

UNMIK’s greatest success in the judicial reform area was its response to the absence of the basic materials necessary for a court system to work. UNMIK’s Administrative Department of Justice (ADJ) finally in late 2000 managed to take a complete inventory of the courts and prosecutors’ offices and

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<sup>12</sup> UNMIK Emergency Decree No. 1999/1 (28<sup>th</sup> June 1999) and UNMIK Emergency Decree No. 1999/2 (28<sup>th</sup> June 1999) created the legal basis for JAC/PJA and the appointment of its members, comprising three internationals, four locals - two Albanian, one Serb and one Bosniac.

<sup>13</sup> The background check and the written exam caused most of the rejections. Interview with Steve Bennett, Director, Kosovo Police School. Vucitrn, September 22, 2000.

identify the needs.<sup>14</sup> As the ADJ had limited resources of its own, it had to scramble to find donors who were willing to support its efforts to equip the judiciary. The US Department of State was particularly helpful, donating USD 2.5 million worth of computers, printers, vehicles, typewriters and photocopiers. In addition, thirty buildings were rehabilitated, largely thanks to funds from the UK. UNMIK/OSCE also created a Defence Lawyers Centre where lawyers are trained in how to provide a vigorous defence; something new in Kosovo legal practice. Early training largely consisted of lectures by European academic lawyers who, unfortunately, had little relevant practical experience. As these activities were largely considered useless, they were stopped after the first year. More pragmatic training now occurs in the bar associations. Also, the OSCE legal unit has provided its own staff to teach human rights and humanitarian law at Kosovo law schools. This effort to reach the next generation of legal practitioners reinforces a broader aspiration among Kosovo's youth to break with the past. While UNMIK has accomplished a great deal in a short amount of time with minimal resources and planning to get a court system going, two key and related problems persist and inhibit efforts to create the rule of law. Firstly, security for all those working in the system is precarious, especially for the few minority participants. Second, the instances of bias and intimidation, combined with a lack of knowledge or will to impose certain human rights guarantees, has led to flawed judicial proceedings and unjust results.

On the police side, each KPS class of roughly 300 has averaged 17% minorities, a phenomenal achievement. About 5,000 KPS have been recruited, trained and deployed in about three years, another remarkable achievement by any measure. Collegiality and cooperation are the dominant ethos of the school. Moreover, classes are not segregated by ethnicity, which means that presentations are given in English and then translated into Albanian and Serbian. The disadvantage is that the already short nine week basic training is effectively further truncated by time taken for interpretation. The advantage is that an *esprit de corps* and cross-ethnic cooperation is cemented: cadets live, eat, learn and play together. The mission of serving all citizens regardless of ethnicity as KPS officers soon predominates. The KPS has also made historic strides for Kosovo and the Balkans by making the recruitment of women a high priority. KPS classes have averaged 18% women, an unheard of level for the police. Many of the best performers in each class have been women. Not only has the presence of a critical mass of women 'lowered the testosterone level', according to several instructors, but it has also helped address the question of domestic violence in the KPS school; an issue long explained away as 'cultural' or swept under the rug. More specifically, this has also led to a special three-day Pristina workshop on domestic violence in early December 2000, with participants from KPS, KFOR, CIVPOL, the local judiciary and NGOs.

Finally, as regards the penal system, a number of examples stand out. On November 30, 1999 UNMIK's Civil Administration component took over responsibility for the prison in Prizren. This became the first one to shift from KFOR to civilian control. The Kosovo Correctional Service (KCS), part of the Interim Administrative Department of Justice, also began operating that day and will ultimately run all penal institutions. Although in the beginning the recruitment of personnel faced the usual difficulties of low salaries and a shortage of qualified candidates, 120 Kosovars received specialized training at the Kosovo Police School by the end of 1999. Only one year later, about 600 more had been trained and were employed by the KCS. International assistance has also allowed the

