

From Project to Program:

Effective Programming for Security and Justice

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KEY MESSAGES

- Effective engagement in fragile/post-conflict and fragile/rebuilding environments is best measured by a change in the quality and level of justice and security delivered to citizens and residents.
- Effective security and justice programming can be achieved by an iterative approach that develops and strengthens the relationship between service providers (state and non-state) and the users of those services. Effective programming simultaneously seeks to deliver improved services while strengthening governance, organizational structures and systems at the local, provincial and national levels, activities that address different needs and time horizons.
- Effective programming will be promoted when
 - There is a political decision to engage in a country over the long term.
 - There is an understanding of the varying political dimensions and contexts in which engagement is to take place.
 - Expectations are kept modest and goals are prioritised.
 - Differences and similarities between fragile/post-conflict and fragile/rebuilding states are clear.
- Experience suggests that effective programming is best developed when donors provide support in three linked stages that enable immediate needs to be met while longer-term programming is developed: 1) pre-inception phase; 2) inception phase; and 3) longer-term programming. Donors should try to ensure that whatever activities are supported on an urgent basis do not negatively affect inception phase programming and, therefore, long-term activities.
- Responding both to immediate security and justice requirements and the development and implementation of a long-term strategic programme for justice and security development may require donors to rethink how to conduct their support activities with regard to timelines, funding mechanisms, programme management, and the expertise required of national donor personnel.
 - It could take up to four years to initiate a full-fledged SSR program in a post-conflict environment if there is a UN peace operation *in situ*. In a fragile/rebuilding state scenario, the time frame may be about half of that.
 - Effective programming may necessitate donors locating increasing numbers of their personnel in the field.
 - It may also require investing in staff development.
- To conduct effective programming the expertise required of donor personnel may necessitate an increased emphasis on a broad range of political and negotiation skills, including :
 - Knowledge of the particular political characteristics relating to fragile and post-conflict states.
 - Customary tensions and dynamics existing within a developing justice and security sector.

- How to work productively with national political partners despite their unsavory records.
- Risk taking.

Of key importance may be the skill and ability to keep competing parties and actors at the negotiating table, even if their differences appear to be seemingly irreconcilable. These skills are, often, more important than narrowly defined technical or substantive justice and security expertise.

I. INTRODUCTION

1. The Netherlands Ministry of Foreign Affairs commissioned this report, as a step, toward helping make Dutch engagement in supporting justice and security service delivery more effective. This report draws on the lessons of earlier and/or ongoing security system reform (SSR) engagements. Based on Dutch priorities, this report will focus on fragile/post-conflict and fragile/rebuilding states.

2. This paper discusses four factors that underpin the environment for effective programming in fragile/post-conflict and fragile/rebuilding countries (section II). It then suggests how to operationalise an approach that coordinates and blends the need to respond to immediate justice and security needs with designing and implementing a long-term strategic programme for SSR development (sections III-VI). This multi-layered approach recognizes the necessity of and suggests ways of supporting both state and non-state justice and security providers, while recognizing their different time horizons. The paper concludes by discussing some of the management requirements of such an approach (section VII).

3. Justice and security development is a highly political endeavour that requires changes and transformations in service delivery, organizational structures, and institutional arrangements that produce sustainable improvements in performance. Because SSR seeks to produce sustainable changes in the delivery of public goods and services, this report uses the term justice and security 'development' rather than justice and security 'reform,' whenever possible. This choice of terminology emphasizes first, the need for long-term donor commitment to gradual and steady improvement, just like any other development programme, and, second, the profound political implications of donor assistance, including that the term 'reform' has implicitly negative connotations, which 'development' does not.

II. ENHANCING THE ENVIRONMENT FOR EFFECTIVE PROGRAMMING

4. Experience suggests that justice and security development in fragile/post-conflict and fragile/rebuilding environments is most effective when:

- There is a political decision to engage in a country over the long term.
- There is an understanding of the varying political dimensions and contexts in which engagement is to take place.
- Expectations are kept modest and goals are prioritised.
- Differences and similarities between fragile/post-conflict and fragile/rebuilding states are clear.

II-1. Long-term engagement

5. Justice and security development is, by its very nature, a long-term endeavour. As with other highly political undertakings that involve significant institutional transformation in fragile states, it takes time to build a constituency for and the capacity to plan and carry out change (Box 1). This does not mean, however, that immediate justice and security needs are left unaddressed during the interim. Rather experience suggests it is desirable to adopt an iterative method of blending and integrating varying justice and security needs and perspectives.

Box 1. Act fast ... but stay engaged longer

'Act Fast... Assistance to fragile states needs to be capable of flexibility at short notice to take advantage of windows of opportunity and respond to changing conditions on the ground.'

'...but stay engaged long enough to give success a chance. Given low capacity and the extent of the challenges facing fragile states, investments in development, diplomatic and security engagement may need to be of longer-duration than in other low-income countries: capacity development in core institutions will normally require an engagement of ten years...'

Source: Organisation for Economic Co-operation and Development, Development Assistance Committee, [*Principles for Good International Engagement in Fragile States & Situations*](#), Paris, 7 April 2005.

6. Effective engagement is best measured by a change in the quality and level of justice and security delivered to citizens and residents. While no donor government will commit at the outset to provide funding over the full life cycle of a development process – which may continue for 7-10 years – effective programming will benefit from having a political decision to engage in a country over the long term. Decisions on the nature of that engagement and the amount of funding to be provided can be taken progressively over a period of years (Box 2).

Box 2. UK Long-Term Engagement in Sierra Leone

In 2002, the UK and Sierra Leone signed a 10-year Memorandum of Understanding (MOU) covering a wide range of development-related activities, including security sector reform. While it is unlikely that any sub-Saharan African country would receive such extensive support in the future, particularly for SSR, the MOU set out very clearly the benchmarks that both governments committed themselves to achieve and, then, linked disbursement of funds to these benchmarks. The benchmarks are revised annually by agreement of both governments.

In 2003, SSR benchmarks for the UK included:

- a) A decision on a comprehensive programme of support to the justice sector reached by July 2003. This was to include the police, judiciary, Ministry of Justice, prisons, and related civil society developments.
- b) A decision on a further phase of the Sierra Leone Security Sector Reform Project reached by May 2003.

SSR benchmarks for Sierra Leone included:

- a) Suitably qualified and experienced Inspector General of Police appointed by June 2003.
- b) Civil Defence Forces disbandment completed by January 2003.
- c) Defence White Paper published by end 2002.

Source: UK Department for International Development, [*Sierra Leone: A long-term partnership for development between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Sierra Leone*](#), 2003.

7. It is unrealistic to assume that the Netherlands will be in a position to offer a long-term commitment to more than a select number of the countries whose justice and security sectors it would like to support. Even when the Netherlands is unable to make such a long-term commitment, it can still effectively contribute to development by participating in other partners' long-term programming in this sector. Partners may include national actors (official and non-governmental/civil society), the full complement of justice and security service providers, multilateral institutions, and other bilateral governments. The objective should be to identify change-oriented activities that meet the criteria outlined in this section and working with partners to develop such joint activities.

8. Effective long-term engagement requires the ability to provide multi-year financing for interventions and to support a broad range of actors. The Stability Fund, which is the major source of Dutch funding for SSR, allows for multi-year funding.¹ It does not, however, provide funding to non-governmental actors. While ways of overcoming this constraint should be identified on a priority basis, as this is of principal importance for flexibility in delivering Dutch assistance, it is also important to recall that some governance-related justice and security related work can be financed with normal development assistance funds, for example, support to ministries of finance, interior, and justice; offices of auditors general; legislatures; and civil society. Opportunities to link with relevant ongoing work should be explored on a priority basis. One such opportunity is to include the justice and security sector in the reform of public financial management systems.²

¹ The UK's conflict prevention pools – the Global Conflict Prevention Pool (GCPP) and the Africa Conflict Prevention Pool (ACPP) – established in 2001, provided a model for the Stability Fund. It appears that the Stability Fund has overcome one of the major problems facing the GCPP and the ACPP, the need to bid annually for funds and the corresponding difficulty of financing longer term activities through the Pools. The UK has also recognized this problem and is taking steps to rectify it. In April 2008, the ACPP and GCPP will be merged and the new Conflict Prevention Pool will entertain bids for projects of up to three years in duration.

² In 2004-05, the justice and security sectors were included in World Bank public financial management work at the request of the Government of Afghanistan. Among other findings, the review found that the lack of comprehensive systems and controls in budget execution and information flows impeded development of the justice and security sector. The review also concluded that there is a 'need for an integrated security sector [and justice] strategy and policy framework, without which sound programmatic – e.g. on force sizes, equipment – and public expenditure decisions cannot be made' (World Bank, [*Afghanistan: Managing Public Finances for Development. Vol. V: Improving Public Financial Management in the Security Sector*](#), Washington, DC, 2006, p. 67).

II-2. Context

9. While effective engagement does not require a comprehensive, strategic plan from the outset and, often such strategic plans cannot be formulated at the beginning of a programme, it does require an understanding of the context in which programming is to occur. It also may require an appreciation that in fragile state scenarios justice and security development takes place within an environment of strife and conflict, some of whose cleavages may not be susceptible to reconciliation. The inability to reach a political consensus, however, does not necessarily preclude engaging in justice and security development. In fact, it may be one of the principal reasons why justice and security development is essential. In Colombia, for instance, civil war prevents the achievement of a consensus. Nevertheless, the most successful municipal crime reduction programmes in Latin America over the past decade have taken place in Colombia, improving the lives of urban populations and limiting the areas of the country where civil strife is prevalent.

10. In fragile states justice and security services are delivered by a large number of actors, some of whom are state agencies and services. It is likely, however, that the majority will be local justice networks and non-state service providers.³ Research in many fragile states suggests that these alternative systems may provide justice and security for up to 80% or more of the population.

11. Consequently there are, at least, four differing perspectives on identifying and prioritizing development needs, and all four ought to be analyzed:

- national political stakeholders;
- local justice networks and non-state service providers;
- local citizens, residents, communities, neighbourhoods, and
- external actors with their own national interests and security objectives.⁴

12. Effective engagement requires not only balancing these differing interests, which will invariably be a highly-charged political endeavour, but blending short-term support to meet immediate justice and safety needs with long-term development. It is not a question of shifting priorities, but rather of integrating the varying issues as the SSR programme is designed and implemented.

13. To the extent possible, information should be collected on:

- justice and security stakeholders and their attitudes to development;
- institutional capacity of these stakeholders (including local justice networks and non-state service providers), particularly the capacity to deliver services;
- justice and security needs of the end users;
- who currently meets those needs;
- quality of governance in the public sector; and
- financial and human resources available to support reform.

³ 'Local justice networks' and non-state systems refer to all systems of justice and security operating alongside formal state institutions "that exercise some form of ... authority in providing safety, security and access to justice" in the neighbourhoods, marketplaces, and on the roads where citizens and residents live and work day-to-day (see DFID, [Non-State Justice and Security Systems](#), May 2004, p. 1). It has been customary to divide service providers into state and non-state systems, but, in reality, a continuum exists between those two poles. Though pure non-state actors do exist, most non-state actors are, in one way or another, incorporated into, associated with, and/or possess some of the powers customarily reserved for state actors. Local justice networks and non-state systems, therefore, would include traditional courts, mediation processes, civic and trade organisations, neighbourhood groups, ethnic/clan police, private security companies, etc.

