CONFRONTING AN ABUSIVE PAST IN SECURITY SECTOR REFORM AFTER CONFLICT

Guidelines for practitioners

Alexander Mayer-Rieckh and Serge Rumin

November 2010

international center for
**TRANSITIONAL
JUSTICE**

INITIATIVE FOR PEACEBUILDING

CONFRONTING AN ABUSIVE PAST IN SECURITY SECTOR REFORM AFTER CONFLICT

AUTHOR PROFILES

The authors are members of the AFTERCONFLICT GROUP.

Alexander Mayer-Rieckh

Alexander Mayer-Rieckh is specialised in post-conflict public sector reform with a particular focus on integrity enhancement of personnel and structures, and with over 15 years of work experience in countries emerging from conflict. He is an Associate Expert with the International Security Sector Advisory Team (ISSAT) of the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and a member of the editorial board of the Security Sector Reform Monitor. From 2003 to 2008 he was the Director of the Security Sector Reform Program at the ICTJ. Mr Mayer-Rieckh was the Chief of the Human Rights Office of the UN Mission in Bosnia and Herzegovina (UNMIBH) and worked for the UN in Geneva, Rwanda, Ethiopia and Eritrea, and Timor-Leste. In 2003 he was the recipient of a fellowship at the Center for Civil and Human Rights, University of Notre Dame Law School. His publications include 'The United Nations and East Timor: From self-determination to state-building', *International Peacekeeping*, Vol. 12, No. 1 (spring 2005) (co-authored with Ian Martin); *Justice as prevention. Vetting public employees in transitional societies* (New York, US: Social Science Research Council, 2007) (co-edited with Pablo de Greiff); and 'Time to be serious about post-conflict police development' (forthcoming in *Peace and Security*). Mr Mayer-Rieckh obtained his BA in philosophy at the Hochschule für Philosophie in Munich, his MDiv at the Weston School of Theology in Cambridge, Massachusetts, and his MA in law at the Universities of Vienna and Salzburg.

Serge Rumin

Serge Rumin specialises in change management in complex environments. He has worked extensively in post-conflict contexts focusing on institutional reform within the security and judicial sectors. He is an Associate Expert with the ISSAT of the DCAF and a member of the editorial board of the Security Sector Reform Monitor. He undertook consultancies and research with the EU, Department for International Development (DFID), UN Department of Peacekeeping Operations (UNDPKO), Office of the High Commissioner for Human Rights (OHCHR), UN Development Programme (UNDP), Organisation for Economic Cooperation and Development (OECD), different donor aid agencies and NGOs in various post-conflict areas including the Balkans, Middle East, north, east and central Africa, Afghanistan, Timor-Leste and Haiti. Mr Rumin teaches at the University of Law and Political Science in Aix-en-Provence and the Management School of Marseille on change management and post-conflict reconstruction. A trained information management specialist, Mr Rumin earned a MA in law and political science (Aix-en-Province-Marseille), a MA in criminology (Paris-Assas), and a MA in sociology (Paris-Dauphine) specialising in the study of organisations and social changes.

ACKNOWLEDGMENTS

CONTENTS

ACRONYMS

CENAP	Centre d'Alerte et de Prévention des Conflits (Alert and Conflict Prevention Centre)
CIP	Census and identification programme
HJPC	High Judicial and Prosecutorial Councils
KPS	Kosovo Police Service
NPB	National Police of Burundi
OSCE	Organisation for Security and Cooperation in Europe
SSR	Security sector reform
UNMIBH	UN Mission in Bosnia and Herzegovina
UNTAET	UN Transitional Administration in East Timor

EXECUTIVE SUMMARY

WHAT IS THE COMMON STATUS OF THE PAST IN SSR?

Security sector reform (SSR) commonly refers to a nationally-owned process aimed at transforming a dysfunctional security sector into an effective and accountable one that provides security and justice services to all groups of society. The concept of SSR is based on the understanding that ineffective and unaccountable security sectors represent an obstacle to development, in particular in countries emerging from armed conflict. SSR is seen as a pre-condition for sustainable development. As a result, mainstream approaches to SSR generally adopt a forward-looking perspective, in which the past is not of primary concern: SSR starts with the present – a dysfunctional security sector – and aims to build an effective and accountable security sector for the future.

WHY SSR SHOULD DEAL WITH AN ABUSIVE PAST

An abusive past remains present. Legacies of systematic abuse represent a heavy burden that cannot be easily brushed aside. This is particularly true in the security sector. Generally, security agencies (including armed forces, law-enforcement agencies, special forces and intelligence agencies), unofficial armed groups (such as insurgents, rebel groups and freedom fighters), mercenaries and private military and security companies (contracted by security agencies or unofficial armed groups), and other security actors have committed the most serious abuses during the period of conflict. Ignoring such histories of systematic abuse can undermine the very goals of SSR itself. Concretely, abusive histories perpetuate a culture of impunity, contribute to the ongoing exclusion of victims and other marginalised groups, and undermine the legitimacy of a security sector.

Impunity in the wake of systematic abuse committed during a conflict is perpetuated in three different ways. First, a conflict results in a high degree of uncertainty and institutional fluidity that continues after the conflict has come to an end. As a result, the security institutions are not able to control their own personnel and cannot hold security officials responsible for their actions, including for abuses they continue to commit. Second, impunity is also perpetuated by not holding accountable officials who committed serious abuses during the conflict. Impunity for past abuses conveys a general sense that officials can bend the law to escape accountability and will be able to do so again if needed in the future. Third, the persistence of abusive structures and networks within which individual security officials carried out systematic abuses during the conflict further prolongs impunity. Such networks are often used to continue abuses after the conflict, and loyalties towards a network are frequently stronger than the commitment of security officials to their formal responsibilities. Consequently, a security institution is not only ineffective and biased in the delivery of its mandate, but its officials may also remain involved in abuses that go unpunished.

The exclusion of individuals and groups from the political community and its resources often continues after the end of a conflict. In the security sector, continued exclusion takes on the forms of underrepresentation of marginalised groups in security institutions, a failure to meet the security and justice needs of marginalised groups, and the continuation of direct abuses targeting these groups. As a result of continued exclusion, the security sector is not in a position to effectively and fairly provide security to a significant segment of the population.

Involvement in systematic abuses during the conflict severely undermines the legitimacy of a security institution, resulting in a fundamental crisis of trust. The continued presence of abusive security officials after the end of the conflict further undermines the legitimacy of a security institution. If the public face of the institution remains

associated with abusive officials and if lawbreakers are entrusted with enforcing the law, the citizens will come to understand that the law is not applied equally and that security officials are above the law. The citizens, particularly those who suffered violence and abuse, will find it hard to gain or regain trust in security institutions that do not signal a clear turning away from past abusive practices but continue to operate with the same abusive personnel, display the same signs and insignia that have become symbols of abuse, and use the same buildings and locations in which abuses were inflicted.

HOW SSR CAN EFFECTIVELY CONFRONT AN ABUSIVE PAST

SSR should address impunity, exclusion and de-legitimisation in the security sector in order to effectively deal with an abusive past after conflict. This can be done by holistically strengthening accountability in the security sector, effectively promoting the inclusion of all citizens and proactively enhancing the legitimacy of security institutions.

STRENGTHENING ACCOUNTABILITY IN THE SECURITY SECTOR

Building effective accountability is central to mainstream SSR, but generally concentrates on establishing effective oversight in the security sector and often neglects other accountability mechanisms. A holistic understanding of accountability is required to overcome a culture of impunity after conflict and may include some of the practical steps discussed below.

A census and identification programme (CIP) can help to overcome uncertainty and institutional fluidity after conflict. A CIP verifies membership within one or several security institutions, identifies their institutional boundaries and helps ensure that individuals do not informally join or leave the institution(s). In doing so, a CIP not only provides baseline data for personnel reform, but also assists security institutions in consolidating control over their personnel, establishes the conditions to hold them accountable for their actions and introduces a measure of public accountability by making security agents identifiable to the public.