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<sup>14</sup> Kosovo has a Supreme Court, five district courts (Pristina, Mitrovica, Gnjilane, Prizren and Pec), 22 municipal courts, one commercial court (Pristina), one High Court of Minor Offences (Pristina), 22 minor offences courts

main prison in the Dubrava territory to undergo substantial rebuilding. The Dubrava facility will be Kosovo's major prison for convicted criminals, with an ultimate capacity for 520 prisoners. Another prison, Lipjlan Detention Facility, is also undergoing rehabilitation and will be used for women and juvenile offenders. With a capacity of 46 persons, it will also handle any overflow from other centres. Despite these positive results, one major concern remains the lack of a facility for prisoners requiring mental health care. The current facility at Stimle is widely regarded as 'medieval', with physically handicapped and normal healthy children mixed in with the mentally ill and people wandering the grounds unsupervised and ill-clothed. Despite heroic efforts by a team of nurses and mental health specialist from the Norwegian Red Cross, few programs or any treatment is provided to the Stimle facility population. However, on a positive note as one Red Cross worker remarked, it is still the only place in Kosovo where Albanians are caring for Serbs and Roma.

### 3.2. Haiti

#### 3.2.1. Post-conflict Context

The human rights situation in Haiti between 1991-94 was a nightmare. Executions, disappearances, torture, illegal arrests and arbitrary detentions characterized life under military rule. Rape, which had previously not been used as a means to torture and humiliate, soon became widespread as the women, who supported President Aristide or who were related to men who did, were targeted. The police were part of the army and thus had no competence or even interest in protecting the population or solving crimes; they were an essential part of the authoritarian state. The military also controlled the courts also and prisons were torture chambers. In addition, the freedoms of expression, assembly and association were denied and thousands tried to flee the country in rickety boats for a perilous sea crossing to Florida. There, the US Coast Guard forcibly returned any Haitian they could stop. Finally, Haiti's crushing poverty in itself constituted a flagrant violation of fundamental economic, social and cultural rights.

International human rights assistance to Haiti took the form of the International Civilian Mission in Haiti (MICIVIH) which operated from 1993 to 2001. Arising out of the efforts to broker an agreement between the military and the deposed President John-Bertrand Aristide, MICIVIH was the first human rights assistance mission to be jointly sponsored by the UN and a regional group, in this case the Organization of American States (OAS). The mission's terms of reference was to 'obtain information on the human rights situation in Haiti and to make any appropriate recommendations to promote and protect human rights (...); to pay special attention to respect for the right to life, personal safety and security, freedom of expression and association'.<sup>15</sup> MICIVIH also conducted capacity-building initiatives benefiting local governmental institutions and civil society, and tried to improve human rights awareness. Bilateral donors supported the work of MICIVIH by contributing funding to the UN and OAS budgets but had few human rights assistance programs of their own in the country.

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and 13 Offices of the Public Prosecutor.

<sup>15</sup> For MICIVIH's mandate and activities see: <http://www.un.org/rights/micivih/first.htm>

### 3.2.2. Problems with Providing Assistance

Although Haiti was and still remains one of the poorest countries in the western hemisphere, MICIVIH had no mandate to work on economic, social and cultural rights. This posed certain problems in providing human rights assistance, with Haitians quite rightly questioning the international community's priorities. Moreover, the terms of reference of the international mission did not mention the importance of working with Haitian groups, especially local human rights and civic organizations. Some Haitian human rights advocates believed that MICIVIH had come to replace them. This helps to explain why, at the outset of the mission, there were serious misunderstandings and lack of trust between MICIVIH and what should have been its most natural and crucial local partners.

A second problem related to MICIVIH concerns the complete lack of local institutional infrastructure and the subsequent tendency of donors to 'take over' the country. Haiti has been called by some the 'phantom state' where Ministries are devoid of any activity. A Haitian peasant normally laughs when asked about the last time someone from the Ministry of Agriculture visited the area; this in a country that is still overwhelmingly agrarian. Moreover, the justice sector was also in shambles, with judges barely able to read and write in some cases. Most of them had been appointed because they were close to the Duvalier dictatorship or had simply purchased their jobs.<sup>16</sup> In addition, the police had always been part of the army so there was no tradition or culture of 'democratic policing'. The prisons were considered hell on earth, without clean water, medical facilities or regular feeding. Assistance providers thus faced a situation where there were huge and urgent priorities yet minimal 'absorptive capacity' on the part of local institutions. This was exacerbated for quite some time by the minimal political will to change things. Therefore, the temptation for especially MICIVIH staff to 'do it for them' was enormous. This was also compounded by abysmal donor coordination. Particularly the U.S. tried to dominate the scene, especially in the area of judicial reform where it had actually no expertise to offer.