⁴ The international element is composed of two sub-elements: regional factors and wider international trends.

Ultimately, justice and security service delivery will need to be nationally and locally funded and significantly greater donor attention ought to be paid to the financial sustainability of the types of programmes that are currently being supported.

14. It is also prudent to recognize and accept that donor knowledge of the varying political dimensions and contexts in which development is to occur will be incomplete and partial. Donors cannot know ahead of time how each development activity will alter the balance of power between and among competing national actors. Furthermore, national and local actors will always know more than donors and will manipulate donor programming to advance their partisan self-interests. This is not necessarily a question of deception or malevolence, but of national and local actors' rational behavior to leverage international assistance to further their agendas. The issue is not whether this will occur, but if donor understanding of the context is sufficiently developed to comprehend when, why, and how the manipulation is taking place (Box 3).

Box 3. Understanding the Context and National Actor Manipulation of Donor Programming

In Timor-Leste, for example, UNDP in 2003 initially pledged to build a new prison outside the capital to address alleged security flaws in the existing prison facility, from which a significant prisoner escape had occurred. Although extensive security flaws were evident, patient analysis revealed that the original government request had much more to do with the burgeoning competition between rival political factions and an effort by one faction to solidify their hold on power. Instead of constructing a new prison facility near a military camp, a team of justice and security practitioners brought in to assess the situation recommended the renovation of the existing structure, an offer which was subsequently rejected by the government,

The rejection of donor support by the Timor-Leste government should not be conceived as a donor failure, but rather as a successful donor engagement, as it prevented harm being done. Conversely, a number of donor activities that during the tenure of the previous Timor-Leste government (2002-06) appeared to be failures can now be seen as successful with the assumption of power of the new 2007 government. For example, significant effort had been expended in trying to enhance the human capital of the Timor-Leste parliament in justice and security matters, all of which resulted in no apparent achievements. However, many of the individuals exposed to SSR during that time period are now playing active roles in developing the sector, given their positions in the new government and the ability of the Timorese parliament to exercise its oversight authorities.

II-3 Expectations and goals

15. National actors must formulate their own strategic vision of how best to develop their justice and security systems and not simply mimic foreign solutions, whether they come from Western countries or from other parts of the world. The donor imperative is to support a consistent and sustainable developmental process that builds upon the real needs of the country and includes all relevant actors.

16. **Supporting national efforts.** Effective engagement in security and justice requires external actors to be modest in their expectations.

- External actors cannot address and ameliorate all aspects of a partner country's justice and security development;
- Their engagement will not be the decisive factor in promoting sustainable change;
- They cannot undertake activities for partner countries;
- Donors can assist security and justice and security development processes, for example by supporting pro-reformers in government and civil society or by providing critical financial and human resources.

17. Donors also need to have realistic expectations of what national partners can achieve within a given time period.⁵ For example, when the UK began to support a defence review process in Uganda, senior UK development officials and senior Ugandan political and military leaders assumed that the review could be conducted over a six-month period. In the end, the review took some eighteen months to produce and significant challenges remain in terms of the actual implementation of the review.⁶ This is in line with the review timeframe in other countries, both fragile states like Sierra Leone and countries with greater capacity such as South Africa and the UK.

18. In order to manage expectations, realistic goals need to be established and priorities identified, by donors and national actors (state and non-state). Ideally national actors should take the lead. While this process should begin as early in the post-conflict period as possible, few fragile/post-conflict and fragile/rebuilding countries are equipped to develop policy and strategy or capable of implementing their objectives, once devised, as they labour under severe capacity and resource constraints. The depths and extent of these constraints cannot be underestimated, particularly in the immediate post-conflict period, and are, often, very difficult for donors to perceive and understand. What is crucial, however, is to tailor a justice and security programme to the specific level of development of the institutions and society being supported.

19. Experience indicates that the development and implementation of goals and priorities are best achieved through an iterative process that progressively introduces additional capacities and skills. Police development has been largely ineffective in Belize partially because it has not been undertaken in an appropriately iterative manner that corresponds to the country's development level. Training, information management, and strategic planning assistance have been provided, but, it is widely acknowledged that a significant percentage of police personnel cannot accurately take complaints or witness statements and rudimentary statistical skills are lacking to be able to implement reliable information management processes.

20. To correct the situation, it was proposed that a police development programme begin with an educational effort to teach the police how to take accurate complainant and witness statements. Thereafter, report writing skills were to be strengthened, followed by introducing the basic tenets of problem solving. Once these skills had been mastered, preliminary principles and techniques of police management could have been developed, which may have led, eventually, to the development of a full-fledged community policing programme. While these activities were being undertaken and supported, donors could also have assisted community-based programming intended to increase the social capital of neighborhoods so that they could, eventually, work productively and effectively with state police agencies.

21. An iterative approach may be needed for political reasons as well, for it is unlikely that the key national actors of many of these fragile/post-conflict and fragile/rebuilding countries will initially agree on overall political objectives and/or the rules of the political game. To support national actors reaching agreements on overall political objectives and/or approach takes time and sustained effort.

22. One of the reasons why significant challenges remain in implementing the Uganda defence review is that the donor community and Ugandan officials had very different

⁵ The difficulty that UK military personnel attached to the International Military Assistance Training Team in Sierra Leone have had in mentoring their Sierra Leone counterparts has been a subject of tension between IMATT, on the one hand, and DFID, Sierra Leone MOD officials and Sierra Leone military officers, on the other hand. While IMATT has sought to improve its mentoring skills, tensions remain, in part because the frequency of staff rotation means that IMATT officers are under pressure to produce results in a short period of time. See Nicole Ball, Piet Biesheuvel, Tom Hamilton-Baillie, and 'Funmi Olonisakin, [Security and Justice Sector Reform Programming in Africa](#), DFID Evaluation Working Paper no. 23, London, April 2007, p. 33.

⁶ For lessons from the Uganda defence review, see, Dylan Hendrickson, ed., [The Uganda Defence Review: Learning From Experience](#), Nottingham: Russell Press Ltd for King's College London and University of Makerere, September 2007.

expectations about the level of resources needed to implement the defence review, and that this divergence was not adequately addressed early in the process. In Guatemala, a lengthy dialogue process has been useful in opening communication between and among government officials, military leaders, and civil society organizations. Although these dialogues did not produce concrete, tangible results, they may have had the unintended consequence of facilitating, first, the promotion of a leading civil society organizer to the post of a Deputy Minister of Interior and, second, the formation of a Central American network of civil society organizations involved with SSR.

23. It is also important to note that in fragile/post-conflict and fragile/rebuilding environments political agreements among the national stakeholders on overall SSR objectives may be unattainable and sharp and irreconcilable disagreements may remain. In Guatemala, for instance, the high degree of insecurity, impunity, and corruption throughout the justice and security sector continues to be a source of acrimonious contention and no agreement have been reached on how best to address the justice systems of indigenous peoples. Given an absence of national agreement, donors may have to make sensitive political decisions on what justice and security development projects to support and which ones are inadvisable to underwrite, even if they are the stated priorities of major national stakeholders, such as in the aforementioned case of prison development in Timor-Leste.

24. To navigate these shoals and remain engaged in SSR may require, on the part of donors, well developed political skills, particularly the ability to negotiate and “compromise and cut deals” with partners who, at the best, may ostensibly profess but not practice democratic principles. In Bosnia and Herzegovina, for instance, justice and security development had to be undertaken with partners who had unsavoury pasts and whose activities were less than reputable, given that their associations were intimately involved in the post-conflict nexus of politics, big business, and criminal enterprises. But as these national actors were democratically elected, justice and security development had to be conducted in partnership with them. In such cases, the issue is how progressively to weaken the influence of such national actors while, simultaneously, persuading them to remain involved in the continued development of the justice and security sector.⁷ In Brcko, Bosnia, for instance, police development was undertaken with a senior police leadership with the full understanding that the leadership was deeply corrupt, but that the propitious moment for their removal had not arrived and would take careful manoeuvring to arrange. Over a period of 18 months, the entire Serb leadership of the police was successfully replaced as evidence of specific actions of malfeasance was collected and political alliances established in anticipation of acting upon such eventualities. Comparable situations exist in Haiti, DRC, Nepal, Timor-Leste, Solomon Islands, and Burundi.⁸

25. Local end user expectations regarding service delivery must also be taken into account. The Liberian government, for example, accepted US assistance to restructure the Liberian armed forces and other international assistance to develop the police without undertaking, along with its national partners, a comprehensive survey of local perceptions of justice and security needs. Country-wide surveys undertaken by the Governance Reform Commission have suggested that the choices made over the past years have not been the most effective means of meeting local needs for security and justice.

26. In the past, donors have tended to focus primarily on a limited category of state-centric activities (improving the formal capacities of state justice and security actors) while all too often overlooking the importance of promoting sustainable institutional transformations, addressing local needs, and integrating local justice networks and non-state justice and

⁷ It should be noted that this problematic is not one that pertains to “spoilers,” but rather to the every day business of conducting justice and security development in fragile/post-conflict and fragile/rebuilding environments.

⁸ For discussions of this type of situation in Timor-Leste and Solomon Islands, see Andrew Goldsmith and Sinclair Dinnen, “Transnational Police Building: Critical Lessons from Timor-Leste and Solomon Islands.” *Third World Quarterly*, 28: 6 (2007), 1091-1109.

security providers into SSR programming. Experience suggests, however, that engaging in effective SSR also requires an approach that addresses 80% of the service providers, blending immediate assistance to meet the needs of local justice and security networks with long-term institution building, which will enable the state to formulate and enforce the policies, frameworks and minimum standards within which justice and security are delivered. This is here defined as a “multi layered approach”. The issue for donors, therefore, is one of proportion, balance, and political sensitivity.

27. This approach is important because examining the situation from the perspective of performance and service delivery can highlight a number of gaps in the manner in which engagement has been customarily conducted:

- ignorance of the role played by major service providers (such as local justice networks);
- failure to take account of key governance deficits (lack of sustainable financing and human resource deficits, which not only curtails the ability of state agencies to deliver justice and security, but weakens their exercise of appropriate oversight); and
- inadequate accountability due to a lack of support to civil society groups’ participation in how justice and security is delivered to them.⁹

28. In southern Sudan, for instance, an explicit recognition of these factors and the massive resource deficits within the government of southern Sudan (human, financial, infrastructure, etc.) would have suggested that a percentage of donor support should have been immediately directed to strengthening local justice networks and non-state service providers, given the unanimous but publicly unacknowledged judgment of the international community that the possibility of building a comprehensive state-centric system lay more than 30 years in the future.¹⁰

29. **Developing donors’ own strategic approach.** In order to clarify their own goals, donors should develop a strategic approach to justice and security development. This does not mean tackling all needs identified or developing a single, all-encompassing programme. It does, however, require donors to review the recipient country’s entire security and justice sector (state and non-state service providers, relevant ministries and oversight bodies), taking into account national priorities (to the extent they are known). A strategic approach can also help donors prioritize and sequence their own interventions. This is especially important in fragile/post-conflict states where there are a large number of pressing needs and, as one Sierra Leone official noted, “It is necessary to prioritise the priorities” (Box 4).