An effective zero-tolerance policy towards any forms of further abuse is required to effectively end impunity. The establishment of multiple accountability mechanisms for present and future abuses helps to make a clear break with an abusive past and to prevent the recurrence of abuses. Internal accountability systems in the security sector include ethics codes, procedures to review the use of force and firearms, line supervision, and particularly internal discipline mechanisms to monitor conduct and sanction abuses. External oversight mechanisms come in various forms including executive, parliamentary, judicial and independent oversight. Oversight mechanisms can have independent enforcement powers or perform advisory functions. Internal discipline and external oversight functions complement each other. Accountability is provided more effectively, particularly in the aftermath of systematic abuse, if security institutions are answerable to multiple audiences through multiple mechanisms.

Accountability for at least the most serious past abuses reaffirms that security officials are not above the law. Accountability for serious past abuses can be provided by means of criminal prosecutions or vetting. After conflict, vetting processes aim at excluding from security institutions officials who were involved in serious abuses. Vetting helps not only to hold abusive officials accountable but also to dismantle criminal networks, as well as to build trust in security institutions by reaffirming a commitment to basic norms and values.

Removing undue interference by criminal networks, political factions and primary social structures, such as clans and ethnic groups, allows security institutions to operate autonomously and to enforce the law rather than the orders and wishes of external actors. In addition to vetting, steps to ensure operational autonomy include merit-based appointment procedures; specific measures to protect the autonomy of leadership positions; and measures to promote the institutional loyalty of security officials.

PROMOTING THE INCLUSION OF VICTIMS AND OTHER MARGINALISED GROUPS

Particular efforts should be made to reverse the process of excluding victims of abuse and other marginalised groups and to reaccept them in the political community. Their inclusion will help ensure that the security sector actually services the needs of all citizens; restore the status and sense of full citizenship for victims and other marginalised groups; and promote the credibility of the SSR process and of the security sector itself. The inclusion of victims and other marginalised groups can be advanced by:

- Promoting their participation in SSR processes through population surveys on their justice and security needs; linking SSR processes with truth-seeking processes; and consulting victims in SSR assessments and evaluation;
- Enhancing the representation of victims and other marginalised groups in security institutions, which helps to overcome the pursuit of single group interests. Adequate representation also helps to better understand and serve the needs of all population groups;
- Establishing structures in the security sector that meet the specific security needs of victims and other marginalised groups helps stop further abuses. Such structures include dedicated mechanisms to respond to gender-based violence; offices of security institutions that are located in minority areas; mobile courts; dedicated complaint mechanisms for marginalised groups; and customary security and justice mechanisms; and
- Empowerment of victims and other marginalised groups will help them to attain full citizenship status, and will allow them to know, make known and enforce their rights and needs towards the security sector. Empowerment efforts could include strengthening defence councils; establishing legal aid centres; supporting civil society monitoring and advocacy groups; establishing witness protection programmes; public information campaigns on the rights and obligations of citizens; supporting shelter and victim rehabilitation programmes; and supporting vocational training for victims and other marginalised groups.

ENHANCING THE LEGITIMACY OF SECURITY INSTITUTIONS

Post-conflict environments pose a range of extraordinary challenges that cannot be adequately addressed with normal reform measures. Among other things, a legacy of abuse commonly entails a fundamental crisis of trust that cannot be overcome easily. In addition to regular reform and development efforts, targeted legitimacy-building measures and complementary efforts by other transitional justice measures can help to enhance the legitimacy of security institutions that were involved in systematic abuses and can make it easier to overcome the crisis of trust.

Specific and targeted legitimacy-building measures that verbally or symbolically reaffirm a commitment to overcome the legacy of abuse and an endorsement of democratic norms and values include, among others:

- Official apologies by representatives of security institutions that were involved in serious abuses;
- Memorials and museums that remember victims and acknowledge the involvement of security institutions in abuse;
- Consideration of the symbolic significance of locations in which systematic abuses such as torture or executions occurred during the conflict;
- Commemorative days to remember victims of abuse and acknowledge the involvement of security institutions;
- The renaming of streets and public places that bear the names of security officials or institutions with histories of abuse;
- The removal or replacement of monuments that relate to security officials or institutions with histories of abuse;
- The changing of the oath of office to ensure that it refers to fundamental norms and values, and providing public access to the ceremony in which security officials take the oath of office;
- The changing of coats of arms, insignia and uniforms that are associated with an abusive past; and
- Institution-based truth-seeking efforts.

In addition, it will be easier to build trust in security institutions if an SSR process is accompanied by complementary transitional justice measures that:

- Provide direct support to victims, such as a reparations programme or truth-seeking efforts, thereby beginning a process to compensate them for the harm suffered; and
- Hold to account the most abusive officials of a security institution, such as criminal prosecutions, thereby reaffirming that basic norms and values apply to all.

In conclusion, addressing a legacy of systematic abuse in SSR after conflict should never come at the expense of other, more mainstream SSR efforts. At the same time, abusive histories of security institutions can have

negative repercussions on SSR processes generally and can undermine the effectiveness of security institutions in the aftermath of conflict. The past is present. Comprehensively strengthening the accountability of a security sector, promoting the inclusion of all citizens, but particularly of victims and other marginalised groups, and building the legitimacy of a security sector can make an important contribution to the success of SSR after conflict.

INTRODUCTION

Legacies of systematic abuse are generally not of primary concern in mainstream security sector reform (SSR).[1] However, an approach to SSR that insufficiently acknowledges the negative impact of an abusive past carries a number of risks that can undermine the effectiveness of SSR itself. The abusive past remains present. The following guidelines provide practical suggestions on how to take into account abusive legacies in SSR and how to effectively reform a security sector that has been involved in systematic abuses during a conflict.

After a review of how common SSR approaches deal with legacies of systematic abuse in the first section, the second section describes how an abusive past can significantly impact on a security sector's performance because abusive histories perpetuate a culture of impunity, contribute to the ongoing exclusion of victims and other marginalised groups, and de-legitimise a security sector. The final section provides practical guidelines on how SSR can constructively deal with an abusive past by holistically strengthening accountability, by promoting the inclusion of all citizens, and by building the legitimacy of security institutions.

Dealing with an abusive past should never come at the expense of other SSR efforts. Holistically strengthening accountability, promoting inclusion and building legitimacy can contribute to the overall success of SSR after conflict but cannot replace other SSR efforts.

---

1   For example, see: UN (2008). *Securing peace and development: The role of the United Nations in supporting security sector reform - Report of the Secretary-General*. Doc. A/62/659–S/2008/39.

WHAT IS THE COMMON STATUS OF THE PAST IN SSR?

SSR commonly refers to a nationally-owned process aimed at transforming a dysfunctional security sector into one that is effective, accountable and provides security and justice services to all groups of society. The security sector comprises not only core state security agencies but also management and oversight bodies, key judicial institutions and non-statutory security actors.[2] The concept of SSR is based on the understanding that security represents a pre-condition for sustainable development, in particular in countries emerging from armed conflict, and that ineffective and unaccountable security sectors represent an obstacle to development.[3] Typically, SSR includes activities such as:

- Improving relations between civilians and security actors;
- Developing legal frameworks and national security strategies;
- Increasing governance of state and non-state security actors;
- Enhancing the effectiveness and efficiency of security actors; and
- Strengthening civilian management bodies.[4]

As the SSR concept was elaborated within a development framework, common approaches to SSR generally adopt a forward-looking perspective, in which the past is not of primary concern: SSR starts with the present – a dysfunctional security sector – and aims to build an effective and accountable security sector for the future.

Confronting an abusive past also adds another layer of challenges to the already highly complex endeavour of SSR. For example, a threat to criminally prosecute senior security officials may mobilise the security establishment against the reform process; removing a security agency's insignia that reminds victims of past abuses may provoke intransigent reactions among security officials; a reparations programme for victims may draw away resources needed to establish a pension scheme for security officials; or the implementation of a one-off vetting programme to remove abusive officials may delay or undermine the development of effective permanent discipline and oversight mechanisms envisaged by an SSR programme. Such tensions are real and cannot be ignored.

In fact, the weight of the past varies considerably in the broad range of contexts in which SSR is applied. The past weighs less in societies that did not undergo serious conflict in the more recent past but followed a relatively even path to development. This is generally different in post-conflict situations in which systematic abuses occurred during the conflict. In such contexts, legacies of systematic abuse often represent a heavy burden that cannot be easily brushed aside. This is particularly true in the security sector. Generally, it is security agencies (including armed forces, law-enforcement agencies, special forces and intelligence agencies), unofficial armed groups (such as insurgents, rebel groups and freedom fighters), mercenaries and private military and security companies (contracted by security agencies or unofficial armed groups), and other security actors that have committed the most serious abuses during the period of conflict. Ignoring such histories of systematic abuse can undermine the very goals of SSR itself.