### 3.2.3. Impact

Despite these serious problems, the international community's presence did have some major, sometimes positive, impacts. Firstly, for the first time in Haitian history, international observers were watching and reporting on the Haitian military's treatment of the population. In addition, judges and lawyers were assessed on whether they were upholding Haitian law while police behaviour was being observed and scrutinized. Armed with broad terms of reference, MICIVIH's human rights observers roamed all over Haiti seeking information on the human rights situation. For example, human rights observers visited Haitian prisons and detention centres. Once inside, MICIVIH personnel would check the prison register. In many cases, however, it turned out that no prison register was kept, meaning that no one -not even the head of the prison- could tell the exact number of prisoners or their names. In such cases, observers supplied the prison with a notebook and pens and showed local officers how to maintain the register. On follow-up visits, the MICIVIH field officers would check the register to see whether it was accurate. Such inspections and the overall human rights monitoring was a complicated job since the military still 'ruled' Haiti and barely tolerated the mission's presence.

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<sup>16</sup> See O'Neill (1990) for an analysis of the Haitian justice system.

MICIVIH also created a Haitian Legal Aid network. With donor financing, the MICIVIH Legal Department identified Haitian lawyers willing to take cases referred to them by the Mission. MICIVIH paid these lawyers a fee for representing torture victims and other persons detained illegally. This was a potentially life-threatening job. Yet some brave Haitian lawyers went to court and argued, for the first time in Haitian history, that the military was acting illegally. With international support, these lawyers secured the release of numerous people. They also made Haitian judges apply the law and thus improved the functioning of the judicial system. In addition, MICIVIH field officers observed court hearings, which exerted pressure on the judiciary to do its job correctly. This also protected the judges from subsequent criticism or worse by the military, who were unhappy with this sudden concern for applying the law.

MICIVIH was also active in areas beyond monitoring, investigating and reporting. Field officers conducted human rights training sessions for local community leaders, journalists and human rights NGOs. They distributed human rights materials, helped launch a national human rights awareness campaign and created short announcements in Creole for radio broadcasts. Moreover, the observers developed good working relations with priests, nuns, journalists, community organizers and school teachers, and frequently held meetings with them to discuss how MICIVIH could help them and how best to promote human rights in Haiti. In other cases, international observers sometimes walked for hours over Haiti's mountainous trails to meet people whom the Haitian authorities -except for the military and the police- had ignored for decades.

This strategy of constant presence, follow-up and intervention that was part of MICIVIH is the hallmark of human rights assistance via a field operation. International human rights NGOs, the UN's own special rapporteurs and others usually visit a particular country for several days or a few weeks at most each year. While valuable and important, these limited visits cannot have the same impact as an ongoing presence spread out over an entire country. By showing up every day in court, by continually meeting with local government authorities, by returning to the same prisons, court-rooms and police stations each week, by offering on-going training to judges, prosecutors, police and local human rights advocates, MICIVIH helped secure improved observance of human rights in Haiti.

## 4. Recommendations

International donors should not underestimate the difficulty of the international human rights assistance. Reforming key institutions and building respect for the rule of law in post-conflict societies that have little or no experience in democratic governance or respecting human rights, and who have just emerged from a period where the most horrific violations have occurred, requires perseverance, patience and lots of money. Most importantly, however, it requires humility on the part of the internationals. We cannot remake societies overnight and according to our priorities and our schedules. Therefore, patience, modesty and flexibility are as important as the size of the grants.

Many lessons have already been identified in the preceding discussion and analysis of how human rights assistance can best help some of the key national institutions better protect human rights. The real challenge remains to apply these lessons in practice. In post-conflict societies, everything can seem to be an urgent priority. Therefore, it takes careful planning, most importantly with local interlocutors and proven country experts, to design an appropriate strategy for promoting and protecting rights. Some of the elements that should feature in such a strategy are listed below:

### *Assess Local Needs Regularly and Measure Impact*

There is an intimate connection between monitoring and strengthening the capacity of local institutions to protect human rights. While human rights field officers must constantly monitor human rights conditions and interact with the local population, this monitoring is not only to amass evidence for reports to denounce those responsible. Sound monitoring is also necessary to understand the strengths and weaknesses of the judiciary, police, prisons ombudsperson's office and other institutions, so that assistance programs are based on a thorough understanding of actual practice. Efforts to reform the institutions are doomed to failure unless they are based on an honest assessment of their strengths and weaknesses. Monitoring also provides useful feedback on the effectiveness of assistance programs, primarily whether they are making a difference in the enjoyment of human rights. As 'one cannot improve what one cannot measure', international human rights assistance programs must identify certain key measures of their work to gauge performance and assess whether they are having any impact.