⁹ It should be noted that the lack of civil society participation may be the result of a virtual absence of viable civil society organizations, which, for instance, was the case in the state of La Rioja in Argentina with its neo-Peronist legacy. This does not mean, however, that citizens are incapable of expressing their views when consulted as participatory poverty assessments have demonstrated time and again. See, for example, the work carried out under the auspices of the World Bank “Voices of the Poor” programme. Deepa Narayan, Robert Chambers, Meera Shah, and Patti Petesch, *Voices of the Poor: Crying Out for Change*, (Oxford [UK]: Oxford University Press for the World Bank, 2000), underscores the importance of a) crime and violence, b) civil conflict and war, c) persecution by the police, and d) lack of justice in influencing poor peoples’ feelings of insecurity and ill-being (p. 155).

¹⁰ USAID, *The Multi-Layered Approach: Supporting Local Justice and Security Systems in Southern Sudan*. (Burlington, VT: ARD: 2007).

Box 4. Sierra Leone: Evolution of UK Strategy

Security and justice reform in Sierra Leone has absorbed a significant amount of UK resources since 1999. The initial objective was to increase the capacity of the armed forces and the police, seen by both the UK and the Sierra Leone government as the main providers of security. Subsequent objectives have included ensuring affordability, accessibility and accountability of security and justice actors. The first interventions were developed and implemented independently of each other. In 2006, UK officials in Sierra Leone reported discussing ways to better integrate UK work on security and justice.

The benefits of closer linkage, based on a strategic framework including both security and justice, have become increasingly clear to UK officials. Had a coherent strategy that prioritized sustainable changes in performance been developed, other important stakeholders whose roles are critical for the success of the reform process could have been targeted at an earlier stage. These include, for example, oversight bodies such as the parliament, line ministries like finance and internal affairs, local justice networks and civil society. With a coherent UK strategic approach the need for strategic engagement with the World Bank and the IMF on budgeting and financial planning might also have emerged at an earlier stage.

Source: Nicole Ball, Piet Biesheuvel, Tom Hamilton-Baillie and 'Funmi Olonisakin, [Security and Justice Sector Reform Programming in Africa](#), DFID Evaluation Working Paper no. 23, 2007.

30. A strategic framework can also provide the basis for linking development opportunities that arise outside the core justice and security reform areas. Such opportunities may arise through activities focussing on financial management, governance (such as support for parliamentary oversight), post-conflict activities (such as DDR, weapons collection, peace support training or transitional justice) or other democratic initiatives.

31. Because it is very likely that programming will have to begin in fragile/post-conflict countries before a strategic approach is developed, donors should identify or, at the very least, keep in mind key elements of a future strategy as guidelines for programming. The key challenge for donors is to support short-term activities without jeopardizing longer-term goals.

II-4. Differences and similarities between fragile/post-conflict and fragile/rebuilding states

32. A significant element in understanding the country context is to situate the country with respect to its fragile/post-conflict or fragile/rebuilding status and to understand how and to what degree these categories differ.

33. **Two key differences.** These two groups of countries differ according to:

- the degree of institutionalization of state capacities delimiting the ability to deliver public services; and
- the number of international actors present, with the UN often predominant in post-conflict scenarios.¹¹

34. While the delivery of public services in both groups may be extremely modest, in post-conflict environments state agencies may have been largely destroyed as a result of the civil strife. Consequently, the challenge may not necessarily or primarily be one of 'reforming' a state, but of establishing a sustainable one *de novo*.¹² This can offer a window

¹¹ There does not appear to be a necessary correlation between political commitment to engage in justice and security development and which category a country falls into – fragile/post-conflict or fragile/rebuilding. Willingness to engage in development may, however, vary according to which state agency is being examined. In Haiti, for instance, it is believed by many that the government is willing to undertake police development, but that it has been significantly less enthusiastic to engage in judicial reform because of the highly sensitive and political nature of the latter in potentially altering balances of power.

¹² See OECD/DAC, [Enhancing the Delivery of Justice and Security in Fragile States](#), (Paris: OECD, 2007).

of opportunity that may not exist in rebuilding states, such as the possibility of conducting an extensive vetting of security services personnel.

35. In some post-conflict instances, a detailed review of the country context may not be possible before initiating programming to meet the immediate local safety and justice needs. Nonetheless, as will be discussed in more detail below (section IV-1), it is important to consider as much information as is readily available when beginning to engage in justice and security activities and progressively to increase the information that informs programme development. Similarly, in post-conflict scenarios, it is less likely that the existing government has a strategic vision for the justice and security sector than in rebuilding situations. Even if a strategic plan were to exist, the ability of the government in a post-conflict environment to implement that plan will be minimal, at best.¹³

36. The other key difference between fragile/post-conflict and fragile/rebuilding countries is that in post-conflict scenarios there tend to be a large number of active international players with a United Nations (or other internationally sanctioned) peace operation on the ground, which, typically, does not operate in fragile/rebuilding contexts. Because of UN mandates, peace operations are often in a leadership position in many justice and security areas, which may pose challenges in implementing effective programming. Peace operations are only beginning to be mandated to engage in 'SSR' and it is as yet unclear exactly what they will lead on in the future and whether the UN has the organizational ability to engage in effective justice and security development. It will also take time to sensitize the UN to the significance of combining a focus on service delivery with long-term strategic programming based on a careful assessment of needs as expressed by local actors.¹⁴

37. Box 5 and Annex 1 list five categories of core activities that will need to be undertaken in order to build the foundation for a justice and security sector focused on sustainable service delivery. Categories I – III involve activities that should be undertaken during the first three years of a peace process and should be integral elements of a UN peace operation. UN peace operations theoretically could successfully undertake the activities in the first three categories. In the limited instances where UN operations have undertaken Category I-III initiatives, there have been significant performance deficits.

¹³ It has been claimed that even in South Africa, the country's ability to implement its defense reform strategies falls far short of its ability to design such strategic plans.

¹⁴ The UN's own Inventory of UN Capacity in Peacebuilding (2006) claims that the UN-family has limited capabilities in "conceptualization, expertise, know-how, and resources specifically dedicated to building effective, sustainable and legitimate state institutions" (p.6); that the UN-family is deemed to have "very limited or non-existent" governance capacity (p.7); possesses "limited expertise in supporting policy aspects of the reform of law enforcement agencies" (p. 9); and that its human resources are "not ... harnessed towards [formulating] a comprehensive statebuilding strategy" (p.12). For a review of four current UN peace operations and their capacities to conduct SSR, see Heiner Hänggi and Vincenza Scherrer, eds., *Recent Experience of UN Integrated Missions in Security Sector Reform (SSR)*, (Geneva: DCAF/LIT, forthcoming 2007).

Box 5. Sequencing of Peace Operation SSR Activities

The following five categories outline on core security and justice reform activities that will have to be addressed by fragile/post-conflict states. As such it excludes various activities that may be required to be undertaken in specific situations, such as support for election security, and ancillary SSR support functions like DDR, small arms, mine action. These are, therefore, activities that UN peace operations may be mandated to carry out.

Category I: Laying the groundwork for longer-term reform and development in security and justice sector such as developing inventories of infrastructure, laws and security/justice providers, promoting dialogue and vetting justice and security personnel.

Category II: a) Strengthening the performance of day-to-day justice and security service providers at the local and national levels simultaneously, for example by mentoring personnel, and b) enabling the international community to gain in-depth knowledge and understanding of how service provision is actually delivered.

Category III: Organizing the international community.

Category IV: Follow-on to (largely successful) completion of category I activities, such as needs assessments, strategic planning, strengthening financial management.

Category V: Developing the legal framework.

38. Category IV and V activities introduce justice and security development and reform processes. History has proven time and time again that the UN family is profoundly incapable of undertaking crucial Category IV endeavours. UN peace operations could undertake V activities, but have not displayed significant acumen in doing so. *Both categories can be addressed only after Category I activities are underway and have largely been successful.*

39. **Similarities.** The differences between these two groups of fragile states are often a matter of degree rather than substance and thus from a programming perspective they also exhibit important similarities. For example, most fragile/post-conflict and fragile/rebuilding states have never functioned – legitimately, effectively, or otherwise – throughout their sovereign territory.

Box 6. Justice and Security Sector Human Resource Deficits

In 2002, Tanzania had one private lawyer for every 300,000 inhabitants. Mozambique had one per 102,000 persons, with less than 10 residing permanently outside of the capital and the largest regional urban centre. In Malawi, the ratio improved to one for every 35,667 citizens. (For purposes of comparison, the number of solicitors and barristers in England and Wales is about 130,000 or 1:400)

The current ratio of police personnel to inhabitants in most fragile states is similarly skewed. In Liberia, there is approximately one police person per 1,900; in Nigeria, one per 1,166; and in Kenya, one per 1,157. (The UN recommended ratio is 1:450/500.)

These statistics indicate the *impossibility in the short to intermediate term* of developing effective state-centric justice and security systems.

40. Furthermore, the capacities of both groups cannot meet the demands placed on them by most SSR programmes, which are inherently state-centric and top-down.¹⁵ Neither has the financial or human resources required by the vast majority of SSR programs. Even

¹⁵ See Bruce Baker and Eric Scheye, "Multi-Layered Justice and Security Delivery in Post-Conflict and Fragile States," *Conflict, Security and Development*, (forthcoming 2007).

if these countries could generate state revenues to finance their justice and security sectors, as Timor-Leste, for instance, may be able to do, the majority of them will not have sufficient numbers of qualified, skilled personnel for the short to intermediate term to be able to manage their SSR programmes (Box 6). The fact that fragile/post-conflict countries may be *relatively* more resource constrained than fragile/rebuilding countries should not obscure the underlying similarity in their situations.

41. Another similarity is that neither group resembles the Western concepts of statehood

**Box 7. Choice of Security Service Providers in
Post-Conflict and Fragile/Rebuilding States**

Security providers can include such groups as: “groups of private citizens organized on a voluntary, as needed, basis...; religious police organized by religious or sometimes political leaders...; ethnic or clan militias...; political party militia...; civil defence forces...; anti-crime groups...; formal commercial security companies; a range of security groups associated with neighbourhood or trading communities; local security structures provided by the lowest levels of the local government structure...; chief’s courts (still probably the predominant administrators of justice in rural Africa); and restorative justice community-based organizations (CBOs) or peace committees.”

Source: Bruce Baker and Eric Scheye, ‘Multi-Layered Justice and Security Delivery in Post-Conflict and Fragile States,’ *Conflict, Security and Development*, (forthcoming, 2007).

and civil society upon which most donor programs are grounded. The post-conflict or fragile/rebuilding state is rarely, if ever, the main actor in security and justice service delivery; rather local justice systems provide the bulk of service.¹⁶ End-users experience security and justice provision as a complex pattern of state, local, and alternative providers, which can be best described as multi-choice (Box 7). While local justice networks exhibit the same problems that afflict the statutory state system, there is almost no empirical evidence to suggest that the faults of local justice networks in fragile/post-conflict and fragile states/rebuilding are any more severe than those of the statutory state system or any less susceptible to amelioration and improvement. These local justice networks may, in many circumstances, be closer to their clients, more effective, cost efficient, ‘people-centred,’ and ‘locally owned’ than state systems; more amenable to the delivery of an accountable service; and more legitimate in that they reflect local beliefs and needs.