---

2   See: Organisation for Economic Cooperation and Development, Development Assistance Committee (OECD DAC) (2007). *OECD DAC handbook on security system reform (SSR): Supporting security and justice*. Paris, France: OECD; UN (2008). Op. cit.

3   For example, see: C. Short (1999). *Security sector reform and the elimination of poverty*. London, UK: Centre for Defence Studies, King's College; UN (2005). *In larger freedom: Towards development, security and human rights for all - Report of the Secretary-General*. Doc. A/59/2005; M. Brzoska (2003). *Development donors and the concept of security sector reform*. Occasional Paper No. 4. Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF); H. Hänggi (2009). 'Security sector reform' in V. Chetail and M. Roissard (Eds.). *Lexicon on post-conflict peacebuilding*. Oxford, UK: Oxford University Press.

4   OECD DAC (2005). *Security system reform and governance*. DAC Guidelines and Reference Series. Paris, France: OECD. p.35.

HOW THE PAST IMPACTS ON THE SECURITY SECTOR

The abusive past of a security sector can significantly impact on the sector's present and future performance. In particular, abusive histories perpetuate a culture of impunity, contribute to the ongoing exclusion of victims and other marginalised groups, and undermine the legitimacy of a security sector.

PERPETUATING A CULTURE OF IMPUNITY

Impunity in the wake of systematic abuse committed during a conflict is perpetuated in three different ways. First, conflicts facilitate post-conflict impunity at a very fundamental level. Generally, a high degree of uncertainty and institutional fluidity marks post-conflict situations; reliable information on the condition of the security sector is often unavailable. The security sector constitutes a confusing multiplicity of armed individuals with loose ties to various security institutions. The boundaries of security institutions are fluid, and it is not possible to know who is a member of any given institution and who is not. It is also not clear who is authorised to exercise force or who is illegally impersonating a security official. As a result, the security institutions are not able to control their own personnel and cannot hold security officials responsible for their actions, including for abuses they continue to commit. Uncertainty provides continued opportunities for abuse and facilitates impunity.

Box 1. Uncertainty in Liberia after the conflict

When the conflict in Liberia came to an end in 2003, the UN Mission in Liberia was established, inter alia, to assist the transitional government in restructuring the police. However, post-conflict Liberia inherited a highly complex, fragmented and overstaffed civilian security sector. There were seven law-enforcement agencies with national jurisdiction, additional local and municipal agencies, and security units attached to government ministries and public corporations. Reportedly, a greater number of officers with law-enforcement powers worked in security agencies other than the police. Reliable information about the organisational structures and personnel strengths of these agencies and units was limited and estimates about staffing levels varied significantly. Moreover, law enforcement outside of the capital Monrovia was often not provided by statutory agencies but by customary authorities. In such circumstances, any SSR efforts would have to start with addressing this situation of uncertainty and institutional fluidity to overcome a prevailing culture of impunity and to establish the conditions for actual institutional reform and capacity-building efforts.

For more information, see: UN (2003). *UN first progress report of the Secretary-General on the United Nations Mission in Liberia.* Doc. S/2003/1175. Available at http://documents.un.org/.

Second, impunity is also perpetuated by not holding accountable officials who committed serious abuses during the conflict. The establishment of effective accountability mechanisms is of central concern to SSR and encompasses setting up both internal discipline and external oversight structures. Nevertheless, new accountability mechanisms rarely cover systematic abuses committed in the past and commonly spare those officials who have been involved in serious abuses during the conflict. Impunity for past abuses conveys a general sense that officials can bend the law to escape accountability and will be able to do so again if needed in the future, which impacts on the overall trustworthiness of the security sector (see 'Continuing the exclusion of victims and other marginalised groups' below).

Box 2. Impunity in Stolac after the conflict

Stolac is a little town in southeastern Bosnia and Herzegovina that used to have a mixed population of Bosniacs, Bosnian Croats and Bosnian Serbs. During the Yugoslav conflict of 1992–95 most Bosnian Serbs and Bosniacs had to leave Stolac. The post-conflict population was majority Bosnian Croat. Bosnian Croats also took over the public administration, including the police.

The first significant returns of Bosniacs to Stolac took place in 1997. But law enforcement in Stolac after the conflict was ineffective and unprofessional, in particular in areas of minority return. From March to November 1998 the UN registered more than 70 incidents of returnee-related violence in Stolac municipality. These included explosions, fires, beatings and intimidations. But not one suspect was prosecuted in relation to these incidents in 1998. Most Bosnian Croat police officers had no pre-conflict policing experience and joined the police during the conflict. The police also maintained inappropriate links with civilian defence units and known local criminals. The absence of a functional law-enforcement agency created a climate of impunity in Stolac in which further incidents directed against returnees were tolerated or even encouraged.

For more information, see: UN Mission in Bosnia and Herzegovina (UNMIBH) (1999). *Building civilian law enforcement in Stolac and throughout the Herzegovina-Neretva canton*.

Third, the persistence of abusive structures and networks within which individual security officials carried out systematic abuses in the past further prolongs impunity. During the period of conflict, the members of such networks cooperated in order to protect themselves, to pursue particular political or military objectives, or to ensure illegal gains. Membership of such a network can be based on ethnicity, a political or religious objective, membership of a clan, a purely criminal purpose, among other reasons. Such networks are usually not confined to one security agency but comprise representatives from different institutions, representatives of political parties, as well as ordinary criminals. If such a network continues to exist after the conflict has come to an end, the network is often used to continue abuses, and loyalties towards the network are frequently stronger than the commitment of security officials to their formal responsibilities. Such networks often aim to influence appointments and promotions in order to create dependencies and place their members in positions of power. These networks also tend to inappropriately interfere in the operations of security institutions. Moreover, such networks are generally not interested in SSR because it would make it more complicated for these networks to operate. As a result, not only is a security institution ineffective and biased in the delivery of its mandate, but also its officials may remain involved in abuses that go unpunished and may even block SSR efforts. A culture of impunity is perpetuated.

CONTINUING THE EXCLUSION OF VICTIMS AND OTHER MARGINALISED GROUPS

Systematic abuses during conflict also result in excluding individuals and groups from a political community and its resources. Conflicts generate a large number of victims that generally constitute a significant percentage of the overall population and that often belong to a specific social group. This process of exclusion takes on a variety of forms and also targets the security sector. In the security sector, the exclusion manifests itself, inter alia, in the removal of marginalised population groups from positions in security institutions, as well as in barring their employment or promotion; a failure to meet the security and justice needs of victims and other marginalised groups; and the continuation of direct abuses targeting these groups.

Continued exclusion after the end of the conflict can be the intended effect of a sustained pursuit of conflict-related goals or the unintended outcome of neglecting the plight of victims and other marginalised groups. Under-representation in the security sector, biased service delivery and other exclusionary practices continue after the conflict if they are not consciously taken into account and reversed in the SSR process. As a result of continued exclusion, the security sector is not in a position to effectively and fairly provide security to a significant segment of the population, and SSR is not able to deliver on its overall objectives to build an effective and accountable security sector.

Box 3. Continued ethnicisation of the Afghan security sector

Significant SSR efforts with tremendous international support have taken place in Afghanistan after the 2001 conflict. A particular emphasis was placed on reforming and developing the Afghan national police. Progress has been achieved but the benchmarks of the 2006 Afghanistan Compact had not been met by 2009. One of the reasons for these shortcomings has been the continued failure to deal with the ethnicisation of the Afghan police. 'The absence of ethnic background checks in recruitment and appointments within the sector has led to minority Tajiks having a disproportionate degree of authority over the Afghan security forces. Ethnic ties have always been strong and more so after years of conflict. Initial policies did not do much to improve the situation, and … organizational practicality took precedence over community considerations.' The continued domination of minority Tajiks of the Afghan police has led to scepticism from the other ethnicities and contributes to bias in service delivery, corruption, informalism and lack of professionalism in the police.

Quoted from J. Brauer (2009). 'Afghanistan' in A. Kantor (Ed.). *Examining the possibilities for security sector reform: The role of international police in peace support operations.* Stockholm, Sweden: National Defence College. p.178.