### *Supporting Small 'Trivialities' May Lead to Big Results*

Despite the necessity of overall reform policies in the judicial, police and prison sector, more mundane material needs should not be overlooked. Without proper infrastructure, the judiciary, police and prisons are unable to function effectively. In addition, the lack of adequate resources (especially salaries) will make police officers, judges and prison officials more receptive to corruption, bribery and nepotism, risking the fragile faith local people have in the reformed rule of law sector. In other cases, it is public servants in various domains -housing, education, building inspections, court clerks, licensing, registration of births, marriages and deaths- who through either corruption, outside pressure or intimidation, can have an enormous impact on the enjoyment of human rights through their administrative or bureaucratic decisions. That is why smaller projects addressing corruption and good

governance should also be seen as directly related to the more conventional human rights assistance work. Similarly, human rights donors should be aware that the biggest results can often be achieved in low-profile activities. For example, most ordinary people's contacts with the judiciary are at the lowest level courts and it is here that they must see that changes are occurring. Therefore, the lower courts should not be overlooked at the expense of the higher profile cases, tribunals and/or other sensational past violations. Therefore, donors, the UN and the host government should agree on a balanced overall reform strategy, specifying priorities, sequencing, benchmarks, indicators, evaluation mechanisms, responsibilities and deadlines. Without visible and concrete follow-up activities to planning and coordination plans, the impact of international assistance on the domestic human rights situation will prove minimal.

#### *Training Should be Joint and Practical*

Passive learning and long lectures need to be avoided. Instead, all training, for the judiciary, police, NGOs, legislators, etcetera, should be extremely practical and use pedagogical tools that involve active learning, participation, role-plays, simulations, problem solving and small-group exercises. International human rights operations in the previous decade have shown that this is not only the best way for adults to learn, but is also most effective in terms of impact. Whenever possible, classroom or academy training should be followed by active mentoring in the field. 'On-the-job' training both reinforces what was learned and allows feedback from the field to the training centres on what needs reinforcement or if new issues have emerged. This is true for the judiciary, police and corrections. Finally, joint training among the judiciary, penal administration, the police and human rights specialists should be encouraged so that each sees more clearly the various roles all have to play and a sense of teamwork and shared responsibility may develop.

#### *Establish Effective Working Relations with Local Human Rights Actors*

International assistance should from the outset forge strong, working relations with local NGOs and other civil society actors. Information, where security allows, should be shared; strategizing, planning and implementation should involve local human rights advocates early and in a meaningful way and not just as window-dressing. In addition, public information explaining the importance of the population's participation in, for example, judicial reform are vital. Broad and national information campaigns should also explain the role of the new or reformed police in a democracy. Likewise, regular meetings should be held between the police and community organizations on police performance, duties, behaviour and complaint procedures. Rule of law reform cannot be or seen to be as merely a technical exercise. Timely information and raising awareness will also help manage popular expectations since judicial, police and prison reform is a long-term and often slow process.

#### *Foster Ownership*

All donors should ask whether their assistance will achieve the following goal: to impart skills, knowledge and tools so that local institutions and individuals can carry on reporting, monitoring and capacity-building without the further help of international experts. In order to achieve locally sustainable human rights institutions and maximum 'ownership' of the reform processes, locals should implement projects themselves wherever possible. For example, 'train-the-trainers' activities should become instinctive, as using local trainers who speak the local language(s) not only saves time and money, but has a bigger positive impact. In the same way, human rights assistance has to be innovative in reaching the local public. This means taking advantage of local cultural practices and



popular entertainment such as local theatre groups and radio programs to spread the message and encourage discussion. Finally, it is important to remember that internationals can indeed offer assistance by outlining options, and providing information about what other countries in similar circumstances have done regarding prosecutions, truth-seeking endeavours, reparations and apologies. However, in the end it is for the society itself to decide what is the best approach to address past human rights violations. Therefore, the operating principle for all international human rights initiatives should always be ‘reinforce, not replace’.