42. In southern Sudan, the head of the government Southern Sudan Human Rights Commission, recognizing the legitimacy and effectiveness of the local justice networks despite their acknowledged violations of human rights, explicitly requested that donors support these non-state systems. “We have no problem with strengthening traditional chiefs *as they are now*,” she stated. “It would help us if there were a program because it would give us access; once they have our support, there will be greater success in changing them. We need to give them an opportunity for eye openers later... I would be very happy if the chiefs get the power [emphasis added].”¹⁷

43. Another commonality is that security and justice activities in both fragile/post-conflict and fragile states are high-risk endeavours. Whereas donors need to be less risk averse in SSR, they still need to be risk aware and develop risk management strategies, based upon a rigorous political analysis, to help minimize the impact of problems that arise in the course of programme implementation. While it is never possible to foresee all the risks that will arise, a risk management strategy, which includes incentives to encourage national stakeholders to engage and/or disincentives for potential spoilers, can give donors more options than the stark choice between continuing working as if nothing had changed or to stop working

¹⁶ DFID, *Non-State Justice and Security Systems* (London: DFID, May 2004).

¹⁷ *Supporting Local Justice and Security Systems in Southern Sudan*, p. 9.

entirely. Risk management strategies should also be updated regularly, rather than being seen as a one-time administrative requirement linked to the provision of funding.

III. OPERATIONALIZING SSR IN FRAGILE/REBUILDING AND FRAGILE/POST-CONFLICT ENVIRONMENTS

44. Experience suggests that donors can most effectively help create the foundation for sustainable delivery of security and justice to the communities, neighbourhoods, and people of a country when they apportion their assistance between:

- the state as a provider of service;
- the state as a regulator of how public goods are delivered;
- local justice networks as the primary providers of public goods in fragile/post-conflict and fragile/rebuilding state environments; and
- the end users, customers, and beneficiaries of justice and security service.¹⁸

45. To develop effective programming, donor should have two primary objectives.

➤ First,

to develop and strengthen the relationship between service providers (state and non-state) and the users of those services in the marketplaces where they work, in the neighbourhoods and communities where they live and on the roads they travel. The intention is to reinforce the already existing range of choice that users have in fragile states, while developing providers' service delivery to make it more effective, fair, accessible, accountable and rights respecting.

➤ Second,

to strengthen governance, organisational structures and systems at the local, provincial and national levels. The objective is to develop the capacities of the state at its various levels to engage in productive partnerships with non-state providers **and** to formulate the necessary policies, frameworks and minimum standards by which the contours of an enabling environment for service delivery can be established.¹⁹

46. Experience indicates that these objectives are most likely to be met when donors provide their support in three linked stages that enable immediate needs to be met while longer-term programming is developed: 1) pre-inception phase (section IV), 2) inception phase (section V), and 3) longer-term programming (section VI). Achieving these objectives also requires due attention to management in the field (section VII).

III-1. Timelines

47. Effective programming in security and justice involves addressing and balancing the different types of needs and their varying time horizons. It also involves working in a highly politicized environment with poorly performing institutions, weak human capacity, and important justice and security service providers some of whom may operate outside the purview of state. It is, therefore, important to proceed with due caution – building trust among key actors, developing a better understanding of the context – and to begin to

¹⁸ OECD/DAC, [Enhancing the Delivery of Justice and Security in Fragile States](#), (Paris: OECD, 2007).

¹⁹ OECD/DAC, [Enhancing the Delivery of Justice and Security in Fragile States](#), p. 6.

provide concrete support aimed at improving service delivery and strengthening key institutions (state and non-state) before launching into major programming. The amount of time needed will vary from country to country but typical timeframes for the activities discussed in sections IV-VI are listed in Table 1.

48. It will take longer to initiate major programming in fragile/post-conflict states than in fragile/rebuilding states because of the destruction wrought by war. In particular, more time and effort will have to be invested in the **pre-inception phase** in fragile/post-conflict states. A recent review of UK security and justice programming (SJSR) in Africa concluded that: “[i]n the early stage of war to peace transitions, it is difficult to set comprehensive SJSR objectives due to factors such as political manoeuvring and capacity weaknesses..... Initial SJSR objectives tend – at best – to focus on stabilisation and consolidation of peace.”²⁰ While the pre-inception phase lays the groundwork for subsequent long-term programming, urgent justice and security needs at the state agency and local justice network levels can and should be addressed.

49. The **inception phase** deepens and systematizes the donor-host country engagement, with a view to identifying priority areas for long-term programming based upon concrete experiences, lessons learned, and a greater understanding of comparative advantages. As recent experience in Yemen suggests, donor assistance can identify these long-term objectives while simultaneously supporting urgent justice and security needs.

50. Justice and security sector programming may need to consider inception periods of up to 18 months. This may seem to be an unnecessary delay in entering into full programming, particularly when added to the pre-inception period. Experience in fragile states such as Haiti, southern Sudan, Liberia and Guatemala indicates, however, that designing long-term programmes too quickly, before developing adequate buy-in from local authorities, learning the concrete lessons of activities carried out during the inception period, and verifying the ability of national stakeholders to deliver upon their commitments runs a strong risk of not producing sustainable improvements in service delivery.

51. As Table 1 indicates, it could take up to four years to initiate a full-fledged SSR program in a post-conflict environment if there is a UN peace operation *in situ*: (1) arrival of UN peace operation personnel (first 9 months); (2) Category IV activities, which includes immediate support activities and the requisite information gathering required for inception phase planning (years 1-3); (3) inception phase (years 3-4). In a fragile/rebuilding state scenario, the time frame may be about half of that.

²⁰ Nicole Ball, Piet Biesheuvel, Tom Hamilton-Baillie and Funmi Olonisakin, [Security and Justice Sector Reform Programming in Africa](#), DFID Evaluation Working Paper no. 23, 2007, para 5.4.

Table 1. Timeline for security and justice development and donor assistance				
Months	Fragile/post-conflict	Months	Fragile/rebuilding	Comments
1-6	Pre-inception: Deploy peace support operation	1-6	Pre-inception: Initiate an SSR programme by forming a leadership group; initiate information gathering process	Support information gathering process with technical assistance as required
6-12	Pre-inception: Continue deployment of peace support operation; initiate information gathering process.	6-12	Pre-inception/Inception: Complete information gathering process; initiate immediate justice and security support programming according to priority needs, as identified by major stakeholders, political necessities, and the early findings of pre-inception information gathering process; design inception phase (There is a necessary blurring of phases here.)	Support information gathering process with technical assistance as required; support immediate programming with technical and financial assistance. See section IV-3 for specific activities during this period.
12-18	Pre-inception: Continue information gathering process; initiate discussions among local actors on the rules of sustainable peace; begin immediate justice and security support programming according to priority needs as identified by major stakeholders, political necessities; need to establish a modicum of operational functionality in ministries and the early findings of inventories	12-18	Inception: Form inception phase implementation team; initiate inception phase programming; continue support for immediate needs	Support information gathering process with technical assistance as required; support immediate programming with technical and financial assistance. See section IV-3 for specific activities during this period.
18-24	Pre-inception: Continue	18-24	Inception: Evaluate inception phase programming; evaluate urgent needs programming; develop lessons learned; design long-term program	
24-36	Inception: Initiate design of inception phase; initiate inception phase support programming	24-36	Long-term programming: Actual programming likely to begin around month 30 months due to need to let out procurement bids, contract etc	
36-48	Continue	36-48	Continue	
48+	Long-term programming begins	48+		
	Pre-inception phase			
	Inception phase			
	Long-term programming			

IV. PRE-INCEPTION PHASE: PREPARING THE TERRAIN AND ADDRESSING IMMEDIATE NEEDS

52. The pre-inception phase consists of three main activities: 1) gathering information on key issues; 2) starting to build trust and confidence; and 3) addressing immediate short term needs while long-term programming is being developed.

IV-1. Gathering information

53. Two questions need to be posed to begin designing a long-term programme:

- Who are the major stakeholders in justice and security and how are justice and security delivered by state institutions?
- What are the specific needs of the end users and who currently meets those needs – state, local justice networks, non-state providers?²¹

54. Answering these two questions enables donors to develop an understanding of local context needed to devise multi-layered programmes that, first, support the performance of existing state agencies and local justice networks and, second, link the two systems gradually and more consistently one to another. In the iterative process that constitutes justice and security development, these two questions may need to be posed and answered more than once – in both the pre-inception and the inception phase. Experience suggests that it is sufficient to develop tentative answers during the pre-inception phase and that a more comprehensive understanding will be generated during the inception phase. It should be recognized, however, that donor understanding of the context will remain incomplete and partial.

55. In a fragile/post-conflict environment, UN peace operations may have collected or be in the process of collecting much of this information. More may need to be collected, however. In fragile/rebuilding contexts, on the other hand, it is more than possible that the requisite inventories do not exist and that little information regarding either question has been compiled, let alone posed. Donors need to give serious attention to how information that is not readily available will be collected at the early stages of their involvement as the speed with which an adequate level of information becomes available is one factor in determining how long the pre-inception phase will last. One option for information gathering is outlined in Box 8.

²¹ It is a common misperception to conceive of the continuum of state – local justice networks – non-state providers as belonging to distinct worlds. More accurately, they are inexorably blended together, de-jure and de-facto. For instance, in southern Sudan, customary courts have an assigned and mandated role to play in the state judicial system, with defined jurisdictions, competencies, and the power to issue warrants. At the same time, because of the virtual absence of the state system, customary courts in southern Sudan currently handle cases over which they do not possess jurisdiction and authority. Similarly, southern Sudanese police confer state powers onto non-state actors, such as market associations, in order to resolve disputes and conflicts between their members.

Box 8. Information Gathering in the Pre-Inception Phase

In order to acquire the information needed to move to the inception phase, donors may wish to constitute two teams of practitioners, each of which ought to be reasonably versed in local customs, cultures, and values. The first team would focus primarily on macro political issues, state level actors, and their service delivery. The second team would concentrate primarily on the end user and the activities of local justice providers.

Based upon lessons learned and for reasons of consistency, coherence, and continuity, it seems to be most effective if the two teams have the same leadership. Equally, it appears best if the leadership team remains cohesive throughout the pre-inception, inception, and design of the long-term programme phases. The leadership group can be composed of donor government staff, national stakeholders, consultants, or a combination of all three. What is crucial is that the combined skills of the leadership group include knowledge in four distinct areas:

- substantive expertise in how to design a comprehensive multi-sectoral SSR programme;
- an understanding of the unique political dynamics and characteristics of fragile/rebuilding state and fragile/post-conflict environments;
- experience in managing a team; and
- country specific knowledge.