UNDERMINING THE LEGITIMACY OF THE SECURITY SECTOR

Security institutions depend in many ways for their effective functioning on the trust of citizens. People cooperate with security institutions because they view them as legitimate authorities. For example, without such trust, citizens are unlikely to report crimes, are not likely to turn to the police or the courts to resolve their conflicts, and will hardly seek police assistance for their security.

Involvement in systematic abuses severely undermines the legitimacy of a security institution, resulting in a fundamental crisis of trust. Once trust is lost, it is hard to regain. Particularly those who suffered violence and oppression at the hands of security actors will find it difficult to gain or regain trust in the security sector.

The continued presence of security officials who were involved in systematic abuses during the conflict further undermines the legitimacy of a security institution. If the public face of the institution remains associated with abusive officials and if lawbreakers are entrusted with enforcing the law, citizens will come to understand that the law is not applied equally and that security officials are above the law. Indeed, why would citizens count on institutions that accept impunity for atrocities and are built on the assumption that powerful and accommodating people can get away with serious crimes? Such a lack of commitment to basic norms fundamentally impacts on the trustworthiness of security institutions.

Box 4. Legitimacy deficits of the Timor-Leste police

In 1999 an overwhelming vote for independence in the UN-organised self-determination ballot was followed by an orgy of violence against people and property in Timor-Leste. The UN Transitional Administration in East Timor (UNTAET) was established to administer the country and prepare Timor-Leste for self-government. Among other things, UNTAET was mandated to develop a new police service. Encountering an urgent need for experienced police personnel, UNTAET recruited Timor-Leste officers who had served in the Indonesian police. The inclusion of former Indonesian-era police officers became a major source of contention after Timor-Leste gained independence in 2002. There was a perception that former Indonesian-era officers were over-represented in the police, in particular in senior positions, and that former resistance fighters were marginalised in the police. As a result, the legitimacy of the police suffered and people put less trust in the police than in the defence force that was commanded by former resistance fighters.

For more information, see: 'East Timor', in the Conflict, Security and Development Group (CSDG) (2003). *A review of peace operations: A case for change, East Timor study.* London, UK: International Policy Institute, King's College. pp.215–324.

Citizens, particularly those who suffered violence and abuse, will find it hard to gain or regain trust in security institutions that do not signal a clear turning away from past abusive practices but continue to operate with the same personnel who were involved in abuses, display the same signs and insignia that have become symbols of abuse, and use the same buildings and locations in which abuses were inflicted.

HOW SSR CAN DEAL WITH THE PAST

In order to overcome impunity, exclusion and de-legitimisation, SSR should holistically strengthen accountability in the security sector, effectively promote the inclusion of all citizens, but in particular of victims and other marginalised groups, and proactively enhance the legitimacy of security institutions.

STRENGTHENING ACCOUNTABILITY IN THE SECURITY SECTOR

Building effective accountability is central to common SSR. Common approaches to SSR emphasise, in particular, the need to establish effective oversight in the security sector but often neglect other forms of accountability. A holistic understanding of accountability is required to overcome a culture of impunity in the aftermath of systematic abuses committed by security actors during conflict. In particular, SSR has to overcome uncertainty and institutional fluidity; establish comprehensive accountability for present and future abuses; ensure accountability for the most serious past abuses; and remove undue interference by political actors and other networks that continue to operate after the conflict has come to an end. Concretely, a range of practical steps can be taken to deal with these four aspects of impunity.

CENSUS AND IDENTIFICATION TO OVERCOME UNCERTAINTY AND FLUIDITY

A census and identification programme (CIP) verifies membership within one or several security institutions, identifies their institutional boundaries and helps ensure that individuals do not informally join or leave the institution(s). In so doing, a CIP helps to establish the conditions for accountability after conflict. A CIP not only provides baseline data for personnel reform, but also assists security institutions in consolidating control over their personnel, establishes the conditions to hold them accountable for their actions, and introduces a measure of public accountability by making security agents identifiable to the public.[5]

MULTIPLE ACCOUNTABILITY MECHANISMS FOR PRESENT AND FUTURE ABUSES

In the aftermath of systematic abuse, particular attention has to be paid to monitor the professional conduct of the members of security institutions and to adopt a zero-tolerance policy towards any forms of further abuse in order to effectively end impunity, make a clear break with the abusive past, and to prevent the recurrence of abuses. Multiple accountability mechanisms have to be established in the security sector to do so.

Accountability of the security sector can be provided formally and informally. Informal accountability is provided by civil society organisations such as the media, human rights organisations and other NGOs (see 'Remove undue interference' below). Formal accountability mechanisms can be grouped in two categories: internal accountability, such as ethics codes, internal accountability procedures, line supervision and internal discipline; and external oversight, such as parliamentary oversight, executive oversight, independent civilian complaint and review bodies, ombudsperson services and judicial review:

---

5   A more detailed description and basic guidelines to plan and implement a CIP can be found in International Center for Transitional Justice (ICTJ) (2009). *Census and identification of security personnel after conflict. A tool for practitioners*. Revised Edition. Available at http://www.ictj.org/images/content/8/0/801.pdf.

Box 5. Census and identification of the police in Burundi

Between 2000 and 2007 the National Police of Burundi (NPB) accepted personnel from various armed groups that signed the Arusha Peace Accords or subsequent agreements, resulting in a growth to an estimated 20,000-member force from the original 2,000 members. As a result, the Burundi government was not in a position to know the exact number or identities of all officers and did not fully control all police personnel. Burundians could not know for certain who was a police officer and who was not.

In 2008 the NPB launched a census and identification programme to identify all NPB personnel and bolster public confidence in the police. Over a year, the NPB established ten operational teams to conduct a census of all police officers at 130 registration sites. As a result of the census and identification, 18,164 persons were registered. Of these, 17,772 were confirmed to be police officers and were issued identification cards. The remaining 392 cases included 217 "ghost officers" on regular payroll. Disciplinary sanctions were imposed on, and criminal investigations were initiated against, the officers involved in the ghost-officer scheme. The leadership of the police publicly acknowledged the problem and communicated the corrective measures taken. These efforts were well received by the public as a step to improve police transparency and accountability.

The CIP also foresaw a sensitisation campaign, including radio spots and a billboard campaign to inform the population about the process and its objectives, in particular the new identification cards that all police officers are obliged to carry. The programme established the conditions for the NPB leadership to establish a reliable human resources management system and to hold its personnel to account, as well as for the public to identify all police officers.

For more information, see: 'Burundi: Professionalizing police', International Center for Transitional Justice (ICTJ), 7th May 2008. Available at http://ictj.org/en/news/features/1661.html.

- Internal discipline mechanisms are systems within security agencies to monitor, investigate and report on the conduct of their members and sanction abuses in accordance with defined and known professional standards.[6] Such mechanisms help to build a common work ethic that disapproves of abusive practices. In post-conflict settings, it will frequently be necessary to revise rules and regulations and codes of conduct emphasising the service nature of security, to improve information collection, management and analysis systems to track officials with particularly high numbers of complaints, and to establish professional and well-resourced internal investigation bodies with accessible public complaint offices.
- In addition to discipline mechanisms, internal procedures to review the use of force and firearms are particularly important in the aftermath of systematic abuse. Among the various functions of security agencies, particularly in the case of law-enforcement agencies, the use of coercive force and firearms carries the greatest risk of serious abuses. Formalised internal procedures will help to identify both misconduct and effective remedies. The 'Basic Principles on the Use of Force and Firearms by Law Enforcement Officials' set out, in Principles 11 and 22–26, reporting and review procedures for the use of force and firearms.[7]
- External oversight mechanisms come in various forms and can be mandated with a variety of tasks including review functions (monitoring, taking and investigating complaints, sanctioning abuses, identifying systemic root causes and proposing remedies) and policy functions (overseeing, at the policy and strategic level, the functioning and operations of security agencies). External oversight bodies can have independent enforcement powers (investigations and discipline) or play supervisory and advisory roles (referral of complaints and oversight of investigations and discipline).[8]

---

6   UN (1979). 'Code of conduct for law enforcement officials', A/RES/34/169, preambular para. d.
7   The 'Basic Principles' were adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27th August to 7th September 1990.
8   Examples of independent civilian oversight bodies include the Independent Complaints Directorate in South Africa, the Police Services Commission in Nigeria, the Independent Police Complaints Commission in the UK, the Police Public Complaints Authority in Jamaica and numerous police review boards in the US. For information on police review boards in the US, see the website of the National Association of Civilian Oversight of Law Enforcement at http://www.nacole.org/.