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## Key Web-sites

### *Aspen Institute*

The Aspen Institute is an international non-profit organization dedicated to informed dialogue and inquiry on issues of global concern. Founded in 1950, it has pursued its mission of fostering enlightened leadership through seminars, policy studies and fellowship programs. See: <http://www.aspeninst.org/>

### *Amnesty International (AI)*

Amnesty International (AI) is a worldwide movement of people who campaign for internationally recognized human rights. See: <http://www.amnesty.org/>

### *Human Rights Watch (HRW)*

Human Rights Watch is the largest human rights organization based in the United States. Human Rights Watch researchers conduct fact-finding investigations into human rights abuses in all regions of the world. Human Rights Watch then publishes those findings in dozens of books and reports every year, generating extensive coverage in local and international media. See: <http://www.hrw.org/>

### *Humanitarianism and War Project (HWP)*

The HWP reviews the experience of the international community in responding to complex emergencies around the world during the post-Cold War period. It examines the interplay between humanitarian action and political-military forces. Relying primarily on the data gathered from interviews with those involved in crises, it frames recommendations to improve the functioning of the world's humanitarian system. It disseminates these widely for discussion by practitioners, policymakers, and academics. The HWP is a joint project by the Watson Institute and Tufts University. See: <http://hwproject.tufts.edu>

### *International Center for Transitional Justice (ICTJ)*

The ICTJ assists countries pursuing accountability for mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. It provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments and others. The ICTJ assists in the development of strategies for transitional justice comprising five key elements: prosecuting perpetrators, documenting violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and advancing reconciliation. See: <http://www.ictj.org/>

### *International Committee of the Red Cross (ICRC)*

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of

war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement. See: <http://www.icrc.org/>

*International Council on Human Rights Policy (ICHRP)*

The International Council on Human Rights Policy conducts applied policy research on issues that face organizations working in the field of human rights. See: <http://www.ichrp.org/>

*Lawyers Committee for Human Rights (LCHR)*

The LCHR has worked in the U.S. and abroad to support human rights activists who fight for basic freedoms and peaceful change at the local level; protect refugees in flight from persecution and repression; promote fair economic practices by creating safeguards for workers' rights; and help build a strong international system of justice and accountability for the worst human rights crimes. See: <http://www.lchr.org/>

*University of Minnesota Human Rights Library*

See: <http://www.umn.edu/humanrts>

*United Nations High Commissioner for Human Rights (UNHCHR)*

See: <http://www.unhchr.ch/>

*UN/OAS Human Rights Mission in Haiti (MICIVIH)*

The International Civilian Mission in Haiti was created in February 1993, during the coup d'état, at the request of President Aristide, to observe the human rights situation in Haiti. It is the first joint mission between the United Nations (UN) and a regional organization, the Organization of American States (OAS). See: <http://www.un.org/rights/micivih/>

*UN Interim Administration Mission in Kosovo (UNMIK)*

See: <http://www.unmikonline.org/>

*UN Mission in Guatemala (MINUGUA)*

See: <http://www.minugua.guate.net/>

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William G. O'Neill is an expert on international (humanitarian, human rights and refugee) law with an extensive working experience in post-conflict countries. Apart from being a consultant to the Humanitarianism and War Project at Brown University, the Norwegian Institute for Human Rights, the International Peace Academy, the Aspen Institute and the Pearson Peacekeeping Centre, O'Neill has also been a consultant for, among others, the Lawyers Committee for Human Rights, the Swiss Ministry of Foreign Affairs and the Organization for Security and Cooperation in Europe (OSCE) in Bosnia-Herzegovina and Macedonia. In addition, William O'Neill was the Director of the Legal Department of the UN/OAS International Civilian Mission in Haiti (MICIVIH), Chief of Mission of the UN Human Rights Field Operation in Rwanda as well as Senior Advisor on Human Rights to the SRSG of the UN Interim Administration Mission in Kosovo (UNMIK). Currently, he is an independent consultant for the UN Department of Peacekeeping Operations (DPKO), the UN High Commissioner for Human Rights (UNHCHR), the International Center for Transitional Justice and the Brookings Institution. His most recent publication is *Kosovo: An Unfinished Peace* (Lynne Rienner Publishers, 2002).