Not including the team's leadership, the major stakeholder and state provision of service team could have up to 7-8 members, if it were to encompass the major justice and security topic areas. Of course the composition of the team would vary according to the specific needs, but team expertise could include the following areas: financial management; civil service management; national security/defence forces; policing, judiciaries; prisons; legislatures; civil society; and anthropology/sociology.

The purpose of the team's country visit would be to gather, collate, and analyze sufficient 'driver's of change' data from which to design components of an inception phase programme. It could be expected that the team would spend up to three weeks in the country, with, at least, 30 percent of the time spent outside of the capital. Experience also suggests that it is best if the team leaders had already conducted a two-week visit to the country a couple of months earlier, preparing for the team's subsequent mission and introducing themselves to the principal state actors.

The local justice network team, which would not need to have more than 3-4 members, would also require a three-week mission, of which, at least 70 percent would need to be spent outside the capital. With the same leadership as the major stakeholder team, this team would need its participants to be knowledgeable in local justice networks and interviewing techniques, in that most of the data collected will be derived from informal conversations with citizens and residents of the partner country in the places where they live and work.

IV-2. Starting to build mutual trust and confidence

56. Experience suggests that it is essential to seek ways to build mutual trust and confidence between partner and donor governments from the very outset if justice and security programming is to be effective in the long term. This appears crucial to set the appropriate tone in creating productive and enduring working relationships. In fragile/post-conflict settings, this lesson learned may need to be reinforced as the international community has a tendency to be directive and has a low tolerance for the time-consuming process of decision-making by local actors (Box 9). However, when international actors bypass governments and other local stakeholders at the beginning of a security and justice development process, they set a precedent that runs a great risk of slowing progress and undercutting their future influence.

Box 9. Rapid Implementation of DDR in Liberia

The United Nations Mission in Liberia (UNMIL) bypassed the Liberian National Commission for Disarmament, Demobilization, Rehabilitation and Reintegration and decided to implement disarmament and demobilization on a fast track. One reason for this was the concern that engaging with national actors would slow down the DDR process. Keeping the peace process moving rapidly was said to be a major preoccupation of the SRSG and his closest colleagues, as well as many in the international community. As one donor representative interviewed in Monrovia in June 2005 stated: "People wanted to have DDR over and done with. It is complex and difficult and the international community wanted it over." The outcome, however, was a deeply flawed disarmament and demobilization process that had to be aborted and redesigned. It also created a climate of mistrust between the Liberian armed opposition, many of whom were serving in the Transitional Government, and UNMIL.

Source: Nicole Ball and Dylan Hendrickson, [Review of International Financing Arrangements for Disarmament, Demobilization and Reintegration](#), Phase 2 Report to Working Group 2 of the Stockholm Initiative on Disarmament, Demobilization and Reintegration, September 26, 2005.

57. Engaging effectively with partner governments will be most productive when donors adopt a 'whole-of-government approach'. This requires political/diplomatic, security, and development actors to develop a shared analysis of needs in partner countries. It often requires political and diplomat considerations to play a leading role, with Ambassadors and senior officials from headquarters at the forefront. Additionally, it may require informing national authorities at every level that donor SSR support, as a matter of policy, will not fund stand-alone unsustainable initiatives.²²

58. It should be acknowledged, however, that whole-of-government approaches are difficult to achieve because the perspectives, time horizons, and cultures of foreign ministry officials and defence attaches, for example, differ significantly from those of their development colleagues.²³ Foreign, defence, and justice officials, for instance, are responsible for furthering national interests and defending national borders. Development personnel, on the other hand, typically look first to addressing the needs of the partner country and its citizens. Development officials may also better understand the importance of supporting local justice networks while security officials may tend to be more focused on the state security forces. Ambassadors may also not be tasked to develop a joint, country team approach and other departments and ministries may resist an ambassadorial lead. In addition to problems with a whole of government approach, donor officials may be wedded to their traditional methods of implementing security and justice reform and seek to advocate institutional frameworks and approaches that do not work well in the prevailing environment. They may also seek to short-circuit the seemingly long timelines inherent in an approach that combines providing assistance to urgent justice and security needs developing the necessary support and information to design and implement longer-term programming. Every effort should be made to overcome these differences both at headquarters and in-country.

IV-3. Addressing immediate concerns

59. Acquiring an adequate understanding of the local context to design the inception phase and to underpin longer-term programming does not preclude the donor community from providing immediate assistance, which may be one of the principal ways of building

²² It is crucial that the resident Ambassador pass this message along to the highest level of the national government in order for the message to garner the requisite credibility. Thereafter, the message will need to be continuously repeated and followed up by all of the donor's in-country representatives, as well as those visiting from capitals.

²³ See, for example, Organisation for Economic Co-operation and Development, [Whole of Government Approaches to Fragile States](#), Paris, 2006, esp. pp. 18-19, and Nicole Ball, Piet Biesheuvel, Tom Hamilton-Baillie and 'Funmi Olonisakin, [Security and Justice Sector Reform Programming in Africa](#) DFID Evaluation Working Paper no. 23, 2007, chapters 4, 7.

confidence and trust. Indeed, it may be politically impossible to do nothing. Urgent support may be channelled to the justice and security sector where required. This is particularly true in the early stages of a peace operation where it is essential to establish a basic level of safety and justice. It may likewise be true of a fragile/rebuilding state facing significant public safety challenges or external threats.

60. The paramount issue is to identify the types of engagement that will be most effective to ameliorate the immediate situation, particularly with regard to reducing violence and human rights violations, without jeopardizing the longer-term initiatives that will be developed. The challenge is not one of shifting from an immediate donor response to a strategic approach. Rather it is how to reconcile and blend varying real needs that emerge due to the necessity of working according to different time horizons. If conducted effectively, a number of the immediate support initiatives described below will be able to be incorporated into inception phase activities (discussed in section V below).

61. It is important to point out that addressing immediate needs may, in many cases, involve varying types of compromises, which will require donor personnel to be able to engage in intricate negotiations and make “political exchanges and deals” (Box 10). These compromises and exchanges may take differing forms, but they require donors to make difficult and risky politics decisions and trade-offs. Reaching these decisions is a necessary part of donor engagement in effective justice and security programming in fragile/post-conflict and fragile/rebuilding environments. Such “dealing making” occurs on a daily basis when engaging in SSR development.

62. There are a number of short-term immediate activities that donors can effectively conduct, including support for:

Box 10: Political Compromises and Exchanges in Justice and Security Programming

In Bosnia and Herzegovina, for example, it was important at one moment to make political accommodations with individuals with known criminal associations in order to remove individuals who had engaged in profound human rights violations from the Republika Srpska police service and were prohibiting the implementation of the Dayton Accords. Once those individuals were removed from office, the political accommodations, which had previously been honoured, had to be, thereafter, circumvented and a new round of political deals entered into.

In Sierra Leone and Liberia, research has indicated that some of the youths responsible for the violence and flagrant abuses of the armed conflicts are now engaged in providing needed safety and security in their neighbourhoods and for their communities. In the short to intermediate-term, the police in neither country can provide the necessary services, given resource and capacity restraints, and, consequently, these youths are effectively filling the void in ways that are actively supported by their communities. The stark choice confronting donors is either to devise appropriate methods of supporting the further development of such local services and justice networks, despite the history of many of those now providing those services, or to leave numerous neighbourhoods and communities vulnerable to the imprecations of daily violence and crime.

A less extreme political accommodation was reached in one of the federal states of Brazil. In order to initiate a police management programme, it was necessary for a percentage of the project's support to be channelled through a research institute rather than directly to the police to mollify various political connections and, thereby, enable the programme to proceed.

In many cases, it is common knowledge that foreign study tours of judges and prosecutors, for instance, require that the individuals chosen to participate must “kickback” portions of their per diem allowances to ministry and other government officials in order to be selected by their ministry.

- financial management, an activity in which the Netherlands been active;
- developing inventories, where the Netherlands has some experience with stability assessments, and is aiming for developing a cadre of individuals trained to execute assessments;
- mentoring and training, which may be an area in which the Netherlands is interested;
- decentralizing authority;
- initiating policy-related dialogues;
- vetting security and justice personnel;
- supporting DDR, which is an area of interest for the Netherlands and of ongoing support in the Democratic Republic of Congo and Burundi;
- supporting regional confidence building; and
- linking with other internationally supported activities, which is an integral component of all Netherlands' initiatives.

In planning and delivering short-term, immediate assistance, it would be beneficial for donors to keep in mind a series of principles (Box 11), all of which are equally applicable to the inception phase discussed in section V.

63. **Financial management.** Financial management and accurate cost accounting are paramount for sustainable, effective engagement and will militate against projects that could cause long-term harm. Sound financial management and cost accounting is also a means by which political actors can recognize the need to prioritize the provision of public services and, can, in time, lead to strategic planning. Experience has also shown that the absence of

Box 11. Principles Guiding Donor Engagement

Effective short-term support to state institutions should:

- Be financially sustainable by national government revenues within five to seven years or, at a very minimum, be carefully budgeted to determine the level of continuing donor support needed after five to seven years;
- Provide capital equipment only once operating and maintenance costs are appropriately calculated and it has been determined that national government budgets will cover those expenses on an on-going basis;
- Provide technical and substantive training primarily in conjunction with managerial reforms into which training projects are embedded; such managerial reforms include training personnel only after a commitment has been made that newly trained personnel will not be transferred for a period of up to two years; and
- Acknowledge that the provision of capital equipment and training initiatives not consistent and in accordance with the aforementioned principles may be required to meet political and operational exigencies, but that such support projects will be 'loss leaders,' engaged in to further political and other endeavors, such as building trust and confidence between donors and national governments, verifying the capacity of national actors to deliver on their commitments, and addressing immediate humanitarian concerns.

concerted attention to sound financial management leads to ineffective engagement.

64. In southern Sudan, for instance, greater stringency in financial management and donor support would have largely precluded the donor provision of vehicles because of the inability of the police service to afford the necessary repairs and spare parts. If donors had not provided motorized transport, which they did, donors and the southern Sudanese police may have been compelled to devise alternative methods of policing and police mobility, which would have been more cost effective and appropriate to the local context, including how to further partnership police and local justice networks. In Chad, on the other hand, the Director General of Police has chosen to purchase a variety of vehicles (bicycles,

motorcycles, and four-wheel vehicles) in order to maximize the mobility of his officers within the constraints of the budget.

65. Important activities would include developing financial management processes and systems within the sector, including accurate costing of national government and donor-sponsored initiatives that seek to improve the delivery of safety and justice to individuals, neighbourhoods and communities, the accountability of security actors, and oversight.

66. **Developing inventories.** The importance of developing inventories of capital infrastructure; laws, policies and administrative regulations; and national and local justice and security providers was discussed in section II-4 and Annex 1. In post-conflict environments with a UN peace operation in place, this activity should in principle be conducted by the peace operation. In fragile/rebuilding scenarios, it is unlikely that such analytic inventories exist and their development with the support of donors are crucial in the iterative process in terms of mentoring national staff to be able eventually to engage in strategic planning and acquiring the requisite detailed information upon which long-term development programs are to be grounded.