Box 6. Sequencing of census, identification and vetting processes after conflict

Situation of security institutions and their personnel unclear

incomplete circles = security institutions with unclear status
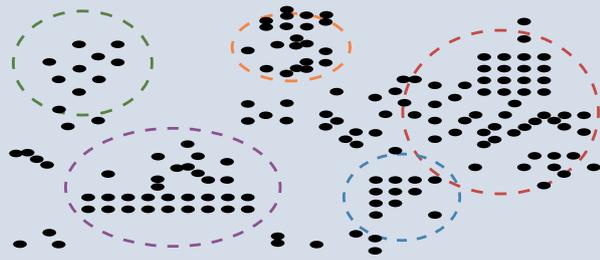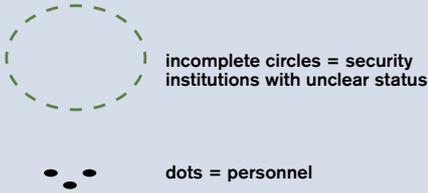
dots = personnel

1. Mapping of security institutions

Number, type and mandate of institutions under scrutiny

complete circles = mapped security institutions
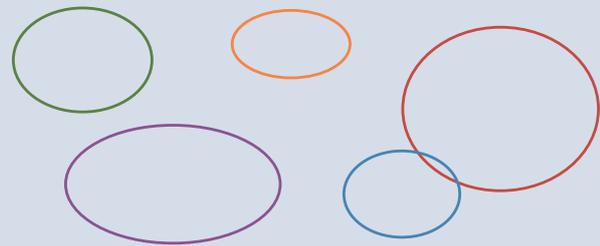
2. Census and identification of security personnel

Number, type and status of personnel clarified; institutions under control

coloured dots = identified personal within an institution

black dots = personnel still unclarified
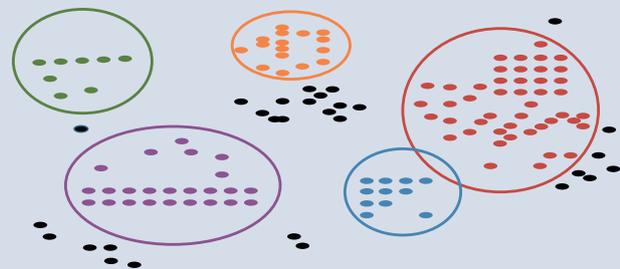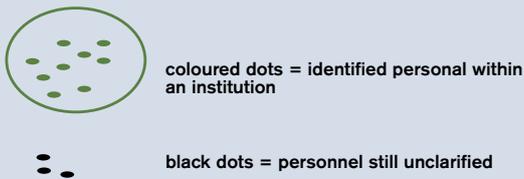
3. Vetting, training and restructuring

Personnel with minimum standards of integrity and competence; institutions functioning effectively and with integrity

Intelligence service

Police service

Border service

etc.

reformed security institution with vetted and trained personnel
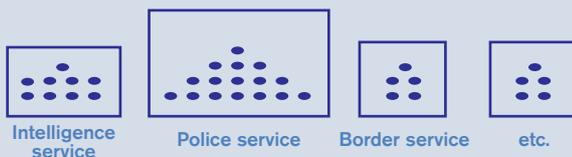
Common approaches to SSR pay particular attention to establishing effective external oversight in the security sector. But experience suggests that internal discipline and external oversight functions complement each other. Internal discipline mechanisms alone run the risk of giving in to internal pressures and an inappropriate *esprit de corps* that is commonly found in law-enforcement agencies, and may not enjoy citizens' trust. External oversight, on the other hand, can act more independently and put pressure on the agency it monitors but cannot substitute for effective internal accountability mechanisms, which have more direct access to information and can intervene more quickly and systematically. Accountability is provided more effectively, particularly in the aftermath of systematic abuse, if security institutions are answerable 'to multiple audiences through multiple mechanisms'.[9]

ACCOUNTABILITY FOR THE MOST SERIOUS PAST ABUSES

Accountability for at least the most serious past abuses reaffirms that security officials are not above the law. In SSR, accountability for serious past abuses can be provided by means of a vetting process. Vetting is used here to refer to processes for assessing a security official's integrity as a means to determine their suitability for continued public employment. After conflict, vetting processes aim at excluding from security institutions officials who were involved in serious abuses. Vetting helps not only to hold abusive officials accountable for their past actions but also to build trust in security institutions by reaffirming a commitment to basic norms and values.

However, vetting is politically sensitive and operationally complex. Political resistance to a vetting process – as well as operational factors such as institutional capacities and the level of know-how – the availability of resources and cost implications can get in the way of effective vetting. Regrettably, vetting processes regularly fail because the stated objectives are overly ambitious and cannot be met within the limitations of a given context. In addition to not achieving its stated objective of screening out abusive officials, a failed vetting process may even contribute to legitimising them because they can claim to have been found suitable for service. Moreover, vetting pre-supposes knowledge of and control over the security institution's personnel. A census and identification of the institution's personnel is necessary before a vetting process can be initiated when the personnel situation is uncertain and fluid. Finally, vetting processes can be manipulated and may lead to politically-motivated purges.

Therefore, it is often advisable not to engage in comprehensive vetting of all personnel but to concentrate an ad hoc vetting process on the most senior security officials, the most notorious units and the most serious perpetrators. Additional efforts should focus on building and reinforcing the regular accountability mechanisms that help to sustainably prevent abuses in the future (see 'Multiple accountability mechanisms for present and future abuses' above).[10]

In addition to removing from security institutions abusive officials, similar efforts should be made to screen out those who have been involved in serious abuses as candidates for employment in security institutions. Criteria for selection, appointment and promotion generally emphasise competence requirements but often neglect integrity requirements. After a conflict in which systematic abuses occurred, particular emphasis should be placed on integrity-related criteria and procedures in order to screen out abusive candidates.

Vetting to remove abusive officials and to screen out abusive candidates for office not only provides accountability for past abuses but also helps to dismantle abusive structures and networks that were established during the conflict (see following section).

---

9   D. H. Bayley (1997). *The contemporary practices of policing: A comparative view*. Paper presented to the Center for Strategic and International Studies and the Police Executive Research Forum, 6th October 1997. Quoted in C. E. Stone and H. H. Ward (2000). 'Democratic policing: A framework for action', *Policing and Society*, Vol. 10, No. 15.

10   Detailed guidelines to plan and implement a vetting process after conflict can be found in A. Mayer-Rieckh and P. de Greiff (Eds.) (2007). 'Vetting public employees in post-conflict settings: Operational guidelines' in *Justice as prevention: Vetting public employees in transitional societies*. New York, US: Social Science Research Council. pp.546–65.

Box 7. Vetting the police, judges and prosecutors in Bosnia and Herzegovina

The 1995 Dayton Peace Agreement not only ended a brutal three-and-a-half-year war but also designed a complex programme to build the peace in Bosnia and Herzegovina. The former warring factions (the country's Bosniacs, Bosnian Serbs and Bosnian Croats) signed the agreement only under tremendous international pressure. While these factions carried primary responsibility to fulfil the agreement, they consistently – albeit to different degrees – resisted its implementation in the post-Dayton period. This contentious environment also affected efforts to reform the justice and security sectors, including the vetting of its personnel. In the early post-Dayton period, the police did not enforce the law impartially and the courts did not render justice fairly. Public confidence in the rule of law remained low.

Between 1999 and 2002 the UN Mission in Bosnia and Herzegovina (UNMIBH) vetted all law-enforcement personnel in the country. Of the total 23,751 personnel registered, 16,803 were provisionally authorised to exercise police powers (those not authorised were mainly administrative support personnel working at local ministries of the interior), and, of those, 15,786 were certified as police officers. Three High Judicial and Prosecutorial Councils (HJPC), made up of international and national personnel, restructured the court system and reappointed all judges and prosecutors between 2002 and 2004. Almost 1,000 posts were declared vacant and there was open competition to fill them.

The UNMIBH police vetting process resulted in the removal of personnel who did not meet established criteria, a reduction in overall personnel numbers, and an improvement in the ethnic and gender composition of the police. The HJPC reappointment process resulted in the closure of several courts, about 30 percent of the incumbent applicants not being reappointed and the pre-war ethnic balance being largely restored. At the completion of the reappointment process, the HJPC turned into a permanent appointment and disciplinary body. Challenges and public controversies during the implementation of both processes confirmed the political sensitivity and operational complexity of vetting security and justice institutions after conflict.

For more information, see: A. Mayer-Rieckh (2007). 'Vetting to prevent future abuses: Reforming the police, courts, and prosecutor's offices in Bosnia and Herzegovina' in A. Mayer-Rieckh and P. de Greiff (Eds.). Op. cit. pp.180–220.

REMOVE UNDUE INTERFERENCE

In post-conflict contexts, specific measures should be taken to reduce the influence of criminal networks and political factions, so that security institutions can operate autonomously and enforce the law rather than the orders and wishes of external actors who committed abuses in the past. A careful balance must be struck between, on the one hand, legitimate oversight, management support and strategic guidance functions (see 'Multiple accountability mechanisms for present and future abuses' above) and, on the other hand, safeguards to ensure the operational autonomy of security actors and the independence of the judiciary, which are necessary to bar criminally motivated, politically-driven or case-based interference in the security sector. Measures to ensure operational autonomy should aim to shield security institutions from arbitrary interference by political and criminal actors, and to reduce the influence of primary social structures such as clans and ethnic groups, as well as to dismantle criminal networks that continue to misuse security institutions for personal gain and other abusive purposes. These measures include:

- **Vetting:** This is necessary to exclude from security service abusive individuals in order to dismantle criminal networks (see 'Accountability for the most serious past abuses' above);
- **Merit-based appointments:** Ensuring that appointments and promotions are not based on political preference or affiliation but on merit can be done, for example, by establishing merit-based appointment and promotion procedures; providing public scrutiny of appointments and promotions; and by reducing the influence of executive and legislative bodies in such procedures;
- **Specific procedures to ensure the operational autonomy of those holding leadership positions in security institutions:** Inappropriate external control over security institutions is often ensured by appointing non-professional loyalists of political parties or networks to leadership positions in these

institutions. Various models exist to promote the independence of these positions. Efforts focus, in particular, on requiring professional qualifications for leadership appointments; obliging appointees to make financial and other disclosure statements; and entrusting external, independent bodies with appointment and promotion powers.

- **Specific measures to promote institutional loyalty**: Primary social structures such as clans and ethnic groups, as well as political and unofficial armed groups, produce strong social ties between their members, particularly in conflict and post-conflict environments in which other social structures have broken down or are dysfunctional. The members of primary social structures develop durable bonds between each other and strong loyalties with these structures. These social loyalties are often in tension with the loyalties of the members of the security institution they work for. These tensions cannot be ignored. The security institution has to offer "competitive" social benefits in order to enhance its employees' loyalties to the institution. In addition to regular salary payments, such benefits could include social services similar to those provided by the primary social structures, such as schooling for the children, medical services, pension payments, etc. The security institution could also provide pension and other payments to the family members of a security official who died or was handicapped in the line of duty. Moreover, the security institution could directly promote the social ties among its employees by organising social events for them; establishing dining, sports and other leisure facilities for its employees; and by developing institutional signs and symbols with which the employees can associate (see 'Enhancing the legitimacy of security institutions' below).

Box 8. Establishing police commissioner posts in Bosnia and Herzegovina

In post-conflict Bosnia and Herzegovina, the various cantonal and entity-level police services were integrated into the cantonal and entity-level ministries of interior. As a result, the ministers of interior, in consultation with their deputy ministers, managed and directed all police operations. These ministers were political appointees selected by and representing the interests of the political parties in power that continued to pursue conflict-related objectives. Such governance structures resulted in the inappropriate interference of party politics into policing. In particular, the police did not provide effective and fair law-enforcement services to minority populations.

In 2001–02 independent police commissioners were established in all cantons and the two entities of Bosnia and Herzegovina in order to minimise political interference in police work. While a police commissioner is politically accountable to the respective minister of interior, the commissioner is solely responsible for the management and operations of the police. Candidates for police commissioner must meet specific educational and professional standards including a relevant university degree, a minimum of ten years' police experience, a minimum of four years' senior management experience and a demonstrated ability to manage large-scale operations. A police commissioner cannot hold political office or represent a political party. A police commissioner is appointed by an independent board. As the senior police executive without a political mandate, the police commissioner wears a uniform. The establishment of police commissioner posts represented an important step to creating professional and democratic police services in Bosnia and Herzegovina.

For more information, see: UN (2002). *UN report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina*. Doc. S/2002/1314. Available at http://documents.un.org/.

PROMOTING THE INCLUSION OF VICTIMS AND OTHER MARGINALISED GROUPS

Common approaches to SSR generally emphasise the need for it to be shaped and driven by local actors, based on an assessment of the security needs of the people and focused on improving delivery of security services. SSR should be 'people-centred' and 'locally owned'.[11] After a conflict in which systematic abuses were committed, particular efforts should be made to reverse the process of excluding victims of abuse and other marginalised groups and to reaccept them in the political community. Their inclusion will help ensure that the security sector actually services the needs of all citizens; restore the status and sense of full citizenship for victims and other marginalised groups; and promote the credibility of the SSR process and of the security sector itself.

The inclusion of victims and other marginalised groups can be advanced by promoting their participation in SSR processes; enhancing the representation of victims and other marginalised groups in security institutions; establishing structures in the security sector that meet the specific security needs of victims and other marginalised groups; and their empowerment as citizens.

PARTICIPATORY SSR PROCESSES

In the aftermath of conflict, particular efforts should be made to include in the design and implementation of SSR processes the victims of systematic abuses and other marginalised groups to promote their citizenship status and ensure that their security needs are met. This can be done, for example, by:

- Organising broad-based population surveys on justice and security needs, with a particular focus on the needs of victims of systematic abuse and other marginalised groups;

- Linking SSR processes with truth-seeking efforts that allow victims to express how they were abused by security actors, which represents the basis for recommendations on SSR needs by a truth commission or other truth-seeking body; or

- Designing SSR assessments in a way that ensures consultations with victims and other marginalised groups.

Subjects of violence and abuse have a clearer understanding of what needs to be reformed, and their involvement in SSR will also be critical to ensure trust in the process.

REPRESENTATIVE SECURITY INSTITUTIONS

Adequate representation of victims and other marginalised groups, as well as of women, among the staff members across all ranks of security institutions provides for internal checks and balances within security institutions, helps to overcome the pursuit of single group interests, and improves the overall distribution of power and resources.[12] A more representative security institution will also better understand the concerns of all population groups because its representatives will speak their languages, comprehend their cultures and appreciate their traditions. As a result, a more representative institution will better serve and respond to the needs of all population groups – including those who were previously victimised, marginalised or excluded – and respect them as rights-bearing citizens.[13]

---

11   OECD DAC (2005). Op. cit. p.22.
12   Art. 25(c) of the International Covenant on Civil and Political Rights provides that every citizen shall have the right to 'have access, on general terms of equality, to public service in his country'.
13   UN (1979). Op. cit., preambular para. a, noting that 'every law enforcement agency should be representative of and responsive and accountable to the community as a whole'.

Box 9. Minority recruitment in the Kosovo police

The Organisation for Security and Cooperation in Europe (OSCE) reopened the Kosovo police academy after the conflict came to an end in mid-1999. Considering the ethnic dimension of the conflict, building a multi-ethnic police was critical for the legitimacy of the new Kosovo Police Service (KPS). Academy recruiters visited Kosovo Serb minority enclaves and urged eligible candidates to apply. In several of the first classes, armed escorts were provided for Kosovo Serbs to come to the police academy and return home at the end of the basic training. At the school, the trainees lived together irrespective of their ethnic background. Initially, separate graduation ceremonies had to be conducted for the Albanians and the Serbs due to security concerns.