67. Unfortunately, UN peace operations do not regularly conduct such inventories. Similarly, in fragile/rebuilding environments this activity is often overlooked as an essential first step to longer-term reform. In parts of Latin America, however, inventorying recognized that judicial development required extensive rewriting of codes of civil and criminal procedure. This was accomplished with USAID support and had very positive repercussions years later, after the civil wars had ceased.

68. **Mentoring and training.** The delivery of security and justice can be improved in the short term by mentoring and training service providers (police, judges, prosecutors, prison wardens, armed forces personnel, intelligence officials and so on), ministries/agencies, and legislatures. It is highly preferable if mentoring and training activities were undertaken that relate directly to daily activities and responsibilities. It is axiomatic that one-off training courses are ineffective and costly, although, as part of a political compromise, they may have to be supported. Specific attention should be paid to reducing violence and human rights abuses, fulfilling the covenants of peace accords, and extending the delivery of public services to marginalized and vulnerable demographic groups.

69. In Malawi, Nicaragua, and Sierra Leone, for example, such mentoring and training targeted paralegals in order to provide justice services to excluded and rural populations who otherwise had no access to justice. In contrast, paralegal training in southern Sudan has been ineffective because of the virtual absence of a state judicial system, the inability of paralegals to function within the local justice networks, and the lack of the donor knowledge of the local context, local needs, and how the local justice networks operate.

70. **Decentralizing authority.** By decentralizing authority for the provision of public safety and justice to local municipalities, it is possible to increase the participation of neighbourhood/community associations and civil society organizations in holding service providers accountable for the quality of the service they deliver. In fragile/post-conflict and fragile/rebuilding scenarios, the most effective and quickest means of increasing the accountability of justice and security providers is to stimulate the participation of the end user in how their service is delivered, which is known as the 'short route to accountability.'²⁴ This

²⁴ The 'long route to accountability' implies building the capacity of state institutions to regulate and oversee the operations of their own service providers. In fragile/post-conflict and fragile/rebuilding contexts, the absence of functional state structures suggests that this type of programming is best addressed incrementally and over the long-term. For example, in Timor-Leste, the police service had no disciplinary or professional standards capability, in part because of the absence of the appropriate regulations, codes of conduct, and ability to conduct thorough investigations into allegations of police malfeasance. Village elders and chiefs, however, could have and did exercise profound control over the delivery of police services in many areas of the country. Donors unfortunately missed an opportunity to extend police accountability and the provision of policing services that was tailored to meet local needs. At the same time, short route accountability has limited utility with regard to the military, other centralized security forces, and intelligence services.

is one of the lessons learned in World Bank Community Development Programs in Indonesia and in community safety programming in Colombia. The 'short route to accountability' is also a key component in a multi-layered approach.

71. **Initiating policy-related dialogues.** In difficult political environments, support for many of the changes implied in security and justice development is often uneven. One of the ways of identifying who is willing to change and who is not is to support policy-related dialogues in which civil society organizations can actively participate. Policy dialogues can also attempt to widen participation in the decision-making process, both by including civil society and by opening the discussion to non-security officials in government (Box 12). Policy dialogues can help define the 'rules of the game' in countries where these are contested, particularly fragile/post-conflict states.

Box 12. Achieving Broad Participation in Security Policy Dialogue in Uganda

"Representatives from across the GoU [Government of Uganda] and academia, and, to a lesser extent, from outside government, participated in the Defence Review at various points in order to contribute to the analysis or to take a lead on it. Various different techniques were used to promote consultation, a common terminology, and a shared understanding of the issues.

"Phase 1 witnessed an examination of all relevant policy instruments to address Uganda's security needs. Actors responsible for defence, finance, foreign policy, intelligence, justice, law, and order, local government, political and constitutional affairs, and social and economic affairs were invited to meetings.... In practice, attendance by each sector varied greatly and some, such as the JLOS (Justice, Law and Order Sector), were poorly represented."

Source: Dylan Hendrickson, ed., [*The Uganda Defence Review: Learning from Experience*](#), Nottingham: Russell Press Ltd for King's College London and University of Makerere, September 2007, pp. 38-39.

72. **Vetting.** Vetting service providers and civil service personnel is one component of a transitional justice initiative. In El Salvador, the vetting of police personnel in the newly constituted police service was mishandled, which compelled the eventual disbandment of one police unit, thus hindering the long-term police development program and the possibility of reducing the country's extraordinarily high murder rate.

73. **Supporting DDR.** Disarmament, demobilization and reintegration programmes have become core elements of post-conflict peacebuilding. Since DDR can involve formal as well as informal security actors, and is sometimes a first step in restructuring military forces, donors have increasingly sought links between SSR and DDR. In reality, these links are few and mostly indirect.

74. **Regional confidence building.** Building regional confidence often has two distinct elements: (1) dialogue and (2) border initiatives, which can incorporate initiatives with customs services, border police, and the armed forces. In areas where local populations cross borders in order to further their livelihoods, it is imperative to combine dialogue, institutional endeavours, and short route to accountability initiatives.

75. **Linking with other internationally supported activities.** Effecting sustainable change in security and justice involves a wide range of institutions, stakeholders and objectives. No government can reform all parts of these sectors simultaneously and no single international actor can support the full range of high priority activities. The number of external actors engaged in security and justice reform varies considerably. As discussed earlier, UN peace operations and various UN agencies are increasingly active in supporting 'SSR' in fragile/post-conflict states, and in the future UN missions are likely to have the formal lead for SSR work relating to the peace process. Additionally, countries with peace

operations also tend to have more international actors, bilateral and multilateral, attempting to engage in security and justice work.

76. Efforts to reduce donor duplication are important in order to maximize collaboration – which can reduce the burden on host governments – and the use of scarce resources. Reducing donor duplication can be quite difficult in situations, such as the DRC, where there are numerous donors with differing approaches and varying agendas, while the national government adeptly plays one donor against the others. Situations where one donor plays a major role, such as Australia in the Solomon Islands or the UK in Sierra Leone, are not without their own complications but in general they are more straightforward.

V. THE INCEPTION PHASE

V-1. Inception phase objectives

77. While the immediate, short-term support projects are underway and once the fragile/post-conflict and fragile/rebuilding state context has been better delineated (as described in section III-1), it is time to initiate the inception phase, which will prepare for the design of a long-term SSR programme. The objectives of the inception phase are:

- a better grounded understanding of the key drivers of change, their positive and negative incentives and the best opportunities and entry points for donor support to establish a long-term, four- to seven-year SSR programme;
- increased mutual trust and confidence between donors and national stakeholders;
- a greater appreciation of the risks, points of leverage, and comparative advantages of donor support;
- local context lessons learned arising out of the specific activities undertaken with national actors;
- better evaluation and verification of the interests and abilities of national stakeholders in delivering the concrete outcomes their verbal and written commitments generated; and
- a series of discrete baseline assessments of the justice and security sector generated from actual implementation of quick win projects from which development can be measured.

78. Another objective of the inception phase is to reduce the risk inherent in an approach that blends and coordinates the need to respond to immediate security and justice needs with designing and implementing a long-term strategic programme, which is a sensitive, complex, and difficult endeavour. The risks associated with such an approach and the recognition of the need for donors to support a broad range of security and justice actors, including local justice networks, include the:

- complexity of the networks and the relationships within which those networks are embedded;
- lack of donor familiarity and knowledge concerning local justice networks and how they operate;
- number and extent of effectively functioning existing local networks;
- relative dearth of donor expertise in supporting such networks in general;
- need to manage support to local justice networks actively and with political sensitivity by “donor staff on the ground;”
- resistance, overt and tacit, by government officials to donor involvement with and support of local justice networks; and
- resistance by national elites to donor involvement with and support of local justice networks.

79. These risks are real and cannot be underestimated or minimized. Because of the complexity of local justice network and a generalized lack of donor understanding of how they function, there can and likely will be unintended consequences to providing such networks with support. It is possible that support to local justice networks could exacerbate

a local conflict that donors either were previously unaware existed or had existed in only a latent state.

80. Another potential source of risk is resistance by central government officials and members of national elites to an approach that includes support for local justice networks as well as to statutory bodies. There often is a natural and rational competition and a divergence of interests between government officials/national elites at the centre and the provision of justice and security at the local level. The former seek to consolidate power, which may mean centralizing bureaucratic authority to deepen and extend its reach. They may also wish to derive the benefits of their positions through legitimate patronage and the conferring of favours onto their political adherents. On the other hand, the purveyors of justice and security at the local level, as well as many local state officials and agencies, typically favour decentralization as it would augment their authority, by tailoring local solutions to local challenges and needs.

81. In fragile/rebuilding and fragile/post-conflict settings to improve justice and security service delivery may require involving local networks and local officials, even if it is a challenge for and a potential threat to national elites and government officials. To balance these potentially competing interests is challenging and politically sensitive, requiring donors delicately to calibrate the balance of power among national stakeholders and the requirements of local ownership across a spectrum of actors -- national, provincial, local, state, and non-state (Box 13). It is here that the long-term building of trust and confidence, initiated in the pre-inception phase, begins to pay dividends.

Box 13. Misunderstanding the Balance of Power in Timor Leste

In Timor-Leste, donors expended great time and resources supporting the creation of and, thereafter, developing the Timorese police service. These efforts largely had the concurrence of the Timorese themselves. However, the speed with which the Timorese police service was established not only impeded the ability of the international community to foster a cohesive police service, but masked underlying political cleavages that existed within the police, between the police and the Ministry of Interior, and between the police and the military. By not having invested sufficient time to take into account the competing interests and the balances of power among them, the donors facilitated the Timorese police service and Ministry of Interior becoming a source of instability and one of the major battlegrounds when these cleavages fractured and violence erupted.

V-2. Building on ongoing activities – local and international

82. In a fragile/rebuilding state scenario as opposed to a fragile/post-conflict environment, it is likely that the government has some sort of plan or strategy to address security and justice needs, even if these are only implicit. Inception phase programming should support elements of that plan. It is also mostly likely that the national government has already endured other donors who have conducted “needs assessments,” many of which resulted in the delivery of well-written analyses from which little actual programming resulted. It may very well be the case that the national government will forbid the initiation of yet another ‘needs assessment’ and for good reason, as the national government will want real, tangible results in strengthening performance and service delivery, which a ‘needs assessment’ does not provide.²⁵ If such has been the case, it is imperative that donor personnel accept the situation and procure the agreement of the political authorities in the design inception phase activities that produce real outcomes while, simultaneously, generating the information that would have otherwise been collected in a needs assessment (Box 14).

²⁵ Without the leverage of UN peace operation, this is very likely. One of the authors, for instance, was confronted by that situation in Yemen and Guatemala and in state governments in Argentina and Brazil. In Brazil and Argentina, government officials explicitly refused to allow a ‘needs assessment’ because of their acute political need to deliver safety and security to their citizens and residents.

Box 14. Blending Support for Urgent Needs with Long-Term Programming: Court Administration

The objective of an ongoing inception phase project in Yemen was, simultaneously, 1) to support current Ministry of Justice activities to strengthen the administrative capacities and operations of justice and court personnel, making them more efficient and effective, and 2) to foster long-term development of accurate and reliable court statistics and performance measurements. To do so, the project hired a consultant to help develop methods by which concrete achievement will be made in, at least, three to five areas of court administration, as measured by existing court automation systems. It is expected that this will include modernized processes and procedures by which the courts conduct their current work, organise information flows, record activities, and archive decisions.