As a result of these efforts, between 1999 and 2004, ten percent of the graduates from the police academy were Kosovo Serb and six percent were other minorities. About 16 percent of the graduates were women. These results represented significant progress towards establishing a multi-ethnic police in Kosovo. But a political deal had been made that 50 percent of the police recruits would come from the former Kosovo Liberation Army and 25 percent would come from the former Yugoslav National Police. This meant that many qualified recruits (most of whom were Kosovo Albanian) were not incorporated in the KPS and that a number of recruits with records of human rights abuses and questionable behaviour were accepted. The acceptance of recruits with questionable backgrounds tarnished the image of the new police service.

For more information, see: A. Kantor (2009). 'Kosovo' in A. Kantor (Ed.). Op. cit. pp.53–84; and W. G. O'Neil (2002). *Kosovo. An unfinished peace*. Boulder, US: Lynne Rienner.

STRUCTURES TO MEET THE SPECIFIC SECURITY NEEDS OF VICTIMS

The establishment of structures that meet the specific security needs of victims and other marginalised groups after the end of the conflict helps stop further abuses and helps restore their status as full citizens. Such structures include, among others:

- Dedicated mechanisms to respond to gender-based violence;[14]
- Offices of security institutions that are located in minority areas;
- Mobile courts that provide access to justice in areas in which the judicial system is not operational;
- Dedicated complaint mechanisms for victims and other marginalised groups;
- Regular reporting mechanisms to assess the situation of victims and other marginalised groups; and
- Customary security and justice mechanisms that comply with fundamental human rights standards.

Box 10. Civil society empowerment in the Democratic Republic of Congo

Years of atrocious conflict after the fall of the Mobutu regime have led to a huge number of serious abuses in the Democratic Republic of Congo (DRC), resulting in an enormous number of victims, while the security and justice sectors remain in disarray and are not able to process these cases of serious abuse. Different initiatives aim to help the police and the judiciary to deal with the backlog of cases and aim to empower civil society actors. For instance, Avocats Sans Frontières, a Belgian NGO, works with local NGOs that provide legal advice and help victims prepare their files. Avocats Sans Frontières also supports the organisation of hearings by mobile courts in regions that have no functioning court. Two weeks prior to a hearing, the court clerk, the usher, the public prosecutor and defence lawyers visit the area to conduct investigations, serve summons, register the proceedings and give legal advice. The mobile court remains in the area for the period of one month to clear the backlog of cases of serious abuse and address new civil and penal cases. The court clerk and the usher remain behind after the court has left to serve the judgement notices and to enforce the judgements.

For more information, see: Avocats Sans Frontières (2006). *Soutien aux audiences foraines* [Supporting fair trials]. Available at http://www.asf.be/publications.

---

14   For a comprehensive discussion of gender and SSR, see: M. Bastik and K. Valasek (Eds.) (2008). *Gender and security sector reform toolkit*. Geneva, Switzerland: DCAF.

EMPOWERMENT OF VICTIMS AND OTHER MARGINALISED GROUPS

The marginalisation and exclusion of victims that accompany systematic abuses in conflict disenfranchise victims of their rights and infringe on their status as citizens. Therefore, SSR after conflict should aim not only to reform the security providers but also to directly empower victims and other marginalised groups. Empowerment efforts after conflict could include, among other things:

- Strengthening defence counsels and supporting bar associations;
- Establishing legal aid centres;
- Supporting civil society actors that help victims and other marginalised groups, or advocate for their rights;
- Establishing effective witness protection programmes;
- Public information campaigns and targeted civil society training that make known to the public the rights and obligations they have vis-à-vis the security sector, and how they can enforce their rights;
- Strengthening the capacity of community leaders and civil society organisations to monitor security and justice actors, and confront abusive behaviour;
- Supporting shelters and other rehabilitation programmes for victims; and
- Supporting vocational training for victims and other marginalised groups.

Security delivery is relational: it is provided by someone for someone. In the aftermath of conflict, the recipients of security need to realise that they are no longer at the mercy of violent and oppressive security institutions. Empowering victims and other marginalised groups will help them to attain full citizenship status, and will allow them to know, make known and enforce their rights and needs towards the security sector.

> **Box 11. Building civil society capacity in Burundi**
>
> International donors offering assistance to countries emerging from conflict recognise the importance of creating security institutions that respect rights and are overseen by civilian authorities. However, many critical gaps remain on the ground. Research by southern actors into how SSR might best be designed, implemented and linked to broader peacebuilding, as well as advocacy to promote good practice in SSR, is limited. The perspectives of vulnerable groups such as women, children and the poor are rarely taken into consideration. In Burundi, the North-South Institute, an international NGO from Canada, addressed these gaps by developing the capacity of the local organisation Alert and *Centre d'Alerte et de Prévention des Conflits* (Alert and Conflict Prevention Centre, or CENAP). CENAP is a policy research and dialogue centre founded in 2001 that focuses on issues such as the evolution of the conflict in Burundi, land redistribution and displaced populations, the role of the media during elections, post-election conflict transformation, and SSR. Among other things, CENAP conducted in-depth research on SSR, carried out public perception surveys and produced public reports on SSR-related issues. This work enhanced the legitimacy of civil society among security actors. CENAP also initiated a public debate on public perceptions of the NPB and entered into a constructive dialogue with the police on its strengths and weaknesses.
>
> For more information, see the website of the North-South Institute at http://www.nsi-ins.ca.

ENHANCING THE LEGITIMACY OF SECURITY INSTITUTIONS

Post-conflict environments pose a range of extraordinary challenges that cannot be adequately addressed with normal reform measures. Among other things, a legacy of abuse commonly entails a fundamental crisis of trust that cannot be overcome easily. In addition to regular reform and development efforts, targeted legitimacy-building measures and complementary efforts by other transitional justice measures can help to enhance the legitimacy of security institutions and make it easier to overcome the crisis of trust.

TARGETED LEGITIMACY-BUILDING MEASURES

Under normal circumstances, citizens trust a security sector when it effectively and fairly provides security, and when effective accountability is provided for individual cases of abuse committed by members of security agencies. However, in the aftermath of a conflict, it will be very difficult to build trust in a security sector that was

Box 12. The Argentine army's chief of staff acknowledges human rights crimes

On 25th April 1995, during the presidency of Carlos Menem, General Martin Balza, chief of staff of the Argentine army, read a statement on national television acknowledging for the first time the army's involvement in systematic human rights violations in the course of the military government that ruled the country from 1976 to 1983. During this period, more than 10,000 persons were forcibly "disappeared" in Argentina. General Balza said: 'A minimal act of coming clean would be of little use if on reviewing the past we did not learn to avoid repeating it ever again in the future. Without searching out innovative terms, but rather appealing to longstanding military regulations, I take advantage of this opportunity to once again order the army, before the whole of society: no one is obliged to follow an immoral order or one that departs from the law or military regulations. The actions of those who do so are evil, worthy of the punishment its gravity requires. Without euphemisms, I say clearly: It is criminal to violate the National Constitution. It is criminal to issue immoral orders. It is criminal to obey immoral orders. It is criminal to use unjust and immoral means to achieve an end one believes is just … We must no longer deny the horror experienced, and in this way think of our life as a society oriented toward the future, overcoming the shame and suffering.'

General Balza delivered this statement after the Argentine government had passed laws that precluded the prosecution of serious human rights crimes (the due obedience and statutory limitation laws) and had also granted pardon to those who had been convicted in 1984. In 2003 the Argentine parliament overturned these laws. As a result, more than 2,000 military officers now face charges in civilian courts and the statement of General Balza represents significant evidence about the involvement of the highest levels of the military government in the rule of terror. The army's establishment reacted angrily to this statement, and General Balza was excluded from the association of retired officers. Nevertheless, his example was followed in 2001 by the Peruvian joint chief of staff and in 2005 by the Chilean army's chief of staff.

General Balza's declaration is available (in Spanish) at http://memoriaviva5.blogspot.com/2008/12/declaracin-del-general-martn-balza.html.

involved in systematic abuses. Establishing or re-establishing its legitimacy is, therefore, a complex undertaking to convince the citizens, particularly those who have suffered violence and abuse, that the security sector is again, or for the first time, at their service and hence worthy of their trust.

Efforts to increase the sector's capacity and effectiveness through skills training, better equipment and improved management; efforts to comprehensively provide accountability for past, present and future abuses; efforts to promote adequate representation among the personnel of the security sector; as well as efforts to remove undue interference from the security sector (see 'Strengthening accountability in the security sector' above) will all contribute to strengthening the legitimacy of the security sector.

But such reform measures may not be sufficient to restore civic trust, particularly among victims and other marginalised groups, in a security sector that was involved in systematic abuses. Specific and targeted legitimacy-building measures might be necessary to overcome this profound trust deficit and help to transform a trustworthy security sector into a trusted one. Such measures can include, for instance:

- Official apologies by representatives of security institutions that were involved in serious abuses;
- Memorials and museums that remember victims and acknowledge the involvement of security institutions in abuse;
- Awareness of the symbolic significance of locations in which systematic abuses, such as torture or executions, occurred during the conflict. The continued use of such places by a security institution could significantly impact on its image. Such places could, on the other hand, represent appropriate locations for memorials and museums;
- Commemorative days to remember victims of abuse and acknowledge the involvement of security institutions;
- The renaming of streets and public places that bear the names of security officials or institutions with histories of abuse;

Box 13. The battle over police insignia in the Federation of Bosnia and Herzegovina

Nationalist agendas – particularly the division of the country into nationally uniform territories and their joining of the nation states of Croatia and Serbia – were central goals of the 1992–95 armed conflict in Bosnia and Herzegovina. Although the Dayton Peace Agreement ended the fighting, nationalist groups and politicians continued to pursue these nationalist agendas by other means and opposed the two fundamental provisions of the agreement: the territorial integrity of Bosnia and Herzegovina and the right of all displaced persons to return. In the Federation of Bosnia and Herzegovina, one of the two entities of Bosnia and Herzegovina, this meant, in particular, the continued pursuit of separatist goals by Bosnian Croat groups.

In the 1996 Agreement on Restructuring the Police in the Federation, the signatories agreed, inter alia, to wear new federation uniforms, and that these uniforms were important symbols of commitment to the reform process. However, despite significant international pressure, the police in Bosnian Croat-majority cantons continued to use nationalist insignia that had become symbols of ethnic cleansing during the conflict. In 1999 the internationally-mandated High Representative issued a decision decreeing the display and use of common insignia and symbols of a neutral or inoffensive nature including metal badges with the coat of arms of the Federation of Bosnia and Herzegovina on the official cap. The decision of the High Representative also threatened further action against public officials found to obstruct compliance with this decision.

UN police subsequently visited police offices and buildings, and monitored the compliance of individual police officers with this decision. Notwithstanding the significant pressure exercised by the international community, the police in areas dominated by Bosnian Croats often continued to resist the decision's implementation, thereby underlining their resistance to minority returns and their unrelenting pursuit of nationalist goals. As a result, in 2000 the High Representative removed from office two cantonal ministers of internal affairs, one cantonal prime minister and one cantonal governor in Canton 10, a small canton bordering Croatia.

For more information, see: 'Decision on the use of inoffensive insignia and symbols by the police and judicial institutions in the Federation', Office of the High Representative, 30th July 1999. Available at http://www.ohr.int/decisions/plipdec/default.asp?content_id=178.

- The removal or replacement of monuments that relate to security officials or institutions with histories of abuse;
- The changing of the oath of office to ensure that it refers to fundamental norms and values, and providing public access to the ceremony in which security officials take the oath of office;
- The changing of coats of arms, insignia and uniforms that are associated with an abusive past; and
- Institution-based truth-seeking efforts. An institution that is being re-established or reformed after conflict has to take into account its abusive past, come to terms with it and mark a new beginning that distances itself from the legacy of abuse. New recruits as well as longstanding officials have to know the abusive past in order to dissociate themselves from it and build a common culture of "never again". The security institution should make good use of its institutional spaces and life-cycle events, such as graduation ceremonies, anniversary of the institution or open days, in order to help its personnel to remember and renounce the abusive past and construct a new institutional identity.

Such targeted legitimacy-building measures verbally or symbolically reaffirm a commitment to overcome the legacy of abuse and an endorsement of democratic norms and values. Unlike measures to increase a security sector's effectiveness or to enhance accountability and representation in the security sector, these measures do not "promote trust through action", but they do so by acknowledging past abuses, by expressing a turning away from an abusive past and by reaffirming a commitment to fundamental norms and values.[15]

---

15   See: P. de Greiff (2008). 'The role of apologies in national reconciliation processes: On making trustworthy institutions trusted' in M. Gibney et al (Eds.). *The age of apology: Facing up to the past*. Philadelphia, US: University of Pennsylvania Press.

Of course, such targeted legitimacy-building measures cannot replace reforms that require actual individual or structural changes. But reaffirmations may usefully complement other reforms that by themselves may be insufficient to build trust in a security sector that was involved in systematic abuses. Such acknowledgements of past abuses and expressions of commitment to norms may help to convince citizens, particularly victims and other marginalised groups, of the sincerity of other reform efforts, and to move them from distrusting to trusting a trustworthy security sector.

COMPLEMENTARY TRANSITIONAL JUSTICE EFFORTS

SSR efforts generally target the security sector directly and benefit its actors. In the aftermath of violence and abuse, SSR can be perceived as yet another instance of providing preferential treatment to those who inflicted harm and benefited from the conflict, and of further disservicing those who have already been victimised and marginalised during the conflict. For instance, a programme to disarm, demobilise and reintegrate former combatants might be experienced by the victims of abuse as another instance of being put at a disadvantage and might raise their expectations over reparations, particularly in a context where a truth commission is operational. Such perceptions and expectations will make it more difficult to regain trust in the security sector. Conversely, it will be easier to build trust in security institutions if an SSR process is accompanied by transitional justice measures that:

- Provide direct support to victims, such as a reparations programme or truth-seeking efforts, thereby beginning a process to compensate them for the harm suffered; or
- Hold to account the most abusive officials of a security institution, such as criminal prosecutions, thereby reaffirming that basic norms and values apply to all, demonstrating that security officials are not above the law, and separating in the security sector the worst criminals from those who bear no or limited responsibility for the abuses committed.

However, approaching transitional justice holistically and linking SSR with transitional justice measures, such as truth commissions, reparation programmes and criminal prosecutions, also raises complex questions about how these different measures should relate to each other concretely and in what sequence they should be implemented. For instance, under what conditions can information be shared between various measures? What measures should precede others and what measures can be implemented simultaneously? Moreover, as indicated, SSR and transitional justice measures can also get in each other's way and they can obstruct rather than complement each other.

How to best sequence SSR and other transitional justice measures is highly context-dependent. There is no how-to-do-it manual on post-conflict sequencing. In addition, the multitude of actors and processes in post-conflict environments often entails a level of complexity that makes it impossible to organise the different measures according to an overall strategy and timetable. Nevertheless, awareness of the correlations between the different measures and of the potential benefits of linking them can influence policy and programming decisions in order to avoid or reduce negative repercussions and to take advantage of complementarities that can improve SSR.

CONCLUSION

Addressing a legacy of systematic abuse in SSR after conflict should never come at the expense of other, more mainstream SSR efforts. At the same time, abusive histories of security institutions can have negative repercussions on SSR processes generally and can undermine the effectiveness of security institutions in the aftermath of conflict. The past is present. Comprehensively strengthening the accountability of a security sector, promoting the inclusion of all citizens, but particularly of victims and other marginalised groups, and building the legitimacy of a security sector can make an important contribution to the success of SSR after conflict.

INITIATIVE FOR PEACEBUILDING

THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

PARTNERS

adelphi

nederlands instituut voor internationale betrekkingen
netherlands institute of international relations
clingendael

CRISIS
MANAGEMENT
INITIATIVE
Building Bridges for Sustainable Security

ΕΛΙΑΜΕΠ
ELIAMEP
ΕΛΛΗΝΙΚΟ ΙΔΡΥΜΑ ΕΥΡΩΠΑΪΚΗΣ & ΕΞΩΤΕΡΙΚΗΣ ΠΟΛΙΤΙΚΗΣ
HELLENIC FOUNDATION FOR EUROPEAN & FOREIGN POLICY

EPLO
European Peacebuilding Liaison Office

FRIDE
FUNDACIÓN
PARA LAS RELACIONES INTERNACIONALES
Y EL DIÁLOGO EXTERIOR

International Alert.

international center for
TRANSITIONAL
JUSTICE

PDCI
Partners
for Democratic
Change International

SAFERWORLD