During the first month of his/her assignment, it was expected that the consultant would make a managerial analysis of existing judicial performance indicators, recommending which immediate administration enhancements will be pursued. At the end of the project, the consultant will write a final report, not only stating the achievements made, but analysing the actual performance of the Ministry's automation system, its strengths and weaknesses; and, based upon lessons learned during the project, what court administration initiatives can be accomplished over the next five years, along with the methods of measuring achievement of those goals. Recommendations will also be made on how legal assistance to the public and help desks offering legal advice can be established and sustained, thus, enabling greater access to justice for all, particularly vulnerable and marginalised demographic groups.

83. It should be remembered that assistance to capital infrastructure and mentoring and training may be among the immediate security and justice support projects that are running concurrently (section IV-3). These initiatives can be integrated into the inception phase as a means of building confidence and encouraging buy-in from governments, even if most lessons learned suggest that these types of projects have minimal effectiveness if not part of wider managerial developments. Additionally, as part of the ongoing short-term projects donors may be providing assistance to local justice networks and these too are eligible to be blended into the inception phase.

84. Projects that can be bundled together to form the inception phase activities, from which needs assessments can be generated, include support for:

- inspection and auditing systems within the police, prisons, judicial councils, armed forces, intelligence services, ministries of defence, interior and justice;
- court administration processes and procedures, with attention paid to the role and functions performed by court clerks;
- court automation systems (though it should be acknowledged that these systems in fragile states are frequently not cost effective);
- disciplinary and professional standards units in the police, judiciaries/judicial councils, armed forces, intelligence services, ministries of defence, interior and justice;²⁶
- personnel systems, particularly those related to promotions for the police, prisons, judiciaries, and armed forces; and
- local justice networks (Box 15).

²⁶ For the police, addressing the 'use of force and firearms' policies may also be a suitable topic for an inception phase initiative and could be folded into activities geared to supporting professional standards units or personnel systems.

Box 15. Inception Phase Support to Local Justice Networks

In southern Sudan, customary chiefs adjudicate over 85 percent of the justice delivered in the territory. Their provision of justice is generally deemed legitimate, fair, and efficient. The current state of southern Sudanese customary law is comparable to English common law hundreds of years ago. It is appropriate, therefore, to compile customary law precedents in case books so that it can evolve as did English common law. One way to do so is to gather the chiefs of a given area and assist them in deciding upon three or four subjects for which they would like to compile case books. The chiefs would agree upon which cases to include and the court clerks would, then, write up the cases for compilation.

Compiling the case books of precedents serves a number of different purposes. First, gathering the chiefs facilitates the process of making their judicial decisions more consistent. According to many sources, the chiefs used to have annual meetings, but these have been disrupted by war and the lack of resources. Many respondents requested donor support to re-institute these annual meetings.

Second, the development of case books can serve as a tool by which women chiefs can be progressively educated to assume the role that southern Sudanese law mandates. This would be true whether or not the newly appointed women chiefs are literate or not, as they could be included in the process of compiling the books, even as passive observers, and, thereby, learn the precedents. Even if they were not able to be included into the process of producing the case books, the books could still be used as a source for their subsequent education.

The compilation of the case books could also be used to strengthen the writing abilities of the court clerks. The clerks would be the ones who would "write up" the precedents chosen by the chiefs. Technical assistance can be provided to those clerks so that the precedents are consistently formatted -- facts of case, decision, legal reasoning. The long-term aim would be to strengthen court clerk skills and training procedures.

V-3. Deepening mutual trust and confidence

85. While it is essential for donors to give serious attention to begin building mutual trust and confidence with partner governments from the very outset of their engagement in security and justice development, it is in the inception phase that this ongoing process may begin to produce results and when new challenges will arise.

86. Partner governments may be eager to build the capacity of their formal security services and may therefore undervalue the importance of simultaneously forging links to local justice networks, strengthening governance of the security and justice sector, and broadening access to justice. In part this focus may relate to a real need to improve the state's ability to provide a secure environment for its citizens and a belief on the part of national authorities that attention to state provided security services is the appropriate way to achieve this objective. It may also reflect an unwillingness to address the politically sensitive aspects of justice and development and reform and the role of local justice networks. And in part it may be an expression of resistance to programmes proposed by donors.²⁷

87. Addressing these concerns requires patient dialogue that identifies and addresses the concerns of the various national stakeholders. In the case of Yemen, for example, more than two years were needed to work with the Ministry of Interior to persuade officials of the utility of a survey of end-user perceptions of their safety and security needs. Once convinced, however, the Ministry on its own initiative conducted a survey measuring police performance, which can, subsequently, be used to supplement the end-user analysis. In contrast, the Albanian Ministry of Interior understood the benefits of such a customer

²⁷ For example, see Organisation for Economic Co-operation and Development, "Part II: Views from Non-OECD Countries," in [Security System Reform and Governance](#), Paris, 2005.

satisfaction and perception study over the course of two weeks while the initial SSR mission was still in the country. What is important to recognise is that the difference between Yemen and Albania was primarily political and that designing an SSR programme requires a high degree of political sensitivity.

88. At the same time, donor support to one state agency within the justice and security sector may trigger resistance and opposition from other institutions of the sector. Within the sector, there are natural tensions and political cleavages between and among the various national actors – police/prosecution service; judicial council/Ministry of Justice; Ministry of Finance/Ministries of Justice and Interior; Bar Association/judges; intelligence services/Ministries of Defence and Interior; Minister of Interior/chief of police; etc. Political tensions naturally exist between Ministries of Defence and Interior, with the police often perceiving that they are considered by politicians as inferior step-children vis-à-vis their military colleagues.²⁸ In Peru, for instance, the inherent rivalry between the military and the police had a highly negative effect on police development when the Ministry of Defence garnered a greater slice of the national budget, one that had been originally allocated to the police. Deprived of the additional resources, the Peruvian police development programme was unsustainable and had to be curtailed. Donors need to be aware of these particular dynamics within the justice and security sector and take steps ahead of time to avoid or, at a minimum when the competition is rife, ameliorate the natural rivalries between and among national actors.

89. Once again, these political dynamics may require donor personnel to be skilled in how to conduct and help resolve intricate negotiations. As is true in many negotiating situations, it may not be possible to achieve consensus. Instead, the optimal resolution may often be one in which the competing parties simply remain at the negotiating table and do not walk away. In such cases, there is no formal agreement, but rather an agreement to disagree again and again. Donor personnel, therefore, may need to be not only conversant with negotiating in a political world dominated by uncertainty and ambiguity, but comfortable with working in an environment where political uncertainty and ambiguity is an everyday reality.

²⁸ In many authoritarian and former-communist countries, the dynamic may operate in reverse, with Ministries of Interior being perceived as the preferred institution.

VI. GENERATING THE LONG-TERM PROGRAMME

90. From the lessons learned and understanding of the justice and security sector attained during the inception phase, the donor and its national partners (state and non-state) should be able to generate a long-term (four to seven years) justice and security development programme. It would be appropriate if the long-term programme focussed only on selected topics and actors within the security and justice system, those that the inception phase indicated had the most chance of success and offered the most reward.

91. The long-term programme may extend and deepen support for initiatives undertaken during the inception phase and/or support new activities, whose salience arose during the preceding work. Some inception phase initiatives may be eliminated for a number of reasons including lack of national actors' ability to deliver upon commitment, lack of donor comparative advantage, and/or inability to meet expectations. All initiatives supported by the programme should be fiscally sustainable. Sequencing justice and security programming in this way implies that there is not a shift in projects to programmes but rather is a way to blend and, progressively, to build through an iterative process an effective strategic engagement.

VII. MANAGING SECURITY AND JUSTICE PROGRAMMING

92. There are two main types of management issues that donors need to address when engaging in a process of developing and implementing long-term programmes in security and justice. First, donors need to decide how to design and implement programmes (programme management). Second, they need to decide how to oversee the process of developing and implementing programmes (programme oversight).

VII-1. Programme management

93. Donors such as the Netherlands increasingly channel their resources for a range of development activities through multilateral actors (World Bank, UN agencies), international or local NGOs and consultants, and national authorities (often monitored by project management units staffed by international consulting companies). Assessments, programme design and development, and, particularly, implementation, are rarely undertaken only by the donor staff, although there should be close linkages with donor country officials.

94. Whatever option is chosen, it is generally agreed that the more national staff integrated into the pre-inception, the design of the inception, and implementation teams the better. This is often more difficult in fragile/post-conflict environments than in fragile/rebuilding ones, given resource limitations and partner government political sensitivities. It is also important that all staff participating in SSR programmes have a broad view of the components of the security and justice sector and are open to incorporating all relevant security and justice sector actors into programming. In particular, it is important that they fully accept the effectiveness and legitimacy of local justice networks and the importance of the governance component of security and justice development. It is highly desirable that there be as much continuity of the programme's leadership team through the three phases of programming as possible to promote consistency and cohesiveness of vision and as deep an understanding as possible of the concerns and interests of national actors.

VII-2. Programme oversight

95. A recent review of UK security and justice sector programming in Africa concluded that one of the most important predictors of programme effectiveness is the degree of leverage the UK government has in a country and its political willingness to use that leverage.²⁹ Because the individuals engaged in developing and implementing security and justice activities are generally not donor government officials, they do not possess the necessary credibility and institutional backing to provide the requisite political support to ensure effective outcomes. As a recent review of the Uganda defence review process stressed: 'Development partners that decide to support a review process need themselves to ensure that they have adequate capacity in-country to fulfil this task effectively.'³⁰ It is also essential for the donor to have the capacity to manage closely how programme implementation is proceeding in order to retain substantive control of the project (Box 16).

²⁹ Ball, Biesheuvel, Hamilton-Baillie and Olonisakin, [Security and Justice Sector Reform Programming in Africa](#), p. 24, para. 5.10.

³⁰ Dylan Hendrickson, ed., [The Uganda Defence Review: Learning From Experience](#), p. 14.

Box 16. Inception Phase Support to Judiciaries – Inspection Units

In Yemen, one component of the program concerns the Ministry of Justice's Inspection Unit. By placing a consultant-mentor within the Unit, the project aims to support the strengthening of judicial inspection processes and procedures and develop a baseline management analysis, including performance indicators.

The consultant-mentor is to assist the Unit in conducting a fixed number of one-day and more in-depth inspections. While undertaking these inspections, new techniques and methods of carrying them out are to be introduced, refined, and adopted by the Unit. At the completion of his/her contract, the consultant is required to write a final report, laying out the cumulative findings and results of the inspections conducted; evaluating the current status and operations of the Unit; delineating the performance indicators in use by the Unit; and proposing future possibilities and options for long-term development. It is expected that this final report will also constitute an accurate 'needs assessment' of judicial performance based upon an analysis of the inspections undertaken.

96. This means that it is essential for donors to have personnel in country to oversee programme development and implementation. Simply put, consultants and other implementing partners, such as UNDP, cannot and should not be managed from a distance, particularly during an inception phase and before the long-term programme is designed. Without an ongoing and consistent management of the entire process – from pre-inception to inception to programming – by donor personnel *in situ* it is unlikely that donor interventions will have a high degree of effectiveness or impact. Above and beyond donor management of programme implementation, direct donor involvement on the ground is essential to ensure adequate political leadership of the programme and maintenance of a 'whole of government approach' to the design of the long-term programme, which are activities that a consultant or consulting company should not and cannot carry out.

97. The need for on the ground oversight is important irrespective of whether the executing agency is a contractor, an NGO, or a multilateral body, such as the World Bank or UNDP. Donors often appear to believe that once a multilateral body – including a multi-donor trust fund (MDTF) – has been allocated resources, that body will be able to address all problems that arise, including political problems. Difficulties encountered by the World Bank administered Multi-Country Demobilization and Reintegration Programme (MDRP) in DRC highlight the inadequacy of this approach.

98. Faced with government intransigence in implementing the DDR programme, MDRP and World Bank officials appear to have failed to alert donors in a timely manner to the blockages, but donors were also not monitoring the situation adequately and were slow to respond once alerted. Donors were extremely displeased with the slow rate of disbursement from the MDRP through the national DDR committee, and complained vociferously that the lack of progress in the DDR programme lay with the inability of the MDRP to ensure that all necessary facilities and programmes were in place. In reality, facilities and programmes were in not place to a large degree because it was in the interest of the government to prevent the MDRP from functioning effectively.³¹

99. Because developing and implementing effective justice and security programming frequently requires input from several ministries, it is important that all relevant donor government officials represented in Embassies form part of a country team that has an agreed strategy for promoting security and justice development. This strategy should be developed as early as possible in the pre-inception phase but be reviewed at regular

³¹ See for example Nicole Ball and Dylan Hendrickson, [Review of International Financing Arrangements for Disarmament, Demobilization and Reintegration](#), Phase 2 Report to Working Group 2 of the Stockholm Initiative on Disarmament, Demobilization and Reintegration, September 26, 2005.

intervals to update it as more information becomes available and as the situation in the country evolves.

VIII. CONCLUSION

100. It is important for donors to adopt an approach that balances and proportions support for local justice and security needs as delivered by local justice networks with assistance to state agencies based upon an empirical analysis of the context. Such a multi-layered approach does not advocate an either/or strategy, but accepts the profound scarcity of state resources in fragile/rebuilding and fragile/post-conflict environments to deliver justice and security services in the short- to intermediate-term. In the long-term, such an approach will strengthen the state's ability to deliver public services, but it is an iterative, slow, and progressive process.

101. Responding both to immediate security and justice requirements and the development and implementation of a long-term strategic programme for security and justice development in fragile/post-conflict and fragile/rebuilding environments may require donors to rethink how to conduct their support activities with regard to timelines, funding mechanisms, programme management, and the expertise required of national donor personnel. Effective programming may necessitate donors locating increasing numbers of their personnel in the field, staff who are not only conversant with SSR, but who are attuned to the political dynamics and sensitivities of fragile/rebuilding and fragile/post-conflict environments, comfortable with working with local justice networks, and capable of exercising managerial responsibility.

102. In order to successfully engage, donors may need to investment in staff development to bolster the required new skill sets of their staffs. It may also require a re-examination of the mix of technical/substantive SSR skills possessed by donor agencies.

103. Patience and long-term political commitment to the approach is of a premium, given the acknowledged length of time necessary to collect the requisite context specific knowledge and accumulate the lessons learned needed to design an effective long-term programme.

104. Immediate urgent support can be provided to local justice networks and state agencies during both the pre-inception and inception phase. It is important, however, to acknowledge and accept that such urgent assistance may be provided for political reasons and have little overall effectiveness in strengthening service delivery. What is equally crucial is to try to ensure that whatever activities are supported on an urgent basis do not negatively affect inception phase programming.

ANNEX 1. SEQUENCING OF PEACE OPERATION SSR ACTIVITIES

The following five categories outline on core security and justice reform activities that will have to be addressed by fragile/post-conflict states. As such it excludes various activities that may be required to be undertaken in specific situations, such as support for election security, and ancillary SSR support functions like DDR, small arms, mine action. These are, therefore, activities that UN peace operations may be mandated to carry out.

Category I: Laying the groundwork for longer-term reform and development in security and justice sector.

- Inventorying existing justice and security capital infrastructure;
- Inventorying existing laws, policies, and administrative regulations pertinent to SSR;
- Inventorying national and local justice and security providers, including the multitude of local/non-state service providers;
- Registering and vetting existing justice and security personnel, including the establishment of reliable payroll records; and
- Initiating political groundwork/dialogue between and among competing national/local political actors.

The success of the UN-family in undertaking these activities varies. In Kosovo, for instance, UNMIK, after more than seven years, has still not initiated a comprehensive vetting of the judiciary. In Bosnia and Herzegovina, on the other hand, the vetting of the police was done by UNMIBH, but it seems as if recent human rights decisions call into question its legitimacy. In Haiti, the repeated attempts at vetting the police over the past 12 years speak for themselves, while a reliable registry of who 'is' a police officer still remains to be done. In Timor-Leste, no inventory was conducted of local justice and security networks, though in Nepal and southern Sudan UNDP sponsored excellent anthropological studies.

Surveying public opinion is a recent phenomenon for the UN family. UNDP, for example, sponsored surveys in Kosovo and Colombia, the latter being of much higher quality and utility. None appear to have been done in Sierra Leone or in other African UN missions. It should also be noted that in Kosovo the UN family was unable to incorporate principles of 'local ownership' into its activities.

Category II: a) Strengthening the performance of day-to-day justice and security service providers at the local and national levels simultaneously, and b) enabling the international community to gain in-depth knowledge and understanding of how service provision is actually delivered.

- Mentoring justice and security personnel at a rudimentary, day-to-day level at local and national levels;
- Auditing/monitoring day-to-day judicial and security functions/activities, including ministerial and legislative; and
- Conducting public perception, customer satisfaction, and victimization studies of the performance of the justice and security sector.

UN Police are often co-located with national police services and thus could be capable of mentoring and monitoring, as in UNMIK. In southern Sudan and the latest incarnation of the Haiti peace operation, MINUSTAH, co-location does not seem to be the standard. In a number of instances, the human rights division of a peace operation may undertake

monitoring, as in Timor-Leste. In Kosovo, however, OSCE was responsible for monitoring the operations of the judiciary.

Category III: Organizing the international community

- Facilitating the creation of multi-donor trust funds and other types of pooling of donor monies; and
- Establishing donor SSR roundtable and other coordinating mechanisms.

Category IV: Follow-on to (largely successful) completion of category I activities

- Supporting systematic and methodical needs assessments – national and local -- upon which justice and security strategic planning can be grounded;
- Supporting strategic planning and policy development; and
- Promoting development of budgetary cost projections for national and local justice and security delivery; and

Supporting the establishment of coherent training programmes based upon the foregoing assessments, planning, and projection of sustainable budgets.

[Recent case studies of Burundi, DRC, Haiti and Kosovo commissioned by DCAF](#) demonstrate that the UN family was unable to undertake these four activities effectively or efficiently. Various analyses of Timor-Leste peace operations support this conclusion.

It is also imperative to distinguish between training programs and the ‘learning’ that ought to be the outcome of such programs as evidenced by behavioural changes by participants. A recent 2007 unpublished UN Rule of Law lessons learned report indicates that the “appropriateness and effectiveness of past efforts to strengthen the rule of law are discouraging.”

Category V: Developing the legal framework

- Constitution writing and, where appropriate, drafting of pertinent laws, such as codes of criminal and civil procedure; and Organic Police, Prison, and Judicial laws, etc.; and
- Drafting of subsidiary laws, administrative rules and regulations; and

Developing administrative procedures and processes to coincide with subsidiary legislation, rules, and regulations.

ANNEX 2: IN-COUNTRY CAPACITY TO SUPPORT JUSTICE AND SECURITY PROGRAMMING

Recent experience has demonstrated that to maximize the effectiveness and impact of donor investments in security and justice, it is beneficial to manage closely programme design and implementation and to provide essential political support for the process. This annex outlines the elements of in-country support for these processes, recognizing that the way each donor undertakes the management of its programmes will reflect their normal operating procedures and capacities.

Country Team lead. In principle, it is desirable for the Country Team to lead a process of identifying strategic objectives and priorities for justice and security activities. In reality, developing and managing a justice and security strategy is likely to involve a partnership between the Country Team and a range of actors at headquarters, which may also include outside consultants.

It is important that the entire Country Team be aware of and, where possible, promotes the objectives of the justice and security strategy in the normal course of his/her work. The role of the Ambassador and other senior officials is particularly important, as experience has shown that programming will be more successful to the extent that key stakeholders receive a consistent message and that the message is presented by senior officials, as well as representatives visiting from headquarters.

In-country justice and security co-ordinator. While the Ambassador, as head of the Country Team, has overall political and managerial responsibility for developing and coordinating a justice and security strategy and programme, actual programmatic responsibility will lie elsewhere. Experience suggests that justice and security programming is more effective when donors understand:

- the interests and motivations of key stakeholders, including the end users of justice and security service provision; and
- the needs of the state and of its people (as individuals and members of neighbourhoods and communities).

When a donor wants to play a major role in justice and security and justice programming, it is highly desirable to assign managerial responsibility for these functions to one individual. This person should ideally understand the full range of issues involved in developing justice and security systems and the political savvy to work with national and local stakeholders (government officials, local justice network partners, non-state actors, and other civil society organizations). Ideally, the skills required include:

- strong understanding of political dynamics;
- ability to engage in and conduct a negotiation and dialogue process, in which not all interests are necessarily compatible or reconcilable;
- facility in grasping the self-interests of the other partners in a negotiation and the capacity to construct viable trade-offs and less than optimal deals; and
- talent to devise “outside the box” solutions and take risks.

These skills are, often, more important than narrowly defined technical or substantive justice and security expertise.

Experience has indicated that managing a robust justice and security programme is a full-time job. Experience has also suggested that assigning responsibility as an “add-on” to the work of a defence attaché or a governance adviser frequently means that justice and security programming does not receive the attention needed for it to be effective. Where it is not possible to dedicate staff full-time to the programme, managerial responsibility for coordinating a justice and security initiative should be the principal duty of the assigned staff member. Under any circumstances, the individual chosen should be selected based upon her/his possession of the skills outlined above.

HQ services available to Country Team. Since justice and security programming is a relatively new area of work, it is important that Country Teams receive adequate support from headquarters. Such support could include in-country training for the entire Country Team in:

- why it is important and desirable to engage in justice and security programming;
- what are the linkages within the justice and security sector and between the sector and other development activities;
- how to conduct needs assessments and develop an in-house strategy; and
- effective means of measuring programmatic effectiveness.

Headquarters should also be able to assist Country Teams in identifying experts to address different aspects of justice and security programming.

Experience indicates, as well, that it is equally important for headquarters to understand that justice and security programming is a long-term endeavour, one that may not produce short-term results in the same way as other development activities.

Incentives. Both Country Teams and officials will be more likely to engage effectively in justice and security work if development agencies and/or foreign ministries establish a career specialization in justice and security programming.